Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=2.&article=5.]

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 2. Administration [110045 - 110243]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 5. California Rx Prescription Drug Web Site Program [110242 - 110243]__

(Article 5 added by Stats. 2006, Ch. 720, Sec. 4.)

110242.

(a)The California Rx Prescription Drug Web Site Program is hereby established.

(b)The State Department of Health Care Services shall administer the program. The purpose of the program shall be to provide information to California residents and health care providers about options for obtaining prescription drugs at affordable prices.

(c)The department shall establish a Web site on or before July 1, 2008, which shall, at a minimum, provide information about, and electronic links to, all of the following:

(1)Prescription drug benefits available to Medicare beneficiaries, including the Voluntary Prescription Drug Benefit Program.

(2)State programs that provide drugs at discounted prices for California residents.

(3)Pharmaceutical manufacturer patient assistance programs that provide free or low-cost prescription drugs

to qualifying individuals.

(4)Other Web sites as deemed appropriate by the department that help California residents to safely obtain prescription drugs at affordable prices, including links to Web sites of health plans and health insurers regarding their prescription drug formularies.

(d)The departmentsWeb site shall include price comparisons of at least 150 commonly prescribed prescription drugs, including typical prices charged by licensed pharmacies in the state.

(e)The department shall ensure that the Web site established pursuant to this section is coordinated with, and does not duplicate, other Web sites that provide information about prescription drug options and costs.

(f)Implementation of this section shall be contingent upon an appropriation, if the department determines that the requirements of this section cannot be implemented without additional funding, in which case the department shall request an appropriation from the Legislature for that purpose.

(Amended by Stats. 2007, Ch. 483, Sec. 23. Effective January 1, 2008.)

110243.

(a)Contracts and change orders entered into pursuant to this article and any project or systems development notice shall be exempt from all of the following:

(1)The competitive bidding requirements of State Administrative Manual Management Memo 03-10.

(2)The project authority requirements of Sections 4800 and following of the State Administrative Manual.

(3)Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(4)Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of the Government Code.

(5)Section 11.05 of, and Provision 6 of Item 4260-001-0001 of, Section 2.00 of the Budget Act of 2005 (Ch. 38, Stats. 2005).

(b)Change orders entered into pursuant to this article shall not require a contract amendment.

(Added by Stats. 2006, Ch. 720, Sec. 4. Effective January 1, 2007.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=3.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 3. Guarantees [110245 - 110285]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 6.)

110245.

No dealer shall be prosecuted under this part for a violation concerning any food, drug, device, or cosmetic that is contained in an original, unbroken, and undamaged package that bears the original labeling if all of the following requirements are satisfied:

(a) He or she has used reasonable care in the storage and handling of the food, drug, device, or cosmetic.

(b) He or she received the food, drug, device, or cosmetic in the usual channels of trade as first-class merchantable stock and not as seconds or damaged articles or job lots purchased under conditions that indicate that the food, drug, device, or cosmetic was not usual first-class merchandise.

(c) He or she can produce a guarantee to the effect that the food, drug, device, or cosmetic is not adulterated, misbranded, or falsely advertised, within the meaning of this part, or that it is not a food, drug, device, or cosmetic which, pursuant to this part, may not be sold or offered for sale in this state.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110250.

The guarantee shall be dated prior to the date of sale of the food, drug, device, or cosmetic and it shall be signed by the wholesaler, jobber, manufacturer, or other person located or residing in this state from whom the dealer received the food, drug, device, or cosmetic in good faith.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110255.

A guarantee may be either a general guarantee or a special guarantee and shall be produced prior to the time of reporting an alleged violation to the Attorney General, the district attorney, or a city attorney for prosecution.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110260.

A general guarantee shall guarantee without condition or restriction any food, drug, device, or cosmetic that is produced, prepared, compounded, packed, distributed, or sold by the guarantor as not adulterated, mislabeled, misbranded, falsely advertised, or that the article is not an article under this part that may not be sold or offered for sale.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110265.

A special guarantee shall guarantee in the same manner as a general guarantee the particular food, drug, device, or cosmetic listed in an invoice of the food, drug, device, or cosmetic, and shall be attached to, or shall fully identify, the invoice.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110270.

All guarantees shall contain the name and address of the guarantor making the sale of food, drug, device, or cosmetic. A guarantee shall protect the person only when the food, drug, device, or cosmetic covered by the guarantee remains identical, both as to composition and labeling, with the food, drug, device, or cosmetic as composed and labeled when originally received from the guarantor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110275.

It is unlawful for any person to give a guarantee or undertaking that is false.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110280.

If the guarantee is to the effect that the food, drug, device, or cosmetic is not in violation within the meaning of the federal act, it shall be sufficient for all the purposes of this part, and shall have the same force and effect as though it referred to this part, unless, pursuant to this part, the standard for the food, drug, device, or cosmetic concerned is higher than the standard for a like food, drug, device, or cosmetic under the federal act. In that case, this part shall prevail over the federal act.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110285.

In any case where the department has adopted a regulation prescribing a tolerance, including, but not limited to, a zero tolerance, for a poisonous or deleterious substance, food additive, pesticide chemical, or color additive in processed foods, the department may require manufacturers to guarantee that foods they market in the state comply with the tolerance. The department may require a guarantee periodically but in no case more often than once each calendar quarter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=3.5.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 3.5. Expiration Dates [110286- 110286.]__

(Chapter 3.5 added by Stats. 2011, Ch. 681, Sec. 1.)

110286.

(a)A retailer shall not sell or offer for sale after the expiration date an over-the-counter drug.

(b)Notwithstanding Section 111825, any retailer who violates this section is guilty of an infraction, punishable by a fine of not more than ten dollars ($10) per day for each item sold or offered for sale after the expiration date. The fine shall be calculated based upon the number of days past the expiration date that the product is either found being offered for sale, or if the product is sold, the date of sale as established by evidence of proof of purchase, including, but not limited to, a sales receipt.

(c)The department may assess administrative penalties on a retailer who violates this section in the amount of ten dollars ($10) per day for each item sold or offered for sale, in addition to other penalties authorized by law.

(d)For purposes of this section,over-the-counter drug means a nonprescription drug regulated by the federal Food and Drug Administration that is required to have an expiration date on its packaging pursuant to the federal act and federal regulations adopted pursuant to the federal act, including, but not limited to, Section 211.137 of Title 21 of the Code of Federal Regulations.

(Added by Stats. 2011, Ch. 681, Sec. 1. (AB 688) Effective January 1, 2012.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=5.&chapter=4.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=4.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Packaging, Labeling,and Advertising [110290 - 110423.101]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. General [110290 - 110335]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

110290.

In determining whether the labeling or advertisement of a food, drug, device, or cosmetic is misleading, all representations made or suggested by statement, word, design, device, sound, or any combination of these, shall be taken into account. The extent that the labeling or advertising fails to reveal facts concerning the food, drug, device, or cosmetic or consequences of customary use of the food, drug, device, or cosmetic shall also be considered.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110295.

The requirement that any word, statement, or other information appear on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper of the retail package of any food, drug, device, or cosmetic, or is easily legible through the outside container or wrapper.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110300.

It is unlawful for any person to forge, counterfeit, simulate, falsely represent, or without proper authority use, any mark, stamp, tag, label, or other identification device that is authorized or required by regulations adopted pursuant to this part or the federal act.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110310.

It is unlawful for any manufacturer, packer, or distributor of a prescription drug or device offered for sale in this state to fail to maintain for transmittal or to fail to transmit to any practitioner licensed by applicable state law to administer the drug or device who makes written request for information as to the drug or device true and correct copies of all printed matter that is required to be included in any package in which that drug or device is distributed or sold. Nothing in this section shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110315.

It is unlawful for any person, with the intent to deceive, to place, or cause to be placed upon any food, drug, device, or cosmetic, or its package, the trade name or other identifying mark or imprint of another person or any likeness of the trade name or other identifying mark or imprint of another person.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110320.

It is unlawful for any person to sell, dispense, dispose of, hold, or conceal any food, drug, device, or cosmetic or its package, with knowledge that the trade name or other identifying marks, imprint, or likeness of the trade name or other identifying mark or imprint of another person has been placed on the food, drug, device, or cosmetic or its package in a manner prohibited by Section 110315.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110325.

It is unlawful for any person to possess, make, sell, dispose of, cause to be made, or conceal any punch, die, plate, or other device that may be used to render a food, drug, device, or cosmetic or its package or labeling a counterfeit.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110330.

It is unlawful for any person to do any act that causes any food, drug, device, or cosmetic to be a counterfeit, or to sell, dispense, or hold for sale or dispensing, the counterfeit food, drug, device, or cosmetic.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110335.

The department may adopt regulations exempting from any labeling or packaging requirements of this part any food, drug, device, or cosmetic that is in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed and packed, on condition that the food, drug, device, or cosmetic is not adulterated or misbranded under the provisions of this part upon removal from the processing, labeling, or repacking establishment. Such food, drug, device, or cosmetic is subject to all other applicable provisions of this part.

All regulations relating to the exemptions that are in effect on the effective date of this part, or that are adopted on or after that date, pursuant to the federal act, are automatically effective in this state. The department may, however, adopt any additional regulations concerning exemptions.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=4.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Packaging, Labeling,and Advertising [110290 - 110423.101]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Fair Packaging and Labeling [110340 - 110385]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

110340.

All labels of foods, drugs, devices, or cosmetics shall conform with the requirements of the declaration of net quantity of contents of Section 4 of the Fair Packaging and Labeling Act (80 Stat. 1296; 15 U.S.C., Sec. 1451) and the regulations adopted pursuant thereto. Foods, drugs, devices, and cosmetics exempted from the requirements of Section 4 of the Fair Packaging and Labeling Act, however, are also exempt from this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110345.

The label of any package of a food, drug, device, or cosmetic that bears a representation as to the number of servings of the commodity contained in the package shall bear a statement of the net quantity, in terms of weight, measure, or numerical count, of each serving.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110350.

It is unlawful for any person to distribute, or cause to be distributed, in commerce any packaged food, drug, device, or cosmetic if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by Section 110340.

This section, however, does not prohibit supplemental statements, at other places on the package, describing in nondeceptive terms the net quantity of contents. Such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110355.

Whenever the department determines that regulations containing prohibitions or requirements, other than those prescribed by Section 110340, are necessary to prevent the deception of consumers or to facilitate value comparisons as to any food, drug, device, or cosmetic, the department shall adopt regulations with respect to that commodity.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110360.

The department may establish and define standards for the characterization of the size of a package that encloses any food, drug, device, or cosmetic, that may be used to supplement the label statement of net quantity of contents of packages containing the commodity. This section, however, does not authorize any limitation on the size, shape, weight, dimension, or number of packages that may be used to enclose any food, drug, device, or cosmetic.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110365.

The department may regulate the placement upon any package that contains any food, drug, device, or cosmetic or upon any label affixed to the article, of any printed matter stating or representing by implication that the article is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to any purchaser of the article by reason of the size of that package or the quantity of its contents.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110370.

The department may require that the label on each package of a food, drug, device, or cosmetic bear the common or usual name of the article, if any, and in case the article consists of two or more ingredients, the common or usual name of each ingredient listed in order of decreasing predominance by weight. This section, however, does not require that any trade secret be divulged.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110371.

(a)A professional cosmetic manufactured on or after July 1, 2020, for sale in this state shall have a label affixed on the container that satisfies all of the labeling requirements for any other cosmetic pursuant to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301, et seq.), and the federal Fair Packaging and Labeling Act (15 U.S.C. Sec. 1451, et seq.).

(b)The following definitions shall apply to this section:

(1)Ingredient has the same meaning as in Section 111791.5.

(2)Professional means a person that has been granted a license by the State Board of Barbering and Cosmetology to practice in the field of cosmetology, nail care, barbering, or esthetics.

(3)Professional cosmetic means a cosmetic product as it is defined in Section 109900 that is intended or marketed to be used only by a professional on account of a specific ingredient, increased concentration of

an ingredient, or other quality that requires safe handling, or is otherwise used by a professional.

(Added by Stats. 2018, Ch. 393, Sec. 2. (AB 2775) Effective January 1, 2019.)

110375.

(a) No container wherein commodities are packed shall have a false bottom, false sidewalls, false lid or covering, or be otherwise so constructed or filled, wholly or partially, as to facilitate the perpetration of deception or fraud.

(b) No container shall be made, formed, or filled as to be misleading. A container that does not allow the consumer to fully view its contents shall be considered to be filled as to be misleading if it contains nonfunctional slack fill. Slack fill is the difference between the actual capacity of a container and the volume of product contained therein. Nonfunctional slack fill is the empty space in a package that is filled to substantially less than its capacity for reasons other than any one or more of the following:

(1)Protection of the contents of the package.

(2)The requirements of machines used for enclosing the contents of the package.

(3)Unavoidable product settling during shipping and handling.

(4)The need to utilize a larger than required package or container to provide adequate space for the legible presentation of mandatory and necessary labeling information, such as those based on the regulations adopted by the United States Food and Drug Administration or state or federal agencies under federal or state law, laws or regulations adopted by foreign governments, or under an industrywide voluntary labeling program.

(5)The fact that the product consists of a commodity that is packaged in a decorative or representational container where the container is part of the presentation of the product and has value that is both significant in proportion to the value of the product and independent of its function to hold the product, such as a gift combined with a container that is intended for further use after the product is consumed, or durable commemorative or promotional packages.

(6)An inability to increase the level of fill or to further reduce the size of the package, such as where some minimum package size is necessary to accommodate required labeling, discourage pilfering, facilitate handling, or accommodate tamper-resistant devices.

(7)The product container bears a reasonable relationship to the actual amount of product contained inside, and the dimensions of the actual product container, the product, or the amount of product therein is visible to the consumer at the point of sale, or where obvious secondary use packaging is involved.

(8)One or more of the following:

(A)The dimensions of the product or immediate product container are visible through the exterior packaging.

(B)The actual size of the product or immediate product container is clearly and conspicuously depicted on any side of the exterior packaging, excluding the bottom, accompanied by a clear and conspicuous disclosure that the depiction is the actual size of the product or immediate product container. If there are

multiple units of the same product in a package, only one actual size depiction is required per same size product or immediate product container.

(C)A line or a graphic that represents the product or product fill and a statement communicating that the line or graphic represents the product or product fill such as Fill Line, both of which are clearly and conspicuously depicted on exterior packaging or the immediate product container if visible at point of sale. If the product is subject to settling, the line shall represent the minimum amount of product after settling.

(9)The presence of any headspace within an immediate product container necessary to facilitate the mixing, adding, shaking, or dispensing of liquids or powders by consumers before use.

(10)The exterior packaging contains a product delivery or dosing device if the device is visible, or a clear and conspicuous depiction of the device appears on the exterior packaging, or it is readily apparent from the conspicuous exterior disclosures or the nature and name of the product that a delivery or dosing device is contained in the package.

(11)The exterior packaging or immediate product container is a kit that consists of a system, or multiple components, designed to produce a particular result that is not dependent upon the quantity of the contents, if the purpose of the kit is clearly and conspicuously disclosed on the exterior packaging.

