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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 3.5. Day Care Centers [1596.90 - 1597.21] (*Chapter 3.5 added by Stats. 1984, Ch. 1615, Sec. 10.*)

ARTICLE 3. Administration [1597.05 - 1597.21] (*Article 3 added by Stats. 1984, Ch. 1615, Sec. 10.*)

1597.05. (a) Licensing reviews of a child day care center shall be limited to health and safety considerations and shall not include any reviews of the content of any educational or training program of the facility.

(b) A licensee shall have 30 days after the employment of a staff person or enrollment of a child to secure records requiring information from sources not in the control of the licensee, staff person, or child. An extension can be granted where the licensee can demonstrate that further delays are beyond the control of the licensee. No additional onsite inspections for the purpose of checking completion of the designated records shall be made during the 30-day period.

"Records," for the purposes of this subdivision, mean those types of records requiring information from sources not in the control of the facilities, and include, but are not limited to, all of the following:

- (1) Physical examination reports by physicians and surgeons.
- (2) Confirmation of required immunizations.
- (3) Submission of official data describing the educational qualifications of the facility staff.

(c) Within 90 days of employing a facility director, a licensee shall secure verification that the facility director has completed an orientation given by the department and shall maintain a copy of that verification.

(*Amended by Stats. 2006, Ch. 545, Sec. 5. Effective January 1, 2007.*)

1597.055. (a) Notwithstanding any other educational requirements, a person may be hired as a teacher in a day care center if he or she satisfies all of the following conditions:

- (1) Is 18 years of age or older.
- (2) Possesses a regional occupation program certificate of training in child care occupations issued by a regional occupational program which is accredited by the Western Association of Schools and Colleges.
- (3) Has completed at least 95 hours of classroom instruction in child care and development and child care occupations and at least 150 hours in supervised field experience in a licensed day care center or comparable group child care program.
- (4) Commencing September 1, 2016, has provided evidence of current immunity or exemption from immunity, as described in Section 1596.7995.
- (5) Has provided evidence of a current tuberculosis clearance, as described in subdivision (g) of Section 101216 of Title 22 of the California Code of Regulations. This requirement may be satisfied by a current certificate, as defined in subdivision (f) of Section 121525, that indicates freedom from infectious tuberculosis as set forth in Section 121525.

(b) Subsequent to being hired pursuant to subdivision (a), a teacher shall make satisfactory progress towards meeting the educational requirement for a fully qualified teacher, as specified in departmental regulations. For purposes of this section, "satisfactory progress" shall mean completion, with passing grades, of a minimum of two units each semester or the equivalent number of units each quarter until the educational requirement is satisfied. Six of the required semester or equivalent number of

quarter units of early childhood education from an accredited university or college shall be completed during the next two consecutive regular semesters or equivalent quarters.

(c) A teacher hired pursuant to this section shall not be exempt from satisfying any other noneducation requirements imposed by law on teachers in day care centers and shall have onsite supervision by a fully qualified teacher until six of the units specified in subdivision (b) are completed.

(Amended by Stats. 2015, Ch. 807, Sec. 2. (SB 792) Effective January 1, 2016.)

1597.056. Notwithstanding any other educational requirements, a person may be hired to provide extended day care for children of a given grade level in a day care center if the person is otherwise qualified to be hired by a school district to teach children of that grade level.

(Added by Stats. 1987, Ch. 626, Sec. 1.)

1597.057. Any requirement established by the department, pursuant to Article 1 (commencing with Section 1596.70) of Chapter 3.4, that coursework in early childhood education or child development, or both, be completed in order to fully qualify as a day care center teacher, may be satisfied with a valid child development associate credential issued by the Child Development Associate National Credentialing Program for a center-based setting with a preschool age level or infant/toddler age level endorsement. The preschool age level endorsement shall qualify the holder of the credential as a day care center teacher for ages three to five, inclusive, and the infant/toddler age level endorsement shall qualify the holder of the credential as a day care center teacher for up to, and including, age two.

The child development associate credential used to qualify individuals as day care center teachers shall involve standards that are no less stringent than those in effect on January 1, 1988.

(Added by Stats. 1988, Ch. 1326, Sec. 5. Effective September 26, 1988.)

