

Senate Bill No. 91

CHAPTER 119

An act to amend Sections 1570.7, 1574.5, 1576.2, and 1578.1 of, and to repeal Sections 1575.5 and 1590.3 of, the Health and Safety Code, and to amend Section 14574 of the Welfare and Institutions Code, relating to adult day health care, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor July 25, 2011. Filed with
Secretary of State July 25, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 91, Committee on Budget and Fiscal Review. Adult day health care centers.

Existing law, the California Adult Day Health Care Act, provides for the licensure and regulation of adult day health care centers, with administrative responsibility shared between 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 establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which health care services are provided to qualified, low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law provides, to the extent permitted by federal law, that adult day health care be excluded from coverage under the Medi-Cal program.

Existing law requires, concurrently with the submission of an application for initial licensure as an adult day health care center, an applicant to apply for eligibility certification as a provider of adult day health care services reimbursable under the Medi-Cal program. Existing law also prohibits a license from being issued or renewed for an adult day health care center that is not approved as a Medi-Cal provider of adult day health care services.

This bill would remove the requirement that an applicant for initial licensure as an adult day health care center apply for Medi-Cal certification. This bill would also remove the prohibition against issuing or renewing a license for an adult day health care center that is not approved as a Medi-Cal provider of adult day health care services, and would make conforming changes.

Existing law provides that if an adult day health care center licensee provides adult day program services, the adult day health care license is the only license required to provide these additional services.

This bill would require a provider choosing to add an adult day program within the adult day health care facility to submit a notice to the State Department of Public Health. By changing the definition of a crime, this bill would impose 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 appropriate the sum of \$1,000 from the General Fund to the State Department of Public Health for administrative costs.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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 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, 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 alternative to 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.

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

(c) “Core staff” includes the positions of program director, registered nurse, social worker, activity director, and program aide.

(d) “Department” or “state department” means the State Department of Public Health.

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

(f) “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.

(g) “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.

(h) “Hours of service” means the program hours defined and posted by the adult day health care center 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.

(i) “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.

(j) “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.

(k) “Long-term absence” or “long-term vacancy” means an absence or vacancy lasting, or likely 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.

(l) “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.

(m) “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.

(n) “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.

(o) “Short-term absence” or “short-term vacancy” means an absence or vacancy lasting 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.

(p) “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. 2. 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 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 program director, administrator, 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. 3. Section 1575.5 of the Health and Safety Code is repealed.

SEC. 4. Section 1576.2 of the Health and Safety Code is amended to read:

1576.2. 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.

SEC. 5. Section 1578.1 of the Health and Safety Code is amended 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 program 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) A provider choosing to add an adult day program within the adult day health care facility shall submit a notice to the department on such forms as may be required.

(c) Review and approval of the application to provide a dual program shall not require an on-site inspection.

(d) The maximum licensed capacity shall be determined by the local fire authority and shall include limits for ambulatory and nonambulatory participants.

SEC. 6. Section 1590.3 of the Health and Safety Code is repealed.

SEC. 7. 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 California Department of Aging and the department shall coordinate proceedings to deny an application for certification, to terminate or suspend certification, or to revoke or suspend licensure to the extent appropriate to ensure consistency and uniformity.

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

(d) This section is not applicable to denials of initial certification made pursuant to a moratorium imposed in accordance with Section 14043.46 of the Welfare and Institutions Code.

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. The sum of one thousand dollars (\$1,000) is hereby appropriated from the General Fund to the State Department of Public Health for administrative costs.

SEC. 10. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.