

**Senate Bill No. 2180**

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Passed the Senate August 31, 2000

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*Secretary of the Senate*

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Passed the Assembly August 29, 2000

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2000, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to amend Sections 1572, 1575.3, 1575.4, 1576, 1580.5, and 1590.5 of, to add Sections 1575.45 and 1590.3 to, the Health and Safety Code, to amend Section 14574 of, and to add Section 14574.1 to, the Welfare and Institutions Code, relating to adult day health care.

## LEGISLATIVE COUNSEL'S DIGEST

SB 2180, Committee on Health and Human Services. Adult day health care: licensing.

(1) Existing law establishes the Long-Term Care Committee within the California Department of Aging. The duties of the committee are to act as an advisory body to the department and advise the Director of the California Department of Aging on development of community-based long-term care programs.

Existing law requires the committee to review and make recommendations on guidelines to evaluate community need to be adopted by the director.

This bill, instead, would require the department to prepare guidelines to evaluate community need to be adopted by the local planning council.

(2) Existing law requires the committee to review county adult day health care plans.

This bill would require the department, rather than the committee, to review county adult day health care plans.

(3) Existing law requires the committee to review and make recommendations to the director on individual proposals for startup funds and original licensure of proposed adult day health care centers. Existing law authorizes the committee to conduct onsite inspections to evaluate a proposed provider or facility. Existing law provides the criteria upon which the review is to be based.

This bill would delete these provisions.

(4) Existing law requires the director to make recommendations to the Licensing and Certification



Division in the State Department of Health Services on licensure.

This bill would specify criteria the director is required to use in making the recommendation.

(5) Existing law establishes requirements for the issuance by the department and continued maintenance of provisional and regular licenses for the operation of adult day health care centers, as well as requiring a center to be approved by the department for eligibility certification as an adult day health care center under Medi-Cal.

This bill would revise these licensing and certification requirements.

This bill would also permit the appeal of actions taken by the department under these provisions.

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

SECTION 1. 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 (h). 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” shall refer to the Director of the California Department of Aging or the Director of the State Department of Health Services as specified in the interagency agreement.

(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 State Department of Health Services 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 department.

(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. 2. Section 1575.3 of the Health and Safety Code is amended to read:

1575.3. (a) If an adult day health care center or an applicant for a license has not been previously licensed, the department may only issue a provisional license to the center as provided in this section.

(b) A provisional license to operate an adult day health care center shall expire one year from the date of issuance, or at an earlier time as determined by the department at the time of issuance.

(c) Within 30 days prior to the expiration of a provisional license, the department shall give the adult day health care center a full and complete inspection, and, if the adult day health care center meets all applicable requirements for licensure, a regular license shall be issued. If the adult day health care center does not meet the requirements for licensure but has made substantial progress towards meeting the requirements, as determined by the department, the initial provisional license shall be renewed for six months.



(d) If the department determines that there has not been substantial progress towards meeting licensure requirements at the time of the first full inspection provided by this section, or, if the department determines upon its inspection made within 30 days prior to the termination of a renewed provisional license that there is lack of full compliance with the requirements, no further license shall be issued.

(e) If an applicant for a provisional license to operate an adult day health care center has been denied a license, the applicant may contest the denial by requesting an adjudicative hearing. The proceedings to review the denial shall be conducted pursuant to Section 100171.

(f) The department shall not apply less stringent criteria when issuing a provisional license pursuant to this section than it applies when issuing a regular license.

SEC. 3. Section 1575.4 of the Health and Safety Code is amended to read:

1575.4. (a) The department may issue a provisional license to an adult day health care center if all of the following conditions are met:

(1) The adult day health care center and the applicant for licensure substantially meet the standards specified by this chapter and regulations adopted pursuant to this chapter.

(2) No violation of this chapter or regulations adopted under this chapter exists in the adult day health care center that jeopardizes the health or safety of patients.

(3) The applicant has adopted a plan for correction of any existing violations that is satisfactory to the department.

