

Assembly Bill No. 829

CHAPTER 681

An act to amend Sections 1570.7, 1572, 1572.9, 1574.5, 1575.2, 1576.2, 1581.5, and 1588.7 of, and to add Sections 1575.1, 1575.6, 1578, 1578.1, and 1579 to, the Health and Safety Code, and to amend Sections 9542, 14530, 14552, 14553, 14554, 14570, 14571, 14573, 14574, 14574.1, 14575, and 14576 of, and to repeal Sections 14552.1, 14552.2, and 14580 of, the Welfare and Institutions Code, relating to health care.

[Approved by Governor October 10, 2001. Filed
with Secretary of State October 10, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 829, Cohn. Health care.

Existing law provides for the implementation of adult day health care center oversight by the State Department of Health Services, and authorizes that department to enter into an interagency agreement with the California Department of Aging for the administration of that program.

Existing law establishes standards for certification as an adult day health care provider and adult day health care center licensing, and certification requirements.

This bill would add to licensing and certification requirements of an adult day health care center by requiring that certain disclosures be made to the State Department of Health Services concerning ownership or control interest in, and the officers of, a center, and that evidence of sufficient financial resources be provided and that those resources be maintained. The bill would revise and add provisions regulating the denial, renewal, suspension, and revocation of a license for an adult day health care center. The bill would require a provider or applicant to submit to the California Department of Aging a facility program plan for providing adult day health care services that includes certain elements.

This bill would also recast and make technical, clarifying changes to those provisions with respect to the administration of the program.

Existing law establishes the Mello-Granlund Older Californians Act which is administered by the California Department of Aging.

Existing law authorizes the development of Alzheimer's day care resource centers under which funding is provided to a direct services contractor who provides a program of specialized day care for participants with dementia. Direct services contractors authorized to



provide services under these provisions who are not licensed are exempt from various licensure requirements under the act.

This bill would revise this exemption and provide instead that direct services contractors that are not licensed as an adult day care center, adult day support center, or adult day health care center shall be exempt from various licensure requirements under the act for purposes of operating an Alzheimer's day care resource center. The bill would specify circumstances under which the exemption shall not apply. The bill would provide that the direct service contractor's Alzheimer's day care resource center license terminates if the license as an adult day care center, adult day support center, or adult day health care center is surrendered or terminated for noncompliance with applicable standards.

The people of the State of California do enact as follows:

SECTION 1. Section 1570.7 of the Health and Safety Code is amended to read:

1570.7. As used in this chapter:

(a) "Adult day health care" means an organized day program of therapeutic, social, and health activities and services provided pursuant to this chapter to elderly persons with functional impairments, either physical or mental, for the purpose of restoring or maintaining optimal capacity for self-care. Provided on a short-term basis, adult day health care serves as a transition from a health facility or home health program to personal independence. Provided on a long-term basis, it serves as an option to institutionalization in long-term health care facilities, when 24-hour skilled nursing care is not medically necessary or viewed as desirable by the recipient or his or her family.

(b) "Adult day health center" or "adult day health care center" means a licensed and certified facility that provides adult day health care.

(c) "Elderly" or "older person" means a person 55 years of age or older, but also includes other adults who are chronically ill or impaired and who would benefit from adult day health care.

(d) "Individual plan of care" means a plan designed to provide recipients of adult day health care with appropriate treatment in accordance with the assessed needs of each individual.

(e) "License" means a basic permit to operate an adult day health care center. With respect to a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), "license" means a special permit, as defined by Section 1251.5, empowering the health facility to provide adult day health care services.

(f) "Maintenance program" means procedures and exercises that are provided to a participant, pursuant to Section 1580, in order to generally



maintain existing function. These procedures and exercises are planned by a licensed or certified therapist and are provided by a person who has been trained by a licensed or certified therapist and who is directly supervised by a nurse or by a licensed or certified therapist.

(g) “Planning council” or “council” means an adult day health care planning council established pursuant to Section 1572.5.