(12)The exterior packaging of the product is routinely displayed using tester units or demonstrations to consumers in retail stores, so that customers can see the actual, immediate container of the product being sold, or a depiction of the actual size of the container before purchase.

(13)The exterior packaging consists of single or multiunit presentation boxes of holiday or gift packages if the purchaser can adequately determine the quantity and sizes of the immediate product container at the point of sale.

(14)The exterior packaging is for a combination of one purchased product, together with a free sample or gift, wherein the exterior packaging is necessarily larger than it would otherwise be due to the inclusion of the sample or gift, if the presence of both products and the quantity of each product are clearly and conspicuously disclosed on the exterior packaging.

(15)The mode of commerce does not allow the consumer to view or handle the physical container or product.

(c)Slack fill in a package shall not be used as grounds to allege a violation of this section based solely on its presence unless it is nonfunctional slack fill.

(d)Any sealer may seize a container that facilitates the perpetration of deception or fraud and the contents of the container. By order of the superior court of the county within which a violation of this section occurs, the containers seized shall be condemned and destroyed or released upon any condition as the court may impose to ensure against their use in violation of this chapter. The contents of any condemned container shall be returned to the owner if the owner furnishes proper facilities for the return.

(Amended by Stats. 2018, Ch. 544, Sec. 3. (AB 2632) Effective January 1, 2019.)

110380.

All regulations and their amendments pertaining to foods, drugs, devices, and cosmetics that are in effect on the effective date of this part, or that are adopted on or after that date, pursuant to the Fair Packaging and Labeling Act (80 Stat. 1296; 15 U.S.C. Sec. 1451 et seq.) shall be the regulations of this state. The department may, when necessary, prescribe any packaging and labeling regulation for foods, drugs, devices, and cosmetics whether or not the regulation is in accordance with regulations adopted under the Fair Packaging and Labeling Act. No regulations shall be adopted that are contrary to the labeling requirements for the net quantity of contents required pursuant to Section 4 of the Federal Fair Packaging and Labeling Act and the regulations adopted pursuant to that section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110385.

It is unlawful for any person to distribute in commerce any food, drug, device, or cosmetic, if its packaging or labeling does not conform to the provisions of this article or to regulations adopted pursuant to this article. This section does not apply to persons engaged in business as wholesale or retail distributors of foods, drugs, devices, or cosmetics, except to the extent that they are engaged in the packaging or labeling of the commodities or they prescribe or specify the manner in which the commodities are packaged or labeled. This section shall not be construed to repeal, invalidate, or supersede any other section of this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=4.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Packaging, Labeling,and Advertising [110290 - 110423.101]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Advertising [110390 - 110420]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

110390.

It is unlawful for any person to disseminate any false advertisement of any food, drug, device, or cosmetic. An advertisement is false if it is false or misleading in any particular.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110395.

It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food, drug, device, or cosmetic that is falsely advertised.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110398.

It is unlawful for any person to advertise any food, drug, device, or cosmetic that is adulterated or misbranded.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110400.

It is unlawful for any person to receive in commerce any food, drug, device, or cosmetic that is falsely advertised or to deliver or proffer for delivery any such food, drug, device, or cosmetic.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110403.

Except as otherwise provided in Section 110405, it is unlawful for a person to advertise a drug or device represented to have an effect in any of the following conditions, disorders, or diseases:

(a)Appendicitis.

(b)Blood disorders.

(c)Bone or joint diseases.

(d)Kidney diseases or disorders.

(e)Cancer.

(f)Carbuncles.

(g)Diseases, disorders, or conditions of the eye.

(h)Diabetes.

(i)Diphtheria.

(j)Gallbladder diseases or disorders.

(k)Heart and vascular diseases.

(l)High blood pressure.

(m)Diseases or disorders of the ear or auditory apparatus, including hearing loss and deafness.

(n)Measles.

(o)Meningitis.

(p)Mental disease or intellectual disability.

(q)Paralysis.

(r)Pneumonia.

(s)Poliomyelitis.

(t)Prostate gland disorders.

(u)Conditions of the scalp, affecting hair loss, or baldness.

(v)Alcoholism.

(w)Periodontal diseases.

(x)Epilepsy.

(y)Goiter.

(z)Endocrine disorders.

(aa)Sexual impotence.

(ab)Sinus infections.

(ac)Encephalitis.

(ad)Tumors.

(ae)Venereal diseases.

(af)Tuberculosis.

(ag)Ulcers of the stomach.

(ah)Varicose ulcers.

(ai)Scarlet fever.

(aj)Typhoid fever.

(ak)Whooping cough.

(al)Acquired immunodeficiency syndrome (AIDS).

(am)AIDS-related complex (ARC).

(an)Diseases, disorders, or conditions of the immune system.

(Amended by Stats. 2012, Ch. 457, Sec. 31. (SB 1381) Effective January 1, 2013.)

110405.

An advertisement that is not unlawful under Section 110390 is not unlawful under Section 110403 if it is either one of the following:

(a) Disseminated only to members of the medical, dental, pharmaceutical, or veterinary professions, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of drugs or devices.

(b) An advertisement that a drug or device has a specific curative or therapeutic effect on a condition, disorder, or disease listed in Section 110403 if the drug or device is approved or cleared for marketing for that specific curative or therapeutic effect through any of the following means:

(1) A new drug application approved pursuant to Section 111500, or Section 505 of the federal act (21 U.S.C. Sec. 355).

(2) An abbreviated new drug application approved pursuant to Section 505 of the federal act (21 U.S.C. Sec.

355).

(3) A licensed biological product pursuant to Section 351 of the Public Health Service Act (42 U.S.C. Sec. 262).

(4) A nonprescription drug that meets the requirements of Part 330 of Title 21 of the Code of Federal Regulations.

(5) A new animal drug application approved under Section 512 of the federal act (21 U.S.C. Sec. 360b).

(6) An abbreviated new animal drug application approved pursuant to Section 512 of the federal act (21 U.S.C. Sec. 360b).

(7) A new device application approved pursuant to Section 111550.

(8) A device premarket approval application approved under Section 515 of the federal act (21 U.S.C. Sec. 360e).

(9) A determination of substantial equivalence for a device pursuant to Section 513(f)(1) of the federal act (21 U.S.C. Sec. 360c(i)).

(Amended by Stats. 2000, Ch. 796, Sec. 6. Effective January 1, 2001.)

110407.

(a)A manufacturer, distributor, or seller of an industrial hemp product shall not include on the label of the product, or publish or disseminate in advertising or marketing, any health-related statement that is untrue in any particular manner as to the health effects of consuming products containing industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp in violation of this part.

(b)For purposes of this section, health-related statement means a statement related to health, and includes a statement of a curative or therapeutic nature that, expressly or impliedly, suggests a relationship between the consumption of industrial hemp or industrial hemp products and health benefits or effects on health. However, health-related statement does not include statements required to be made pursuant to federal Food and Drug Administration regulations for active ingredients in prescription drugs, nonprescription over-the-counter drugs containing inactive ingredients, or structure-function claims allowed for dietary supplements made in accordance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343(r)(6)).

(Added by Stats. 2021, Ch. 576, Sec. 6. (AB 45) Effective October 6, 2021.)

110410.

Section 110403 shall not be construed as indicating that self-medication for conditions, disorders, or diseases other than those named is safe or efficacious.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110413.

No publisher, radio or television broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the food, drug, device, or cosmetic to which a false advertisement relates, shall be liable under this article for the dissemination of the false advertisement, unless he or she has refused to furnish the department with the name and address of the manufacturer, packer, distributor, seller, or advertising agency, residing in this state who caused him or her to disseminate the advertisement.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110415.

It shall be unlawful to advertise or otherwise represent chopped or ground beef or hamburger in violation of Section 110805.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110420.

(a) Any fragrance advertising insert contained in a newspaper, magazine, mailing, or other periodically printed material shall contain only microencapsulated oils. Glue tabs or binders shall be used to prevent premature activation of the fragrance advertising insert.

Fragrance advertising insert means a printed piece with encapsulated fragrance applied to it that is activated by opening a flap or removing an overlying ply of paper.

Paperstocks employed in the manufacture of fragrance advertising inserts shall have a maximum porosity of 20 Sheffield units or 172 Gurley-Hill units.

(b) Any person who distributes fragrance advertising inserts in violation of this section, is guilty of an infraction and shall, if convicted, be subject to a fine of one hundred dollars ($100) for each distribution. The fine shall apply to each mass mailing or distribution, and to each mass publication of a magazine or newspaper in violation of this section. The fine shall not apply, however, to each individual letter, magazine, newspaper, or fragrance advertising insert so distributed. Section 111825 is not applicable to violations of this section.

(c) This section shall become operative on January 1, 1992.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=4.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Packaging, Labeling,and Advertising [110290 - 110423.101]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Dietary Supplement Labeling and Advertising [110422 - 110422.5]__

(Article 4 added by Stats. 2002, Ch. 1006, Sec. 1.)

110422.

(a) Whenever a warning label is included on any product defined as a dietary supplement pursuant to Section 321(ff) of Title 21 of the United States Code, that is manufactured or distributed in this state, the label shall be clear and conspicuous.

(b) Nothing in this section shall in any way limit or restrict any rights, remedies, or duties otherwise applicable by law.

(c) This section shall be implemented to the extent permitted by federal law.

(Added by Stats. 2002, Ch. 1006, Sec. 1. Effective January 1, 2003.)

110422.5.

Violation of this article by any person, as defined in Section 109995, shall constitute an infraction, punishable by a fine not to exceed the following:

(a) One thousand dollars ($1,000) for the first violation.

(b) Two thousand dollars ($2,000) for the second violation.

(c) Five thousand dollars ($5,000) for the third and each subsequent violation.

(Added by renumbering Section 110424 by Stats. 2016, Ch. 86, Sec. 194. (SB 1171) Effective January 1, 2017.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=4.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Packaging, Labeling,and Advertising [110290 - 110423.101]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Dietary Supplement Labeling and Advertising [110422 - 110422.5]__

(Article 4 added by Stats. 2002, Ch. 1006, Sec. 1.)

110422.

(a) Whenever a warning label is included on any product defined as a dietary supplement pursuant to Section 321(ff) of Title 21 of the United States Code, that is manufactured or distributed in this state, the

label shall be clear and conspicuous.

(b) Nothing in this section shall in any way limit or restrict any rights, remedies, or duties otherwise applicable by law.

(c) This section shall be implemented to the extent permitted by federal law.

(Added by Stats. 2002, Ch. 1006, Sec. 1. Effective January 1, 2003.)

110422.5.

Violation of this article by any person, as defined in Section 109995, shall constitute an infraction, punishable by a fine not to exceed the following:

(a) One thousand dollars ($1,000) for the first violation.

(b) Two thousand dollars ($2,000) for the second violation.

(c) Five thousand dollars ($5,000) for the third and each subsequent violation.

(Added by renumbering Section 110424 by Stats. 2016, Ch. 86, Sec. 194. (SB 1171) Effective January 1, 2017.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=4.&article=4.5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Packaging, Labeling,and Advertising [110290 - 110423.101]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4.5. Ephedrine Group Alkaloids [110423.100 - 110423.101]__

(Article 4.5 added by Stats. 2003, Ch. 903, Sec. 1.)

110423.100.

Notwithstanding Article 4 (commencing with Section 110423), the sale or distribution of any dietary supplement products containing ephedrine group alkaloids is prohibited.

(Added by Stats. 2003, Ch. 903, Sec. 1. Effective January 1, 2004.)

110423.101.

This article shall not apply, but Article 4 (commencing with Section 110423) shall apply, to any of the following:

(a) A California licensed health care practitioner who is practicing within his or her scope of practice and who prescribes or dispenses, or both, dietary supplement products containing ephedrine group alkaloids in the course of the treatment of a patient under the direct care of that licensed health care practitioner, except that a licensed health care practitioner shall not prescribe or dispense dietary supplements containing ephedrine group alkaloids for purposes of weight loss, body building, or athletic performance enhancement.

(b) Dietary supplement products containing ephedrine group alkaloids that are sold or distributed directly to a licensed health care practitioner when the dietary supplement product containing ephedrine group alkaloids is used solely for the purpose of the treatment of patients under the direct care of the health care practitioner.

(c) Dietary supplement products containing ephedrine group alkaloids that are sold or distributed directly to a licensed pharmacist for resale to a patient for whom the products have been prescribed pursuant to subdivision (a).

(d) Dietary supplement products containing ephedrine group alkaloids that are not for resale in California and that are sold or distributed directly to businesses not located in California.

(Added by Stats. 2003, Ch. 903, Sec. 1. Effective January 1, 2004.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=5.&chapter=5.&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=5.&chapter=5.&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Generally [110425 - 110455]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

110425.

Beer, that is subject to the Alcoholic Beverage Control Act, Division 9 (commencing with Section 23000) of the Business and Professions Code, shall only be subject to the provisions of this chapter that relate to adulteration and misbranding.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110430.

Whenever the department finds that a class of food distributed in this state may, by reason of contamination with micro-organisms during manufacture, packing, or storage, be injurious to the health of any man or other animal that consumes it and that the injurious nature cannot be adequately determined after this food has entered commerce, the department shall adopt regulations providing for the issuance of permits to manufacturers, processors, or packers of the class of food. These permits shall establish conditions governing the manufacture, packing, or storage of the class of food for the period of time as may be necessary to protect the public health. The regulations shall prescribe a date after which no person shall introduce or deliver for introduction into commerce any food manufactured, packed, or stored by any manufacturer, processor, or packer, unless the person holds a permit issued by the department as provided by the regulations.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110435.

The department may suspend immediately, upon written or oral notice, any permit issued pursuant to Section 110430 if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended may at any time apply for reinstatement of the permit. The department shall, after prompt hearing and inspection of the establishment, reinstate the permit immediately, if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110440.

Any authorized agent of the department shall have access to any factory or establishment that operates under permit from the department for the purpose of ascertaining whether or not the conditions of the permit are being complied with. Denial of access for such inspection shall be grounds for suspension of the permit until the access is freely given by the holder of the permit or his or her agent.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110445.

Any added poisonous or deleterious substance, or any food additive, pesticide chemical, preservative, or color additive, shall be considered unsafe for use with respect to any food unless there is in effect a regulation adopted pursuant to Section 110080, 110085, or 110090, that limits the quantity and the use, or intended use, of the substance to the terms prescribed by the regulation.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110450.

On or before September 1, 1985, the department shall, within the limits of available resources, prepare and submit to the Legislature a program for detecting and monitoring chemical and pesticide residues in processed foods. In preparing the program, the department shall do all of the following:

(a) Establish a list of chemical and pesticides developed from a knowledge of chemicals used in the food industry in processed foods and from the 96 pesticides on the Department of Food and Agriculture residue scan, for which analysis will be done by the department. The list shall include an explanation of why the listed chemicals and pesticides were selected. The Department of Food and Agriculture shall cooperate with the department in establishing the list required by this subdivision. In selecting the chemicals and pesticides to be placed on the list, the department shall make use of the following criteria:

(1) Chemicals that have been identified as having possible carcinogenic, reproductive, or mutagenic effects.

