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GAVIN NEWSOM
Governor

DATE: May 19, 2022
TO: Office of Administrative Law
FROM: California Department of Public Health, Office of Regulations
SUBJECT: Change Without Regulatory Effect - Adult Day Health Care Center

Pursuant to Title 1, Division 1, Chapter 1, Article 2, section 100(b) of the California Code of Regulations (CCR), the California Department of Public Health (Department) hereby requests approval of this nonsubstantive rulemaking. The Department submits the attached regulation text and Std. Form 400 along with this written statement explaining why the proposed amendments to Title 22 CCR sections 78201, 78203, 78205, and 78401 do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

The proposed changes:

1. Update sections 78201, 78203, 78205, and 78401 of Title 22, CCR to allow public or private corporations, companies, or partnerships operating an adult day health care center (ADHC) to qualify for licensure in accordance with Health and Safety Code (HSC) sections 1575.1(a) and 1575.2.
2. Add HSC sections 20, 1254, 1275, and 131200 as authorities.
3. Add HSC sections 1575.1, 1575.2, 131050, 131051, and 131052 as references.

Please refer to the proposed regulation text attached, which is presented as a ~~strikeout~~/underline version.

BACKGROUND

The California Adult Day Health Care Act (Chapter 1066, Statutes of 1977) enacted HSC section 1575.2 which only permitted cities, counties, or non-profit organizations to operate adult day health centers (ADHCs).

Senate Bill (SB) 1492 (Mello, Chapter 1121, Statutes of 1994) amended HSC section 1575.2 to remove the statutory restrictions that only non-profits, cities or counties could offer adult day health care centers to those who qualify, thereby allowing individuals and for-profit organizations to operate ADHCs.



Assembly Bill (AB) 829 (Cohn, Chapter 681, Statutes of 2001) added HSC section 1575.1(a)(1) which allows a corporation, company, or partnership to operate an ADHC.

A Section 100 change without regulatory effect was approved by the Office of Administrative Law in December 2021 to update the definition of an ADHC licensee in Title 22 CCR section 78055. Subsequent to the original submission, four additional sections requiring the same update were identified.

NONSUBSTANTIVE DETERMINATION

This proposal to amend Title 22 CCR sections 78201, 78203, 78205, and 78401 is a nonsubstantive change without regulatory effect pursuant to 1 CCR sections 100(a)(5) and (6) which are further outlined below.

1. Delete “nonprofit corporation” and “nonprofit organization” from the regulations and replace with “corporation, company, partnership”:

This change will make the regulatory provision consistent with 1994 and 2001 California statute changes as well as the recent update to Title 22 CCR section 78055. The statute as it stands today has been changed to allow corporations, companies, and partnerships to be licensed as ADHCs. This revision amends regulatory provisions which are inconsistent with, and superseded by, changes in statute and the Department has no discretion to adopt a change which differs in substance from the one chosen.

2. Add authority and reference citations:

Existing Title 22 CCR sections 78201, 78203, and 78401 do not include “authority” or “reference” citations, which are proposed to be added. Existing Title 22 CCR section 78205 does include “authority” and “reference” citations, which are proposed to be amended.

HSC sections 20, 1254, 1275, and 131200 are added to each section’s note authority citation, resulting in no regulatory effect. The four statutes pertain to the Department’s general authority to adopt, repeal, and amend, when appropriate, standards and regulations for the management of health care facilities. The aforementioned statutes authorize the Department to adopt and enforce rules and regulations for the execution of its duties.

Title 22 CCR section 78205 includes an authority citation for HSC section 208(a) which was repealed when the authority moved to HSC section 1275. As such, the Department proposes to strike reference to HSC section 208(a) and replace it with the current statutory references mentioned above.

HSC sections 1575.1, 1575.2, 131050, 131051, and 131052 are added to each section’s note reference citation, resulting in no regulatory effect.

Should you have any questions, please contact the CDPH Office of Regulations at Regulations@cdph.ca.gov or (916) 558-1710.

Enclosure(s)