(h) “Restorative therapy” means physical, occupational, and speech therapy, and psychiatric and psychological services, that are planned and provided by a licensed or certified therapist. The therapy and services may also be provided by an assistant or aide under the appropriate supervision of a licensed therapist, as determined by the licensed therapist. The therapy and services are provided to restore function, when there is an expectation that the condition will improve significantly in a reasonable period of time, as determined by the multidisciplinary assessment team.

(i) “Committee” means the Long-Term Care Committee established pursuant to Section 1572.

(j) “Department” or “state department” means the State Department of Health Services.

SEC. 2. Section 1572 of the Health and Safety Code is amended to read:

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

(b) The interagency agreement shall specify that the California Department of Aging is designated by the state department as the agency responsible for community long-term care programs. At a minimum, the interagency agreement shall clarify each department’s responsibilities on issues involving licensure and certification of adult day health care providers, payment of adult day health care claims, prior authorization of services, promulgation of regulations, and development of adult day health care Medi-Cal rates. In addition, this agreement shall specify that the California Department of Aging is responsible for making recommendations to the State Department of Health Services regarding licensure as specified in subdivision (g). The interagency agreement shall specify that the State Department of Health Services shall delegate



to the California Department of Aging the responsibility of performing the financial and cost report audits and the resolution of audit appeals which are necessary to ensure program integrity. This agreement shall also include provisions whereby the State Department of Health Services and the California Department of Aging shall collaborate in the development and implementation of health programs and services for older persons and functionally impaired adults.

(c) As used in this chapter, “director” means the Director of Health Services.

(d) (1) A Long-Term Care Committee is hereby established in the California Department of Aging. The committee shall include, but not be limited to, a member of the California Commission on Aging, who shall be a member of the Long-Term Care Committee of the commission, a representative of the California Association for Adult Day Services, a representative of the California Association of Area Agencies on Aging, a representative of the California Conference of Local Health Officers, a member of a local adult day health care planning council, nonprofit representatives and professionals with expertise in Alzheimer’s disease or a disease of a related disorder, a member of the California Coalition of Independent Living Centers, and representatives from other appropriate state departments, including the State Department of Health Services, the State Department of Social Services, the State Department of Mental Health, the State Department of Developmental Services and the State Department of Rehabilitation, as deemed appropriate by the Director of the California Department of Aging. At least one member shall be a person over 60 years of age.

(2) The committee shall function as an advisory body to the California Department of Aging and advise the Director of the California Department of Aging regarding development of community-based long-term care programs. This function shall also include advice to the Director of the California Department of Aging for recommendations to the department on licensure, Medi-Cal reimbursement, and utilization control issues.

(3) The committee shall be responsible for the reviewing of new programs under the jurisdiction of the California Department of Aging.

(4) The committee shall assist the Director of the California Department of Aging in the development of procedures and guidelines for new contracts or grants, as well as review and make recommendations on applicants. The committee shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of duplication of services and inefficient operations, and locational preferences with respect to accessibility and availability to the economically disadvantaged older person.



(e) The California Department of Aging shall prepare guidelines for adoption by the local planning councils setting forth principles for evaluation of community need for adult day health care, which shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of duplication of services and inefficient operations, and locational preferences with respect to accessibility and availability to the economically disadvantaged older person.

(f) The California Department of Aging shall review county plans submitted pursuant to Section 1572.9. These county plans shall be approved if consistent with the guidelines adopted by the director pursuant to subdivision (e).

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

(1) An evaluation of the ability of the applicant to provide adult day health care in accordance with the requirements of this chapter and regulations adopted hereunder.

(2) Compliance with the local approved plan.

(3) Other criteria that the director deems necessary to protect public health and safety.

(h) A public hearing on each individual proposal for an adult day health care center may be held by the department in conjunction with the local adult day health care council in the county to be served. A hearing shall be held if requested by a local adult day health care council. In order to provide the greatest public input, the hearing should preferably be held in the service area to be served.

SEC. 3. Section 1572.9 of the Health and Safety Code is amended to read:

1572.9. (a) Each planning council approved by the director as meeting the compositional requirements of Section 1572.5 shall adopt an adult day health care plan for the county or counties represented by the council. The plan shall be consistent with the state guidelines adopted pursuant to subdivision (e) of Section 1572 and may include the council's recommendations respecting providers initially determined to be suitable for approval as adult day health care centers. These initial recommendations shall not bind the council with respect to future consideration of individual applications for licensure.