(2) Patterns of use in California.

(3) Quantities of use in California.

(4) Chemicals appearing as residues in processed food because of environmental persistence or resistance to degradation under conditions existing in the processing, manufacturing, milling, or shipping of processed foods sold in California.

(5) Chemicals that have the potential of chronic toxicity due to low continuous exposure.

The department may revise the list and is authorized to add or remove chemicals or pesticides based on relevant information that becomes available to it after the list has been established and based on its experience in detecting the presence of chemical substances in processed foods under the sampling and testing program developed pursuant to subdivision (b).

(b) The department shall design a sampling and testing program that does all of the following:

(1) Samples and tests processed food products that form a significant portion of the diet of the general population, and that may contain residues of the chemical substances on the list established pursuant to subdivision (a).

(2) Provides for specific testing of individual chemicals on the list established pursuant to subdivision (a) when a chemical cannot be detected using multiresidue testing procedures and when the department determines that the chemical may be the cause of chronic health effects.

(3) Lists the foods to be sampled, the stages of processing in which the foods will be sampled, the sampling frequency, and the techniques used in sampling.

(4) A description of plans for sampling processed imported foods from other states and countries.

(c) As used in this section, processed food means any food chemically or physically altered from a raw agricultural commodity by chemical, mechanical, thermal, or other processes.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110455.

(a) On or before July 1, 1990, the department shall commence and maintain a program for monitoring processed foods for pesticide residues, chemicals, microbes, and other contaminants. In designing the program, the department shall take into consideration any information developed pursuant to Section 110450.

(b) The department shall consult with the Department of Food and Agriculture in designing the pesticide residue component of the monitoring program, to facilitate focusing the testing in areas of greatest concern. Among the pesticides to be reviewed for possible monitoring shall be those contained in the lists of pesticides identified in Section 12535 of the Food and Agricultural Code.

(c) In the development and ongoing operation of the departmentsmonitoring program, the department shall consider, in establishing priorities:

(1) Potential concentration effects that may occur during processing.

(2) Targeting foreign and domestic imported processed foods according to their estimated California market share.

(3) The extent to which processed foods are a part of the infant and child diet.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996. Note: See Section 26205.5 (from which this section is derived) as modified on July 17, 1991, in Governor's Reorganization Plan No. 1 of 1991.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Registration [110460 - 110495]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

110460.

No person shall engage in the manufacture, packing, or holding of any processed food in this state unless the person has a valid registration from the department, except those engaged exclusively in the storing, handling, or processing of dried beans. The registration shall be valid for one calendar year from the date of issue, unless it is revoked. The registration shall not be transferable. This section shall not apply to a cottage food operation that is registered or has a permit pursuant to Section 114365 or a microenterprise home kitchen, as defined in Section 113825.

(Amended by Stats. 2018, Ch. 470, Sec. 2. (AB 626) Effective January 1, 2019.)

110461.

It is unlawful for any person to manufacture, pack, or hold processed food in this state unless in a food processing facility duly registered, as provided in this part.

(Added by renumbering Section 110780 by Stats. 1999, Ch. 915, Sec. 6. Effective January 1, 2000.)

110462.

It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed in the application for registration or renewal of registration, as provided in this article.

(Added by renumbering Section 110785 by Stats. 1999, Ch. 915, Sec. 7. Effective January 1, 2000.)

110465.

A separate registration is required for each place of manufacture, packing, or holding.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110466.

(a)Commencing January 1, 2000, the department shall use the resources provided by the registration fees assessed by this article to inspect new and registered food processing facilities to determine compliance with this part. The department shall target the inspections and adjust their scope, depth, and frequency based on the departmentsstatewide assessment of public health risk potential. In assessing public health risk potential, the department shall consider, at a minimum, the potential and actual health risks associated with processed foods manufactured, packed, or held in this state, and the food safety practices and compliance histories of persons who manufacture, pack, or hold processed foods in this state.

(b)Commencing January 1, 2001, the department, pursuant to this chapter, shall conduct an annual inspection of each registered food processing facility and inspect each new food processing facility prior to issuing a new registration pursuant to Section 110460. This annual inspection requirement may be adjusted or waived based on an assessment of the food processing facility pursuant to subdivision (a).

(c)The department may perform one or more reinspections of each new and registered food processing facility as necessary to prevent repeated or continuing violations of this part and for the purposes of approving the issuance of a new registration. The department shall charge a fee of one hundred dollars ($100) per hour to cover the costs of performing the reinspections of the same food processing facility within any 12-month period.

(Amended by Stats. 2005, Ch. 401, Sec. 2. Effective January 1, 2006.)

110467.

Any violation of any provision of this part or any regulation adopted pursuant to this part shall be grounds for denying a registration or for suspending or revoking a registration. Proceedings for the denial, suspension, or revocation of a registration shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted in that chapter.

(Added by Stats. 1999, Ch. 915, Sec. 9. Effective January 1, 2000.)

110469.

(a)A wholesale food manufacturing facility that manufactures products that contain industrial hemp shall be registered in accordance with Section 110460 and shall comply with good manufacturing practices as defined in Section 110105 and as determined by the department in regulation.

(b)Industrial hemp shall not be used in dietary supplements or food products unless the manufacturer demonstrates both of the following:

(1)All parts of the hemp plant used in dietary supplements or food products come from a state or country that has an established and approved industrial hemp program that inspects or regulates hemp under a food

safety program or equivalent criteria to ensure safety for human or animal consumption.

(2)The industrial hemp cultivator or grower is in good standing and in compliance with the governing laws of the state or country of origin.

(Added by Stats. 2021, Ch. 576, Sec. 7. (AB 45) Effective October 6, 2021.)

110470.

A registration application provided by the department shall be completed annually and accompanied by a nonreturnable registration fee.

The fee for a new or renewal registration for a food processing facility shall be as follows:

Holding Food Only:				
_____	Fee	Fee	Fee	Fee
_____	through	commencing	commencing	commencing
_____	12/31/99	01/01/2000	01/01/2001	01/01/2000
_____	_____	through	and	Los Angeles,
_____	_____	12/31/2000	ongoing	Orange, San
_____	_____	_____	_____	Bernardino
_____	_____	_____	_____	Counties and
_____	_____	_____	_____	the City of
_____	_____	_____	_____	Vernon

Size of Facility:				
0“5,000 ‰sq. ft.	$257.85	$300	$300	$300
5,001“10,000 sq. ft.	257.85	350	400	350
Over 10,000‰sq. ft.	386.77	500	600	500

Manufacturing or Packing of Food:				
_____	Fee	Fee	Fee	Fee
_____	through	commencing	commencing	commencing
_____	12/31/99	01/01/2000	01/01/2001	01/01/2000
_____ _____	_____	through	and	Los Angeles,
_____	_____	12/31/2000	ongoing	Orange, San
_____ _____	_____	_____	_____	Bernardino
_____	_____	_____	_____	Counties and
_____	_____	_____	_____	the City of
_____	_____	_____	_____	Vernon

Number of	Size of				
Employees	Facility				
0“2	____	$257.85	$300	$300	$300
3“5	0“5,000 sq. ft.	257.85	350	400	350
6“20	0“5,000 sq. ft.	386.77	500	600	500
More than 20	0“5,000 sq. ft.	515.70	700	900	700
3“5	Over 5,000 sq. ft.	257.85	500	600	500
6“20	Over 5,000 sq. ft.	515.70	700	900	700
21“50	Over 5,000 sq. ft.	644.52	935	1,250 ‰	850
51“100	Over 5,000 sq. ft.	644.52	985	1,350 ‰	850
101“200	Over 5,000 sq. ft.	644.52	1,035 ‰	1,450 ‰	850
201 or more	Over 5,000 sq. ft.	644.52	1,085 ‰	1,550 ‰	850

A penalty of 1 percent per month shall be added to any registration fee not paid when due. The fee amount shall be adjusted annually pursuant to Section 100425.

(Repealed and added by Stats. 1999, Ch. 915, Sec. 11. Effective January 1, 2000.)

110471.

(a)Commencing January 1, 2006, the department shall make a one-time 15 percent cost-of-living adjustment to the registration fees established in Section 110470.

(b)Commencing January 1, 2006, every person engaged in the manufacture, packing, or holding of processed food in this state that is subject to the requirements of Part 120 or 123 of Title 21 of the Code of Federal Regulations shall pay two hundred fifty dollars ($250) in addition to their annual registration fee paid pursuant to Section 110470.

(c)Revenue received pursuant to this section shall be deposited into the Food Safety Fund created by Section 110050.

(d)Upon appropriation, the additional fee deposited in the Food Safety Fund shall be used by the department to conduct inspections and reviews of those facilities required to have Hazard Analysis Critical Control Point (HACCP) plans or Standard Sanitation Operating Procedures (SSOPs).

(Added by Stats. 2005, Ch. 401, Sec. 3. Effective January 1, 2006.)

110472.

The department, in consultation with the California Conference of Directors of Environmental Health (CCDEH), representatives of the food processing industry, representatives of the local health departments of, Los Angeles, Orange, and San Bernardino Counties, and the City of Vernon, and any other person or entity deemed appropriate by the department shall develop, implement, and evaluate the processed food program in accordance with this chapter. In developing the processed food program, consideration shall be given to all aspects of the program provided for in this chapter.

(Added by Stats. 1999, Ch. 915, Sec. 12. Effective January 1, 2000.)

110473.

Notwithstanding the requirements of Section 110470, any person who is required to be registered under this chapter and is operating the food processing facility exclusively for charitable purposes, and meets the requirements of Section 214 of the Revenue and Taxation Code, shall not be required to submit any fees required by Section 110470.

(Added by Stats. 1999, Ch. 915, Sec. 13. Effective January 1, 2000.)

110474.

Nothing in this chapter shall relieve a person who has a valid registration to manufacture, pack, or hold processed food issued by the department from any other requirements for licensure, registration, or certification under Article 7 (commencing with Section 110810), Article 12 (commencing with Section 111070), or Part 6 (commencing with Section 111940). The registration fee due to the department under this article from a person who holds one or more licenses, registrations, or certificates issued by the department pursuant to Article 12 (commencing with Section 111070) or Chapters 5 to 10, inclusive of Part 6 (commencing with Section 112150) shall be the fee for the single highest cost license, registration, or certificate only. Cannery inspection fees collected pursuant to Section 112730 and organic processed food registration fees collected pursuant to Section 110875 shall be in addition to any registration fees that may be collected under this article.

(Added by Stats. 1999, Ch. 915, Sec. 14. Effective January 1, 2000.)

110475.

Any person registered pursuant to this article shall immediately notify the department of any change in the information reported on the registration application.

(Amended by Stats. 1999, Ch. 915, Sec. 15. Effective January 1, 2000.)

110480.

(a)The registration requirements of this article do not apply to a person whose manufacturing, packing, or holding of processed food is limited solely to temporarily holding processed foods for up to seven days for further transport if the foods are not potentially hazardous foods, as defined in Section 110005, or to a person whose manufacturing, packing, or holding of processed food is limited solely to activities authorized by any of the following:

(1)A valid bottled water or water vending machine license issued pursuant to Article 12 (commencing with Section 111070).

(2)A valid pet food license issued pursuant to Chapter 10 (commencing with Section 113025) of Part 6.

(3)A valid permit issued pursuant to Chapter 4 (commencing with Section 113700) of Part 7 to a food facility including a food facility that manufactures, packs, or holds processed food for sale at wholesale, provided the food facility that manufactures, packs, or holds processed food for sale at wholesale does not meet any of the following conditions:

(A)Has gross annual wholesale sales of processed foods of more than 25 percent of total food sales.

(B)Sells processed foods outside the jurisdiction of the local health department.

(C)Sells processed foods that require labeling pursuant to this part.

(D)Processes or handles fresh seafood, frozen seafood held in bulk for further processing, or fresh or frozen raw shellfish.

(E)Salvages processed foods for sale other than at the retail food facility.

(4)A valid cold storage license issued pursuant to Chapter 6 (commencing with Section 112350) of Part 6.

(5)A valid cannery license issued pursuant to Chapter 8 (commencing with Section 112650) of Part 6.

(6)A valid shellfish certificate issued pursuant to Chapter 5 (commencing with Section 112150) of Part 6.

(7)A valid frozen food locker plant license issued pursuant to Chapter 7 (commencing with Section 112500) of Part 6.

(8)A valid beer manufacturerslicense, winegrowerslicense, or wine blenderslicense pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code.

(9)A valid milk products plant, margarine, imitation ice cream, imitation ice milk, or a products resembling milk products plant license, issued pursuant to Division 15 (commencing with Section 32501) of the Food and Agricultural Code.

(10)A valid permit issued by a local health department to operate a processing establishment, as defined in Section 111955, that only holds or warehouses processed food, pursuant to Article 1 (commencing with Section 111950) of Chapter 4 of Part 6, provided that all of the following conditions are met:

(A)The warehouse does not manufacture or pack processed food.

(B)The warehouse does not hold fresh seafood, frozen seafood held in bulk for further processing, or fresh or frozen raw shellfish.

(C)The warehouse is not operated as an integral part of a food processing facility required to be registered pursuant to Section 110460.

(D)The warehouse facilities are located entirely within the area under the jurisdiction of the local health department.

(E)The warehouse does not salvage food as the primary business.

(b)An entity that provides food services other than the manufacturing, packing, or holding of processed food is subject to applicable provisions of the California Retail Food Code, as set forth in Part 7 (commencing with Section 113700).

(c)This section does not limit the authority of the Counties of Los Angeles, San Bernardino, and Orange, or of the City of Vernon, to conduct any inspections otherwise authorized by Chapter 4 (commencing with Section 111950) of Part 6.

(Amended by Stats. 2019, Ch. 277, Sec. 1. (AB 746) Effective January 1, 2020.)

110485.

(a)Every person who is engaged in the manufacture, packing, or holding of processed food in this state shall pay a food safety fee of one hundred dollars ($100) to the department in addition to any fees paid pursuant to Section 110470.

(b)Revenue received pursuant to this section shall be deposited in the Food Safety Fund created pursuant to Section 110050. A penalty of 10 percent per month shall be added to any food safety fee not paid when due.

(c)Upon appropriation, the food safety fees deposited in the Food Safety Fund shall be used by the department to assist in developing and implementing education and training programs related to food safety. These programs shall be developed in consultation with representatives of the food processing industry. Implementation shall include education and training in the prevention of microbial contamination.

(d)This section does not apply to companies exclusively involved in flour milling, dried bean processing, or in the drying or milling of rice, or to those individual registrants the director determines should not be assessed because substantial economic hardship would result to those registrants. For the purposes of this subdivision, the substantial hardship exemption shall be extended only to registrants whose wholesale gross annual income from the registered business is twenty thousand dollars ($20,000) or less.

(Amended by Stats. 2015, Ch. 477, Sec. 1. (AB 384) Effective January 1, 2016.)

110490.

(a) A laboratory that performs analyses of foods for pesticide chemical residues for other persons shall be accredited pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101. This subdivision shall not apply to any of the following:

(1) A laboratory operated by a government agency.

