HEALTH AND SAFETY CODE - HSC

DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70] *(Division 2 enacted by Stats. 1939, Ch. 60.)*

CHAPTER 1. Clinics [1200 - 1245] *(Chapter 1 repealed and added by Stats. 1978, Ch. 1147.)*

ARTICLE 3. Regulations [1225 - 1234] *(Article 3 added by Stats. 1978, Ch. 1147.)*

1225. (a) The department shall adopt, and may from time to time amend or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any of the provisions of any statute of this state. The rules and regulations for primary care clinics shall be separate and distinct from the rules and regulations for specialty clinics.

(b) All regulations relating to licensed clinics in effect on December 31, 1977, which were adopted by the department, shall remain in full force and effect until altered, amended, or repealed by the director.

(c) A chronic dialysis clinic, a surgical clinic, or a rehabilitation clinic licensed or seeking licensure shall comply with the following federal certification standards in effect immediately preceding January 1, 2018:

(1) A chronic dialysis clinic shall comply with federal certification standards for an end-stage renal disease clinic, as specified in Sections 494.1 to 494.180, inclusive, of Title 42 of the Code of Federal Regulations.

(2) A surgical clinic, as defined in subdivision (b) of Section 1204, shall comply with federal certification standards for an ambulatory surgical clinic, as specified in Sections 416.1 to 416.54, inclusive, of Title 42 of the Code of Federal Regulations.

(3) A rehabilitation clinic shall comply with federal certification standards for a comprehensive outpatient rehabilitation facility, as specified in Sections 485.50 to 485.74, inclusive, of Title 42 of the Code of Federal Regulations.

(Amended by Stats. 2018, Ch. 34, Sec. 4. (AB 1810) Effective June 27, 2018.)

1226. (a) The regulations shall prescribe the kinds of services that may be provided by clinics in each category of licensure and shall prescribe minimum standards of adequacy, safety, and sanitation of the physical plant and equipment, minimum standards for staffing with duly qualified personnel, and minimum standards for providing the services offered. These minimum standards shall be based on the type of facility, the needs of the patients served, and the types and levels of services provided.

(b) (1) The Department of Health Care Access and Information, in consultation with the Community Clinics Advisory Committee, shall prescribe minimum construction standards of adequacy and safety for the physical plant of clinics as found in the California Building Standards Code.

(2) The construction standards for the construction or alteration of a community clinic licensed under subdivision (a) of Section 1204 or a rural health clinic, as defined in paragraph (1) of subdivision (l) of Section 1396d of Title 42 of the United States Code, established pursuant to this section and standards established or applied by a city or county, shall comply with the safety and accessibility standards required for the physical environment of a clinic to ensure participation in the federal Medicare and Medicaid programs, as outlined in Subchapter G (commencing with Section 482.1) of Chapter IV of Title 42 of the Code of Federal Regulations.

(3) If the standards are amended, they shall not be more restrictive or stringent than the OSHPD 3 regulations of the California Building Standards Code. During the regulation promulgation process, the Department of Health Care Access and Information shall be required to hold a minimum of two public meetings to solicit public comment on the proposed new standards.

(c) A city or county, as applicable, shall have plan review and building inspection responsibilities for the construction or alteration of buildings described in paragraphs (1) and (2) of subdivision (b) of Section 1204 and shall apply the provisions of the latest edition of

the California Building Standards Code in conducting these plan review responsibilities. For these buildings, construction and alteration shall include conversion of a building to a purpose specified in paragraphs (1) and (2) of subdivision (b) of Section 1204.

Upon the initial submission to a city or county by the governing authority or owner of these clinics for plan review and building inspection services, the city or county shall reply in writing to the clinic whether or not the plan review by the city or county will include a certification as to whether or not the clinic project submitted for plan review meets the standards as propounded by the office in the California Building Standards Code.

If the city or county indicates that its review will include this certification it shall do all of the following:

(1) Apply the applicable clinic provisions of the latest edition of the California Building Standards Code.

(2) Certify in writing, to the applicant within 30 days of completion of construction, whether or not these standards have been met.

(d) If upon initial submission, the city or county indicates that its plan review will not include this certification, the governing authority or owner of the clinic shall submit the plans to the Department of Health Care Access and Information, which shall review the plans for certification whether or not the clinic project meets the standards, as propounded by the office in the California Building Standards Code.

(e) When the office performs review for certification, the office shall charge a fee in an amount that does not exceed its actual costs.

