An act to add Section 14589.6 to the Welfare and Institutions Code, relating to care facilities. An act to amend Sections 1570.2, 1570.7, 1578, and 1585.5 of, and to add Sections 1584.5, 1587, and 1587.5 to, the Health and Safety Code, relating to care facilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

AB 784, as amended, Yamada. Adult day health care.

Existing law, the California Adult Day Health Care Act, provides for the licensure and regulation of adult day health care centers, with administrative responsibility for the adult day health care program shared among the State Department of Public Health, the State Department of Health Care Services, and the California Department of Aging pursuant to an interagency agreement. Existing law provides that a negligent, repeated, or willful violation of a provision of the California Adult Day Health Care Act is a misdemeanor.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law, the Adult Day Health Medi-Cal Law, establishes adult day health care services as a Medi-Cal
benefit and requires adult day health centers to offer, and provide
directly on the premises, specified services. Existing law, with prescribed
implementation, to the extent permitted by federal law, excludes adult
day health care from coverage under the Medi-Cal program and provides
that it is the intent of the Legislature to adopt legislation during the
2011–12 Regular Session creating a new program to provide a
well-defined scope of services, as specified, to eligible beneficiaries in
the absence of such community-based services.

This bill would, to the extent that funds are available, require that
equivalent services provided at 2 specified veterans homes of California
be considered for inclusion in the new program. This bill would require
that this provision be implemented in a manner that is equitable with
regard to other enrollees of the new program.

This bill would require an adult day health care center to have a
prescribed program plan, as defined. This bill would provide the
minimum staffing requirements for an adult day health care center.

Existing law requires an adult day health care center to provide
services to each participant pursuant to an individual plan of care, as
defined, designed to maintain or restore each participant’s optimal
capacity for self-care.

This bill would require this plan to be designed by the
multidisciplinary team, composed, at a minimum, as prescribed. This
bill would require an adult day health care center to provide certain
services, as needed, to implement participants’ individual plans of care
in accordance with the program plan.

By changing the definition of a crime, this bill would create a
state-mandated local program.

The California Constitution requires the state to reimburse local
agencies and school districts for certain costs mandated by the state.
Statutory provisions establish procedures for making that
reimbursement.

This bill would provide that no reimbursement is required by this act
for a specified reason.

This bill would declare that it is to take effect immediately as an
urgency statute.

State-mandated local program: no yes.
The people of the State of California do enact as follows:

SECTION 1. Section 1570.2 of the Health and Safety Code is amended to read:

1570.2. The Legislature hereby finds and declares that there exists a pattern of overutilization of long-term institutional care for elderly persons or persons, adults with disabilities, and acutely or chronically ill adults and that there is an urgent need to establish and to continue a community-based system of quality adult day health care which will enable elderly persons or persons, adults with disabilities, and acutely or chronically ill adults to maintain maximum independence. While recognizing that there continues to be a substantial need for facilities providing 24-hour custodial care, overreliance on this type of care has proven to be a costly panacea in both financial and human terms, often traumatic, and destructive of continuing family relationships and the capacity for independent living.

It is, therefore, the intent of the Legislature in enacting this chapter and related provisions to provide for the development of policies and programs that will accomplish the following:

(a) Ensure that elderly persons and persons, adults with disabilities, and acutely or chronically ill adults are not institutionalized inappropriately or prematurely.

(b) Provide a viable alternative to institutionalization the utilization of institutional services for those elderly persons and persons, adults with disabilities, and acutely or chronically ill adults who are capable of living at home with the aid of appropriate health care or rehabilitative and social services.

(c) Establish adult day health centers in the community for this purpose, that will be easily accessible to all participants, including economically disadvantaged elderly persons and persons, adults with disabilities, and acutely or chronically ill adults and that will provide person-centered outpatient health, rehabilitative, and social services necessary to permit the participants to gain or maintain personal independence and lead meaningful lives.

(d) Include the services of adult day health centers as a benefit under the Medi-Cal Act, that shall be an initial and integral part in the development of an overall plan for a coordinated, comprehensive continuum of optional long-term care services based upon appropriate need.
(e) Establish a rural alternative adult day health care program designed to meet the special needs and requirements of rural areas to enable the implementation of subdivisions (a) through (d), inclusive, for all Californians in need of those services.

(f) Ensure that all laws, regulations, and procedures governing adult day health care be enforced equitably regardless of organizational sponsorship and that all program flexibility provisions be administered equitably.