1597.059. (a) The State Department of Social Services shall adopt guidelines and procedures to permit an aide to assist a fully qualified child care teacher in the supervision of up to 18 preschool age children, with the requirement that the aide shall complete at least two accredited postsecondary semester units or equivalent quarter units of early childhood education or child development per semester or quarter, commencing with the first semester or quarter following initial employment and continuing until six units have been completed.

(b) For purposes of this section, "preschool age children" means children who are enrolled in a child day care center licensed by the department and who are not enrolled in either an infant care center or a schoolage child day care center, as these terms are defined in Title 22 of the California Code of Regulations.

(c) This section shall not become operative prior to June 30, 1993.

(Added by Stats. 1993, Ch. 246, Sec. 3. Effective (and operative) August 2, 1993.)

1597.07. The department shall require of every licensee a written policy statement which shall include names and qualifications of all current employees, admission policies, program philosophy, the location and telephone number of the nearest local office responsible for child day care licensing, disciplinary practices, and the licensee's policy and practice regarding preventive health and care of children with non-life-endangering illnesses. The facility shall retain an affidavit signed by the parent or guardian of every child in the facility indicating he or she has read this statement. The licensee shall also provide to all parents, at the consent of the parents involved, a list of parents of children served by the facility.

(Added by Stats. 1984, Ch. 1615, Sec. 10.)

1597.08. All site visits shall be unannounced.

(Added by Stats. 1984, Ch. 1615, Sec. 10.)

1597.09. (a) Each licensed child day care center shall be subject to unannounced inspections by the department. The department shall inspect these facilities as often as necessary to ensure the quality of care provided.

(b) The department shall conduct an annual unannounced inspection of a licensed child day care center under any of the following circumstances:

(1) When a license is on probation.

(2) When the terms of agreement in a facility compliance plan require an annual inspection.

(3) When an accusation against a licensee is pending.

(4) In order to verify that a person who has been ordered out of a child day care center by the department is no longer at the facility.

(c) (1) The department shall conduct an annual unannounced inspection of no less than 30 percent of facilities not subject to an evaluation under subdivision (b).

(2) These unannounced inspections shall be conducted based on a random sampling methodology developed by the department.

(d) The department shall inspect a licensed child day care center at least once every three years.

(e) It is the intent of the Legislature to achieve annual inspections for licensed child day care centers governed by this section on or before July 1, 2021.

(Amended by Stats. 2019, Ch. 27, Sec. 13. (SB 80) Effective June 27, 2019.)

1597.091. (a) In addition to the visits required by Section 1597.09, the department shall annually make unannounced spot visits to 20 percent of all child day care centers licensed under this chapter, except schoolage child day care centers. The unannounced visits may be made at any time during the facility's business hours. At no time shall other site visit requirements described by this section prevent a timely site visit response to a complaint as required by Section 1596.853.

(b) The department shall implement this section only to the extent funds are available in accordance with Section 18285.5 of the Welfare and Institutions Code.

(Amended by Stats. 2002, Ch. 1022, Sec. 5. Effective September 28, 2002.)

1597.11. The department shall notify the State Department of Education when a child care or development facility licensed pursuant to this chapter is found to have licensing violations which the department has determined, by regulation, to endanger the health and safety of the children receiving care. This notification shall be made no later than 15 days after the finding of the violation or violations.

(Added by Stats. 1985, Ch. 1064, Sec. 29.)

1597.13. The department and any local agency with which it contracts for the licensing of day care centers shall grant or deny an application for license within 30 days after receipt of all appropriate licensing application materials, as determined by the department, after a site visit has been completed and the facility has been found to be in compliance with licensing standards. The department shall conduct an initial site visit within 30 days after the receipt of all appropriate licensing application materials.

(Added by renumbering Section 1597.11 (as added by Stats. 1985, Ch. 1064, Sec. 10) by Stats. 1988, Ch. 160, Sec. 97.)

1597.14. (a) Notwithstanding Section 1596.858, in the event of a sale of a licensed child day care center where the sale will result in a new license being issued, the sale and transfer of property and business shall be subject to both of the following:

(1) The licensee shall provide written notice to the department and to the child's parent or his or her legal guardian of the licensee's intent to sell the child day care center at least 30 days prior to the transfer of the property or business, or at the time that a bona fide offer is made, whichever period is longer.

