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AB-1128 Program of All-Inclusive Care for the Elderly. (2019-2020)

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Assembly Bill No. 1128

CHAPTER 821

An act to amend Sections 1206 and 1738 of, to amend and repeal Sections 1231.5 and 1734.5 of, and to amend, repeal, and add Section 1580.1 of, the Health and Safety Code, and to amend Section 14592 of the Welfare and Institutions Code, relating to the elderly.

[Approved by Governor October 12, 2019. Filed with Secretary of State October 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1128, Petrie-Norris. Program of All-Inclusive Care for the Elderly.

Existing federal law establishes the Program of All-Inclusive Care for the Elderly (PACE), which provides specified services for older individuals at a PACE center, defined, in part, as a facility that includes a primary care clinic, so that they may continue living in the community. Federal law authorizes states to implement the PACE program as a Medicaid state option.

Existing state law establishes the California Program of All-Inclusive Care for the Elderly (PACE program), to provide community-based, risk-based, and capitated long-term care services as optional services under the state's Medi-Cal State Plan, as specified. Existing law authorizes the State Department of Health Care Services to enter into contracts with various entities for the purpose of implementing the PACE program and fully implementing the single state agency responsibilities assumed by the department pursuant to those contracts, as specified.

Existing law establishes the State Department of Public Health and sets forth its powers and duties, including, but not limited to, duties relating to the licensing and regulation of various entities, including primary care clinics, adult day health care centers, and home health agencies.

This bill would exempt from licensure by the State Department of Public Health a primary care clinic, an adult day health care center, or a home health agency, that is approved by the State Department of Health Care Services to operate exclusively as part of a PACE organization or that provides 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. The bill would instead subject those entities to oversight and regulation by the State Department of Health Care Services. The bill would require those entities to comply with the operating standards described in their respective provisions, except as modified by the State Department of Health Care Services, to meet the needs of PACE participants or those individuals being assessed. The bill would require those entities to apply for licensure with the State Department of Public Health if they provide services to any other individuals, as specified. The bill would repeal related provisions as part of conforming changes.

The bill would condition the transfer of powers between the 2 departments on the Director of Health Care Services determining, and communicating that determination in writing to the State Department of Public Health, that operating standards compliance programs have been established.

The bill would require those PACE organizations to cooperate with the State Department of Health Care Services by providing the department with requested records or information or with access to inspect physical locations. The bill would authorize the department to refuse to enter into, or to terminate, a contract with a noncompliant or noncooperative PACE organization, or to require that PACE organization to submit a corrective action plan to bring it into compliance, as specified.

The bill would authorize the department to enter into contracts, or to amend existing contracts, on a bid or negotiated basis, to implement these provisions, and would authorize the department to implement, interpret, or make specific these provisions by means of letters, bulletins, or other similar instructions, without taking regulatory action.

The bill would require the department to implement these provisions no later than January 1, 2021, but only to the extent any necessary federal approvals are obtained and federal financial participation is available.

The bill would require the department to establish an administrative fee to be paid by each of those PACE organizations, as specified, in an amount necessary to pay for reasonable costs of implementing and administering these provisions. The bill would create a special fund, the PACE Oversight Fund of the State Department of Health Care Services, for the deposit of the fees, to be expended upon appropriation by the Legislature.

This bill would incorporate additional changes to Section 1206 of the Health and Safety Code proposed by AB 1037 to be operative only if this bill and AB 1037 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The Program of All-Inclusive Care for the Elderly (PACE) is a national model of comprehensive care for California's frail population 55 years of age and older who qualify for nursing home placement but wish to remain in the community.

(b) Research shows that PACE produces significant improvements for the beneficiaries it serves, including fewer hospitalizations, fewer nursing home admissions, higher quality of life, and greater rates of satisfaction with overall care.

(c) The PACE model achieves savings for the State of California. In 2017, the state paid \$22,600,000 less than it would have if all current PACE participants were served outside of PACE.

(d) Currently, there are 12 PACE programs operating in 42 sites across California, serving almost over 8,000 seniors.

(e) PACE organizations are currently required to obtain licensing approvals or exemptions to operate clinics, adult day health centers, and, in some cases, home health agencies, from the State Department of Public Health (DPH) in a lengthy process that is separate from the extensive approval process administered by the State Department of Health Care Services (DHCS).

