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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 2. Administration [1572 - 1574.7] (*Article 2 added by Stats. 1977, Ch. 1066.*)

1572. (a) The functions and duties of the State Department of Public Health provided for under this chapter shall be performed by the California Department of Aging commencing on the date those functions are transferred from the State Department of Public Health to the California Department of Aging. The authority, functions, and responsibility for the administration of the adult day health care program by the California Department of Aging and the State Department of Public Health shall be defined in an interagency agreement between the two departments and the State Department of Health Care Services that specifies how the departments will work together.

(b) The interagency agreement shall specify that the California Department of Aging is designated by the department as the agency responsible for community long-term care programs. At a minimum, the interagency agreement shall clarify each department's responsibilities on issues involving licensure and certification of adult day health care providers, payment of adult day health care claims, prior authorization of services, promulgation of regulations, and development of adult day health care Medi-Cal rates. This agreement shall also include provisions whereby the department and the California Department of Aging shall collaborate in the development and implementation of health programs and services for older persons and functionally impaired adults.

(c) The Director of the California Department of Aging shall make recommendations regarding licensure to the Licensing and Certification Division in the State Department of Public Health. The recommendation shall be based on all of the following criteria:

- (1) An evaluation of the ability of the applicant to provide adult day health care in accordance with the requirements of this chapter and regulations adopted hereunder.
- (2) Other criteria that the director deems necessary to protect public health and safety.

(Amended by Stats. 2008, Ch. 648, Sec. 4. Effective January 1, 2009.)

1574. The state department may delegate to local health departments the authority to verify compliance with the licensing and approval provisions of this chapter, and regulations adopted pursuant to this chapter to provide consultation, and to recommend disciplinary action by the department against those licensed or approved under the provisions of this chapter. In exercising the authority so delegated, the local health department shall conform to the requirements of this chapter and to the rules and regulations of the state department. Payment to the local health departments for services performed pursuant to this section shall be in accordance with a budget submitted by the local health department and approved by the state department. Such expenditures shall not exceed amounts appropriated by the Legislature for the purpose of such inspection and enforcement.

(Added by Stats. 1980, Ch. 268.)

1574.5. (a) All adult day health care centers shall maintain compliance with licensing requirements. These requirements shall not prohibit program flexibility for the use of alternate concepts, methods, procedures, techniques, equipment, number and qualifications of personnel, or the conducting of pilot projects, if these alternatives or pilot projects are carried out with provisions for safe and adequate care and with the prior written approval of the state department. This approval shall provide for the terms and conditions under which permission to use an alternative or pilot program is granted. Particular attention shall be given to encourage the development of models appropriate to rural areas. The department may allow the substitution of work experience for academic requirements for the position of program director, administrator, or activity coordinator.

(b) The applicant or licensee may submit a written request to the department for program flexibility, and shall submit with the request substantiating evidence supporting the request.

(c) Any approval by the department granted under this section, or a true copy thereof, shall be posted immediately adjacent to the center's license.

(Amended by Stats. 2011, Ch. 119, Sec. 2. (SB 91) Effective July 25, 2011.)

1574.7. (a) The department and the licensing agencies with which it contracts for licensing shall review and make a final determination within 60 days of an applicant's submission of a complete application on all applications for a license to operate an adult day health center if the applicant possesses a current valid license to operate an adult day health center at another site. Applicants shall note on the application, or in a cover letter to the application, that they possess a current valid license at another site, and the number of that license.

(b) The department shall request a fire safety clearance from the appropriate fire marshal within five days of receipt of an application described in subdivision (a). The applicant shall be responsible for requesting and obtaining the required criminal record clearances.

(c) If the department for any reason is unable to comply with subdivision (a), it shall, within 60 days of receipt of the application described in subdivision (a), grant a provisional license to the applicant to operate for a period not to exceed six months, except as provided in subdivision (d). While the provisional license is in effect, the department shall continue its investigation and make a final determination on the application before the provisional license expires. The provisional license shall be granted, provided the department knows of no life safety risks, the criminal records clearances, if applicable, are complete, and the fire safety clearance is complete. The director may extend the term of a provisional license for an additional six months at the time of the application, if the director determines that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant, and if all other requirements for a license have been met.

(d) If the department does not issue a provisional license pursuant to subdivision (c), the department shall issue a notice to the applicant identifying whether the provisional license has not been issued due to the existence of a life safety risk, lack of a fire safety clearance, lack of a criminal records clearance, failure to complete the application, or any combination of these reasons. If a life safety risk is identified, the risk preventing the issuance of the provisional license shall be clearly explained. If a lack of the fire safety clearance is identified, the notice shall include the dates on which the department requested the clearance and the current status of that request, and the fire marshal's name and telephone number to whom a fire safety clearance request was sent. The department shall identify the names of individuals for whom criminal records clearances are lacking. If failure to complete the application is identified, the notice shall list all of the forms or attachments that are missing or incorrect. This notice shall be sent to the applicant no later than 60 days after the applicant filed the application. If the reasons identified in the notice are corrected, the department shall issue the provisional license within five days after the corrections are made.

(e) The department shall, immediately after January 1, 1993, develop expedited procedures necessary to implement subdivisions (a), (b), (c), and (d).

(f) The department shall, immediately after January 1, 1993, develop an appeal procedure for applicants under this section for both denial of licenses and delay in processing applications.

(Added by Stats. 1992, Ch. 570, Sec. 3. Effective January 1, 1993.)