(2) A laboratory not operated for commercial purposes that performs pesticide chemical residue analysis on foods for research or quality control for the internal use of the person initiating the analysis. For purposes of this section, commercial purposes means that the laboratory performs pesticide chemical residue analysis on the foods primarily for the purpose of making a profit.

(b) A laboratory accredited pursuant to Section 12591 of the Food and Agricultural Code shall not be required to be accredited under this section until January 1, 1992.

(c) A laboratory that performs analyses of foods for pesticide chemical residues, but that is not required by subdivision (a) to be accredited may apply for accreditation pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101.

(d) This section shall become operative on January 1, 1991, or 60 days after the initial set of regulations adopted pursuant to Sections 100830 and 100835 becomes effective, whichever is later.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110495.

(a) Every laboratory or other person which performs or which brokers or otherwise arranges for the performance of pesticide chemical analysis on food shall report to the appropriate state agency any finding of pesticide chemical residues in a food for which no chemical residue tolerance has been established or that is in excess of federal or state residue tolerances or tolerances for a pesticide suspended, banned, or otherwise not permitted by the Department of Pesticide Regulation or the Environmental Protection Agency, if the food is in the channels of trade. The report shall be made as soon as possible, and in any event, not later than 24 hours after the analyzing laboratory makes the finding. Findings on raw agricultural commodities and dairy products shall be reported to the Department of Food and Agriculture. Findings on raw agricultural commodities shall also be reported to the Department of Pesticide Regulation. Findings on all other foods shall be made to the State Department of Health Services.

(b) For the purpose of reporting findings regarding raw agricultural commodities, in the channels of trade means the point at which the raw agricultural commodities leave the farm, including raw agricultural commodities bound for processing up to the point that processing is initiated. For the purpose of reporting findings in processed foods, in the channels of trade means at the point the processed food leaves the direct control of the processor, which means either that the product is not located on the premises owned by, or under the control of, the processor or a portion of the product has been released for sale or use.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Standard of Identity, Quality, and Fill [110505 - 110525]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

110505.

Definitions and standards of identity, quality, and fill of container, and any amendments to the definitions and standards, adopted pursuant to the federal act in effect on the effective date of this part, or adopted on or after that date, are the definitions and standards of identity, quality, and fill of container in this state. The department may, by regulation, establish definitions and standards of identity, quality, and fill of container for any food whether or not the definitions and standards are in accordance with the federal regulations, when in its judgment such action will promote honesty and fair dealing in the interest of consumers. This section shall not apply to wine.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110510.

In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the department shall designate the optional ingredients that shall be named on the label. This section shall not apply to wine.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110515.

A temporary permit which is granted by the Food and Drug Administration of the Department of Health, Education and Welfare of the United States for interstate shipment of experimental packs of food that vary from the requirements of federal definitions and standards of identity is automatically effective in this state under the provisions provided in the permit. The department shall issue a permit when no federal permit exists and when the experimental packs are to be manufactured and tested only within this state. The permit

is subject to any term or condition that the department may prescribe.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110520.

Definitions and standards of identity and quality for distilled spirits and their amendments adopted by the Internal Revenue Service of the Treasury Department of the United States in effect on the effective date of this part, or adopted on or after that date, are the definitions and standards of identity and quality for distilled spirits in this state. The department may, by regulation, establish definitions and standards of identity and quality for any distilled spirit whether or not the definitions and standards are in accordance with regulations adopted by the Internal Revenue Service of the Treasury Department of the United States, when in its judgment the action will promote honesty and fair dealing in the interest of the consumers.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110525.

The department may, by regulation, establish definitions and standards of identity and quality for wine. Such definitions and standards may incorporate in whole or in part, the regulations adopted by the Secretary of the Treasury pursuant to the Federal Alcohol Administration Act, pertaining to the standards of identity and quality for wine. Standards of identity and quality for wine adopted pursuant to this section may differ from or be inconsistent with the standards promulgated by the Secretary of the Treasury pursuant to the Federal Alcohol Administration Act. No standard of size, type, or fill of container for any wine subject to the provisions of the Alcoholic Beverage Control Act, Division 9 (commencing with Section 23000) of the Business and Professions Code, shall be adopted, but containers of wine sold in this state shall conform to the then current standards for the containers, including standards of fill, established by the Secretary of the Treasury pursuant to the Federal Alcohol Administration Act.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Enrichment of Food and Food Products [110530 - 110535]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

110530.

When a definition and standard of identity for an enriched food has been established pursuant to Section 110505, only the enriched form of the food shall be sold at retail in California.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110535.

The nonenriched form of a food identified and standardized pursuant to Section 110505 may be used as an ingredient of another food only if it comprises less than 25 percent of the total ingredients, or it comprises 25 percent or more of the total ingredients and vitamins and minerals have been added to make it nutritionally equivalent to the enriched form of the ingredient.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 5. Adulterated Food [110545 - 110655]__

(Article 5 added by Stats. 1995, Ch. 415, Sec. 6.)

110545.

Any food is adulterated if it bears or contains any poisonous or deleterious substance that may render it injurious to health of man or any other animal that may consume it. The food is not considered adulterated if the substance is a naturally occurring substance and if the quantity of the substance in the food does not render it injurious to health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110550.

Any food is adulterated if it bears or contains any added poisonous or deleterious substance that is unsafe within the meaning of Section 110445.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110552.

(a)The department shall regulate candy to ensure that the candy is not adulterated.

(b)For the purposes of this chapter, candy means any confectionary intended for individual consumption that contains chili, tamarind, or any other ingredient identified as posing a health risk in regulations adopted

by the office or department.

(c)For purposes of this section, the following terms have the following meanings:

(1)Office means the Office of Environmental Health Hazard Assessment.

(2)Adulterated candy means any candy with lead in excess of the naturally occurring level. Moreover, candy is adulterated if its wrapper or the ink on the wrapper contains lead in excess of standards which the office, in consultation with the department and the Attorney General, shall establish by July 1, 2006.

(3)Naturally occurring level of lead in candy shall be determined by regulations adopted by the office after consultation with the department and the Attorney General. For purposes of this section, the naturally occurring level of lead in candy is only naturally occurring to the extent that it is not avoidable by good agricultural, manufacturing, and procurement practices, or by other practices currently feasible. The producer and manufacturer of candy and candy ingredients shall at all times use quality control measures that reduce the natural chemical contaminants to the lowest level currently feasible as this term is used in subsection (c) of Section 110.110 of Title 21 of the Code of Federal Regulations. The naturally occurring level of lead shall not include any lead in an ingredient resulting from agricultural equipment, fuels used on or around soils or crops, fertilizers, pesticides, or other materials that are applied to soils or crops or added to water used to irrigate soils or crops. The office shall determine the naturally occurring levels of lead in candy containing chili and tamarind no later than July 1, 2006. The office shall determine the naturally occurring levels of lead in candy containing other ingredients upon request by the department or the Attorney General, and in the absence of a request, when the office determines that the presence of the ingredient in candy may pose a health risk. Until the office adopts regulations determining the naturally occurring level of lead, the Attorney Generalswritten determination, if any, including any determination set forth in a consent judgment entered into by the Attorney General, of the naturally occurring level of lead in candy or in a candy ingredient shall be binding for purposes of this section.

(4)Wrapper means all packaging materials in contact with the candy, including, but not limited to, the paper cellophane, plastic container, stick handle, spoon, small pot (olla), and squeeze tube, or similar devices. Wrapper does not include any part of the packaging from which lead will not leach, as demonstrated by the manufacturer, to the satisfaction of the office.

(d)The standards adopted pursuant to paragraphs (2) and (3) of subdivision (c) shall be reviewed by the office every three-year to five-year period in order to determine whether advances in scientific knowledge, the development of better agricultural or manufacturing practices, or changes in detection limits require revision of the standards.

(e)The department shall do all of the following:

(1)Ensure that the candy is not adulterated.

(2)Establish procedures for the testing of candy and the certification of unadulterated candy products. The procedures shall require candy manufacturers to certify candy as being unadulterated. The certification shall be based on appropriate sampling and testing protocols as determined by the office in consultation with the Attorney Generalsoffice.

(3)Through its Food and Drug Branch, test the samples of candy collected pursuant to this article. The department may test any candy, including candy tested pursuant to paragraph (2) in order to ensure the candy is unadulterated.

(4)Adopt regulations necessary for the enforcement of this article.

(5)Evaluate the regulatory process, identify problems, and make changes or report to the Legislature, as necessary.

(f)If the candy tested pursuant to paragraph (2) or (3) of subdivision (e) is found to be adulterated, the department shall do both of the following:

(1)Issue health advisory notices to county health departments alerting them to the danger posed by consumption of the candy.

(2)Notify the manufacturer and the distributor of the candy that the candy is adulterated, and that the candy may not be sold or distributed in the state until further testing proves that the candy is unadulterated.

(g)(1)For any candy found to be adulterated, the manufacturer or distributor may request that the department test a subsequent sample of candy. The department shall select the candy to be tested. The cost of any subsequent sampling and testing shall be borne by the manufacturer or distributor requesting the additional testing.

(2)If the candy is found to be unadulterated when it is retested, the department shall provide the manufacturer or distributor and the county health department with a letter stating that the candy has been retested and determined to be unadulterated, and that the sale and distribution of the candy in the state may resume.

(3)If the candy is found to remain adulterated when retested, the manufacturer or distributor may take corrective measures and continue to resubmit samples for testing until tests prove the candy unadulterated.

(h)(1)The sale of adulterated candy to California consumers is a violation of this section. Any person knowingly and intentionally selling adulterated candy shall be subject to a civil penalty of up to five hundred dollars ($500) per violation. The regulations adopted shall provide that funding for this section shall be met in part or in whole by those penalties, upon appropriation by the Legislature.

(2)In the event that a candy product is found to be adulterated, the department may recover the costs incurred in the chemical analysis of that product from the manufacturer or distributor.

(3)Except as expressly set forth in this section, nothing in this section shall alter or diminish any legal obligation otherwise required in common law or by statute or regulation, and nothing in this section shall create or enlarge any defense in any action to enforce that legal obligation. Penalties imposed under this section shall be in addition to any penalties otherwise prescribed by law.

(4)This section shall not be the basis for any stay of proceedings or other order limiting or delaying the prosecution of any action to enforce Section 25249.6.

(Amended by Stats. 2012, Ch. 728, Sec. 102. (SB 71) Effective January 1, 2013.)

110555.

Any food is adulterated if it is, bears, or contains any food additive that is unsafe within the meaning of Section 110445. If, however, a pesticide chemical has been used in or on a raw agricultural commodity in

conformity with an exemption granted or a tolerance prescribed under this part or the Food and Agricultural Code and the raw agricultural commodity has been subject to processing, such as canning, cooking, freezing, dehydrating, or milling, the residue of a pesticide chemical remaining in or on the processed food shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of the residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110560.

Any food is adulterated if it consists in whole or in part of any diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110565.

Any food is adulterated if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered unwholesome, diseased, or injurious to health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110570.

Any food is adulterated if it is, in whole or in part, the product of any diseased animal, any animal that has died otherwise than by slaughter, or any animal that has been fed on the uncooked offal from a slaughterhouse.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110575.

Any food is adulterated if its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110580.

Any food is adulterated if it has been intentionally subjected to ionizing radiation unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to Section 110070.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110585.

Any food is adulterated if any one of the following conditions exist:

(a) If any valuable constituent has been in whole or in part omitted or abstracted therefrom.

(b) If any substance has been substituted wholly or in part therefor.

(c) If damage or inferiority has been concealed in any manner.

(d) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight or reduce its quality or strength or make it appear better or of greater value than it is.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110590.

Any food is adulterated if it is confectionery and any one of the following conditions exist:

(a) It has partially or completely embedded therein any nonnutritive object, provided that this subdivision shall not apply in the case of any nonnutritive object if, in the judgment of the department as provided by regulation, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health.

(b) It bears or contains any alcohol in excess of 5 percent by weight.

(c) It bears or contains any nonnutritive substance, provided that this subdivision shall not apply to a safe nonnutritive substance that is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of the confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of any provision of this act; and provided further that the department may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue regulations allowing or prohibiting the use of particular nonnutritive substances.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110595.

Any food is adulterated if it bears or contains any color additive that is unsafe within the meaning of Section 110445.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110597.

Any food is adulterated if it is wine and any one of the following conditions exists:

(a) It contains lead in concentrations exceeding 150 parts per billion, or in excess of a more stringent tolerance as may be established by federal law or regulation, unless it can be shown by the producer, or if not produced in California, by the licensed importer, that the wine was bottled before January 1, 1994.

(b) A metal foil capsule containing lead in excess of 0.3 percent by dry weight is affixed or attached to its container, unless it can be shown by the producer, or if not produced in California, by the licensed importer, that the wine was bottled before January 1, 1994.

(c) Notwithstanding any other rule or principle of law that may afford a private right of action to bring claims based on alleged violations of laws or standards, the right to commence and pursue civil or administrative actions to impose or collect fines, penalties, damages, or other remedies based on an alleged violation of the Wine Safety Act established pursuant to Senate Bill 1022 of the 1993"94 Regular Session shall be vested exclusively in the state, through the Food and Drug Branch of the State Department of Health Services and the Office of the Attorney General, and with local health officers or city attorneys or district attorneys otherwise empowered to prosecute violations of this division. Retailers of wine, including, but not limited to, retailers as defined in Section 23023 of the Business and Professions Code, or food facilities as defined in Section 113785, shall be entitled to all of the same protections for any violations of the Wine Safety Act established pursuant to Senate Bill 1022 of the 1993"94 Regular Session, as are afforded to food dealers pursuant to Chapter 3 (commencing with Section 110245). This subdivision does not apply to, limit, alter, or restrict any action for personal injury or wrongful death, or any action based upon a failure to warn.

(Added by Stats. 1996, Ch. 1023, Sec. 309. Effective September 29, 1996.)

110600.

Any food is adulterated if it is fresh meat and it contains any preservative or other chemical substance not approved for use in fresh meat by the department, the United States Department of Agriculture, or the Department of Food and Agriculture of this state.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110605.

Any food is adulterated if it is chopped or ground beef or hamburger unless it is composed of voluntary striated muscle of fresh beef that does not contain any substance that is not approved by the department and unless it has a total fat content that is not in excess of 30 percent by weight.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110610.

Any food is adulterated if it is pork sausage or breakfast sausage and it has a total fat content that is in excess of 50 percent by weight.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110611.

Except as provided in Section 25621.5 of the Business and Professions Code, a dietary supplement, food, or beverage is not adulterated by the inclusion of industrial hemp, as defined in Section 11018.5, as long as the cannabinoids, extracts, or derivatives from industrial hemp meet the requirements established in Chapter 9 (commencing with Section 111920). The sale of a dietary supplement, food, or beverage that includes industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp shall not be restricted or prohibited based solely on the inclusion of industrial hemp provided that the cannabinoids, extracts, or derivatives from industrial hemp meet the requirements of Chapter 9 (commencing with Section 111920).