(f) This bifurcated process can delay the rollout of new and expanding PACE programs by months or even years.

(g) Startup of new PACE programs and certain expansions of existing programs are further challenged by DHCS policy limiting the start date of operations for a new or expanding PACE organization application only to either January 1 or July 1 of a given year following approval.

(h) Therefore, it is the intent of the Legislature to remove redundancy and duplication between the reviews by DPH and DHCS, and to expedite approval of new or expanding PACE programs that will help more seniors access PACE while remaining in their homes and communities.

SEC. 2. Section 1206 of the Health and Safety Code is amended to read:

1206. This chapter does not apply to the following:

(a) Except with respect to the option provided with regard to surgical clinics in paragraph (1) of subdivision (b) of Section 1204 and, further, with respect to specialty clinics specified in paragraph (2) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment.

(b) Any clinic directly conducted, maintained, or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 that is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. This subdivision does not preclude the department from

adopting regulations that utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.

(c) (1) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 1603 or 5304 of Title 25 of the United States Code, that is located on land recognized as tribal land by the federal government.

(2) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 1603 or 5304 of Title 25 of the United States Code, under a contract with the United States pursuant to the Indian Self-Determination and Education Assistance Act (Public Law 93-638), regardless of the location of the clinic, except that if the clinic chooses to apply to the State Department of Public Health for a state facility license, then the State Department of Public Health will retain authority to regulate that clinic as a primary care clinic as defined by subdivision (a) of Section 1204.

(d) Clinics conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under Chapter 2 (commencing with Section 1250).

(f) Any freestanding clinical or pathological laboratory licensed under Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning that teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.

(h) A clinic that is operated by a primary care community or free clinic and that is operated on separate premises from the licensed clinic and is only open for limited services of no more than 40 hours a week. An intermittent clinic as described in this subdivision shall, however, meet all other requirements of law, including administrative regulations and requirements, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340).

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an exemption under this subdivision shall make application therefor to the director, who shall grant the exemption to any facility meeting the criteria of Section 1201.5. Notwithstanding the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be deemed to be an organized outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(l) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, that conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

(m) Any clinic, limited to in vivo diagnostic services by magnetic resonance imaging functions or radiological services under the direct and immediate supervision of a physician and surgeon who is licensed to practice in California. This shall not be construed to permit cardiac catheterization or any treatment modality in these clinics.

(n) A clinic operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and treatment of accidental injuries to, and the care of the health of, the employees comprising the group.

(o) A community mental health center, as defined in Section 5667 of the Welfare and Institutions Code.

(p) (1) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, as an entity organized and operated exclusively for scientific and charitable purposes and that satisfied all of the following requirements on or before January 1, 2005:

(A) Commenced conducting medical research on or before January 1, 1982, and continues to conduct medical research.

(B) Conducted research in, among other areas, prostatic cancer, cardiovascular disease, electronic neural prosthetic devices, biological effects and medical uses of lasers, and human magnetic resonance imaging and spectroscopy.

(C) Sponsored publication of at least 200 medical research articles in peer-reviewed publications.

(D) Received grants and contracts from the National Institutes of Health.

(E) Held and licensed patents on medical technology.

(F) Received charitable contributions and bequests totaling at least five million dollars (\$5,000,000).

(G) Provides health care services to patients only:

(i) In conjunction with research being conducted on procedures or applications not approved or only partially approved for payment (I) under the Medicare program pursuant to Section 1359y(a)(1)(A) of Title 42 of the United States Code, or (II) by a health care service plan registered under Chapter 2.2 (commencing with Section 1340), or a disability insurer regulated under Chapter 1 (commencing with Section 10110) of Part 2 of Division 2 of the Insurance Code; provided that services may be provided by the clinic for an additional period of up to three years following the approvals, but only to the extent necessary to maintain clinical expertise in the procedure or application for purposes of actively providing training in the procedure or application for physicians and surgeons unrelated to the clinic.

(ii) Through physicians and surgeons who, in the aggregate, devote no more than 30 percent of their professional time for the entity operating the clinic, on an annual basis, to direct patient care activities for which charges for professional services are paid.

