

**Assembly Bill No. 1817**

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Passed the Assembly    May 14, 1998

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*Chief Clerk of the Assembly*

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Passed the Senate    July 2, 1998

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_ day  
of \_\_\_\_\_, 1998, at \_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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CHAPTER \_\_\_\_

An act to amend Sections 1570.7, 1572, 1572.9, 1576, 1585.2, 1585.5, 1588.2, and 1588.7 of, to amend and renumber Section 1589.5 of, and to repeal Section 1589 of, the Health and Safety Code, and to amend Sections 14525, 14526, 14530, 14550, 14552.2, 14555, 14571, 14575, 14577, and 14585 of the Welfare and Institutions Code, relating to adult care services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1817, Takasugi. Adult day health care.

Existing law, the California Adult Day Health Care Act, governs the provision of adult day health care.

Under existing law, certain administrative responsibilities under this act were transferred from the State Department of Health Services to the California Department of Aging.

This bill would specify that 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.

Existing law requires the State Department of Health Services to conduct a grants-in-aid program to assist in the establishment of new adult day health care centers and the stabilization of existing centers that meet specified requirements.

Under existing law, the grant amount available for a single project is limited to \$50,000.

This bill would eliminate this limitation.

Existing law provides that any older person meeting specified requirements shall be eligible for adult day health care services.

This bill would, instead, provide that any adult meeting these eligibility requirements shall be eligible for these services.



Existing law requires adult day health care centers to have written procedures for dealing with emergency situations, which are required to include specified items.

This bill would, instead, require these written procedures to include either the use of a local 911 emergency response system or the other specified items.

Existing law provides that if an adult day health care center licensee also provides adult day care, adult day social care, or Alzheimer's day care resource center services, the license shall be the only license required to provide these additional services.

This bill would require the department to evaluate these additional services for quality of care and compliance with program requirements, concurrent with inspections of the adult day health care facility, using a single source survey. It would also change references to adult day social care services to adult day support center services.

The bill would also require the department and the California Department of Aging to jointly adopt regulations for the provision of different levels of care under the single adult day health care license.

Existing law requires that payment for adult day health care services to Medi-Cal recipients shall be made for services provided during the preceding month.

This bill would eliminate the requirement that payment be for services provided during the preceding month.

Existing law requires adult day health care centers receiving reimbursement for the provision of services to Medi-Cal recipients to submit annual cost reports to the State Department of Health Services no later than 3 months after the close of the facility's fiscal year.

This bill would, instead, require these reports to be submitted no later than 5 months after the close of the licensee's fiscal year.

Existing law requires that subcontracts between an adult day health care center and a subcontractor be kept on file with the department.



This bill would, instead, require these subcontracts to be kept on file and be available at the center.

The bill would declare that it is not the intent of the Legislature to create additional work for either the State Department of Health Services or the California Department of Aging, either in the surveying or development of regulations, that cannot be absorbed by existing resources in those departments.

This bill would make other technical and conforming changes.

*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 which 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 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 California Department of Aging or the State Department of Health Services as specified in the interagency agreement between the two departments.

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

1572. 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.

The Health and Welfare Agency shall develop a plan by July 1, 1988, for streamlining the certification and licensing process for adult day health care.

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. The interagency agreement shall also specify that as of January 1, 1988, 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. As provided for in Section 19994.10 of the Government Code, the personnel resources and funding, equivalent to one personnel year used to perform the audit responsibilities shall be transferred to the California Department of Aging. This agreement shall also include provisions whereby the state department 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.

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 and "state



department” shall refer to the California Department of Aging. 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. 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.

The committee shall be responsible for the reviewing of new programs under the jurisdiction of the department.

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.

Additionally, the functions of the committee shall include all of the following:

(a) The committee shall review and make recommendations on guidelines for adoption by the Director of the California Department of Aging 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.

(b) The committee shall review county plans submitted pursuant to Section 1572.9. Such county plans shall be approved if consistent with the guidelines adopted by the director pursuant to subdivision (a).

(c) The committee shall review and make recommendations to the Director of the California Department of Aging concerning individual proposals for startup funds and for original licensure of proposed adult day health care centers. 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. This review may include onsite inspections by the committee, or a special subcommittee thereof, for the purpose of evaluating a proposed provider or its facility. The basis of this review shall be the approved county plan and 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. 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. 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 (a) 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. Such initial recommendations shall not bind the council with respect to future consideration of individual applications for licensure.

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 state review committee.

SEC. 4. Section 1576 of the Health and Safety Code is amended to read:

1576. All applications for a new license shall be submitted to the long-term care committee and, if applicable, to the planning council for the county in which the adult day health care center will be located, which shall review the application as provided in subdivision (c) of Section 1572 and 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. 5. Section 1585.2 of the Health and Safety Code is amended to read:

1585.2. Any operator of a health facility, clinic, or community care facility licensed to provide adult day health care under this chapter shall provide such adult day health care as an independent program which is located in a separate, freestanding facility or in a distinct portion of the health facility, clinic, or community care facility.