(Added by Stats. 2021, Ch. 576, Sec. 8. (AB 45) Effective October 6, 2021.)

110615.

The methods of analysis used in determining the fat content of products described in Sections 110605 and 110610 shall be those prescribed by the current issue of Official and Tentative Methods of Analysis of the Association of Official Analytical Chemists, and the supplements thereto.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110620.

It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food that is adulterated.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110625.

It is unlawful for any person to adulterate any food.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110630.

It is unlawful for any person to receive in commerce any food that is adulterated or to deliver or proffer for delivery any such food.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110635.

While any regulation relating to a substance referred to in Section 110080, 110085, or 110090 is in effect, any food bearing or containing a substance in accordance with the regulation shall not be considered to be adulterated.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110640.

The director, with the assistance of the Department of Food and Agriculture, and in cooperation with the federal Food and Drug Administration and Environmental Protection Agency, shall identify those pesticides most likely to leave residue in processed foods.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110645.

Whenever the director has been notified by the Director of Food and Agriculture pursuant to Section 12582 of the Food and Agricultural Code, the director shall immediately notify the processor, if known, by telephone, with immediate written confirmation, and take appropriate action pursuant to Section 110045.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110650.

This article does not prohibit the addition of fluorine or fluorine compounds to water intended for sale to the public as bottled water for domestic use in the manner and to the extent as may be approved by the department. The label of the bottled water shall, however, satisfy all of the labeling requirements prescribed by this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110655.

Any food intended for export shall not be deemed to be adulterated within the provisions of this part if it satisfies all of the following requirements:

(a) It accords to the specifications of the foreign purchaser.

(b) It is not in conflict with the laws of the importing country.

(c) It is labeled on the outside of the shipping package to show that it is intended for export.

If the article is sold or offered for sale in domestic commerce, this section shall not exempt it from any of the provisions of this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 6. Misbranded Food [110660 - 110805]__

(Article 6 added by Stats. 1995, Ch. 415, Sec. 6.)

110660.

Any food is misbranded if its labeling is false or misleading in any particular.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110661.

Any food is misbranded if it is manufactured, packed, or held in this state in a food processing facility not duly registered as provided in this part, except for food from facilities exclusively storing, handling, or processing dry beans.

(Added by Stats. 1999, Ch. 915, Sec. 18. Effective January 1, 2000.)

110665.

Any food is misbranded if its labeling does not conform with the requirements for nutrition labeling as set forth in Section 403(q) (21 U.S.C. Sec. 343(q)) of the federal act and the regulations adopted pursuant thereto. Any food exempted from those requirements under the federal act shall also be exempt under this section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110670.

Any food is misbranded if its labeling does not conform with the requirements for nutrient content or health claims as set forth in Section 403(r) (21 U.S.C. Sec. 343(r)) of the federal act and the regulations adopted pursuant thereto. Any food exempted from those requirements under the federal act shall also be exempt under this section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110673.

Any food is misbranded if its labeling does not conform with the requirements for food allergen labeling as set forth in Section 403(w) of the federal act (21 U.S.C. Sec. 343(w)) and the regulations adopted pursuant thereto. Any food exempted from those requirements under the federal act, shall also be exempt under this section.

(Added by Stats. 2008, Ch. 73, Sec. 1. Effective January 1, 2009.)

110674.

Any food is misbranded if its labeling does not conform with the requirements for pasteurized in-shell egg labeling as set forth in Section 27644.5 of the Food and Agricultural Code, and the regulations adopted pursuant thereto.

(Added by Stats. 2014, Ch. 11, Sec. 7. (AB 1414) Effective April 17, 2014.)

110675.

Any food is misbranded if it is in package form, unless it bears a label containing all of the following information:

(a) The name and place of business of the manufacturer, packer, or distributor.

(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

Reasonable variations from the requirements of subdivision (b) shall be permitted. Requirements for placement and prominence of the information required by subdivision (b), and exemptions as to small packages, shall be established in accordance with regulations adopted pursuant to Sections 110100 and 110380.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110680.

Any food is misbranded if its labeling or packaging does not conform to the requirements of Chapter 4 (commencing with Section 110290).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110685.

Any food is misbranded if it is offered for sale under the name of another food, or if it is an imitation of another food for which a definition and standard of identity has been established by regulation and its label does not bear, in type of uniform size and prominence the word imitation,□ and immediately following, the name of the food imitated.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110690.

Any food is misbranded if its container is so made, formed, or filled as to be misleading.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110695.

Any food is misbranded if it is a confectionery and contains alcohol in excess of 1/2 of 1 percent by weight and that fact does not appear on the label for the food.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110700.

Any food is misbranded if it is a potentially hazardous processed food that is preserved by refrigeration at temperatures of 45 degrees Fahrenheit or lower and it is not conspicuously labeled Perishable Keep Refrigerated.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110705.

Any food is misbranded if any word, statement, or other information required pursuant to this part to appear on the label or labeling is not prominently placed upon the label or labeling with conspicuousness, as compared with other words, statements, designs, or devices in the labeling and in terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110710.

Any food is misbranded if it purports to be, or is represented as, a food for which a definition and standard of identity has been established under Section 110505 and the label fails to bear the name of the food specified in the standard or otherwise fails to conform to the definition and standard.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110715.

Any food is misbranded if it purports to be, or is represented as, a food for which a standard of quality or fill has been prescribed by regulation under Section 110505 and its quality or fill is below the standard unless its

label bears, in a manner and form as specified by regulation, a statement that it is below the standard.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110720.

Any food for which no standard of identity exists is misbranded unless it bears a label clearly stating the common or usual name of the food.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110725.

(a) Any food fabricated from two or more ingredients is misbranded unless it bears a label clearly stating the common or usual name of each ingredient, and if the food purports to be a beverage containing vegetable or fruit juice, a statement with appropriate prominence on the information panel of the total percentage of fruit or vegetable juice contained in the food. Any spice, flavoring, or color not required to be certified under Section 110090, except any spice, flavoring, or color sold as such, may be designated as spice, flavoring, or color without naming each.

(b) Exemptions may be established by the department, when compliance with any requirement of this section is impractical or results in deception or unfair competition.

(c) In adopting any regulations relating to this section, the department shall take into consideration the current regulations established by the Secretary of Health and Human Services under authority contained in the federal act.

(d) Notwithstanding Section 110040 or any other provision of law, as used in this section, the term food includes, but is not limited to, meat. The term food does not, however, include any alcoholic beverage.

(e) This section shall not apply to any food sold for consumption on or off the premises of any restaurant in the course of its business as a restaurant, or to any milk or dairy product.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110730.

The requirements of Sections 110720 and 110725 do not apply to any food that is packaged at the direction of retail purchasers at the time of sale if the ingredients are disclosed to the purchasers by other means in accordance with the regulations adopted by the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110735.

Any food is misbranded if it purports to be, or is represented, for special dietary uses as prescribed by regulation under Section 110095 and its label does not bear information concerning any vitamin or mineral content, or other dietary property as the department prescribes, by regulation, as necessary to fully inform purchasers as to the foodsvalue for that use.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110740.

Any food is misbranded if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless its labeling states that fact. Exemptions may be established by the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110745.

Any food is misbranded if it is intended as a component of another food and when used in accordance with the directions of the purveyor, it will result in the final food being adulterated or misbranded.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110750.

Any food is misbranded if it is a color additive and it is not in conformity with the requirements for color additives prescribed under the provisions of Section 110090.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110755.

Any food is misbranded if its packaging or labeling is in violation of an applicable regulation issued pursuant to Section 108685 or 108700.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110760.

It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110765.

It is unlawful for any person to misbrand any food.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110770.

It is unlawful for any person to receive in commerce any food that is misbranded or to deliver or proffer for delivery any such food.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110775.

It is unlawful for any person to alter, mutilate, destroy, obliterate, or remove the label, or any part of the labeling, of any food if the act results in the food being misbranded.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110790.

Any food intended for export shall not be deemed to be misbranded under this part if it satisfies all of the following requirements:

(a) It accords to the specifications of the foreign purchaser.

(b) It is not in conflict with the laws of the importing country.

(c) It is labeled on the outside of the shipping package to show that it is intended for export.

If the article is sold or offered for sale in domestic commerce, this section shall not exempt it from any of the provisions of this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110795.

(a)The department may adopt regulations that name and describe the characteristics of salmon and any

other fish or other seafood it considers appropriate. The department shall consult with the Department of Fish and Game, the Joint Committee on Fisheries and Aquaculture, consumers, commercial fishermen, aquaculturists, and seafood processors, wholesalers, restaurateurs, and other retailers before adopting these regulations. The department shall not adopt any regulation that conflicts with the common name of any fish designated by the Department of Fish and Game pursuant to Section 8023 of the Fish and Game Code.

(b)In addition to the consultations required by subdivision (a), the department shall consult and seek the recommendations of the groups named in that subdivision concerning the possible need for, or desirability of, any further legislation or regulations affecting seafood labeling.

(c)No regulation adopted pursuant to this section shall deviate from a pertinent United States standard where the fish or seafood product specified is packed or processed as a standardized product under a United States standard.

(d)Nothing in this section or in regulations adopted pursuant to this section shall be construed to require the use of more than the common family name of any fish or seafood by any restaurant in menus or advertisements.

(Amended by Stats. 2004, Ch. 193, Sec. 120. Effective January 1, 2005.)

110800.

(a) Any label of any retail cut of beef, veal, lamb, or pork held for sale in a retail food production and marketing establishment or a frozen food locker plant shall clearly identify the species (beef, veal, lamb, or pork) and the primal cut from which it is derived, and the retail name.

This section shall not apply to ground beef or hamburger, boneless stewing meat, cubed steaks, sausage, or soupbones.

(b) Primal cuts include only the following in the various species:

Beef	Veal	Lamb	Pork
Chuck	Shoulder	Shoulder	Shoulder
Rib	Rib	Rib	"
Loin	Loin	Loin	Loin
Shank	Shank	Shank	"
Brisket	Breast	Breast	"
Plate	Breast	Breast	"
Flank	Flank	"	"
Round	Round or leg	Leg	Leg or ham

Cuts derived from other than the above primal cuts need only show species and the retail name.

(c) It is unlawful and constitutes misbranding for any person to sell or offer for sale in a retail food production and marketing establishment or frozen food locker plant any retail cut of beef that is labeled in violation of this section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110805.

(a) Except as otherwise provided in this section, no chopped or ground beef or hamburger that is offered for sale in any retail food production and marketing establishment or frozen food locker plant shall be advertised, labeled, or otherwise held out in any manner to describe or suggest its quality or relative leanness or fat content unless the label, advertisement, or other representation accurately discloses the maximum fat content thereof by the designation Does not exceed __ percent fat. However, in no case shall the fat content of any chopped or ground beef or hamburger exceed 30 percent fat, except in no case shall the fat content exceed 26 percent in the case of chopped or ground beef or hamburger processed from the primal cut of chuck when the primal cut designation is being used.

(b) No designation such as, but not limited to, lean, super lean, premium, deluxe or similar terms descriptive of quality, leanness, or fat content shall be included on the label unless the label also contains a fat-weight designation as specified in subdivision (a). However, as an alternative to including the fat-weight designation on the label, the fat-weight designation required by this section may be disclosed by means of a sign placed immediately adjacent to the counter on which the chopped or ground beef or hamburger is displayed. This sign shall be within plain view of prospective purchasers and shall display the appropriate designation specified in subdivision (a) in boldface print.

(c) Chopped or ground beef or hamburger that is processed from primal cuts of round or sirloin shall not be required to disclose the maximum fat content if there is no reference to leanness or other quality designation relating to fat content other than the primal cut from which the product is derived. If there is a reference to leanness or any other quality designation relating to fat content, the maximum fat designation shall be a fat-weight designation as specified in subdivision (a).

(d) It is unlawful and constitutes misbranding for any person to sell or offer for sale in a retail food production and marketing establishment or frozen food locker plant any chopped or ground beef or hamburger that is labeled in violation of this section.

(Amended by Stats. 1996, Ch. 468, Sec. 1. Effective January 1, 1997.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=6.5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 6.5. Recalled Food [110806 - 110807]__

(Article 6.5 added by Stats. 2006, Ch. 592, Sec. 2.)

110806.

(a)A meat or poultry supplier, distributor, broker, or processor that sells a meat- or poultry-related product in California that meets the criteria for a Class I or Class II recall according to the United States Department of Agriculture guidelines shall immediately notify the State Department of Public Health and shall provide the department with a list of all customers, including a firm name, address, contact personsname, telephone number, fax, and e-mail address, that have received or will receive any product subject to recall that the supplier, distributor, broker, or processor has handled or anticipates handling. The list shall include all pertinent identifying codes, including establishment numbers, package codes, product codes, pack dates, and lot numbers, if any, received or to be received, and any other relevant information. The information shall be electronically submitted to the department in a spreadsheet format specified by the department, and shall include, but not be limited to, a complete product distribution list of the recalled product, for each customer, including product ship date, amount of product shipped and amount of any product returned. The supplier, distributor, broker, or processor shall immediately notify each of its customers that received or may receive those products of the recall in a standardized format. The supplier, distributor, broker, or processor shall document this notification process, including who was notified, the date and time of the notification, and by what method they were notified. This information shall be maintained by the supplier, distributor, broker, or processor and shall be provided to the department upon request.

(b)The department may, after receiving the information required by subdivision (a), notify appropriate local health officers and environmental health directors, as soon as practicable, that a business in the local jurisdiction has handled or received, or anticipates handling or receiving, a recalled meat- or poultry-related product. The department shall, if it makes the notification authorized by this subdivision, provide appropriate local health officers and environmental health directors with each supplier™s, distributor™s, broker™s, processor™s, or retailersname, address, contact information, affected product identifying codes, including establishment numbers, package codes, product codes, pack dates, and lot numbers, if any, and all other supply chain information available.

(c)(1)If the department makes the notification authorized by subdivision (b), the department, local health officers, and environmental health directors may notify the public in a manner local health officers, in

consultation with the department and environmental health directors, deem appropriate regarding recalled meat- and poultry-related products based on their determination that the retailer is present within the local jurisdiction and has received or made the product available to the public.

(2)If the retailer is a restaurant, and a determination has been made by a local health officer or environmental health officer that the contaminated product has not been served, sold, or otherwise offered to the public for consumption, and the contaminated product has been permanently removed from the restaurantsfood supply, then the public notification shall exclude the name or any other identifying feature of the restaurant.

(Amended by Stats. 2007, Ch. 483, Sec. 24. Effective January 1, 2008.)

110807.

This article shall become operative on July 1, 2007.

(Added by Stats. 2006, Ch. 592, Sec. 2. Effective January 1, 2007. Note: This section prescribed a delayed operative date for Article 6.5, commencing with Section 110806.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=7.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 7. The California Organic Food and Farming Act [110810 - 110959]__

(Heading of Article 7 amended by Stats. 2020, Ch. 302, Sec. 8.)

110810.

This article shall be known, and may be cited as, the California Organic Food and Farming Act.