(2) The licensee shall, prior to entering into an admission agreement, inform the child's parent or his or her legal guardian, admitted to the facility after notification to the department, of the licensee's intent to sell the property or business.

(b) Except as provided in subdivision (e), the property and business shall not be transferred until the buyer qualifies for a license or provisional license pursuant to this chapter.

(1) The seller shall notify, in writing, a prospective buyer of the necessity to obtain a license, as required by this chapter, if the buyer's intent is to continue operating the facility as a child day care center. The seller shall send a copy of this written notice to the licensing agency.

(2) The prospective buyer shall submit an application for a license, as specified in Section 1596.95, within five days of the acceptance of the offer by the seller.

(c) No transfer of the facility shall be permitted until 30 days have elapsed from the date when notice has been provided to the department pursuant to paragraph (1) of subdivision (a).

(d) The department shall give priority to applications for licensure that are submitted pursuant to this section in order to ensure timely transfer of the property and business. The department shall make a decision within 60 days after a complete application is submitted on whether to issue a license pursuant to Section 1596.95.

(e) If the parties involved in the transfer of the property and business fully comply with this section, then the transfer may be completed and the buyer shall not be considered to be operating an unlicensed facility while the department makes a final determination on the application for licensure.

(Amended by Stats. 1994, Ch. 236, Sec. 1. Effective January 1, 1995.)

1597.15. (a) The director shall authorize the University of California to conduct a pilot project pursuant to this section for a period not to extend 24 months beyond the date that funding is available for expenditure for the pilot project. The purpose of the pilot project is to test the feasibility of permitting family day care home providers and child day care center staff to undertake gastric tube feeding or the administration of medication through nebulizers under the conditions and with the precautions specified in subdivision (c).

(b) Notwithstanding any other provision of law, upon authorization from the director pursuant to subdivision (a), child day care center and family day care home licensees and staff selected by the principal investigator of the pilot project, to be known as the Access Project, or his or her staff shall be authorized to undertake gastrostomy tube feeding or the administration of medication through nebulizers on children enrolled in their facilities.

(c) For the purposes of the pilot project, the following precautions shall be taken:

(1) The principal investigator selected by the University of California shall be a person who is licensed to practice medicine in the state and is experienced in supervising programs in which nonmedical personnel perform minor health procedures.

(2) The availability of, and interaction with, experienced nurses with appropriate experience, as determined by the principal investigator, shall be part of the study design.

(3) Only children with explicit and signed permission from their personal physicians shall be included in the pilot project.

(d) The University of California shall notify the department of any family day care provider or child day care center staff selected to participate in the training and procedures described in subdivision (b) prior to undertaking these procedures.

(e) Eighteen months after the date funding for the proposed pilot became available for expenditure, the principal investigator of the Access Project shall submit an evaluation of the project to the Assembly Human Services Committee and the Senate Health and Human Services Committee of the Legislature. In preparing the evaluation, the Access Project shall consult with representatives from the State Department of Health Services, the department, family day care associations, family resource centers and networks, the child care center provider community, and child care resource and referral agencies. The principal investigator of the Access Project shall consult with the department to determine the additional data necessary for the department to make use of the evaluation. The evaluation shall include, but not be limited to, all of the following:

(1) The number of family day care home providers who participated in the project, with information identifying the procedure the provider was trained in and his or her licensed capacity and actual enrollment.

(2) The number of child day care center staff who participated in the project, with information identifying the procedure the staff was trained in, the licensed capacity and actual enrollment of the program, and the number of staff overall.

(3) The number of children who were able to be served in licensed child care programs with trained family day care home providers or child day care center staff.

(4) Overall impressions, problems encountered, and satisfaction with the pilot project by providers and staff.

(5) Overall impressions, problems encountered, and satisfaction with the pilot project by parents and children.

(6) Overall impressions, problems encountered, and satisfaction with the pilot project by licensing staff.

(7) Overall impressions, problems encountered, and satisfaction with the pilot project by those providing the training, backup, and monitoring, of a nonlicensing nature.

