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HEALTH AND SAFETY CODE - HSC

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

CHAPTER 3.3. California Adult Day Health Care Act [1570 - 1596.5] (*Heading of Chapter 3.3 renumbered from Chapter 3.2 by Stats. 1988, Ch. 160, Sec. 92.*)

ARTICLE 1. General Provisions [1570 - 1571] (*Article 1 added by Stats. 1977, Ch. 1066.*)

1570. This chapter shall be known and may be cited as the California Adult Day Health Care Act.

(*Added by Stats. 1977, Ch. 1066.*)

1570.2. The Legislature hereby finds and declares that there exists a pattern of overutilization of long-term institutional care for elderly persons or adults with disabilities, and that there is an urgent need to establish and to continue a community-based system of quality adult day health care which will enable elderly persons or adults with disabilities to maintain maximum independence. While recognizing that there continues to be a substantial need for facilities providing custodial care, overreliance on this type of care has proven to be a costly panacea in both financial and human terms, often traumatic, and destructive of continuing family relationships and the capacity for independent living.

It is, therefore, the intent of the Legislature in enacting this chapter and related provisions to provide for the development of policies and programs that will accomplish the following:

- (a) Ensure that elderly persons and adults with disabilities are not institutionalized inappropriately or prematurely.
- (b) Provide a viable alternative to institutionalization for those elderly persons and adults with disabilities who are capable of living at home with the aid of appropriate health care or rehabilitative and social services.
- (c) Establish adult day health centers in the community for this purpose, that will be easily accessible to all participants, including economically disadvantaged elderly persons and adults with disabilities, and that will provide outpatient health, rehabilitative, and social services necessary to permit the participants to maintain personal independence and lead meaningful lives.
- (d) Include the services of adult day health centers as a benefit under the Medi-Cal Act, that shall be an initial and integral part in the development of an overall plan for a coordinated, comprehensive continuum of optional long-term care services based upon appropriate need.
- (e) Establish a rural alternative adult day health care program designed to meet the special needs and requirements of rural areas to enable the implementation of subdivisions (a) through (d), inclusive, for all Californians in need of those services.
- (f) Ensure that all laws, regulations, and procedures governing adult day health care be enforced equitably regardless of organizational sponsorship and that all program flexibility provisions be administered equitably.

(*Amended by Stats. 2008, Ch. 648, Sec. 1. Effective January 1, 2009.*)

1570.7. As used in this chapter and in any regulations promulgated thereunder:

- (a) "Adult day health care" means an organized day program of therapeutic, social, and skilled nursing health activities and services provided pursuant to this chapter to elderly persons or adults with disabilities with functional impairments, either physical or mental, for the purpose of restoring or maintaining optimal capacity for self-care. Provided on a short-term basis, adult day health care serves as a transition from a health facility or home health program to personal independence. Provided on a long-term basis, it serves as an alternative to institutionalization in a long-term health care facility when 24-hour skilled nursing care is not medically necessary or viewed as desirable by the recipient or his or her family.
- (b) "Adult day health center" or "adult day health care center" means a licensed facility that provides adult day health care.
- (c) "Core staff" includes the positions of program director, registered nurse, social worker, activity director, and program aide.
- (d) "Department" or "state department" means the State Department of Public Health.

(e) "Director" means the State Public Health Officer.

(f) "Elderly" or "older person" means a person 55 years of age or older, but also includes other adults who are chronically ill or impaired and who would benefit from adult day health care.

(g) "Extended hours" means those hours of operation prior to or following the adult day health care program hours of service, as designated by the adult day health care center in its plan of operation, during which the adult day health care center may operate an adult day program, or an Alzheimer's day care resource center, or both.

(h) "Hours of service" means the program hours defined and posted by the adult day health care center for the provision of adult day health care services, pursuant to Section 14550 of the Welfare and Institutions Code, which shall be no less than four hours, excluding transportation.

(i) "Individual plan of care" means a plan designed to provide recipients of adult day health care with appropriate treatment in accordance with the assessed needs of each individual.

(j) "License" means a basic permit to operate an adult day health care center. With respect to a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), "license" means a special permit, as defined by Section 1251.5, empowering the health facility to provide adult day health care services.

(k) "Long-term absence" or "long-term vacancy" means an absence or vacancy lasting, or likely to last, more than one month. An adult day health care center's policies and procedures shall be specific regarding coverage in the situation for long-term absences or vacancies.

(l) "Maintenance program" means procedures and exercises that are provided to a participant, pursuant to Section 1580, in order to generally maintain existing function. These procedures and exercises are planned by a licensed or certified therapist and are provided by a person who has been trained by a licensed or certified therapist and who is directly supervised by a nurse or by a licensed or certified therapist.

(m) "Program director" shall be a person with both of the following:

(1) One of the following backgrounds:

(A) A person with a bachelor's degree and a minimum of two years of experience in a management, supervisory, or administrative position.

(B) A person with a master's degree and a minimum of one year of experience in a management, supervisory, or administrative position.

(C) A registered nurse with a minimum of two years experience in a management, supervisory, or administrative position.

(2) Appropriate skills, knowledge, and abilities related to the health, and mental, cognitive, and social needs of the participant group being served by the adult day health center.

(n) "Restorative therapy" means physical, occupational, and speech therapy, and psychiatric and psychological services that are planned and provided by a licensed or certified therapist. The therapy and services may also be provided by an assistant or aide under the appropriate supervision of a licensed therapist, as determined by the licensed therapist. The therapy and services are provided to restore function, when there is an expectation that the condition will improve significantly in a reasonable period of time, as determined by the multidisciplinary assessment team.

(o) "Short-term absence" or "short-term vacancy" means an absence or vacancy lasting one month or less, and includes sick leave and vacations. An adult day health care center shall ensure that appropriate staff is designated to serve in these positions during the short-term absence or vacancy and that the center's policies and procedures are specific regarding coverage of short-term absences or vacancies.

(p) "Social worker" shall be a person who meets one of the following:

(1) The person holds a master's degree in social work from an accredited school of social work.

(2) The person holds a master's degree in psychology, gerontology, or counseling from an accredited school and has one year of experience providing social services in one or more of the fields of aging, health, or long-term care services.

(3) The person is licensed by the California Board of Behavioral Sciences.

(4) The person holds a bachelor's degree in social work from an accredited school with two years of experience providing social services in one or more of the fields of aging, health, or long-term care services.

(Amended by Stats. 2011, Ch. 119, Sec. 1. (SB 91) Effective July 25, 2011.)

1570.9. In the event of conflict between the provisions of this chapter and the provisions of Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), or Chapter 3 (commencing with Section 1500) of this division, this chapter shall be deemed controlling. Except as provided in Section 1507, no facility which provides a specialized program of both medical and nonmedical care for the elderly or adults with disabilities on an outpatient basis shall be licensed as a health facility, clinic, or community care facility under this division, but shall be subject to licensure exclusively in accordance with the provisions of this chapter.

Review of the need and desirability of proposals for adult day health centers shall be governed by the provisions of this chapter and shall not be subject to review under Part 1.5 (commencing with Section 437) of Division 1.

(Amended by Stats. 2008, Ch. 648, Sec. 3. Effective January 1, 2009.)

1571. Nothing in this chapter shall require any county to include adult day health care as a part of the services offered by the county hospital or to otherwise establish an adult day health center.

(Added by Stats. 1977, Ch. 1066.)