(Amended by Stats. 2020, Ch. 302, Sec. 9. (SB 406) Effective September 29, 2020.)

110811.

This article shall be interpreted in conjunction with Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code and the regulations promulgated by the National Organic Program (NOP) (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)).

(Added by Stats. 2002, Ch. 533, Sec. 40. Effective January 1, 2003.)

110812.

The director shall enforce regulations promulgated by the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), provisions of this article, and Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code.

(Added by Stats. 2002, Ch. 533, Sec. 41. Effective January 1, 2003.)

110815.

Unless otherwise defined pursuant to the National Organic Program, the following words and phrases, when used in this article, shall have the following meanings:

(a) Animal food means any food intended to be fed to any household animal, including, but not limited to, cats, or dogs and other carnivores. It does not include feed intended for livestock as defined in Section 205.2 of Title 7 of the Code of Federal Regulations.

(b) Director means the Director of the Department of Health Services.

(c) Enforcement authority means the governmental unit with primary enforcement jurisdiction, as provided in Section 110930.

(d) Handle means to sell, process, or package agricultural products.

(e) Handler means any person engaged in the business of handling agricultural products, but does not

include final retailers of agricultural products that do not process agricultural products.

(f) Handling operation means any operation or portion of an operation, except final retailers of agricultural products that do not process agricultural products, that (1) receives or otherwise acquires agricultural products and (2) processes, packages, or stores agricultural products.

(g) NOP means the National Organic Program established pursuant to the Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and the regulations adopted for implementation.

(h) Processing means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing, and includes packaging, canning, jarring, or otherwise enclosing food in a container.

(i) Prohibited materials means any materials prohibited under regulations adopted by (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)). For products not covered by the National Organic Program, prohibited materials are anything not on the approved list.

(j) Secretary means the Secretary of the California Department of Food and Agriculture.

(k) Sold as organic means any use of the terms organic, organically grown, or grammatical variations of those terms, whether orally or in writing, in connection with any product grown, handled, processed, sold, or offered for sale in this state, including, but not limited to, any use of these terms in labeling or advertising of any product and any ingredient in a multi-ingredient product.

(l) USDA means the United States Department of Agriculture.

(Amended by Stats. 2003, Ch. 726, Sec. 6. Effective January 1, 2004.)

110818.

Water, including substances dissolved in water, shall not be a prohibited material, even if it contains incidental contamination from a prohibited material, if the prohibited material was not added by, or under the direction or control of, the person in control of the product.

(Added by Stats. 2002, Ch. 533, Sec. 43. Effective January 1, 2003.)

110820.

Except as otherwise provided in this article, no product shall be sold as organic pursuant to this article unless it is produced according to regulations promulgated by the NOP, and consists entirely of products manufactured only from raw or processed agricultural products except as follows:

(a) Water, air, and salt may be added to the product.

(b) Ingredients other than raw or processed agricultural products may be added to the product if these ingredients include nonagricultural substances or nonorganically produced agricultural products produced in a manner consistent with, or which are on the national list adopted by the United States Secretary of

Agriculture pursuant to Section 6517 of the NOP and do not represent more than 5 percent of the weight of the total finished product, excluding salt and water.

(Amended by Stats. 2002, Ch. 533, Sec. 44. Effective January 1, 2003.)

110825.

Materials acceptable in this state are those outlined by regulations promulgated by the NOP and the provisions of this article.

(Amended by Stats. 2002, Ch. 533, Sec. 45. Effective January 1, 2003.)

110827.

No aquaculture, fish, or seafood product, including, but not limited to, farmed and wild caught species, shall be labeled or represented as organic until formal organic certification standards have been developed and implemented by the United States Department of AgriculturesNational Organic Program or the California Department of Food and Agriculture.

(Added by Stats. 2005, Ch. 685, Sec. 2. Effective January 1, 2006.)

110830.

(a) No product handled, processed, sold, advertised, represented, or offered for sale in this state, shall be sold as organic unless it also is prominently labeled and invoiced with similar terminology as set forth by regulations promulgated by the NOP.

(b) No product may be advertised or labeled as organic when available or similar terminology that leaves in doubt whether the food is being sold as organic.

(Amended by Stats. 2002, Ch. 533, Sec. 48. Effective January 1, 2003.)

110835.

The director may adopt regulations allowing or prohibiting the use of substances in the processing of products that are exempt or excluded from certification under the NOP, and animal food and cosmetics sold as organic.

(Amended by Stats. 2002, Ch. 533, Sec. 49. Effective January 1, 2003.)

110838.

(a) Cosmetic products sold, labeled, or represented as organic or made with organic ingredients shall contain, at least 70 percent organically produced ingredients.

(b) The percentage of all organically produced ingredients in an agricultural product sold, labeled, or represented as organic or 100 percent organic, or sold, labeled, or represented as being made with organic ingredients or food groups, or as inclusive of organic ingredients, shall be calculated as follows:

(1) For products containing organically produced ingredients in solid form, by dividing the total net weight of combined organic ingredients at formulation, excluding water and salt, by the total weight of the finished product, excluding water and salt.

(2) For products containing organically produced ingredients in liquid form, by dividing the fluid volume of all organic ingredients, excluding water and salt, by the fluid volume of the finished product, excluding water and salt. If the liquid product is identified on the principal display panel or information panel as being reconstituted from concentrates, the calculation should be made on the basis of single-strength concentrations of the ingredients and finished product.

(3) For products containing organically produced ingredients in both solid and liquid form, by dividing the combined weight of the solid ingredients and the weight of the liquid ingredients, excluding water and salt, by the total weight of the finished product, excluding water and salt.

(c) The percentage of all organically produced ingredients in an agricultural product must be rounded down to the nearest whole number.

(d) The percentage of all organically produced ingredients in an agricultural product must be determined by the handler who affixes the label to the consumer package and verified by the handlerscertifying agent. The handler may use information provided by the certified operation in determining the percentage.

(Added by Stats. 2002, Ch. 533, Sec. 50. Effective January 1, 2003.)

110839.

Multi-ingredient cosmetic products sold as organic in California with less than 70 percent organically produced ingredients, by weight or by fluid volume, excluding water and salt, may only identify the organic content as follows:

(a) By identifying each organically produced ingredient in the ingredient statement with the word organic or with an asterisk or other reference mark that is defined below the ingredient statement to indicate the ingredient is organically produced.

(b) If the organically produced ingredients are identified in the ingredient statement, by displaying the productspercentage of organic contents on the information panel.

(Added by Stats. 2002, Ch. 533, Sec. 51. Effective January 1, 2003.)

110840.

(a)All persons who handle products sold as organic shall keep accurate and specific records of the following:

(1)Except when sold to the consumer, the name and address of all persons, to whom or from whom the product is sold, purchased, or otherwise transferred, the quantity of product sold or otherwise transferred, and the date of the transaction.

(2)Invoices, bills of lading, or other documents that show transfer of title of certified organic products must indicate the product is organic or certified organic.

(3)Any person selling a product that is exempt or excluded from certification under NOP rules, shall follow the requirements of Section 205.101 of Title 7 of the Code of Federal Regulations.

(4)All substances applied to the product or used in or around any area where product is kept, including the quantity applied and the date of each application. All pesticide chemicals shall be identified by brand name, if any, and by source.

(b)All persons who sell, at retail, products sold as organic shall keep accurate and specific records of the following:

(1)Except when sold to the consumer, the name and address of all suppliers of persons, to whom or from whom the product is sold, purchased, or otherwise transferred, the quantity of product purchased or otherwise transferred, and the date of the transaction.

(2)Invoices, bills of lading or other documents that show transfer of title of certified organic products must indicate the product is organic or certified organic.

(3)Any person selling a product that is exempt or excluded from certification under NOP rules, shall follow the requirements of Section 205.101 of Title 7 of the Code of Federal Regulations.

(4)All substances applied to the product or used in or around any area where product is kept, including the quantity applied and the date of each application. All pesticide chemicals shall be identified by brand name, if any, and by source.

(c) All records required to be kept under this section shall be maintained as set forth by regulations promulgated by the NOP, when applicable, or as follows: by producers for not less than three years and by handlers for not less than two years from the date that the product is sold, and shall be maintained by retailers for not less than one year from the date that the product is sold, and shall be maintained by the retailers for not less than one year from the date that the product is received by the retailer. These records shall be made available for inspection at any time by the director or the secretary and by each certification organization that certifies the product, if any, for purposes of carrying out this article and Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code.

(Amended by Stats. 2020, Ch. 302, Sec. 10. (SB 406) Effective September 29, 2020.)

110845.

(a)Notwithstanding any other provision of law, any producer, handler, processor, or retailer of products sold as organic shall immediately make available for inspection by, and shall upon request, within 72 hours of the

request, provide a copy to, the director, the Attorney General, any prosecuting attorney, any governmental agency responsible for enforcing laws related to the production or handling of products sold as organic, or the secretary of any record required to be kept under this section for purposes of carrying out this article and Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code. Records acquired pursuant to this subdivision shall not be public records as that term is defined in Section 7920.530 of the Government Code and shall not be subject to Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

(b)Upon written request of any person that establishes cause for the request, the director and the secretary shall obtain and provide to the requesting party within 10 working days of the request a copy of any of the following records required to be kept under this article that pertain to a specific product sold or offered for sale, and that identify substances applied, administered, or added to that product, except that financial information about an operation or transaction, information regarding the quantity of a substance administered or applied, the date of each administration or application, information regarding the identity of suppliers or customers, and the quantity or price of supplies purchased or products sold shall be removed before disclosure and shall not be released to any person other than persons and agencies authorized to acquire records under subdivision (a):

(1)Records of a handler, as described in paragraph (4) of subdivision (a) of Section 110840, records of previous handlers, if any, without identifying the previous handlers or producers, and, if applicable, records obtained as required in subdivision (b).

(2)Records of a retailer, as described in paragraph (4) of subdivision (b) of Section 110840, records of previous handlers, if any, as described in paragraph (4) of subdivision (a) of, Section 110840, without identifying the previous handlers, and, if applicable, records obtained as required in subdivision (b).

This subdivision shall be the exclusive means of public access to records required to be kept by handlers and retailers under this article.

A person required to provide records pursuant to a request under this subdivision, may petition the director or the secretary to deny the request based on a finding that the request is of a frivolous or harassing nature. The secretary or director may, upon the issuance of this finding, waive the information production requirements of this subdivision for the specific request for information that was the subject of the petition.

(c)Information specified in subdivision (b) that is required to be released upon request shall not be considered a trade secret under Section 110165, Section 1060 of the Evidence Code, or the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code).

(d)The director or the secretary may charge the person requesting records a reasonable fee to reimburse the director, the secretary, or the source of the records for the cost of reproducing the records requested.

(e)Any person who first imports into this state, for resale, products sold as organic shall obtain and provide to the enforcement authority, upon request, proof that the products being sold have been certified by an accredited certifying organization or have otherwise been produced in compliance with this article.

(f)The director shall not be required to obtain records not in the directorspossession in response to a subpoena. Prior to releasing records required to be kept pursuant to this chapter in response to a subpoena, the director shall delete any information regarding the identity of suppliers or customers and the quantity or price of supplies purchased or products sold.

_(Amended by Stats. 2021, Ch. 615, Sec. 276. (AB 474) Effective January 1, 2022. Operative January 1, 2023,

pursuant to Sec. 463 of Stats. 2021, Ch. 615.)_

110850.

(a) Following initial United States Department of Agriculture accreditation of certifying agents as provided in Section 6514 of Title 7 of the United States Code and upon implementation of the federal organic certification requirement pursuant to the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq., Sec. 2101, P.L. 101-624), all products sold as organic in California shall be certified by a federally accredited certifying agent, if they are required to be certified under the federal act. In addition products shall be sold as organic only in accordance with this section, Sections 110855 to 110870, inclusive, and Section 46009 of the Food and Agricultural Code. The secretary, director, and the county agricultural commissioners shall carry out this subdivision to the extent that adequate funds are made available for that purpose.

(b) Products sold as organic may be certified only by a certification organization registered pursuant to Section 46014.1 of the Food and Agricultural Code or a federally accredited certification organization.

(c) In order to be registered, a certification organization shall be accredited by the USDA, if required.

(d) A certification organization that certifies processed products sold as organic shall register with the secretary.

(e) The director may audit the organizationscertification procedures and records at any time. Records of certification organizations not otherwise required to be released upon request or made publicly available shall not be released by the director except to other employees of the department, the Department of Food and Agriculture, a county agricultural commissioner, the Attorney General, any prosecuting attorney, or any government agency responsible for enforcing laws related to the activities of the person subject to this part.

(Amended by Stats. 2002, Ch. 533, Sec. 56. Effective January 1, 2003.)

110855.

Prior to initial certification of a producer, a registered certification organization shall conduct at least one initial physical inspection of the premises where the food to be certified is produced. This inspection shall include the recordkeeping system necessary for compliance with Section 110840 and the area or facility at which the food is produced.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110860.

(a) A registered certification organization shall no less often than, at the end of each calendar quarter, prepare a list by name of all persons whose production or processing of food is certified or pending certification by the certification organization. This list shall be filed with the department or the Department of Food and Agriculture, as applicable, by the certification organization and made publicly available within 30

days after the end of each quarter.

(b) A registered certification organization or a federally accredited certification organization shall, at least annually, physically inspect the premises where the food to be certified is produced and processed. The inspection shall include an examination of recordkeeping.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110865.

A registered certification organization shall adopt and adhere to a certification plan filed annually and made publicly available. Except in the case of a certification program established pursuant to subdivision (e) of Section 110850, a certification plan shall be filed as part of the registration required pursuant to subdivision (d) of Section 110850. A certification plan shall at minimum include a detailed description of all of the following elements of the certification organizationsprogram:

(a) Minimum information required from producers or processors regarding growing or processing practices and methods for verifying that information.

(b) Qualifications of and training requirements for all inspectors.

(c) Procedures for inspection, including frequency and items covered.

(d) Procedures for soil and tissue sampling and analysis.

(e) Criteria for certification.

(f) Process for certification decisionmaking, including identification of persons with decisionmaking authority.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110870.

Only products that have been handled and processed in accordance with this article may be certified by a registered certification organization.

(Amended by Stats. 2002, Ch. 533, Sec. 57. Effective January 1, 2003.)

110875.