(H) Makes available to the public the general results of its research activities on at least an annual basis, subject to good faith protection of proprietary rights in its intellectual property.

(I) Is a freestanding clinic, whose operations under this subdivision are not conducted in conjunction with any affiliated or associated health clinic or facility defined under this division, except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as "affiliated" only if it directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a clinic or health facility defined under this division, except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as "associated" only if more than 20 percent of the directors or trustees of the clinic are also the directors or trustees of any individual clinic or health facility defined under this division, except a clinic exempt from licensure under subdivision (m). Any activity by a clinic under this subdivision in connection with an affiliated or associated entity shall fully comply with the requirements of this subdivision. This subparagraph shall not apply to agreements between a clinic and any entity for purposes of coordinating medical research.

(2) By January 1, 2007, and every five years thereafter, the Legislature shall receive a report from each clinic meeting the criteria of this subdivision and any other interested party concerning the operation of the clinic's activities. The report shall include, but not be limited to, an evaluation of how the clinic impacted competition in the relevant health care market, and a detailed description of the clinic's research results and the level of acceptance by the payer community of the procedures performed at the clinic. The report shall also include a description of procedures performed both in clinics governed by this subdivision and those performed in other settings. The cost of preparing the reports shall be borne by the clinics that are required to submit them to the Legislature pursuant to this paragraph.

(q) A primary care clinic operated 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.

(1) A primary care clinic 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 a primary care clinic 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 clinic shall apply for licensure with the State Department of Public Health. A clinic 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 clinic shall not accept any new participants in the PACE program until licensure is obtained.

(3) This subdivision 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. A primary care clinic 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.

SEC. 2.5. Section 1206 of the Health and Safety Code is amended to read:

1206. This chapter does not apply to the following:

(a) Except with respect to the option provided with regard to surgical clinics in paragraph (1) of subdivision (b) of Section 1204 and, further, with respect to specialty clinics specified in paragraph (2) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment.

(b) Any clinic directly conducted, maintained, or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 that is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. This subdivision does not preclude the department from adopting regulations that utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.

(c) (1) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 1603 or 5304 of Title 25 of the United States Code, that is located on land recognized as tribal land by the federal government.

(2) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 1603 or 5304 of Title 25 of the United States Code, under a contract with the United States pursuant to the Indian Self-Determination and Education Assistance Act (Public Law 93-638), regardless of the location of the clinic, except that if the clinic chooses to apply to the State Department of Public Health for a state facility license, then the State Department of Public Health will retain authority to regulate that clinic as a primary care clinic as defined by subdivision (a) of Section 1204.

(d) A clinic conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under Chapter 2 (commencing with Section 1250).

(f) Any freestanding clinical or pathological laboratory licensed under Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning that teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.

(h) A clinic that is operated by a primary care community or free clinic and that is operated on separate premises from the licensed clinic and is only open for limited services of no more than 40 hours a week. An intermittent clinic as described in this subdivision shall, however, meet all other requirements of law, including administrative regulations and requirements, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340).

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an exemption under this subdivision shall make application therefor to the director, who shall grant the exemption to any facility meeting the criteria of Section 1201.5. Notwithstanding the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be an organized outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(l) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, that conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

(m) Any clinic, limited to in vivo diagnostic services by magnetic resonance imaging functions or radiological services under the direct and immediate supervision of a physician and surgeon who is licensed to practice in California. This shall not be construed

to permit cardiac catheterization or any treatment modality in these clinics.

(n) A clinic operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and treatment of accidental injuries to, and the care of the health of, the employees comprising the group.

(o) A community mental health center, as defined in Section 5667 of the Welfare and Institutions Code.

(p) (1) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, as an entity organized and operated exclusively for scientific and charitable purposes and that satisfied all of the following requirements on or before January 1, 2005:

(A) Commenced conducting medical research on or before January 1, 1982, and continues to conduct medical research.

(B) Conducted research in, among other areas, prostatic cancer, cardiovascular disease, electronic neural prosthetic devices, biological effects and medical uses of lasers, and human magnetic resonance imaging and spectroscopy.