(b) A provisional license issued under this section shall expire not later than one year after the date of issuance, or at an earlier time as determined by the department at the time of issuance, and may not be renewed.

(c) At the expiration of the provisional license period, the department shall assess the adult day health care center's full compliance with licensure requirements. If the adult day health care center meets all applicable



requirements for licensure, the department shall issue a regular license.

(d) The department shall not apply less stringent criteria when issuing a provisional license pursuant to this section than it applies when issuing a regular license.

SEC. 4. Section 1575.45 is added to the Health and Safety Code, immediately following Section 1575.4, to read:

1575.45. (a) If the department determines that the adult day health care center operating under a provisional license has serious deficiencies that pose a risk to the health and safety of the participants, the department 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.

(b) When appropriate, the California Department of Aging and the department shall coordinate an action or actions to ensure consistency and uniformity.

(c) The licensee shall have the right to dispute an action or actions taken pursuant to paragraphs (2) and (3) of subdivision (a). The department shall accept, consider, and resolve disputes filed pursuant to this subdivision by a licensee in a timely manner.

(d) The director shall ensure that public records accurately reflect the current status of any action or actions taken pursuant to this section, including any resolution of disputes.

SEC. 5. Section 1576 of the Health and Safety Code is amended to read:

1576. All applications for a new license shall be submitted to the planning council for the county in which the adult day health care center will be located, if an approved planning council exists, which shall review the application as provided in Section 1573. The director shall approve the application if it is determined to be consistent with the existing county plan, no substantial basis for denial of the license exists under Section 1575.7, and the applicant has met all the requirements for



licensure set forth in this chapter and regulations adopted hereunder. Otherwise the director shall deny issuance of the license.

SEC. 6. Section 1580.5 of the Health and Safety Code is amended to read:

1580.5. (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. Inspections shall be conducted prior to the expiration of certification or at least every two years and as often as necessary to ensure the quality of care being provided, whether initiated by the state department or pursuant to Section 1580.9. As resources permit, an inspection may be conducted prior to, as well as within the first 90 days of, adult day health care center operation.

(b) After each inspection, the state department shall notify the adult day health care center in writing of any deficiencies in its compliance with this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility. Upon a finding of noncompliance, the state department may also assess a civil penalty not to exceed fifty dollars (\$50) per day for each violation continuing beyond the date fixed in the notice for correction. If the violation is not corrected within that time, the civil penalty shall accrue from the date of receipt of the notice by the licensee. If the violation continues beyond the date fixed for correction, the state department may also initiate action against the licensee in accordance with Article 7 (commencing with Section 1595).

(c) When a civil penalty is to be assessed pursuant to this section, the notice shall specify the amount thereof and shall be served upon the licensee in a manner prescribed by subdivision (c) of Section 11505 of the Government Code. Any judicial action required to collect a civil penalty assessed pursuant to this section shall be brought by the Attorney General acting on behalf of the state department in the superior court of the county in which the adult day health care center is located.



SEC. 7. Section 1590.3 is added to the Health and Safety Code, to read:

1590.3. (a) The denial, suspension, or revocation of a center's license shall be considered immediate grounds for the denial, suspension, or termination of the center's certification.

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

SEC. 8. Section 1590.5 of the Health and Safety Code is amended to read:

1590.5. Proceedings for the suspension, revocation, or denial of a license under this article shall be conducted in accordance with Section 100171. Except as provided in Section 1591, Section 100171 shall prevail in the event of a conflict between this chapter and Section 100171. The director shall ensure that public records accurately reflect the current status of any potential adverse action or actions, including the resolution of disputes.

SEC. 9. 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 plan. 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 State Department of Health Services 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. 10. Section 14574.1 is added to the Welfare and Institutions Code, 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. 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 the department 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 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 shall accept, consider, and resolve disputes filed pursuant to this subdivision in a timely manner.

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



Approved \_\_\_\_\_, 2000

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*Governor*

