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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 4. Standards and Inspection [1580 - 1584.5]** ( *Article 4 added by Stats. 1977, Ch. 1066.* )

**1580.** The state 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, the reasonable rules and regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the state department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state. The regulations shall prescribe standards of safety and sanitation for the physical plant of adult day health centers and standards for the quality of adult day health care services, including, but not limited to, staffing with duly qualified personnel and average daily staffing requirements. For the purposes of computing average daily attendance staffing requirements, maintenance programs for elderly persons shall, as of January 1, 1992, be included in the calculation for monthly total hours of services provided. In adopting the regulations, the state department shall take into account the physical and mental capabilities and needs of the persons to be served, and consideration shall be given to flexible application of safety and sanitation standards, if necessary, to be consistent with the legislative intent of establishing adult day health care programs in locations easily accessible to economically disadvantaged older persons. Program standards contained in regulations adopted pursuant to this section shall be those specified in Chapter 8.7 (commencing with Section 14520) of Part 3 of Division 9 of the Welfare and Institutions Code.

(Amended by Stats. 1991, Ch. 985, Sec. 3.)

**1580.1.** (a) The State Department of Health Care Services, and as applicable, the State Department of Public Health and the California Department of Aging, may grant to entities contracting with the State Department of Health Care Services under the 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, Section 1580.1, as added by Section 5 of the act that added this subdivision, becomes operative, and, as of January 1 immediately following that date, this section is repealed.

(Amended by Stats. 2019, Ch. 821, Sec. 4. (AB 1128) Effective January 1, 2020. Conditionally inoperative pursuant to the operation of Sec. 5 of Stats. 2019, Ch. 821. Repealed on January 1 following the inoperative date.)

**1580.1.** (a) An entity providing adult day health care as part of a Program of All-Inclusive Care for the Elderly (PACE) organization, as defined in Section 460.6 of Title 42 of the Code of Federal Regulations and approved by the State Department of Health Care Services pursuant to Section 14592 of the Welfare and Institutions Code, that exclusively serves PACE participants, as defined in Section 460.6 of Title 42 of the Code of Federal Regulations, is exempt from licensure by the State Department of Public Health.

(1) An adult day health care center approved by the State Department of Health Care Services pursuant to Section 14592 of the Welfare and Institutions Code to operate exclusively as part of a PACE organization may provide services to individuals who are being assessed for eligibility to enroll in the PACE program for not more than 60 calendar days after an individual submits an application for enrollment.

(2) If the State Department of Health Care Services determines that an adult day health care center approved to operate exclusively as part of a PACE organization has provided services to individuals other than those enrolled in the PACE program, or who are being assessed for eligibility pursuant to paragraph (1), the adult day health care center shall apply for licensure with the State Department of Public Health. An adult day health care center required to obtain licensure from the State Department of Public Health pursuant to this paragraph shall apply for the license not later than 60 calendar days following the determination by

the State Department of Health Care Services described in this paragraph. The adult day health care center shall not accept any new participants in the PACE program until licensure is obtained.

(b) This section shall become operative only if the Director of Health Care Services determines, and communicates that determination in writing to the State Department of Public Health, that operating standards compliance programs consistent with subdivisions (d) and (e) of Section 14592 of the Welfare and Institutions Code have been established. An adult day health care center described in subdivision (c) of Section 14592 of the Welfare and Institutions Code shall remain under the oversight and regulatory authority of the State Department of Public Health until the Director of Health Care Services communicates their written determination to the State Department of Public Health.

*(Repealed (in Sec. 4) and added by Stats. 2019, Ch. 821, Sec. 5. (AB 1128) Effective January 1, 2020. Conditionally operative as prescribed by its own conditions.)*

**1580.2.** On or before December 1, 1978, the director shall by regulation adopt an equitable and uniform method of evaluating the quality of care and services provided by adult day health centers based upon the following:

- (a) Compliance with regulations adopted pursuant to this chapter.
- (b) Continued demonstrated community need.
- (c) Conformity of the program to individual participants' assessed and reassessed needs and interests with particular attention to visual, auditory, and equipment needs.
- (d) Suitability of program changes to the community and participants served.
- (e) Compliance with requirements of law pertaining to fire and life and safety.

The evaluation method adopted by the state department shall be published and distributed to all licensed adult day health centers and all other interested persons.

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

**1580.5.** (a) Every adult day health care center shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Inspections shall be conducted prior to the expiration of certification or at least every two years and as often as necessary to ensure the quality of care being provided, whether initiated by the state department or pursuant to Section 1580.9. As resources permit, an inspection may be conducted prior to, as well as within the first 90 days of, adult day health care center operation.

(b) After each inspection, the state department shall notify the adult day health care center in writing of any deficiencies in its compliance with this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility. Upon a finding of noncompliance, the state department may also assess a civil penalty not to exceed fifty dollars (\$50) per day for each violation continuing beyond the date fixed in the notice for correction. If the violation is not corrected within that time, the civil penalty shall accrue from the date of receipt of the notice by the licensee. If the violation continues beyond the date fixed for correction, the state department may also initiate action against the licensee in accordance with Article 7 (commencing with Section 1595).