(C) Sponsored publication of at least 200 medical research articles in peer-reviewed publications.

(D) Received grants and contracts from the National Institutes of Health.

(E) Held and licensed patents on medical technology.

(F) Received charitable contributions and bequests totaling at least five million dollars (\$5,000,000).

(G) Provides health care services to patients only:

(i) In conjunction with research being conducted on procedures or applications not approved or only partially approved for payment (I) under the Medicare program pursuant to Section 1359y(a)(1)(A) of Title 42 of the United States Code, or (II) by a health care service plan registered under Chapter 2.2 (commencing with Section 1340), or a disability insurer regulated under Chapter 1 (commencing with Section 10110) of Part 2 of Division 2 of the Insurance Code; provided that services may be provided by the clinic for an additional period of up to three years following the approvals, but only to the extent necessary to maintain clinical expertise in the procedure or application for purposes of actively providing training in the procedure or application for physicians and surgeons unrelated to the clinic.

(ii) Through physicians and surgeons who, in the aggregate, devote no more than 30 percent of their professional time for the entity operating the clinic, on an annual basis, to direct patient care activities for which charges for professional services are paid.

(H) Makes available to the public the general results of its research activities on at least an annual basis, subject to good faith protection of proprietary rights in its intellectual property.

(I) Is a freestanding clinic, whose operations under this subdivision are not conducted in conjunction with any affiliated or associated health clinic or facility defined under this division, except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as "affiliated" only if it directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a clinic or health facility defined under this division, except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as "associated" only if more than 20 percent of the directors or trustees of the clinic are also the directors or trustees of any individual clinic or health facility defined under this division, except a clinic exempt from licensure under subdivision (m). Any activity by a clinic under this subdivision in connection with an affiliated or associated entity shall fully comply with the requirements of this subdivision. This subparagraph shall not apply to agreements between a clinic and any entity for purposes of coordinating medical research.

(2) By January 1, 2007, and every five years thereafter, the Legislature shall receive a report from each clinic meeting the criteria of this subdivision and any other interested party concerning the operation of the clinic's activities. The report shall include, but not be limited to, an evaluation of how the clinic impacted competition in the relevant health care market, and a detailed description of the clinic's research results and the level of acceptance by the payer community of the procedures performed at the clinic. The report shall also include a description of procedures performed both in clinics governed by this subdivision and those performed in other settings. The cost of preparing the reports shall be borne by the clinics that are required to submit them to the Legislature pursuant to this paragraph.

(q) A primary care clinic operated 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.

(1) A primary care clinic 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 a primary care clinic 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 clinic shall apply for licensure with the State Department of Public Health. A clinic 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 clinic shall not accept any new participants in the PACE program until licensure is obtained.

(3) This subdivision 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. A primary care clinic 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.

(r) (1) A clinic, including any location thereof, operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, as an entity organized and operated exclusively to provide health care services and health education services within the Los Angeles County Service Planning Area 6, is located in a Clinic Service Area, as defined in paragraph (3), and satisfies all of the following requirements:

(A) Provides health care services and health education services solely within a Clinic Service Area, as defined in paragraph (3).

(B) Provides health care services to patients through an independent agreement with a multispecialty medical group of 26 or more physicians and surgeons who represent not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic by July 1, 2021.

(C) Serves substantial beneficiaries of a "federal health care program," as that term is defined in subsection (f) of Section 1320a-7b of Title 42 of the United States Code and indigent and uninsured individuals pursuant to an authorized and adopted charity care policy.

(D) Participates in a graduate medical education program that is administered by the Martin Luther King, Jr. Community Hospital, as described in Section 14165.50 of the Welfare and Institutions Code, in furtherance of its charitable mission to reduce health care disparities in a Clinic Service Area, as defined in paragraph (3), through the training and retention of physicians and surgeons by 2022.

(2) (A) By July 1, 2022, and every five years thereafter, a clinic that is exempt from licensing provisions pursuant to this subdivision shall provide the Legislature with a report that includes all of the following:

(i) A copy of the current Community Health Needs Assessment, developed by the Martin Luther King, Jr. Community Hospital.

(ii) A community needs assessment for physicians and surgeons, including an analysis of the clinic's role in physician and surgeon recruitment and retention, and meeting the community needs for a physician and surgeon workforce.