(f) The office of the State Fire Marshal shall prescribe minimum safety standards for fire and life safety in surgical clinics.

(g) Notwithstanding subdivision (c), the governing authority or owner of a clinic may request the office to perform plan review services for buildings described in subdivision (c). If the office agrees to perform these services, after consultation with the local building official, the office shall charge an amount not to exceed its actual costs. The construction or alteration of these buildings shall conform to the applicable provisions of the latest edition of the California Building Standards Code for purposes of the plan review by the office pursuant to this subdivision.

(h) Regulations adopted pursuant to this chapter establishing standards for laboratory services shall not be applicable to any clinic that operates a clinical laboratory licensed pursuant to Section 1265 of the Business and Professions Code.

(Amended by Stats. 2024, Ch. 796, Sec. 1. (SB 1382) Effective January 1, 2025.)

1226.1. (a) A primary care clinic shall comply with the following requirements regarding health examinations and other public health protections for individuals working in a primary care clinic:

(1) An employee working in a primary care clinic who has direct contact with patients shall have a health examination within six months prior to employment or within 15 days after employment. Each examination shall include a medical history and physical evaluation. A written examination report, signed by the person performing the examination, shall verify that the employee is able to perform his or her assigned duties.

(2) At the time of employment, testing for tuberculosis shall consist of a purified protein derivative intermediate strength intradermal skin test or any other test for tuberculosis infection recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA). If a positive reaction is obtained from the skin test, or any other test for tuberculosis infection recommended by the CDC and licensed by the FDA, the employee shall be referred to a physician to determine if a chest X-ray is necessary. Annual examinations shall be performed only when medically indicated.

(3) The clinic shall maintain a health record for each employee that includes reports of all employment-related health examinations. These records shall be kept for a minimum of three years following termination of employment.

(4) An employee known to have or exhibiting signs or symptoms of a communicable disease shall not be permitted to work until he or she submits a physician’s certification that the employee is sufficiently free of the communicable disease to return to his or her assigned duties.

(b) Any regulation adopted before January 1, 2004, that imposes a standard on a primary care clinic that is more stringent than described in this section is void.

(Amended by Stats. 2007, Ch. 24, Sec. 3. Effective January 1, 2008.)

1226.2. The Community Clinics Advisory Committee provided for in subdivision (b) of Section 1226 shall meet on an ad hoc basis and shall be comprised of at least 15 individuals who are employed by, or under contract to provide service to, a community clinic on a full-time basis, either directly or as a representative of a clinic association. Members of the committee shall be appointed by the three statewide primary care clinic associations in California that represent the greatest number of community or free clinic sites.

(Added by Stats. 2003, Ch. 602, Sec. 7. Effective January 1, 2004.)

1226.3. A primary care clinic may establish compliance with the minimum construction standards of adequacy and safety for the physical plant described in subdivision (b) of Section 1226 by submitting a written certification, as described in Section 5536.26 of the Business and Professions Code, from a licensed architect or a written statement from a local building department that the applicable construction, remodeling, alteration, or other applicable modification of the physical plant is in compliance with these standards. No particular form of certification or statement shall be required by the department. Any form of statement utilized by a city or county building department, or certification by a licensed architect, indicating that the premises conform to the requirements of the California Building Standards Code, shall be accepted by the department as sufficient proof of compliance. Enforcement of compliance with applicable provisions of the California Building Standards Code, pursuant to subdivision (b) of Section 1226, shall be within the exclusive jurisdiction of the local building department.

(Added by Stats. 2003, Ch. 602, Sec. 8. Effective January 1, 2004.)

1226.5. (a) It is the intent of the Legislature to establish seismic safety standards for facilities licensed as surgical clinics pursuant to this chapter, and for facilities certified for participation in the federal Medicare program as ambulatory surgical centers, which accommodate surgical patients under general anesthesia, but are not required to remain open and usable after an earthquake to accommodate emergency patients.

(b) A facility described in subdivision (a) which, after January 1, 1991, anchors fixed medical equipment to the floor or roof of the facility with a gross operating weight of more than 400 pounds or anchors fixed medical equipment to the walls or ceiling with a gross operating weight of more than 20 pounds shall retain the services of an architect licensed in California, a structural engineer licensed in California, or a civil engineer registered in California to assure that the equipment is anchored in such a manner to meet the requirements of an occupancy importance factor of 1.00, as set forth in Title 24 of the California Code of Regulations.