(a) Every person engaged in this state in the processing or handling of processed products for human consumption, including dietary supplements, alcoholic beverages, and fish or seafood sold as organic (except for processors and handlers of processed meat, fowl, or dairy products and retailers that are engaged in the processing or handling of products sold as organic), and every person engaged in the processing or handling of animal food and cosmetics sold as organic, shall register with the director, and shall thereafter

annually renew the registration unless no longer so engaged. Handlers of processed food products that are registered with the department pursuant to Article 2 (commencing with Section 110460) shall register under this section in conjunction with the annual renewal of their registration pursuant to that article. Handlers of organic products that are required to be registered to manufacture, pack, or hold processed food pursuant to Article 2 (commencing with Section 110460) of Chapter 5 of Part 5 of Division 104, licensed to bottle, vend, haul, or process water pursuant to Article 12 (commencing with Section 11070) of Chapter 5 of Part 5 of Division 104, certified to process or handle fresh or frozen seafood or fresh or frozen raw shellfish pursuant to Chapter 5 (commencing with Section 112150) of Part 6 of Division 104, licensed to operate a cold storage facility pursuant to Chapter 6 (commencing with Section 112350) of Part 6 of Division 104, licensed to process low acid canned foods pursuant to Chapter 8 (commencing with Section 112650) of Part 6 of Division 104, licensed to manufacture olive oil pursuant to Chapter 9 (commencing with Section 112875) of Part 6 of Division 104, and licensed or registered to process or hold pet food in California pursuant to Chapter 10 (commencing with Section 113025) of Part 6 of Division 104, shall possess a valid registration or license in order to obtain a valid organic registration for the same facility under this section. All others required to register under this subdivision shall register within 30 days of forms being made available for this purpose. Any processor or handler of processed products required to register under this subdivision that does not pay the registration fee required by subdivision (c) within 30 days of the date on which the fee is due and payable shall pay a penalty of 11/2 percent per month on the unpaid balance.

(b) Registration shall be on a form provided by the director and shall be valid for a period of one calendar year from the date of validation of the completed registration form. The director shall make registration forms available for this purpose. The information provided on the registration form shall include all of the following:

(1) The nature of the registrantsbusiness, including the specific commodities and quantities of each commodity that is handled and sold as organic.

(2) The total current annual organic gross sales, or if not selling the product, the total current gross annual revenue received from processing, packaging, repackaging, labeling, or otherwise handling organic products for others, in dollars.

(3) The names of all certification organizations and governmental entities, if any, providing certification to the registrant pursuant to this article and the regulations adopted by the NOP.

(4) Sufficient information, under penalty of perjury, to enable the director to verify the amount of the registration fee to be paid in accordance with subdivision (c).

(c) To the extent feasible, the director shall coordinate the registration and fee collection procedures of this section with similar licensing or registration procedures applicable to registrants. When coordinating the organic registration with other required registrations or licenses identified in subdivision (a), the expiration date shall be the same expiration date as the valid license or registration. For persons that hold two-year licenses or registrations pursuant to subdivision (a), the organic registration shall be renewed annually using the same expiration month and day as the two-year license or registration.

(d) A registration form shall be accompanied by payment of a nonrefundable registration fee payable to the department by handlers which shall be based on annual gross sales of organic product or annual revenue received from processing, packaging, repackaging, labeling, or otherwise handling organic product for others, by the registrant in the calendar year that precedes the date of registration. If no sales or revenue were made in the preceding year, then based on the expected sales or revenue during the 12 calendar months following the date of registration. Unless specified elsewhere, the fee is based according to the following schedule:

`

Gross Annual Sales or Revenue	Annual Registration Fee
$0“$5,000	$ 50
$5,001“$50,000	$100
$50,001“$125,000	$200
$125,001“$250,000	$300
$250,001“$500,000	$400
$500,001“$1,500,000	$500
$1,500,001“$2,500,000	$600
$2,500,001“and above	$700

(1) Any handler that does not take possession or title of the product but arranges for the sale of the product shall register and pay one hundred dollars ($100) per year.

(2) Any person that only provides temporary storage for seven days or less, or only provides transportation for organic product and does not handle the processed packaged product, does not have to register.

(3) Any person that hires any other person to custom pack, repack, or label organic products shall register and pay a fee based on the total annual sales of products custom packed, repacked, or labeled for them as outlined in the chart above.

(e) Revenue received pursuant to this section shall be deposited in the Food Safety Fund created pursuant to Section 110050.

(f) The director shall reject a registration submission that is incomplete or not in compliance with this article and regulations promulgated by the NOP.

(g) The director shall provide a validated certificate to the registrant.

(h) Registration forms shall be made available to the public for inspection and copying at the main office of the department. Copies of registration forms shall also be made available by mail, upon written request and payment of a reasonable fee, as determined by the director. Registration information regarding quantity of products sold and gross sales volume in dollars shall be deleted prior to public inspection and copying and shall not be released to any person except other employees of the department, the Department of Food and Agriculture, a county agricultural commissioner, the Attorney General, any prosecuting attorney, or any government agency responsible for enforcing laws related to the activities of the person subject to this part.

(i) A registrant shall immediately notify the director of any change in the information reported on the registration form and shall pay any additional fee owed if that change results in a higher fee owed than previously paid.

(j) The director in consultation with the California Organic Products Advisory Committee, may suspend the registration program set forth in this section if the director determines that income derived from registration fees is insufficient to support a registration enforcement program.

(k) A registration is considered legal and valid until revoked, suspended, or until the expiration of the registration.

(l) The registration revocation process must be in conjunction with other provisions of this article. The director can initiate the revocation process for failure to comply with this article or any part of the regulations adopted pursuant to the NOP. Any person against whom the action is being taken shall have the opportunity to appeal the action and be afforded the opportunity to be heard in an administrative appeal. This appeal can be administered by either the state or county agricultural commissionersoffice.

(m) When the registration fee is not paid within 60 days from the expiration date the account may be considered closed and the registration voided. A notification will be sent to the registrant and the certifier will notify them that they are no longer able to market products as organic until the account is paid in full.

(n) Any registration that is more than 60 days late will be considered invalid and it is a violation if product is sold as organic.

(Amended by Stats. 2002, Ch. 533, Sec. 58. Effective January 1, 2003.)

110880.

This article shall apply to all products sold as organic within the state, wherever produced, handled, or processed, and to all products produced, that are handled or processed in the state, wherever sold as organic.

(Amended by Stats. 2002, Ch. 533, Sec. 59. Effective January 1, 2003.)

110885.

This article shall not apply to the term natural when used in the labeling or advertising of a product.

(Amended by Stats. 2002, Ch. 533, Sec. 60. Effective January 1, 2003.)

110890.

(a) It is unlawful for any person to sell, offer for sale, advertise, or label any product in violation of this article.

(b) Notwithstanding subdivision (a), a person engaged in business as a distributor or retailer of products who in good faith sells, offers for sale, labels, or advertises any product in reliance on the representations of a producer, handler, or other distributor that the product may be sold as organic, shall not be found to violate this article unless the distributor either: (1) knew or should have known that the product could not be sold as organic; (2) was engaged in producing or processing the product; or (3) prescribed or specified the manner in which the product was produced or processed.

(Amended by Stats. 2002, Ch. 533, Sec. 61. Effective January 1, 2003.)

110895.

(a) It is unlawful for any person to certify products in violation of this article.

(b) It is unlawful for any person to certify products as organic unless duly registered or accredited as a certification organization pursuant to Section 110850.

(c) It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed, in registration for a certification organization pursuant to Section 110850.

(Amended by Stats. 2002, Ch. 533, Sec. 62. Effective January 1, 2003.)

110900.

(a) It is unlawful for any person to produce, handle, or process products sold as organic unless duly registered pursuant to Section 110875.

(b) It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed, in registration pursuant to Section 110875.

(Amended by Stats. 2002, Ch. 533, Sec. 63. Effective January 1, 2003.)

110905.

It is unlawful for any person to forge, falsify, fail to retain, fail to obtain, or fail to disclose records pursuant to Sections 110840 and 110845.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110910.

It is unlawful for any person to do any of the following:

(a) Advertise, label, or otherwise represent that any fertilizer or pesticide chemical may be used in connection with the production, processing, or distribution of products sold as organic if that fertilizer or pesticide chemical contains a prohibited material.

(b) Alter any organic registration form.

(c) Alter any certification document.

(d) Falsify any document.

(e) Use the term transitional organic in this state to represent a product for sale.

(Amended by Stats. 2002, Ch. 533, Sec. 64. Effective January 1, 2003.)

110915.

(a) In lieu of prosecution, the director may levy a civil penalty against any person who violates this article, any regulation adopted pursuant to this article, or any regulation promulgated by the NOP in an amount not more than five thousand dollars ($5,000) for each violation. The amount of the penalty assessed for each violation shall be based upon the nature of the violation, the seriousness of the effect of the violation upon effectuation of the purposes and provisions of this article, and the impact of the penalty on the violator, including the deterrent effect on future violations.

(b) Notwithstanding the penalties prescribed in subdivision (a), if the director finds that a violation was not intentional, the director may levy a civil penalty of not more than two thousand five hundred dollars ($2,500) for each violation.

(c) For a first offense, in lieu of a civil penalty as prescribed in subdivisions (a) and (b), the director may issue a notice of violation, if he or she finds that the violation is minor.

(d) A person against whom a civil penalty is levied shall be afforded an opportunity for a hearing before the director, upon request made within 30 days after the date of issuance of the notice of penalty. At the hearing, the person shall be given the right to review the directorsevidence of the violation and the right to present evidence on his or her own behalf. If no hearing is requested, the civil penalty shall constitute a final and nonreviewable order.

(e) If a hearing is held, review of the decision of the director may be sought by any person within 30 days of the date of the final order of the director pursuant to Section 1094.5 of the Code of Civil Procedure.

(f) A civil penalty levied by the director pursuant to this section may be recovered in a civil action brought in the name of the state.

(Amended by Stats. 2002, Ch. 533, Sec. 65. Effective January 1, 2003.)

110920.

No fee established and collected pursuant to this article shall exceed the departmentscosts of regulating and enforcing the provisions of this article related to the function for which the fee is established.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110925.

Any fees and civil penalties collected pursuant to this article shall be deposited in the General Fund and, upon appropriation by the Legislature, shall be expended to fulfill the responsibilities of the director as specified in this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110930.

The director shall, to the extent funds are available, enforce this article applicable to all processors and handlers of processed products sold as organic, including handlers and processors of fish and seafood, cosmetics, and animal food products sold as organic, except for processors and handlers of processed meat, fowl, and dairy products.

(Amended by Stats. 2002, Ch. 533, Sec. 66. Effective January 1, 2003.)

110935.

The director shall maintain in a central location, and make publicly available for inspection and copying, upon request, a list of all penalties levied within the past five years, including the amount of each penalty, the party against whom the penalty was levied, and the nature of the violation. The list also shall be available by mail, upon written request and payment of a reasonable fee, as determined by the director.

(Amended by Stats. 1999, Ch. 609, Sec. 26. Effective January 1, 2000.)

110940.

(a) Any person may file a complaint with the director concerning suspected noncompliance with this article by a person over whom the director has responsibility as provided in this article or regulations adopted by the NOP.

(b) The director shall, to the extent funds are available, establish a procedure for handling complaints, including, provision of a written complaint form, and procedures for commencing an investigation within three working days of receiving a written complaint regarding fresh food, and within seven working days for other product, and completing an investigation and reporting findings and enforcement action taken, if any, to the complainant within 90 days thereafter.

(c) The director may establish minimum information requirements to determine the verifiability of a complaint and may provide for rejection of a complaint that does not meet the requirements. The director shall provide written notice of the reasons for rejection to the person filing the complaint.

(d) The responsibilities of the director under this section shall be carried out to the extent funds are available.

(e) The complaint process in this state shall also meet all the complaint processes outlined in regulations promulgated by the NOP.

(Amended by Stats. 2002, Ch. 533, Sec. 67. Effective January 1, 2003.)

110945.

This article shall apply notwithstanding any other provision of law that is inconsistent with this article. Nothing in this article is intended to repeal any other provision of law not inconsistent with this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110950.

The director may adopt any regulations as are reasonably necessary to assist in the implementation of, or to make more specific, the provisions of, this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110955.

Any reference in law to former Section 26569.11, whether existing or hereinafter enacted, shall be interpreted to refer to this article and Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code as the successor section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110956.

(a) All organic product regulations and any amendments to those regulations adopted pursuant to the NOP, that are in effect on the date this bill is enacted or that are adopted after that date shall be the organic product regulations of this state.

(b) The director may, by regulation, prescribe conditions under which organic products not addressed by the National Organic Program may be sold in this state.

(Amended by Stats. 2002, Ch. 533, Sec. 68. Effective January 1, 2003.)

110957.

It shall be unlawful for a person to represent in advertising or labeling that the person or the products of the person are registered pursuant to this article.

(Amended by Stats. 2002, Ch. 533, Sec. 69. Effective January 1, 2003.)

110958.

Annually, the director shall compile and publish and submit to the California Organic Products Advisory Committee a summary of information collected under Section 110875, including, but not limited to, the following:

(a) The total number of registrations received under this section.

(b) The total number and quantity of each type of product sold as organic by all registrants combined.

(c) The total annual organic gross sales volume or revenue of all registrants combined, and the median gross annual organic sales or revenue of all registrants.

(d) The names of all registrants.

(e) The number of registrants in each of the following ranges of annual gross sales volume:

(1) $0"$5,000

(2) $5,001"$25,000

(3) $25,001"$50,000

(4) $50,001"$125,000

(5) $125,001"$250,000

(6) $250,001"$500,000

(7) $500,001"$750,000

(8) $750,001"$1,000,000

(9) $1,000,001"$1,500,000

(10) $1,500,001"$2,500,000

(11) $2,500,001"$10,000,000

(12) $10,000,001"$30,000,000

(13) $30,000,001 and above.

(f) The report published pursuant to this section shall present the required information in an aggregate form that preserves the confidentiality of the proprietary information of individual registrants.

(Amended by Stats. 2002, Ch. 533, Sec. 70. Effective January 1, 2003.)

110959.

Beginning January 1, 2003, the director shall conduct a program of spot inspections of persons required to register pursuant to Section 110875 to verify continuing compliance with this article and the regulations adopted by the NOP according to uniform procedures established by the director and regulations promulgated by the NOP.

(Added by Stats. 2002, Ch. 533, Sec. 71. Effective January 1, 2003.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=8.

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 8. Potentially Hazardous Food [110960- 110960.]__

(Article 8 added by Stats. 1995, Ch. 415, Sec. 6.)

110960.

Except as provided in Section 113995, it is unlawful for any person to transport, hold, or display any potentially hazardous refrigerated food at any temperature above 45 degrees Fahrenheit.

(Amended by Stats. 2002, Ch. 532, Sec. 1. Effective January 1, 2003.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=8.5.

110962.

(a)For purposes of this section, the following definitions apply:

(1)Baby food means food packaged in jars, pouches, tubs, and boxes represented or purported to be specifically for babies and young children less than two years of age. Baby food does not include infant formula, as defined in Section 321(z) of Title 21 of the United States Code.

(2)Final baby food product means the finished product of baby food with a unique universal product code (UPC). Final baby food product does not mean the constituent ingredients of baby food.

(3)Product label means a display of written, printed, or graphic material that is affixed to a product or its immediate container.

(4)Product shelf life means the time, measured in the number of months, between the date of manufacture and the expiration date for a final baby food product.

(5)Production aggregate means a quantity of product that is intended to have uniform composition, character, and quality, and is produced according to a master manufacturing order.

(6)Proficient laboratory is a laboratory that meets the criteria listed in subdivision (c).

(7)Quick response (QR) code means a machine-readable code, consisting of an array of squares, used for storing an internet website in order to access a web page.