(iii) A copy of the Martin Luther King, Jr. Community Hospital's most recent Internal Revenue Service Form 990, Schedule H, including a description of the federally-funded payer mix, and identification of the clinic as a component of the Martin Luther King, Jr. Community Hospital's community benefit activities.

(iv) The clinic's role in the hospital-sponsored graduate medical education program.

(v) An analysis of how the clinic impacted physicians and surgeons practicing or providing services in the Clinic Service Area prior to January 1, 2020.

(B) A report to be submitted pursuant to subparagraph (A) of paragraph (2) shall be submitted in compliance with Section 9795 of the Government Code.

(3) For purposes of this subdivision, "Clinic Service Area" means the geographic area within any zip code that is located within six miles of the physical location of the Martin Luther King, Jr. Community Hospital, as described in Section 14165.50 of the Welfare and Institutions Code.

SEC. 3. Section 1231.5 of the Health and Safety Code is amended to read:

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.

SEC. 4. Section 1580.1 of the Health and Safety Code is amended to read:

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.

SEC. 5. Section 1580.1 is added to the Health and Safety Code, to read:

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.

SEC. 6. Section 1734.5 of the Health and Safety Code is amended to read:

1734.5. (a) The department may grant to entities contracting with the department 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, subdivision (b) of Section 1738 becomes operative, and, as of January 1 immediately following that date, this section is repealed.

SEC. 7. Section 1738 of the Health and Safety Code is amended to read:

1738. This chapter does not apply to either of the following:

(a) A home health agency conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of that church or denomination.

(b) A home health agency that is 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.

(1) A home health agency 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 a home health agency 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 home health agency shall apply for licensure with the State Department of Public Health. A home health agency 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 home health agency shall not accept any new participants in the PACE program until licensure is obtained.

(3) This subdivision 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. A home health agency 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.

SEC. 8. Section 14592 of the Welfare and Institutions Code is amended to read:

14592. (a) For purposes of this chapter, "PACE organization" means an entity as defined in Section 460.6 of Title 42 of the Code of Federal Regulations.

(b) The director shall establish the California Program of All-Inclusive Care for the Elderly (PACE program) to provide community-based, risk-based, and capitated long-term care services as optional services under the state's Medi-Cal State Plan and under contracts entered into between the federal Centers for Medicare and Medicaid Services, the department, and PACE organizations, meeting the requirements of the Balanced Budget Act of 1997 (Public Law 105-33) and any other applicable law or regulation.

(c) A primary care clinic, as defined in paragraph (1) of subdivision (b) of Section 1200 of the Health and Safety Code, an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code, or a home health agency, as defined in subdivision (a) of Section 1727 of the Health and Safety 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. A primary care clinic, an adult day health care center, or a home health agency that exclusively serves PACE participants shall be overseen and regulated by the department.

(1) A primary care clinic, adult day health care center, or home health agency approved by the department pursuant to this section 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 department determines that a primary care clinic, adult day health care center, or home health agency 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 clinic, adult day health care center, or home health agency shall apply for licensure with the State Department of Public Health. A primary care clinic, adult day health care center, or home health agency 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 department described in this paragraph. The clinic, adult day health care center, or home health agency shall not accept any new participants in the PACE program until licensure is obtained.

(3) This subdivision shall become operative only if the director 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) have been established for implementation of this section. A primary care clinic, adult day health care center, or home health agency, as defined in this subdivision, shall remain under the oversight and regulatory authority of the State Department of Public Health until the director communicates their written determination to the State Department of Public Health.

(d) In order to provide services to PACE participants, PACE organizations exempt from licensure pursuant to this section shall be in compliance with all of the operating standards:

(1) A primary care clinic that exclusively serves PACE participants, or that also serves individuals who are being assessed for eligibility to enroll in a PACE program for not more than 60 calendar days after an individual submits an application for enrollment, shall be in compliance with the clinic operating standards set forth in Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code, except as modified by the department, to meet the needs of PACE participants or those individuals being assessed.