(8) Input from providers, staff, trainers, parents, and children as appropriate about the effectiveness of the pilot project.

(9) An assessment of the adequacy of the training, including curriculum and core competencies for the health care procedures taught; teaching methods used in the project; and the quality of health care procedures provided, including errors and incidents.

(10) The impact on health and safety from engaging in these procedures on the child needing the procedure and the other children and staff in the program, where measurable.

- (11) The impact of the pilot project on increasing the ability of child care programs to serve children with special health needs.
- (12) The number of nurse visits required for initial placement in the child care setting.
- (13) The need for a nurse with appropriate experience, as determined by the principal investigator, after placement is arranged and initiated as an adjunct to support each child's own physician or physicians.
- (14) The cost of providing the training and services.
- (15) Recommendations as to whether the pilot project should be expanded to enable family day care home providers and child day care center staff throughout the state to undertake these procedures and under what specific conditions, with accompanying rationales.
- (16) Recommendations for other possible procedures to be authorized in a pilot project with the reasons for those recommendations.
- (17) The cost of the care provided in the project, the likely cost of the care if performed by the child day care licensees or staff pursuant to the project, and the cost for provision of that care by the child's current care providers, specifically including the cost of nursing services.
- (18) The number of Medi-Cal recipients participating in the project.

(f) No provision of this section applies to the Regents of the University of California unless the Regents, by appropriate resolution, make it applicable. It is the intent of the Legislature that the project be funded from non-General Fund resources.

(g) This section shall remain in effect only until two years from the date funding is available for expenditure for the pilot project established pursuant to this section and as of that date shall be repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends that date. The director shall notify the Chief Clerk of the Assembly in writing of the date this section is repealed and the Chief Clerk shall publish the notification in the Assembly Journal.

(Amended by Stats. 1996, Ch. 124, Sec. 51. Effective January 1, 1997. Repealed on date prescribed by its own provisions.)

1597.16. (a) (1) A licensed child day care center, as defined in Section 1596.76, that is located in a building that was constructed before January 1, 2010, shall have its drinking water tested for lead contamination levels on or after January 1, 2020, but no later than January 1, 2023, and every five years after the date of the initial test.

(2) (A) A licensed child day care center subject to paragraph (1) shall collect and submit drinking water samples to a laboratory accredited pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101. A laboratory receiving a drinking water sample pursuant to this paragraph shall, in a timely manner, electronically submit its test results to the State Water Resources Control Board using lead data submission methods that are acceptable to the State Water Resources Control Board. If the test results show elevated lead levels, the State Water Resources Control Board shall, in a timely manner, report the results for the affected licensed child day care center to the department.

(B) The State Water Resources Control Board shall do both of the following:

(i) Notify the department if there is a change to the recommended action level for lead in water.

(ii) Post all test results received pursuant to subparagraph (A) on its Internet Web site in a timely manner. The posted test results shall be readily accessible to the public.

(3) Upon notification of elevated lead levels, an affected licensed child day care center shall immediately make inoperable and cease using the fountains and faucets where elevated lead levels may exist and shall obtain a potable source of water for children and staff at that location. Any licensed child day care center that fails to take that action is subject to the temporary suspension of their license pursuant to Section 1596.886.

(4) A licensed day care center shall notify the parents or legal guardians of children enrolled in the day care center of the requirement to test a facility's drinking water and of the test results.

(b) (1) The department shall, in consultation with the State Water Resources Control Board, adopt regulations for the implementation of the requirements of this section no later than January 1, 2021. The regulations shall include requirements to ensure the collection and submission of valid water samples.

(2) In adopting regulations under this section, the department shall include a public stakeholder process.

(3) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by this section through all-county letters or similar written instructions until regulations are adopted.

(Added by Stats. 2018, Ch. 676, Sec. 4. (AB 2370) Effective January 1, 2019.)

1597.20. The Legislature finds and declares all of the following:

- (a) There is a critical need to increase opportunities for children to engage in positive activities during after school hours.
- (b) There is a need for staff with the capacity to make after school programs interesting and relevant for schoolage children.
- (c) California's juvenile incarceration rate is twice the national average and has increased 65 percent since 1975.
- (d) Twice as many California young people were victims of homicide in 1990 than in 1974.
- (e) Compared to 1960, American children spend an average of 10 to 12 fewer hours per week with their parents.