(b) Prior to adopting the plan, the council shall hold a hearing or hearings thereon at which public comment shall be received and considered. The hearing or hearings shall be noticed in advance in the manner prescribed by the state department. The number of hearings shall be determined by the state department in consultation with the local



planning council. The plan shall become effective when approved by the Long-Term Care Committee.

SEC. 4. Section 1574.5 of the Health and Safety Code is amended to read:

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

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

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

SEC. 5. Section 1575.1 is added to the Health and Safety Code, to read:

1575.1. (a) (1) Each applicant for a license to operate an adult day health care center shall disclose to the department the name and business address of each general partner if the applicant is a partnership, or each director and officer if the applicant is a corporation, and each person having a beneficial ownership or control interest of 5 percent or more in the applicant corporation, company, or partnership.

(2) If any person described in paragraph (1) has served or currently serves as an administrator, general partner, trustee or trust applicant, sole proprietor of any applicant or licensee who is a sole proprietor, executor, or corporate officer or director of, or has held a beneficial ownership or control interest of 5 percent or more in, any health facility as defined in Section 1250, adult day health care center, residential care facility for the elderly, home health agency, clinic, or community care facility licensed pursuant to Chapter 3 (commencing with Section 1500), the applicant shall disclose the relationship to the department, including the name and current or last address of the health facility, adult day health care center, residential care facility for the elderly, home health agency, clinic, or



community care facility and the date the relationship commenced and, if applicable, the date it was terminated.

(3) (A) If the center is operated by, or proposed to be operated in whole or in part under, a management contract, the names and addresses of any person or organization, or both, having an ownership or control interest of 5 percent or more in the management company shall be disclosed to the department.

(B) This paragraph shall not apply if the management company has submitted an application for licensure with the department and has complied with paragraph (1).

(4) If the applicant or licensee is a subsidiary of another organization, the information shall include the names and addresses of the parent organization of the subsidiary and the names and addresses of any officer or director of the parent organization.

(b) The information required by subdivision (a) shall be provided to the department upon initial application for licensure, and upon payment of the annual renewal licensure fee.

(c) Failure to comply with subdivision (a) or (b) may result in action to revoke or deny a license. The information required by subdivisions (a) and (b) shall be made available to the public upon request, and shall be included in the public file of the center.

(d) On or after January 1, 2002, no person may acquire a beneficial or control interest of 5 percent or more in any corporation, company, or partnership licensed to operate an adult day health care center or in any management company under contract with a licensee of an adult day health care center, nor may any person become an officer or director of, or a general partner in, a corporation, partnership, or management company of this type without the prior written approval of the department. Each application for departmental approval pursuant to this subdivision shall include the information specified in subdivision (a) with regard to the person for whom the application is made.

(e) The department may deny approval of a license application or of an application for approval under subdivision (d) or revoke a license if a person named in the application, as required by this section, was suspended as a Medi-Cal provider or excluded as a medicaid or Medicare provider, was an officer, director, general partner, or owner of a 5 percent or greater beneficial or control interest in a licensee of, or in a management company under contract with a licensee of, a health facility, community care facility, residential care facility for the elderly, home health agency, clinic, or adult day health care center at a time when one or more violations of law were committed therein that resulted in suspension or revocation of its license, or at a time when a court-ordered receiver was appointed pursuant to Section 1327, or at a time when a



final medicaid decertification action was taken under federal law. However, the prior suspension, revocation, or court-ordered receivership of a license shall not be grounds for denial of the application if the applicant shows to the satisfaction of the department that both of the following conditions exist:

(1) The person in question took every reasonably available action to prevent the violation or violations that resulted in the disciplinary action.

(2) The person in question took every reasonably available action to correct the violation or violations once he or she knew, or with the exercise of reasonable diligence should have known, of the violation or violations.

(f) No application shall be denied pursuant to this section until the department provides the applicant with notice in writing of grounds for the proposed denial of application and affords the applicant an opportunity to submit additional documentary evidence in opposition to the proposed denial.

