



TOMÁS J. ARAGÓN, M.D., Dr.P.H.
State Public Health Officer & Director

State of California—Health and Human
Services Agency
**California Department of
Public Health**



GAVIN NEWSOM
Governor

March 1, 2021

AFL 20-34.3

TO: Adult Day Health Care Centers (ADHCs)

SUBJECT: Suspension of Regulatory Enforcement of Specified ADHC Requirements
(This AFL supersedes AFL 20-34.2)

AUTHORITY: Executive Order N-35-20 (PDF)

All Facilities Letter (AFL) Summary

- This AFL notifies ADHCs of a temporary waiver of specified regulatory requirements due to the state of emergency related to the Coronavirus Disease 2019 (COVID-19) outbreak.
- This revision extends the waiver until June 1, 2021.
- This revision also rescinds the temporary waiver of Health and Safety Code (HSC) section 1575.7. Effective March 1, 2021, all administrators, program directors, and fiscal officers must obtain Live Scan services prior to license issuance.

Pursuant to the Governor's Executive Order N-35-20 related to COVID-19, the Director of the California Department of Public Health (CDPH) may waive any of the licensing and staffing requirements of Chapter 3.3 of Division 2 of the Health and Safety Code (HSC) and accompanying regulations with respect to any ADHC identified in HSC section 1575.

For capacity tracking purposes during COVID-19, ADHCs shall submit an application when seeking initial licensure or changing services on their license. This shall not require approval before the ADHC may provide care, although CDPH will reach out to provide technical assistance to ensure patient safety and the quality of care. CDPH licensure application materials and guidance are available on the CDPH Health Care Facilities Application website. Nothing in this AFL is intended to change the certification requirements or processes for the Community-Based Adult Service (CBAS) program through the California Department of Aging (CDA).

CDPH is temporarily waiving specified licensing requirements and suspending regulatory enforcement for the following requirements:

Licensure

1. **HSC section 1575 and Title 22 of the California Code of Regulations (CCR) section 78203:** Any ADHC that has submitted an application to CDPH may begin providing care prior to obtaining official approval and licensure by CDPH for any of the following:

- Initial licensure
- Addition of a special service

- Addition of a service that is not a special service

Services

2. **Title 22 CCR sections 78301, 78305, 78307, 78309, 78311, 78313, 78319, 78337, 78339, 78341:** ADHCs shall not be required to provide all services at the center and will have flexibility in how they provide basic services to participants. Basic services include: occupational therapy, physical therapy, speech therapy, medical services, nursing services, nutrition services, psychiatric or psychological services, social services, and recreation or planned social activities. Services may be provided via telehealth or other remote methods. This will allow for, but is not limited to, check-in calls, health screening calls, video conferencing, and meal delivery. ADHCs that provide in-person services should follow the mitigation guidance provided in AFL 20-27.1

Administration

3. **HSC section 1579(a)** : A rural alternative ADHC may be open fewer than 3 days per week.

~~4. **HSC section 1575.7:** All Administrators, Program Directors or Fiscal Officers who did not did not submit a completed Live Scan form due to the inability to obtain Live Scan services, are required to submit a BCIA 8016 as soon as practicable but no later than 60 days after the publication of this AFL.~~

This waiver is approved under the following conditions – ADHCs shall:

- Report any substantial staffing or supply shortages that jeopardize patient care or disrupt operations.
- Follow their disaster response plan.
- Follow infection control guidelines from the Centers for Medicare and Medicaid Services (CMS) and from the Centers for Disease Control and Prevention (CDC) related to COVID-19.
- Comply with directives from their local public health department, to the extent that there is no conflict with federal or state laws or directives or CDPH AFLs.

CDPH understands the importance of ensuring the health and safety of all Californians and maintaining vital access to health care services. CDPH encourages facilities to implement contingency plans to address staff absenteeism and the rapid influx of residents. CDPH will continue to promote quality healthcare and provide technical assistance and support compliance with core health and safety requirements, pursuant to Executive Order N-27-20 (PDF). CDPH is taking this unprecedented action due to the significant challenges California's health care system is facing as a result of the COVID-19 outbreak.

CDPH will continue to investigate and conduct enforcement activities for allegations of the most serious violations impacting health and safety, pursuant to Executive Order N-27-20 (PDF).

This waiver is valid until **June 1, 2021** and may be extended based on any updated Executive Orders or guidance from CMS or the CDC.

If you have any questions about this AFL, please contact your local district office.

Sincerely,

Original signed by Heidi W. Steinecker

Heidi W. Steinecker
Deputy Director

Resources

- Executive Order N-27-20 (PDF)
- CDPH Health Care Facilities Online Application webpage

Center for Health Care Quality, MS 0512 . P.O. Box 997377 . Sacramento, CA
95899-7377
(916) 324-6630 . (916) 324-4820 FAX
Department Website (cdph.ca.gov)



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