(Added by Stats. 1994, Ch. 848, Sec. 1. Effective January 1, 1995.)

1597.21. The following requirements shall apply to schoolage day care centers:

- (a) The State Department of Social Services shall permit the substitution of 20 training hours for each required unit of education.
- (b) In addition to an administration course consisting of three units or 60 training hours and three units or 60 training hours in early childhood education, child development, or schoolage child courses, the site director may, as an alternative to existing regulations, complete nine core units or 180 training hours from the following:
 - (1) Recreation, which includes, but is not limited to, art, music, and dance.
 - (2) Physical education, which includes, but is not limited to, indoor and outdoor sports activities.
 - (3) Human services and social welfare, which includes, but is not limited to, nursing, psychology, sociology, or home economics.
 - (4) Units earned toward an elementary or middle school teaching credential.
 - (5) Early childhood education, child development, or schoolage child units.

A director is required to complete 12 units or 240 training hours prior to employment. The remaining three units must be completed within one year of employment.

- (c) The State Department of Social Services shall expand the list of college degrees that satisfy current site director educational requirements to include degrees in recreation, physical education, human services, and social welfare, as described in paragraph (3) of subdivision (b), and education, as described in paragraphs (2) and (4) of subdivision (b).
- (d) As an alternative to satisfying the educational requirements of teachers contained in the regulations, a teacher may substitute 12 units or 240 training hours in any combination of the following:
 - (1) Recreation, which includes, but is not limited to, art, music, and dance.
 - (2) Physical education, which includes, but is not limited to, indoor and outdoor sports activities.
 - (3) Human services and social welfare, which includes, but is not limited to, nursing, psychology, sociology, or home economics.
 - (4) Units earned toward an elementary or middle school teaching credential.
 - (5) Early childhood education, child development, or schoolage child units.

A teacher is required to complete six units or 120 training hours prior to employment.

- (e) The department shall accept the following alternative types of experience for site directors and teachers, if the experience was obtained working directly with children: classroom teaching or teacher assisting experience in elementary or middle school education; paid or volunteer work experience in physical education or recreation programs; college work-study or internship in recreation or youth development; paid or volunteer work experience in human services as described in paragraph (3) of subdivision (b); or paid or volunteer work experience in school guidance or in other counseling programs.
- (f) In addition to existing approved sources of education, the following are approved sources of education that may be used to satisfy the education required of staff at a schoolage child care center:

(1) Vocational school training in recreation, physical education, human services, social welfare, and education as described in subdivisions (b) and (d).

(2) Professional training that qualifies as continuing education credits in the child care or elementary education area.

(3) Standard training programs that are provided by statewide or nationally recognized or community-based youth service organizations and offered or approved by an accredited educational institution or the Commission on Teacher Credentialing.

(g) Upon the receipt of a completed application for a license to operate a schoolage day care program at a functioning schoolsite from an organization that is currently licensed to operate a schoolage day care program at another site, the department shall have 30 days to make a final determination on whether to issue a license to operate the program. A functioning schoolsite shall meet the requirements of paragraphs (1) and (2) of subdivision (a) of Section 1596.806.

(h) (1) If the department, for any reason, is unable to comply with subdivision (g), it shall, within 30 days of the receipt of the application described in subdivision (g), grant a provisional license to the applicant to operate for a period not to exceed six months. The provisional license shall be granted provided the department has conducted a site visit and has not found any life safety risks, the criminal records clearances are complete, and the school fire inspection has been verified. The requirement for criminal records clearances may be satisfied by transfer of current criminal records clearances, pursuant to subdivision (g) of Section 1596.871. For purposes of a schoolage day care program operating on a functioning schoolsite, the school fire inspection shall be accepted as sufficient fire clearance.

(2) While a provisional license is in effect, the department shall continue its investigation and shall make a final determination on the application prior to the expiration of the provisional license. If the department does not issue a provisional license pursuant to paragraph (1), the department shall follow the procedures for notifying applicants as set forth in subdivision (d) of Section 1596.96.

(Added by Stats. 1994, Ch. 848, Sec. 2. Effective January 1, 1995.)