(g) This section shall not apply to a bank, trust company, financial institution, title insurer, controlled escrow company, or underwritten title company to which a license is issued in a fiduciary capacity.

SEC. 6. Section 1575.2 of the Health and Safety Code is amended to read:

1575.2. An applicant for initial licensure as an adult day health care center shall file with the department, pursuant to its regulations, an application on forms furnished by the department, that shall include, but not be limited to, the following:

(a) Evidence satisfactory to the department that the applicant, its directors, officers, and the person designated to manage the day-to-day affairs of the proposed adult day health care center are of reputable and responsible character.

(b) Evidence satisfactory to the department of the ability of the applicant to comply with the provisions of this chapter and of rules and regulations adopted pursuant thereto by the department.

(c) Evidence satisfactory to the department that the applicant for a license to operate an adult day health care center possesses financial resources sufficient to operate each licensed center for a period of not less than 30 calendar days and that these resources are identified for adult day health care center operations. The financial reserve requirements may be met, in whole or in part, by a line of credit or a loan.

(d) Any other information as may be required by the department for the proper administration and enforcement of this chapter.

SEC. 6.5. Section 1575.6 is added to the Health and Safety Code, to read:



1575.6. (a) As a prudent business practice, a licensee shall maintain sufficient financial resources for adult day health care operations to enable each licensed facility to operate for 30 calendar days.

(b) The financial resource requirement contained in subdivision (a) may be met, in whole or in part, by a line of credit, grant, or loan.

(c) Whenever a licensee fails to meet the financial resource requirement contained in subdivision (a) for a period of 10 working days, the licensee shall notify the department of that fact within 48 hours.

SEC. 7. Section 1576.2 of the Health and Safety Code is amended to read:

1576.2. (a) Each license issued or renewed pursuant to this chapter shall not be transferable and the initial license shall expire 12 months from the date of its issuance. The director shall be given the discretion to approve applications for relicensure for a period of up to 24 months. Application for annual renewal of a license, accompanied by the required fee, shall be filed with the department not less than 30 days prior to the expiration date. Failure to submit a renewal application prior to that date shall result in expiration of the license.

(b) A license shall be rescinded for an applicant that has had its Medi-Cal certification for adult day health care revoked.

SEC. 8. Section 1578 is added to the Health and Safety Code, to read:

1578. A provider may share space with another licensed health facility, community care facility, senior center, or other appropriate structure, upon the approval of the department, based upon a determination of all of the following:

(a) The use of the shared space does not jeopardize the welfare of the participant or other clients.

(b) The shared use does not exceed occupancy capacity established for fire safety.

(c) The space used by the adult day health care center is not essential to meet the other program's licensing requirements.

(d) Each entity schedules services and activities at separate times. This subdivision shall not apply to space used for meals or for space used by another licensed adult day services program.

For purposes of this section, "shared space" means the mutual use of exits and entrances, offices, hallways, bathrooms, treatment rooms, and dining rooms by an adult day health care center and another program.

SEC. 9. Section 1578.1 is added to the Health and Safety Code, to read:

1578.1. (a) Notwithstanding subdivisions (b) and (c) of Section 1570.7 or any other provision of law, if an adult day health care center licensee also provides adult day care or adult day support center services,



the adult day health care license shall be the only license required to provide these additional services. Costs shall be allocated among the programs in accordance with generally accepted accounting practices.

(b) The department, unless otherwise specified by the interagency agreement entered into pursuant to Section 1572 shall evaluate the adult day care or adult day support center services provided for in subdivision (a) for quality of care and compliance with program requirements, concurrent with inspections of the adult day health care facility, using a single survey process.

(c) The department and the California Department of Aging shall jointly develop and adopt regulations pursuant to Section 1580 for the provision of different levels of care under the single adult day health care license.

SEC. 10. Section 1579 is added to the Health and Safety Code, to read:

1579. (a) A rural alternative adult day health care center shall operate its programs a minimum of three days weekly, unless the program can justify, to the satisfaction of the department, fewer days of operation due to space, staff, financial, or participant reasons.