SEC. 6. Section 1585.5 of the Health and Safety Code is amended to read:

1585.5. Adult day health care centers shall provide services to each participant pursuant to an individual plan of care designed to maintain or restore each participant's optimal capacity for self-care.

SEC. 7. Section 1588.2 of the Health and Safety Code is amended to read:

1588.2. Eligibility for grants pursuant to this article shall be limited to any public or private nonprofit agency. As a condition of making a grant, the director shall require the applicant to match not less than 20 percent of the amount granted. The required match may be cash or in-kind contributions, or a combination of both. In-kind contributions may include, but shall not be limited to, staff and volunteer services.

SEC. 8. Section 1588.7 of the Health and Safety Code is amended to read:

1588.7. (a) The state department 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 not be awarded until the proposal receives favorable recommendation from the local adult day health care planning council, if established pursuant to Section 1572.5, and is approved by the state department.



(b) The state department shall develop a contract with each selected project.

SEC. 9. Section 1589 of the Health and Safety Code is repealed.

SEC. 10. Section 1589.5 of the Health and Safety Code is amended and renumbered to read:

1589. State administrative costs on grants issued pursuant to this article shall not exceed 10 percent of the amount of the grants.

SEC. 11. Section 14525 of the Welfare and Institutions Code is amended to read:

14525. Any adult eligible for benefits under Chapter 7 (commencing with Section 14000) shall be eligible for adult day health care services if that person meets any one of the following criteria:

(a) The person is at the point of discharge from a general acute care hospital or other acute care facility and, except for the availability of an adult day health care program, would be placed in a long-term care institution.

(b) The person is residing in the community, but is in danger of institutionalization, and his or her disabilities and level of functioning are such that without intervention that placement would likely occur.

(c) The person is a resident of a nursing facility or other long-term care facility, but the department determines that institutional placement is unnecessary and the person is an appropriate candidate for adult day health care.

(d) The person is a resident of an intermediate care facility for the developmentally disabled-habilitative, and his or her disabilities and level of functioning are such that without supplemental intervention through adult day health care, placement to a more costly level of care would be likely to occur. The department shall establish an appropriate reimbursement rate for intermediate care facility for the developmentally disabled-habilitative clients to ensure that there is no duplicate payment for services.

SEC. 12. Section 14526 of the Welfare and Institutions Code is amended to read:



14526. Participation in an adult day health care program shall require prior authorization by the department. The authorization request shall be initiated by the provider and shall include the results of the assessment screening conducted by the provider's multidisciplinary team and the resulting individualized plan of care. Participation shall begin upon application by the prospective participant or upon referral from community or health agencies, physician, hospital, family, or friends of a potential participant.

The adult day health care provider shall provide services only to those participants living within its service area, as determined by the department consistent with the county plan adopted pursuant to Section 1572.9 of the Health and Safety Code; provided, that, under special circumstances in which an adult day health care provider meets a special need or affinity of a particular individual residing outside the provider's service area, the provider may accept such individual as a participant, conditioned upon limiting reimbursable transportation costs to such costs which are incurred solely within the provider's service area.

SEC. 13. Section 14530 of the Welfare and Institutions Code is amended to read:

14530. Individual plans of care and individual monthly service reports shall be submitted to the department. Each provider shall supply a written statement to the participant explaining what services will be provided and specifying the scheduled days of attendance. Such statement, which shall be known as the participation agreement, shall be signed by the participant and retained in the participant's file.

SEC. 14. Section 14550 of the Welfare and Institutions Code is amended to read:

14550. Adult day health care centers shall offer, and shall provide directly on the premises, at least the following services:

- (a) Rehabilitation services, including the following:



(1) Occupational therapy as an adjunct to treatment designed to restore impaired function of patients with physical or mental limitations.

(2) Physical therapy appropriate to meet the needs of the patient.

(3) Speech therapy for participants with speech or language disorders.

(b) Medical services supervised by either the participant's personal physician or a staff physician, or both, which emphasize prevention treatment, rehabilitation, and continuity of care and also provide for maintenance of adequate medical records. To the extent otherwise permitted by law, medical services may be provided by nurse practitioners, as defined in Section 2835 of the Business and Professions Code, operating within the existing scope of practice, or under standardized procedures pursuant to Section 2725 of the Business and Professions Code, or by registered nurses practicing under standardized procedures pursuant to Section 2725 of the Business and Professions Code.

(c) Nursing services, including the following:

(1) Nursing services rendered by a professional nursing staff, who periodically evaluate the particular nursing needs of each participant and provide the care and treatment that is indicated.

(2) Self-care services oriented toward activities of daily living and personal hygiene, such as toileting, bathing, and grooming.