(c) A facility described in subdivision (a) which retains the services of an architect or engineer for the anchorage of fixed medical equipment shall keep available for inspection by the department for a period of five years following the installation, a current written certification from the architect or engineer that the equipment is mounted in accordance with the applicable requirements.

(Added by Stats. 1990, Ch. 1579, Sec. 1.)

1227. Any duly authorized officer, employee, or agent of the state department may upon presentation of proper identification, enter and inspect any building or premises at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter or any regulations adopted pursuant to this chapter.

(Added by Stats. 1978, Ch. 1147.)

1228. (a) Except as provided in subdivision (c), every clinic for which a license or special permit has been issued shall be periodically inspected. The frequency of inspections shall depend upon the type and complexity of the clinic or special service to be inspected. Inspections shall be conducted no less often than once every three years and as often as necessary to ensure the quality of care being provided.

(b) (1) During inspections, representatives of the department shall offer any advice and assistance to the clinic as they deem appropriate. The department may contract with local health departments for the assumption of any of the department's responsibilities under this chapter. In exercising this authority, the local health department shall conform to the requirements of this chapter and to the rules, regulations, and standards of the department.

(2) The department shall reimburse local health departments for services performed pursuant to this section, and these payments shall not exceed actual cost. Reports of each inspection shall be prepared by the representative conducting it upon forms prepared and furnished by the department and filed with the department.

(c) This section shall not apply to any of the following:

(1) A rural health clinic.

(2) A primary care clinic accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Accreditation Association for Ambulatory Health Care (AAAHC), or any other accrediting organization recognized by the department.

(3) An ambulatory surgical center.

(4) An end stage renal disease facility.

(5) A comprehensive outpatient rehabilitation facility that is certified to participate either in the Medicare program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, or the medicaid program under Title XIX (42 U.S.C. Sec. 1396 et

seq.) of the federal Social Security Act, or both.

(d) Notwithstanding paragraph (2) of subdivision (c), the department shall retain the authority to inspect a primary care clinic pursuant to Section 1227, or as necessary to ensure the quality of care being provided.

(Amended by Stats. 2003, Ch. 602, Sec. 9. Effective January 1, 2004.)

1229. The state department shall notify any clinic of all deficiencies in its compliance with the provisions of this chapter or the rules and regulations adopted hereunder, which are discovered or confirmed by inspection, and the clinic shall agree with the state department upon a plan of correction which shall give the clinic a reasonable time to correct such deficiencies. During such allotted time, a list of deficiencies and the plan of correction shall be conspicuously posted in a clinic location accessible to public view. If at the end of the allotted time, as provided in the plan of correction, the clinic has failed to correct the deficiencies, the state department shall assess the licensee a civil penalty not to exceed fifty dollars ($50) per day, until the state department finds the clinic in compliance. In such case, the state department may also initiate action against the clinic to revoke or suspend the license. Nothing in this chapter shall be deemed to prohibit a clinic which is unable to correct the deficiencies, as specified in a plan of corrections, for reasons beyond its control from voluntarily surrendering its license pursuant to Section 1245 prior to the assessment of any civil penalty or the initiation of any revocation or suspension proceeding.

(Repealed and added by Stats. 1978, Ch. 1147.)

1229.1. No notification of deficiency, civil or criminal penalty, fine, sanction, or denial, suspension, or revocation of licensure, may be imposed against a primary care clinic, or any person acting on behalf of the clinic, for a violation of a regulation, as defined in Section 11342.600 of the Government Code, including every rule, regulation, order, or standard of general application, or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by a state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure, unless the regulation has been adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 2003, Ch. 602, Sec. 10. Effective January 1, 2004.)

1230. Reports on the results of each inspection shall be kept on file in the state department along with the plan of correction and clinic comments. The inspection report may include a recommendation for reinspection. All inspection reports, lists of deficiencies, and plans of correction shall be public records open to public inspection.

(Added by Stats. 1978, Ch. 1147.)

1231. (a) All clinics shall maintain compliance with the licensing requirements. These requirements shall not, however, prohibit the use of alternate concepts, methods, procedures, techniques, space, equipment, personnel qualifications, or the conducting of pilot projects, provided these exceptions are carried out with provision for safe and adequate patient care and with prior written approval of the department. A written request and substantiating evidence supporting the request shall be submitted by the applicant or licensee to the state department. Where a licensee submits a single program flexibility request and substantiating evidence on behalf of more than one similarly situated primary care clinic, the department may approve the program flexibility request as to each of the primary care clinics identified in the request. The department shall approve or deny any request within 60 days of submission. This approval shall be in writing and shall provide for the terms and conditions under which the exception is granted. A denial shall be in writing and shall specify the basis therefor.