(b) Any program desiring to become a parent center and develop a satellite program may be located in a service area that does not meet the population requirements of the rural service areas and need not be in the same county as a satellite. The satellite shall be located in an area that meets the population requirements of a rural service area, and shall be located within a reasonable distance of the parent center to allow sharing of administration, services, and supervision. Parent and satellite centers shall be located in the same licensing district office.

(c) Notwithstanding any other provision of law, the administrator or program director of a parent center may, with the approval of the department, serve as the administrator or program director for up to three additional satellite sites.

(d) For the purposes of this section, the following definitions apply:

(1) "Parent" means a licensed and certified adult day health care center that establishes one or more satellites. A satellite may be in the county of the parent or rural service areas. The parent center shall provide administration, supervision, and, with the approval of the department, may share services and staff with one or more satellite centers. The parent center's license and certification shall cover adult day health care services at one or more satellites.

(2) "Rural alternative adult day health care center" means an adult day health care center located in a rural service area.

(3) "Rural service area" means any identified service area in an approved adult day health care county plan with 200 or less estimated



adult day health care eligible population and with two or more of the following characteristics:

(A) Is more than one-half hour direct driving time from an urban area of 50,000 population or more.

(B) Has no other adult day health care center within one-half hour direct driving time.

(C) Has geographic or climatic barriers, including, but not limited to, snow, fog, ice, mountains, inadequate highways, or weather, that make transportation to another adult day health care center impractical.

(D) Is located in a county with an overall population density of less than 100 persons per square mile.

(E) Can demonstrate in the application for licensure that a shortage of qualified professionals exists in the county or service area.

(4) "Satellite" means an adult day health care center established in a rural service area by an existing licensed and certified adult day health care center for the purposes of extending rural adult day health care services to another location. A satellite shall be located close enough to the adult day health center so that administration, supervision, and services may be shared in a manner that does not compromise care and makes it unnecessary for the satellite to be separately licensed. Each satellite shall meet fire and life safety regulations and laws. Prior approval from the department is required before operating or opening a satellite.

SEC. 11. Section 1581.5 of the Health and Safety Code is amended to read:

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.

SEC. 12. Section 1588.7 of the Health and Safety Code is amended to read:

1588.7. (a) The department, unless otherwise specified in the interagency agreement entered into pursuant to Section 1572 or pursuant to annual Budget Act requirements, shall adopt specific guidelines for the establishment of grant-supported activities, including criteria for evaluation of each activity and monitoring to assure compliance with grant conditions and applicable regulations of the state department. The guidelines shall be developed in consultation with the Long-Term Care Committee. Funds shall be awarded only after the local adult day health care planning council has had opportunity to review and comment on the applicant's proposal pursuant to guidelines established for these grants



and is approved by the department, or by the California Department of Aging. If an area does not have an active planning council or an approved planning council, the applicant shall be exempt from this review.

(b) The department, unless otherwise specified by annual Budget Act requirements, shall develop a contract with each selected project.

SEC. 13. Section 9542 of the Welfare and Institutions Code is amended to read:

9542. (a) The Legislature finds and declares that the purpose of the Alzheimer's Day Care-Resource Center Program is to provide access to specialized day care resource centers for individuals with Alzheimer's disease and other dementia-related disorders and support to their families and caregivers.

(b) The following definitions shall govern the construction of this section:

(1) "Participant" means an individual with Alzheimer's disease or a disease of a related type, particularly the participant in the moderate to severe stages, whose care needs and behavioral problems may make it difficult for the individual to participate in existing care programs.

(2) "Other dementia-related disorders" means those irreversible brain disorders that result in the symptoms described in paragraph (3). This shall include, but is not limited to, multi-infarct dementia and Parkinson's disease.

(3) "Care needs" or "behavioral problems" means the manifestations of symptoms that may include, but need not be limited to, memory loss, aphasia (communication disorder), becoming lost or disoriented, confusion and agitation, with the potential for combativeness, and incontinence.

(4) "Alzheimer's day care resource center" means a center developed pursuant to this section to provide a program of specialized day care for participants with dementia.

(c) The department shall adopt policies and guidelines to carry out the purposes of this section, and the adoption thereof shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) In order to be eligible to receive funds under this section, a direct services contract applicant shall do all of the following:

(1) Provide a program and services to meet the special care needs of, and address the behavioral problems of, participants.