(c) When a civil penalty is to be assessed pursuant to this section, the notice shall specify the amount thereof and shall be served upon the licensee in a manner prescribed by subdivision (c) of Section 11505 of the Government Code. Any judicial action required to collect a civil penalty assessed pursuant to this section shall be brought by the Attorney General acting on behalf of the state department in the superior court of the county in which the adult day health care center is located.

*(Amended by Stats. 2000, Ch. 869, Sec. 6. Effective January 1, 2001.)*

**1580.9.** Any person may request an inspection of any adult day health center in accordance with the provisions of this article by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statute or regulation. Any such notice shall be in writing, specifying to a reasonable extent the details of the alleged violation, and shall be signed by the complainant. The substance of the complaint shall be provided to the licensee no earlier than at the time of the inspection.

Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee nor any copy of the complaint or any record published, released, or otherwise made available to the licensee or the public shall disclose the name of any person mentioned in the complaint, unless the complainant is a duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this article.

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

**1581.** Upon receipt of a complaint pursuant to Section 1580.9, the state department shall make a preliminary review. Unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall

make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

No licensee shall discriminate or retaliate in any manner against any person receiving the services of such licensee's adult day health center, or against any employee of such licensee's facility, on the basis or for the reason that such person or employee or any other person has initiated or participated in an inspection pursuant to Section 1580.9 or 1581.

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

**1581.5.** Any duly authorized officer, employee, or agent of the department or the California Department of Aging may, upon presentation of proper identification, enter and inspect any place providing adult day health care 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 regulation adopted hereunder.

*(Amended by Stats. 2001, Ch. 681, Sec. 11. Effective January 1, 2002.)*

**1582.** The state department may provide consulting services upon request to any adult day health center to assist in the identification or correction of deficiencies and in the upgrading of the quality of care provided by such adult day health center.

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

**1582.5.** Reports on the results of each inspection, evaluation, or consultation performed pursuant to this article shall be kept on file in the state department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

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

**1583.** The director shall publish and make available to interested persons a list of all licensed adult day health centers, the services which each such facility provides, and the relative evaluation rating of each adult day health center as determined pursuant to Section 1580.2.

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

**1584.** (a) An adult day health care center that provides care for adults with Alzheimer's disease and other dementias may install for the safety and security of those persons secured perimeter fences or egress control devices of the time-delay type on exit doors.

(b) As used in this section, "egress control device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any participant's departure from the center for longer than 30 seconds. Center staff may attempt to redirect a participant who attempts to leave the center.

(c) Adult day health care centers installing security devices pursuant to this section shall meet all of the following requirements:

(1) The center shall be subject to all fire and building codes, regulations, and standards applicable to adult day health care centers using egress control devices or secured perimeter fences and shall receive a fire clearance from the fire authority having jurisdiction for the egress control devices or secured perimeter fences.

(2) The center shall maintain documentation of diagnosis by a physician of a participant's Alzheimer's disease or other dementia.

(3) The center shall provide staff training regarding the use and operation of the egress control devices utilized by the center, the protection of participants' personal rights, wandering behavior and acceptable methods of redirection, and emergency evacuation procedures for persons with dementia.

(4) All admissions to the center shall continue to be voluntary on the part of the participant or with consent of the participant's conservator, an agent of the participant under a power of attorney for health care, or other person who has the authority to act on behalf of the participant. Persons who have the authority to act on behalf of the participant include the participant's spouse or closest available relative.

(5) The center shall inform all participants, conservators, agents, and persons who have the authority to act on behalf of participants of the use of security devices. The center shall maintain a signed participation agreement indicating the use of the devices and the consent of the participant, conservator, agent, or person who has the authority to act on behalf of the participant. The center shall retain the original statement in the participant's files at the center.

(6) The use of egress control devices or secured perimeter fences shall not substitute for adequate staff. Staffing ratios shall at all times meet the requirements of applicable regulations.

(7) Emergency fire and earthquake drills shall be conducted at least once every three months, or more frequently as required by a county or city fire department or local fire prevention district. The drills shall include all center staff and volunteers providing participant care and supervision. This requirement does not preclude drills with participants as required by regulations.

(8) The center shall develop a plan of operation approved by the department that includes a description of how the center is to be equipped with egress control devices or secured perimeter fences that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143. The plan shall include, but not be limited to, the following:

(A) A description of how the center will provide training for staff regarding the use and operation of the egress control device utilized by the center.

(B) A description of how the center will ensure the protection of the participant's personal rights consistent with applicable regulations.

(C) A description of the center's emergency evacuation procedures for persons with Alzheimer's disease and other dementias.

(d) This section does not require an adult day health care center to use security devices in providing care for persons with Alzheimer's disease and other dementias.

*(Amended by Stats. 1999, Ch. 658, Sec. 3. Effective January 1, 2000. Operative July 1, 2000, by Sec. 43 of Ch. 658.)*

**1584.5.** Every adult day health care center shall, for the purpose of addressing issues that arise when an adult day health care participant is missing from the facility, develop and comply with an absentee notification plan, as part of the individual plan of care, as defined in Section 1570.7. The plan shall include and be limited to the following: a requirement that an administrator of the facility, or his or her designee, inform the participant's authorized representative when that participant is missing from the facility and the circumstances in which an administrator of the facility, or his or her designee, shall notify local law enforcement when a participant is missing from the facility.

*(Added by Stats. 2013, Ch. 674, Sec. 4. (AB 620) Effective January 1, 2014.)*