SEC. 2. Section 1570.7 of the Health and Safety Code, as amended by Chapter 119 of the Statutes of 2011, is amended to read:

1570.7. As used in this chapter and in any regulations promulgated thereunder:

(a) “Adult day health care” means an organized day program of therapeutic, social, and skilled nursing health activities and services provided pursuant to this chapter to elderly persons or adults with disabilities with functional impairments, either physical or mental, outpatient program utilizing a patient-centered multidisciplinary team approach to manage physical, cognitive, and behavioral health conditions for the purpose of restoring or maintaining an individual’s optimal capacity for self-care health and functioning. Provided on a short-term basis, adult day health care serves as a transition site for transitioning from a health facility or home health program to personal independence to the community with the goal of preventing avoidable emergency department visits and inpatient readmissions and restoring optimal health. Provided on a long-term basis over a longer term, it serves as an alternative to deter institutionalization in a long-term health care facility when 24-hour skilled nursing care is not medically necessary or viewed as desirable by the recipient or his or her family and overuse of more costly medical resources.

(b) “Adult day health center” or “adult day health care center” means a licensed facility that provides adult day health care.

(c) “Average daily attendance” means the average number of participants attending the adult day health care center daily, calculated over the past month.

(d) “Core staff” includes the positions of program director, registered nurse, social worker, activity director, and program aide.
(e) “Department” or “state department” means the State Department of Public Health.

(f) “Director” means the State Public Health Officer.

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

(h) “Extended hours” means those hours of operation prior to or following the adult day health care program hours of service, as designated by the adult day health care center in its plan of operation, during which the adult day health care center may operate an adult day program, or an Alzheimer’s day care resource center, or both.

(i) “Full-time” means the total program hours of service per week.

(j) “Half-time” means 50 percent of full-time.

(k) “Hours of operation” means the regular hours during which the adult day health care center is open and any staff are on the premises, including, but not limited to, hours during which no participants are scheduled to attend but the doors are open to conduct business operations.

(l) “Hours of service” means the program hours defined and posted by the adult day health care center during which core staff and participants are present for the provision of adult day health care services, pursuant to Section 14550 of the Welfare and Institutions Code, which shall be no less than four hours, excluding transportation.

(m) “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 participant within the facility’s scope of services, as defined in the program plan.

(n) “Institutional services” includes any 24-hour health facility and a hospital emergency department.
(o) “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.

(p) “Long-term absence” or “long-term vacancy” means an absence or vacancy lasting, or likely expected to last, more than one month. An adult day health care center’s policies and procedures shall be specific regarding coverage in the situation for long-term absences or vacancies.

(q) “Maintenance program” means procedures and exercises that are provided to a participant, pursuant to Section 1580, in order to generally maintain existing function or to maintain a level of functioning when a patient’s restoration potential is insignificant in relation to the therapy required to achieve that potential, when it has been determined that the treatment goals will not materialize, or when the therapy performed is considered to be a general exercise program. 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.

(r) “Personal health care provider” means the participant’s personal physician, physician’s assistant, or nurse practitioner, operating within his or her scope of practice.

(s) “Program aide” means a person, supervised by the program director or other members of the multidisciplinary team, whose job duties include, but are not limited to, provision of personal care, assistance with activities, transportation, or other services, as assigned.

(t) “Program director” shall be a person with both of the following:

1. One of the following backgrounds:
   A. A person with a bachelor’s degree and a minimum of two years of experience in a management, supervisory, or administrative position.
(B) A person with a master’s degree and a minimum of one year of experience in a management, supervisory, or administrative position.

(C) A registered nurse with a minimum of two years experience in a management, supervisory, or administrative position.

(2) Appropriate skills, knowledge, and abilities related to the health, and mental, cognitive, and social needs of the participant group being served by the adult day health center.

(u) “Program plan” means a written description of the adult day health care center’s philosophy, objectives, and processes for providing required services to the participant populations.

(v) “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 within a reasonable period of time, as determined by the multidisciplinary assessment team.

(w) “Short-term absence” or “short-term vacancy” means a staff absence or vacancy lasting, or expected to last, one month or less, and includes sick leave and vacations. An adult day health care center shall ensure that appropriate staff is designated to serve in these positions during the short-term absence or vacancy and that the center’s policies and procedures are specific regarding coverage of short-term absences or vacancies, but does not include periods during which staff are absent from the facility performing program-related duties.

(x) “Social worker” shall be a person who meets one of the following:

(1) The person holds a master’s degree in social work from an accredited school of social work.

(2) The person holds a master’s degree in psychology, gerontology, or counseling from an accredited school and has one year of experience providing social services in one or more of the fields of aging, health, or long-term care services.
(3) The person is licensed by the California Board of Behavioral Sciences.
(4) The person holds a bachelor’s degree in social work from an accredited school with two years of experience providing social services in one or more of the fields of aging, health, or long-term care services.

SEC. 3. Section 1578 of the Health and Safety Code is amended to read:

1578. (a) 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 pursuant to Section 1578.1.