(2) Provide adequate and appropriate staffing to meet the nursing, psychosocial, and recreational needs of participants.

(3) Provide physical facilities that include the safeguards necessary to protect the participants' safety.



(4) Provide a program for assisting individuals who cannot afford the entire cost of the program. This may include, but need not be limited to, utilizing additional funding sources to provide supplemental aid and allowing family members to participate as volunteers at the applicant's facility.

(5) Utilize volunteers and volunteer aides and provide adequate training for those volunteers.

(6) Provide a match of not less than 25 percent of the direct services contract amount consisting of cash or in-kind contributions, identify other potential sources of funding for the applicant's facility, and outline plans to seek additional funding to remain solvent.

(7) Maintain family and caregiver support groups.

(8) Encourage family members and caregivers to provide transportation to and from the applicant's facility for participants.

(9) Concentrate on participants in the moderate to severe ranges of disability.

(10) Provide or arrange for a noon meal to participants.

(11) Establish contact with local educational programs, such as nursing and gerontology programs, to provide onsite training to students.

(12) Provide services to assist family members, including counseling and referral to other resources.

(13) Serve as model centers available to other service providers for onsite training in the care of these patients.

(14) Involve the center in community outreach activities and provide educational and informational materials to the community.

(15) Maintain a systematic means of capturing and reporting all required community-based services program data.

(e) Notwithstanding any provision of the Health and Safety Code, direct services contractors that are not licensed as an adult day care center, adult day support center, or adult day health care center shall be exempt from licensure requirements under this division and shall be subject exclusively to this chapter for purposes of operating an Alzheimer's day care resource center. However, if a direct service contractor is licensed in one of the above categories at the time the contractor is awarded Alzheimer's day care resource center funds or becomes licensed after the award of the funds, this exemption shall not apply, even if the contractor chooses to subsequently surrender the license. If the license as an adult day care center, adult day support center, or adult day health care center has been surrendered by the direct service contractor or has been terminated as a result of noncompliance with the applicable licensure or certification standards, these actions shall also



act to terminate the direct service contractor's Alzheimer's day care resource center contract.

(f) Nothing in this chapter shall be construed to prevent existing adult day care services, including adult day health care centers, from developing a specialized program under this chapter. The applicants shall meet all of the requirements for direct services contractors in this chapter and satisfactorily demonstrate that the direct services contract funding award shall be used to develop a distinct specialized program for this target population.

SEC. 14. Section 14530 of the Welfare and Institutions Code is amended to read:

14530. (a) Individual plans of care shall be submitted to the department. Services for each participant shall be provided as specified in the individual plan of care approved pursuant to Section 14526.

(b) Individual monthly service reports shall be submitted to the department.

(c) Each provider shall supply a written statement to the participant explaining what services will be provided and specifying the scheduled days of attendance. This statement, which shall be known as the participation agreement, shall be signed by the participant and a provider representative and retained in the participant's file.

SEC. 15. Section 14552 of the Welfare and Institutions Code is amended to read:

14552. In order to obtain certification as a provider of adult day health care under this chapter and Chapter 7 (commencing with Section 14000), the following standards shall be met:

(a) The provider shall have met all other requirements of licensure as an adult day health care center pursuant to Chapter 3.3 (commencing with Section 1570) of Division 2 of the Health and Safety Code.

(b) The provider shall comply with requirements of this chapter regarding program and scope of services.

(c) The provider shall have appropriate licensed personnel.

(d) The provider shall employ allied health and social personnel for furnishing of services consistent with good medical practice.

(e) The provider shall afford to each participant all rights, including the right to be free from harm and abuse, identified in the rules and regulations adopted pursuant to Section 1580 of the Health and Safety Code.

(f) A provider serving a substantial number of participants of a particular racial group, or whose primary language is other than English, shall employ staff of that particular racial or linguistic group at all times.

(g) A provider shall have organizational and administrative capacity to provide services under provisions of this chapter.