(b) Substantiating evidence of a shortage of a specific health care professional that is submitted in support of a request for utilization of alternatives to personnel requirements contained in regulations adopted under this chapter may include documentation that the clinic is located in a geographic area that is either deemed under federal law, or designated by the Office of Statewide Health Planning and Development, as a medically underserved area, a health professional shortage area, or as serving, in whole or in part, a medically underserved population.

(c) If after investigation the department determines that a clinic granted a waiver pursuant to this section is operating in a manner contrary to the terms or conditions of the waiver, the director shall immediately revoke the waiver as to that clinic site.

(Amended by Stats. 2003, Ch. 602, Sec. 11. Effective January 1, 2004.)

1231.5. (a) The department may grant to a PACE program, as defined in Chapter 8.75 (commencing with Section 14591) of Part 3 of Division 9 of the Welfare and Institutions Code, exemptions from the provisions contained in this chapter in accordance with the requirements of Section 100315.

(b) This section shall become inoperative if, and on the date that, subdivision (q) of Section 1206 becomes operative, and, as of January 1 immediately following that date, this section is repealed.

(Amended by Stats. 2019, Ch. 821, Sec. 3. (AB 1128) Effective January 1, 2020. Conditionally inoperative pursuant to the operation of subdivision (q) of Section 1206. Repealed on January 1 following the inoperative date.)

1232. No clinic which permits sterilization operations for contraceptive purposes to be performed therein, nor the medical staff of such clinic, shall require the individual upon whom such a sterilization operation is to be performed to meet any special nonmedical qualifications, which are not imposed on individuals seeking other types of operations in the clinic. Such prohibited nonmedical qualifications shall include, but not be limited to, age, marital status, and number of natural children.

Nothing in this section shall prohibit requirements relating to the physical or mental condition of the individual or affect the right of the attending physician to counsel or advise his patient as to whether or not sterilization is appropriate. This section shall not affect existing law with respect to individuals below the age of majority.

(Added by Stats. 1978, Ch. 1147.)

1233. A surgical clinic may restrict use of its facilities to members of the medical staff of the surgical clinic and other physicians and surgeons approved by the medical staff to practice at the clinic.

(Added by Stats. 1979, Ch. 1186.)

1233.5. By June 30, 1995, a licensed clinic board of directors and its medical director shall establish and adopt written policies and procedures to screen patients for purposes of detecting spousal or partner abuse. The policies shall include procedures to accomplish all of the following:

(a) Identifying, as part of its medical screening, spousal or partner abuse among patients.

(b) Documenting in the medical record patient injuries or illnesses attributable to spousal or partner abuse.

(c) Providing to patients who exhibit signs of spousal or partner abuse a current referral list of private and public community agencies that provide, or arrange for, the evaluation, counseling, and care of persons experiencing spousal or partner abuse, including, but not limited to, hot lines, local domestic violence shelter-based programs, legal services, and information about temporary restraining orders.

(d) Designating licensed clinical staff to be responsible for the implementation of these guidelines.

It is the intent of the Legislature that clinics, for purposes of satisfying the requirements of this section, adopt guidelines similar to those developed by the American Medical Association regarding domestic violence detection and referral. The Legislature recognizes that while guidelines evolve and change, the American Medical Association's guidelines may serve, at this time, as a model for clinics to follow.

(Amended by Stats. 2022, Ch. 197, Sec. 9. (SB 1493) Effective January 1, 2023.)

1234. (a) Smoking a tobacco product shall not be permitted in patient areas of a clinic except those rooms designated for occupancy exclusively by smokers.

(b) Clearly legible signs shall either:

(1) State that smoking is unlawful and be conspicuously posted by, or on behalf of, the owner or manager of such clinic, in all areas of a clinic where smoking is unlawful.

(2) Identify "smoking permitted" areas, and be posted by, or on behalf of, the owner or manager of such clinic, only in areas of a clinic where smoking is lawfully permitted.

If "smoking permitted" signs are posted, there shall also be conspicuously posted, near all major entrances, clearly legible signs stating that smoking is unlawful except in areas designated "smoking permitted."

(c) This section shall not apply to skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the developmentally disabled.

(d) For purposes of this section, "smoking" has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.

(e) For purposes of this section, "tobacco product" means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 11. (SB 5 2x) Effective June 9, 2016.)