(2) An adult day health care center that exclusively serves PACE participants, or that also serves individuals who are being assessed for eligibility to enroll in a PACE program for not more than 60 calendar days after an individual submits an application for enrollment, shall be in compliance with the center operating standards set forth in Chapter 3.3 (commencing with Section 1570) of Division 2 of the Health and Safety Code, except as modified by the department, to meet the needs of PACE participants or those individuals being assessed.

(3) A home health agency that exclusively serves PACE participants, or that also serves individuals who are being assessed for eligibility to enroll in a PACE program for not more than 60 calendar days after an individual submits an application for enrollment, shall be in compliance with the agency operating standards set forth in Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code, except as modified by the department, to meet the needs of PACE participants or those individuals being assessed.

(e) A PACE organization exempt from licensure pursuant to this section shall cooperate with the department's evaluation, oversight, and ongoing monitoring and shall comply with the operating standards, as described in subdivision (d). The PACE organization's cooperation shall include, but shall not be limited to, all of the following:

(1) Permitting the department or its agent immediate access to inspect any physical locations involved with the PACE organization's services.

(2) Immediately providing the department or its agent with copies of any requested records regarding the PACE organization and services offered to PACE participants.

(3) Immediately providing the department or its agent with requested information regarding the PACE organization's operations.

(f) The department may refuse to enter into, or may terminate, a contract with a PACE organization exempt from licensure pursuant to this section, based on the PACE organization's failure to comply with the operating standards as described in subdivision (d), or based on the PACE organization's failure to cooperate as described in subdivision (e).

(g) If a PACE organization exempt from licensure pursuant to this section fails to comply with subdivision (c), (d), or (e), the department may require the PACE organization to submit a corrective action plan to bring the PACE organization into compliance with the requirements of those subdivisions. If the department approves the corrective action plan, the PACE organization shall complete the corrective action plan to the satisfaction of the department. If the PACE organization fails to satisfactorily complete the corrective action plan within the time specified by the department, the department may take other action as specified in the PACE organization's contract with the department.

(h) For purposes of implementing this section, the department may enter into exclusive or nonexclusive contracts, or may amend existing contracts, on a bid or negotiated basis. Contracts entered into or amended pursuant to this subdivision shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and shall be exempt from the review or approval of any division of the Department of General Services.

(i) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section, in whole or in part, by means of letters, bulletins, or other similar instructions, without taking regulatory action.

(j) This section shall be implemented only to the extent any necessary federal approvals are obtained and federal financial participation is available.

(k) The department shall implement the amendments made to this section by the act that added this subdivision no later than January 1, 2021, but only to the extent any necessary federal approvals are obtained and federal financial participation is available.

(l) (1) The department shall establish an administrative fee to be paid by each PACE organization exempt from licensure upon enrollment as a PACE provider, and annually thereafter, in an amount necessary to pay for reasonable costs of implementing and administering subdivisions (c) through (j), inclusive.

(2) (A) The fee described in this subdivision shall not be greater than the corresponding fee or fees otherwise imposed on a primary care clinic, home health agency, or adult day health care center pursuant to laws and regulations relating to licensing and regulation by the State Department of Public Health.

(B) It is the intent of the Legislature that the fee described in this subdivision is not an additional cost to a PACE organization because PACE organizations exempt from licensure are not subject to fees otherwise imposed for purposes of licensing and regulation by the State Department of Public Health.

(C) All fees paid to, and received by, the department pursuant to this subdivision shall be deposited in the State Treasury and shall be credited to a special fund that is hereby created as the PACE Oversight Fund of the State Department of Health Care Services. Moneys deposited in this fund shall be expended by the department for the purposes of implementing and administering subdivisions (c) through (j), inclusive, upon appropriation by the Legislature. No surplus in the PACE Oversight Fund of the State Department of Health Care Services shall be deposited in, or transferred to, the General Fund or any other fund.

(m) The amendments made to this section by the act that added this subdivision shall be supported entirely by federal funds and special funds, unless otherwise specified in statute or unless specifically appropriated from the General Fund in the annual Budget Act or other enacted legislation.

SEC. 9. Section 2.5 of this bill incorporates amendments to Section 1206 of the Health and Safety Code proposed by both this bill and Assembly Bill 1037. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 1206 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 1037, in which case Section 2 of this bill shall not become operative.