(h) A provider or applicant shall submit for review and approval by the California Department of Aging a facility program plan for providing adult day health care services that meets the following requirements:

(1) The facility program plan shall be developed, submitted, and approved prior to initial licensure and certification, prior to any change in the specialty or specific population to be served, or as required by the California Department of Aging.

(2) The facility program plan shall include all of the following:

(A) The number of participants to be served.

(B) A profile of the participant population that addresses specific needs of the population, including, but not limited to, frail elderly or specialization in a particular disability.

(C) A summary of the specific program elements, including those that specifically address the population served.

(D) A summary of the specialized professional or program staff who will provide services specific to the specialty population served and their responsibilities.

(E) An in-service training program plan for at least a six-month interval.

(F) A sample of an individual plan of care developed by the multidisciplinary team and under the direction of the program director and a sample of a one-week schedule of daily services based on the individual plan of care.

(G) A plan for any behavior modification program that is used with a specialty population such as developmentally or mentally disabled persons.

(3) The provider or applicant shall be notified in writing of the approval of the facility program plan.

(4) If the facility program plan is not approved, the provider or applicant shall be notified in writing of the components of the plan that need to be clarified or corrected. The provider or applicant may submit a revised plan to the California Department of Aging for reconsideration.

SEC. 16. Section 14552.1 of the Welfare and Institutions Code is repealed.

SEC. 17. Section 14552.2 of the Welfare and Institutions Code is repealed.

SEC. 18. Section 14553 of the Welfare and Institutions Code is amended to read:

14553. An adult day health care provider shall establish written policies and procedures, which shall have prior approval of the department, unless otherwise specified in an interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code, for continuously reviewing the quality of care, performance of all personnel,



the utilization of services and facilities, and costs. Information derived from the review shall be made available to the department, unless otherwise specified in an interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code.

SEC. 19. Section 14554 of the Welfare and Institutions Code is amended to read:

14554. The adult day health care provider shall maintain a complete standard medical record for each participant, including records of treatment rendered by a subcontractor, according to specifications established by the department and as may be further specified by the California Department of Aging.

SEC. 20. Section 14570 of the Welfare and Institutions Code is amended to read:

14570. (a) The department shall adopt all necessary rules and regulations providing for quality of care and payment for services rendered under this chapter pursuant to Chapter 7 (commencing with Section 14000). All regulations heretofore adopted by the department pursuant to this chapter, and that are in effect immediately preceding the operative date of the amendment of this section enacted by the Legislature during the 1977–78 Regular Session, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director.

(b) The director shall establish a distinct organizational entity within the department that shall have primary responsibility for the Adult Day Health Care Medi-Cal program. This entity shall coordinate and direct all departmental activities required by this chapter.

SEC. 21. Section 14571 of the Welfare and Institutions Code is amended to read:

14571. The department, in consultation with the California Association for Adult Day Services, shall develop a rate methodology. The methodology shall take into consideration all allowable costs associated with providing adult day health care services. Once a methodology has been approved by the department, it shall be the basis of future annual rate reviews.

Payment shall be for services provided in accordance with an approved individual plan of care. Billing shall be submitted directly to the department. Additionally, the department shall establish a reasonable rate of reimbursement for the initial assessment.

Nothing in this section shall preclude the department from entering into specific prospective budgeting and reimbursement agreements with providers.

SEC. 22. Section 14573 of the Welfare and Institutions Code is amended to read:



14573. (a) Initial Medi-Cal certification for adult day health care providers shall expire 12 months from the date of issuance. The director shall specify any date he or she determines is reasonably necessary because of the record of the applicant and to carry out the purposes of this chapter, but not more than 24 months from the date of issuance, when renewal of the certification shall expire. The certification may be extended for a period of not more than 60 days if the department determines it to be necessary.

(b) Before certification renewal the provider shall submit with the application therefor a report according to department specifications that includes an analysis of income and expenditures, continued demonstrated community need, services, participant statistics and outcome, and adherence to policies and procedures.

(c) Prior to approving renewal of Medi-Cal certification, the department and the California Department of Aging shall conduct a financial review and onsite medical and management reviews with the licensing review. The reviews shall be conducted by a team of persons with appropriate technical skills. The management review shall be performed by the entity responsible for directing and coordinating the program, as specified in the interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code.