SEC. 4. Section 1584.5 is added to the Health and Safety Code, to read:

1584.5. An adult day health care center shall have a program plan that shall contain all of the following:

(a) The total number of participants the center proposes to serve, or currently serves, daily.
(b) A profile of the participant population the center proposes to serve, or currently serves, that includes a description of the specific medical, social, and other needs of each population.
(c) A description of the specific services provided to address
the medical, social, and other needs of each participant population
that the center proposes to serve, or currently serves, as specified
in subdivision (b).
(d) A description of the specialized professional and program
staff that will provide, or currently provides, the adult day health
care center’s program services, as specified in subdivision (c),
and that staff’s responsibilities. The plan shall demonstrate that
the adult day health care center is organized and staffed to carry
out the requirements as specified in the regulations adopted
pursuant to Section 1580.
(e) An in-service training plan for each center staff member to
commence within the first six months of employment. The training
plan shall address, at a minimum, the specific medical, social, and
other needs of each participant population the center proposes to
serve, as specified in subdivision (b).
(f) An example of a one-week schedule of daily program
services.
(g) A plan for a behavior modification program if such a
program will be used as a basic intervention for meeting the needs
of a special population, such as persons with developmental
disabilities or persons with mental disabilities. The plan, as applied
to persons with developmental disabilities, shall be consistent with
Section 4503 of the Welfare and Institutions Code.
SEC. 5. Section 1585.5 of the Health and Safety Code is
amended to read:
1585.5. (a) Adult day health care centers shall provide services
to each participant pursuant to an individual plan of care designed
by the multidisciplinary team to maintain or restore each
participant’s optimal capacity for self-care.
(b) The multidisciplinary team shall be composed of, at a
minimum, the staff physician or the participant’s personal health
care provider, the registered nurse, the social worker, the program
director, and, as needed, an occupational therapist, physical
therapist, or speech and language pathologist. The
multidisciplinary team shall assess the needs of the participant
and develop the participant’s individual plan of care.
SEC. 6. Section 1587 is added to the Health and Safety Code,
to read:
1587. (a) The minimum staffing requirements for an adult day
health care center shall be as follows:
(1) A full-time program director shall be employed to implement
the program plan, and supervise and coordinate staff.
(2) Program aides shall be employed in a sufficient number to
meet the personal care and supervision needs of the participants
during program hours of service or extended program hours, but
in no event shall the program aides employed be fewer than a ratio
of one-half aide for every increment of eight participants being
cared for during program hours of service. Program aides shall
be qualified by education, training, and experience to perform the
duties assigned and meet the needs of the program.
(3) A full-time registered nurse shall be employed to oversee
the provision of nursing services. A half-time vocational nurse
shall be provided for each increment of 10 in average daily
attendance exceeding 40, calculated monthly, and which has been
sustained over each of the prior three calendar months.
(4) A full-time social worker shall be employed to provide direct
skilled social work services and to oversee the provision of social
services. A half-time social work assistant shall be provided for
each increment of 10 in average daily attendance exceeding 40,
calculated monthly, and which has been sustained over each of
the prior three calendar months.
(5) A full-time activity director shall be employed to direct the
activity program. The activity director may be counted in the ratio
for calculating the necessary direct care staff defined in subdivision
(b).
(6) A licensed nurse shall be on duty during the defined program
hours of service.
(b) The adult day health care center’s policies and procedures
shall be specific regarding the provision of adequate staffing for
coverage with qualified personnel for long-term and short-term
absences or vacancies. Regardless of the reason for the staff
absence or vacancy, the adult day health care center shall provide
sufficient staffing to ensure participant safety and shall designate
appropriate substitute staff as needed.
SEC. 7. Section 1587.5 is added to the Health and Safety Code,
to read:
1587.5. The minimum services that shall be provided by an
adult day health care center, as needed, to implement participants’
individual plans of care, in accordance with the program plan, are as follows:

(a) Occupational therapy services.
(b) Pharmacist consulting services to assist with implementation of the center’s medication policies and procedures and to consult on individual participant drug regimens.
(c) Physical therapy services.
(d) Psychiatric or psychological consulting services provided by a qualified licensed practitioner.
(e) Skilled dietary consulting services.
(f) Speech and language pathology services.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that adult day health care centers may remain open, providing services to elderly persons, adults with disabilities, and acutely or chronically ill adults with the elimination of adult day health care as a Medi-Cal benefit, it is necessary that this act take effect immediately.

SECTION 1. Section 14589.6 is added to the Welfare and Institutions Code, to read:

14589.6. (a) If exclusion of adult day health care from coverage under the Medi-Cal program is implemented pursuant to Section 14589.5, and a new program is enacted to provide a well-defined scope of services to eligible beneficiaries who meet a high medical acuity standard and are at a significant risk of institutionalization in the absence of such community-based services, then equivalent services provided at the William J. “Pete” Knight Veterans Home of California, Lancaster, and the Veterans Home of California, Ventura, shall be considered for inclusion in the new program:
(b) This section shall be implemented only to the extent that funds are available and in a manner that is equitable with regard to other potential enrollees of the new program.