(d) Nutrition services, including the following:

(1) The program shall provide a minimum of one meal per day which is of suitable quality and quantity as to supply at least one-third of the daily nutritional requirement. Additionally, special diets and supplemental feedings shall be available if indicated.

(2) Dietary counseling and nutrition education for the participant and his or her family shall be a required adjunct of such service. Dietary counseling and nutrition education may be provided by a professional registered nurse, unless the participant is receiving a special diet



prescribed by a physician, or a nurse determines that the services of a registered dietician are necessary.

(e) Psychiatric or psychological services which include consultation and individual assessment by a psychiatrist, clinical psychologist, or a psychiatric social worker, when indicated, and group or individual treatment for persons with diagnosed mental, emotional, or behavioral problems.

(f) Social work services to participants and their families to help with personal, family, and adjustment problems that interfere with the effectiveness of treatment.

(g) Planned recreational and social activities suited to the needs of the participants and designed to encourage physical exercise, to prevent deterioration, and to stimulate social interaction.

(h) Transportation service for participants, when needed, to and from their homes utilizing specially equipped vehicles to accommodate participants with severe physical disabilities that limit their mobility.

(i) Written procedures for dealing with emergency situations. These written procedures shall include either of the following:

(1) The use of a local 911 emergency response system.

(2) All of the following elements:

(A) The name and telephone number of a physician on call.

(B) Written arrangements with a nearby hospital for inpatient and emergency room service.

(C) Provision for ambulance transportation.

SEC. 15. Section 14552.2 of the Welfare and Institutions Code is amended to read:

14552.2. (a) Notwithstanding subdivisions (b) and (c) of Section 1570.7 of the Health and Safety Code 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 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 of the Health and Safety Code for the provision of different levels of care under the single adult day health care license.

SEC. 16. Section 14555 of the Welfare and Institutions Code is amended to read:

14555. Each adult day health care provider shall establish a grievance procedure under which participants may submit their grievances. Such procedure shall be approved by the department prior to the approval of the certification. The department shall establish standards for such procedures to insure adequate consideration and rectification of participant grievances. A provider shall make written findings of fact in the case of each grievance processed, a copy of which shall be transmitted to the participant. If the Medi-Cal participant has an unresolved grievance, the fair hearing provided in Chapter 7 (commencing with Section 10950) of Part 2 of this division shall be available to resolve all grievances regarding care and administration by the adult day health care provider. The findings and recommendations of the department, based on the decision of the hearing officer, shall be binding upon the adult day health care provider.

SEC. 17. Section 14571 of the Welfare and Institutions Code is amended to read:

14571. The State Department of Health Services, in consultation with the California Association of 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. 18. 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 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 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 three 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 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 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. 19. Section 14577 of the Welfare and Institutions Code is amended to read:

14577. All subcontracts for services reimbursable under this chapter shall be entered into pursuant to regulations of the department. All subcontracts shall be in writing, and a copy shall be transmitted to the department for approval prior to taking effect. Each subcontract submitted to the department for approval shall contain the amount of compensation or other consideration which the subcontractor will receive under the terms of the subcontract with the adult day health care provider. However, this section shall not apply to employment contracts of salaried employees of an adult day health care licensee.

All subcontracts to provide health care benefits, including emergency services, shall include a specification that services will be provided to participants to meet the needs of the participants based upon the plans of care. All subcontracts to provide any of the basic services specified in Section 14550 through subcontractors, shall meet all of the qualifications required by, or pursuant to, this chapter as appropriate for the services which the subcontractors are required to perform.

Each subcontract shall require that the subcontractor make all of its books and records pertaining to the goods or services furnished under the terms of the subcontract available for inspection, examination, or copying by the department during normal working hours at the subcontractor's principal place of business, or at such other place in the state as the department shall designate. Subcontracts between an adult day health care provider and a subcontractor shall be public records and shall be kept on file and be available at the center. The names of the officers and stockholders of the subcontractor shall also be kept on file and be available as public records at the center.



SEC. 20. Section 14585 of the Welfare and Institutions Code is amended to read:

14585. For purposes of this article, “state officer or employee” means a Member of Congress representing the State of California; a Member of the Legislature; a secretary of a state agency and those members of the secretary’s staff who hold policymaking positions; those members of the Governor’s staff who hold policymaking positions; an administrative aide or committee consultant of the Legislature; the appointive or civil service employee of the highest class or grade in each department, system, program, section, or other administrative subdivision of the department and the California Department of Aging, as defined in regulations adopted by those departments; any other employee in the department and the California Department of Aging who has any responsibility for the negotiation and development, or management of Medi-Cal contracts of an adult day health care center certified under the provisions of this chapter. The director shall adopt regulations further delineating the class of employees covered by this section.

SEC. 21. It is not the intent of the Legislature to create additional work for either the State Department of Health Services or the California Department of Aging, either in the surveying or development of regulations, that cannot be absorbed by existing resources in the California Department of Aging.



Approved \_\_\_\_\_, 1998

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*Governor*