(d) Where the director determines that the public interests would be served thereby, a public hearing may be held on any renewal application subject to this section. The findings of the departmental program and licensing reviews and the provider's annual evaluation report shall be presented at the hearing.

SEC. 23. Section 14574 of the Welfare and Institutions Code is amended to read:

14574. (a) The director shall terminate the Medi-Cal certification of any adult day health care provider at any time if he or she finds the provider is not in compliance with standards prescribed by this chapter or Chapter 7 (commencing with Section 14000) or regulations adopted pursuant to these chapters. The director shall give reasonable notice of his or her intention to terminate the certification to the provider and participants in the center. The notice shall state the effective date of, and the reason for, the termination.

(b) The denial, suspension, or termination of certification shall be considered immediate grounds for denial, suspension, or revocation of the license.

(c) Proceedings to deny an application for certification or licensure, terminate or suspend certification, or revoke or suspend licensure shall be consolidated whenever possible.



(d) The California Department of Aging and the department shall coordinate an action or actions to the extent appropriate to ensure consistency and uniformity.

(e) The provider shall have the right to appeal the department's decision made pursuant to Section 14123.

SEC. 24. Section 14574.1 of the Welfare and Institutions Code is amended to read:

14574.1. (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, unless otherwise specified in the interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code. Inspections shall be conducted prior to the expiration of certification, but at least every two years, and as often as necessary to ensure the quality of care being provided. As resources permit, an inspection may be conducted prior to, as well as within, the first 90 days of operation.

(b) If, as a result of the inspection, the department or the California Department of Aging, as specified in the interagency agreement, determines that the adult day health care center has serious deficiencies that pose a risk to the health and safety of the participants, the department or the California Department of Aging, as specified in the interagency agreement, may immediately take any of the following actions, including, but not limited to:

- (1) Require a plan of correction.
- (2) Limit participant enrollment.
- (3) Prohibit new participant enrollment.

(c) The provider shall have the right to dispute an action taken under paragraphs (2) and (3) of subdivision (b). The department or the California Department of Aging, as specified in the interagency agreement, shall accept, consider, and resolve disputes filed pursuant to this subdivision in a timely manner. The dispute resolution process shall be determined by the California Department of Aging in consultation with the department.

(d) The director shall ensure that public records accurately reflect the current status of any potential actions including the resolution of disputes.

SEC. 25. Section 14575 of the Welfare and Institutions Code is amended to read:

14575. Each adult day health care provider shall maintain a uniform accounting and reporting system as developed by the department, in consultation with the provider. The department shall implement a uniform cost accounting system and train providers in this system by July 1, 1987. The California Department of Aging, in coordination with



the department may approve an alternative cost accounting system where the provider demonstrates the ability to report comparable and reliable data. The provider shall submit annual cost reports to the department, unless otherwise specified in an interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code, no later than five months after the close of the licensee's fiscal year. The report shall be submitted in the format prescribed by the state. Each facility shall maintain, for a period of four years following the submission of annual cost reports, financial and statistical records of the period covered by the cost reports which are accurate and in sufficient detail to substantiate the cost data reported. These records shall be made available to state or federal representatives upon request. The department, unless otherwise specified in an interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code, may request a financial review performed by an independent certified public accountant as part of the provider's annual cost report. All certified financial statements shall be filed with the department within a period no later than three months after the department's request. The department, unless otherwise specified in an interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code, may require a limited or complete certified public accountant audit when the monitoring activities carried out pursuant to Section 14573 reveal significant financial management deficiencies.

SEC. 26. Section 14576 of the Welfare and Institutions Code is amended to read:

14576. Each adult day health care provider shall furnish to the department, unless otherwise specified by the interagency agreement entered into pursuant to Section 1572 of the Health and Safety Code, all additional information and reports that the department may find necessary in performing its functions under this chapter. The information and reports shall include, but not be limited to, any statistical information regarding utilization of services, individual treatment plans and individual service reports, costs of health care, and administration the department may require.

SEC. 27. Section 14580 of the Welfare and Institutions Code is repealed.