(8)Representative sample means a sample that consists of a number of units that are drawn based on rational criteria, such as random sampling, and intended to ensure that the sample accurately portrays the material being sampled.

(9)Toxic elements means arsenic, cadmium, lead, and mercury.

(b)A manufacturer of baby food for sale or distribution in this state shall comply with all of the following:

(1)(A)Beginning on January 1, 2024, test a representative sample of each production aggregate of the manufacturersfinal baby food product, at a proficient laboratory, for toxic elements.

(B)A manufacturer may test the final baby food product pursuant to subparagraph (A) before packaging individual units of baby food for sale or distribution.

(C)A manufacturer shall test each final baby food product for toxic elements pursuant to subparagraph (A) at least once per month.

(D)A manufacturer shall provide test results to any authorized agent of the department upon their request, pursuant to Article 2 (commencing with Section 110140) of Chapter 2 or Article 11 (commencing with Section 111015) of this chapter.

(2)For final baby food products sold, manufactured, delivered, held, or offered for sale in the state on and after January 1, 2025, disclose product information to consumers consistent with all of the following:

(A)(i)Make publicly available on the manufacturersinternet website, for the duration of the product shelf life for a final baby food product plus one month, the name and level of each toxic element present in each production aggregate of a final baby food product.

(ii)Provide descriptive information on the internet website to enable accurate identification of the final baby food product by consumers. Descriptive information may include, but is not limited to, product name, UPC, size, lot numbers, or batch numbers.

(B)If a product is tested for a certain toxic element subject to an action level, regulatory limit, or tolerance established by the United States Food and Drug Administration (FDA) pursuant to Part 109 (commencing with Section 109.3) of Title 21 of the Code of Federal Regulations, include on the product label both of the following:

(i)A QR code or other machine-readable code that links to a page on the manufacturersinternet website containing all of the following information:

(I)Test results for the toxic element, as provided pursuant to subparagraph (A).

(II)An internet website link to a website of the FDA where consumers can find the most recent FDA guidance and information about the health effects of the toxic element on children.

(ii)A statement that reads: For information about toxic element testing on this product, scan the QR code.□

(c)The proficient laboratory that analyzes the final baby food product for toxic elements shall meet all of the following criteria:

(1)Be accredited under the standards of the International Organization for Standardization (ISO) / International Electrotechnical Commission (IEC) 17025:2017 regarding the general requirements for the competence of testing and calibration laboratories.

(2)Use an analytical method that is at least as sensitive as that described in the FDA Elemental Analysis Manual 4.7.

(3)Demonstrate proficiency in quantifying each toxic element to at least six micrograms of the toxic element to kilogram of food (Î¼g/kg) through an independent proficiency test. Proficiency means that laboratories achieve a z-score that is less than, or equal to, plus or minus two (â‰¤ Â±2).

(Added by Stats. 2023, Ch. 668, Sec. 1. (AB 899) Effective January 1, 2024.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=9.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=9.)

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 9. Frozen Foods [110965- 110965.]__

(Article 9 added by Stats. 1995, Ch. 415, Sec. 6.)

110965.

(a) No retail food production and marketing establishment shall advertise, label, or otherwise hold out as fresh any meat or fish that has been previously frozen.

(b) For purposes of this section:

(1) Frozen means any meat or fish stored in a room or compartment in which the temperature is plus five degrees Fahrenheit or lower.

(2) Retail food production and marketing establishment means any room, building, or place, or portion thereof, maintained, used, or operated for, or in conjunction with, the retail sale of food, or preparation of food. Retail food production and marketing establishment does not include any food facility, such as any mobile food preparation unit any vehicle, and any vending machine as defined in Chapter 4 (commencing with Section 113700) of Part 7; any wholesale food manufacturing, distributing, or storage establishment, including, but not limited to, the licensed premises or branch office of any winegrower, any brandy manufacturer, or any wine blender, subject to Chapter 4 (commencing with Section 111950) of Part 6; any frozen food locker plant subject to Chapter 7 (commencing with Section 112500) of Part 6; any health

facility subject to Chapter 2 (commencing with Section 1250) of Division 2 and Section 127050; any community care facility subject to Chapter 3 (commencing with Section 1500) of Division 2; or any official establishment subject to Chapter 4 (commencing with Section 18650) of Part 3 of Division 9 of the Food and Agricultural Code.

(c) On and after the effective date of the act that added this subdivision to this section during the 1993"94 Regular Session, Section 26661 of the Food and Agricultural Code shall apply, to the exclusion of any provision of this section, with respect to the advertising, labeling, or otherwise holding out, of poultry.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=10.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 10. Ice [110970 - 111010]__

(Article 10 heading added by Stats. 1996, Ch. 1023, Sec. 313.)

110970.

This article applies only to ice that is intended for human consumption and is sold in packaged form. This

article shall not apply to persons, hotels, restaurants, caterers, food service contractors, and theaters that manufacture, sell, or furnish ice solely to, or for, their customers in a manner that is incidental to the manufacturing, furnishing, or sale of other goods or services. This article shall not apply to ice dispensing or vending machines, except those that dispense or vend packaged ice, or to the icing of vehicles used to transport food.

(Added by Stats. 1996, Ch. 1023, Sec. 314. Effective September 29, 1996.)

110975.

The following definitions apply to this article:

(a) Ice means the product obtained as the result of freezing water by natural, mechanical, or artificial means.

(b) Natural ice means the product obtained as the result of freezing water by natural means.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110980.

In addition to the requirements of this article, unless ice is otherwise specifically excluded, regulations specifying good manufacturing practices applicable to food generally pursuant to Section 110105 shall be applicable to the manufacture of ice.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110985.

No person shall make ice from, or cut natural ice from, water that does not comply with primary drinking water standards adopted by the department pursuant to Section 116365. No person shall sell or offer for sale for human consumption or food preservation ice made or cut in violation of this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110990.

Unless water from a public water system, as defined in Section 116275, is used in the manufacture of ice, the manufacturer shall, on a quarterly basis, obtain from an approved laboratory, a bacterial analysis of the water used. The analysis shall be submitted to the department, indicating whether the water is pure and wholesome.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

110995.

Any person or entity who manufactures, transports, stores, or sells ice shall comply with all of the following:

(a) A room in which ice is manufactured shall be used for no other purpose than the manufacture of ice and the production of refrigeration, and may contain refrigeration equipment and machinery. This subdivision shall not apply to any food facility as defined in Section 113785.

(b) Ice storage or processing areas shall be maintained in a clean and sanitary condition and no noxious or offensive odors, smoking, or other air pollution shall be permitted therein.

(c) Cover tops for tank cans shall have a smooth, painted, or treated surface, and shall be cleaned daily. Water used for cleaning shall not be permitted to drip into freezing cans. Only potable water shall be used in sprays and in the thaw tanks for the removal of ice from cans. Water coverage tanks shall be covered and provided with filtered vents.

(d) Crushed, cubed, or shaved ice, intended for human consumption, shall be stored in a manner that prevents its pollution or contamination.

(e) Soil, waste, or drain pipes shall not be installed or maintained above any ice platform, loading space, ice container, ice storage room, dip tank or any place where leakage from the pipes may drop into, or upon any ice or upon any area or equipment used in the manufacture of ice, unless a safety device shall be installed under the pipes drained to an open receptacle or drain so as to prevent pollution of ice, water, or equipment used in the manufacture of the ice.

(f) Block ice-loading platforms shall be washed with water as often as necessary to keep them in a clean and sanitary condition, but not less than once each day.

(g) Block ice pullers and block ice storage-room employees shall wear rubber overshoes while on duty. The rubber overshoes shall be removed when the employee leaves the storage or tank room, except that if the rubber overshoes are not removed, they shall be cleaned and disinfected before reentering the storage or tank room. The use of street shoes without rubber overshoes in these areas is prohibited.

(h) All frozen unpackaged ice blocks intended for sale for human consumption or for the refrigeration of food products shall be washed thoroughly with potable water. Ice manufactured for industrial purposes need not be washed prior to shipping but shall be handled and stored separately from ice intended for human consumption.

(i) Ice shall be handled only with clean tongs, ice-carrying bags, scoops, or other sanitary containers, and shall not be directly handled with bare hands.

(j) Single service supplies shall be stored, dispensed, and handled in a sanitary manner and shall be used only once.

(k) Persons not directly involved in the manufacture, processing, packaging, or storing of ice, in the maintenance of facilities and equipment used therefore, or in the management, supervision, or inspection thereof, shall not be permitted in any area where ice is manufactured, processed, packaged, or stored, unless personal cleanliness and hygienic practices are taken to prevent contamination of the product. These areas

shall have signs posted to this effect.

(l) Bacteriological tests of the finished ice shall be conducted not less than biannually, chemical and physical tests annually, and radiological tests every four years, to insure that ice manufactured for human consumption or for the refrigeration of food products complies with the primary drinking water standards adopted by the department pursuant to Section 116365.

(m) No ice produced out of state shall be sold or distributed within this state unless it complies with this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111000.

(a) Filter beds and any filtering equipment shall be designed to protect ice from contamination and shall be subject to periodic treatment and cleaning.

(b) All equipment and utensils used in ice production areas shall be of easily cleanable construction, shall be kept clean and in good repair, and shall be handled and stored in a sanitary manner. Materials used as ice contact surfaces shall be smooth, nontoxic, and nonabsorbent. Ice cans shall be leakproof and the inner surfaces of the containers shall be free of corrosion.

(c) Freezing tank covers shall be designed and constructed to protect ice containers from splash, drip, and other contamination, shall be easily cleanable, and shall be kept clean and in good repair. The covers shall be equipped with rings or similar devices when hooks are used for pulling. Can or tank covers, and the ledges or sides of the tank upon which the cover rests, shall be cleaned as often as necessary to keep them in a sanitary condition.

(d) Conveyor surfaces shall be of impervious material and shall protect ice from contaminants that may result from shredding, flaking, peeling, or fragmentation of the conveyor surface.

(e) Equipment lubrication shall not contaminate the ice and only food grade lubricants shall be used.

(f) All product storage and holding areas to be refrigerated shall be cleaned as often as necessary to keep them free of contamination.

(g) Air used for water agitation shall be filtered or otherwise treated to remove dust, dirt, insects, and extraneous material. Filters shall be placed upstream from the compressor and shall be easily removable for cleaning or replacement.

(h) The compressor or blower used to supply air or water agitation shall be designed to deliver oil-free air.

(i) Air lines and core or vacuum devices shall be used as needed to produce ice free of rust or other foreign materials.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111005.

In addition to the requirements of this article, ice shall be considered a food subject to all the sanitation requirements applicable to food generally pursuant to Article 1 (commencing with Section 110425), except those provisions that specifically exclude ice.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111010.

Any truck, vehicle, or other equipment used for delivery, distribution, or selling ice, shall comply with all of the following:

(a) It shall be constructed and maintained to provide adequate and reasonable protection to the ice transported therein. Care shall be taken to prevent its contact with any contaminants, or other substances that would take the ice out of compliance with the drinking water standards prescribed by this article.

(b) All cubed, crushed, or shaved ice shall be kept in clean receptacles or containers that shall be kept covered while the vehicle is in motion.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=11.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 11. Local Enforcement [111015 - 111065]__

(Article 11 added by Stats. 1995, Ch. 415, Sec. 6.)

111015.

Health officer, as used in this article, means the health officer appointed by a county board of supervisors pursuant to Section 101000, by the governing body of a city pursuant to Section 101460, by the governing body of a city and county, or by a local health district board pursuant to former Section 940, that is continued in effect as to any existing district by Section 3 of Chapter 380 of the Statutes of 1959.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111020.

The department, upon the request of a health officer, may authorize the local health department of a city, county, city and county, or local health district to enforce this part, and the regulations adopted pursuant to this part that pertain to retail food establishments, as defined by regulation, if the department determines that the local health department has sufficient personnel with adequate training to do so. The enforcement shall be limited to the area under the jurisdiction of the local health department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111025.

The department may revoke any authorization made pursuant to this article, if it determines, after a hearing conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that the local health department authorized pursuant to this article is not enforcing this part or the regulations adopted pursuant to this part, or no longer has an adequate staff qualified to do so.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111030.

A local health department that is authorized by the department to enforce this part may make inspections, take samples, make laboratory examinations, impose and remove embargoes, hold informal hearings, certify facts to the district attorney, and institute proceedings for the forfeiture, condemnation, and destruction of food found to be adulterated or misbranded. The action shall be instituted in the name of the city, county, city and county, or district of which the local health department is a part, and shall conform to the

requirements of this part and the regulations adopted by the department pursuant to this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111035.

For the purposes of this article, the health officer and his or her deputies shall have the same powers and authority as an inspector of the Bureau of Food and Drug of the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111040.

When an examination or analysis made pursuant to this part shows that any provision of this chapter has been violated, written notice of that fact together with a copy of the findings shall be furnished to each party from whom the sample was obtained, or who issued the product guarantee.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111045.

The health officer shall set a time for an informal hearing, at which the parties may be heard before him or her or his or her representatives. A notice in writing shall be served upon the interested parties at least 15 days prior to the hearing. The informal hearing shall be private and limited to questions of fact. Appearances may be made in person or by attorney. Testimony may be taken and evidence introduced as to the correctness of the findings made by the person making the examination or performing the analysis.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111050.

If the examination or analysis is found to be correct, or if any party fails to appear after notice has been duly given, the health officer may certify the facts found to the district attorney of the county. No publication shall be made until after the hearing is concluded.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111055.

This article shall not be construed as repealing, either directly or by implication, any of the existing sections of this chapter, but shall be construed as constituting an alternative method of enforcing this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111060.

This article shall not affect any previous authorization by the department to a local health department of a county, city, or city and county to enforce this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111065.

The department may adopt regulations relating to the operation of a local health department as it considers necessary to fully effect this article, including, but not limited to, requirements relating to reporting of activities and the numbers and qualification of personnel.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=11.5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 11.5. Local Enforcement: Live Food [111067 - 111068]__

(Article 11.5 added by Stats. 2000, Ch. 1062, Sec. 2.)

111067.

(a) Any city, county, or city and county may adopt an ordinance that provides for the regulation of the disposition of bullfrogs and turtles imported for sale in live animal markets for use as food. The ordinances may provide for all of the following:

(1) The designation of a local agency to carry out this article.

(2) Require a permit, issued by an agency designated by the city, county, or city and county to issue permits, for the sale of bullfrogs and turtles imported for sale in live animal markets for use as food.

(3) Establish a fee for the permit in an amount determined sufficient to offset the administrative cost of issuing the permit and enforcing the provisions of the ordinance.

(4) Require that animals sold pursuant to the permit be dispatched at the time of sale.

(5) Require that signs be posted at the permitteesplace of business, stating that animals must be properly dispatched and that release into the wild in a live state is unlawful.

(6) Authorize the local agency, after notice and opportunity for a hearing, to suspend or revoke a permit issued pursuant to paragraph (1) for violation of any provision of the ordinance adopted pursuant to this article.

(b) The State Department of Health Services and the Department of Fish and Game may consult with a city, county, or city and county for purposes related to this article.

(Added by Stats. 2000, Ch. 1062, Sec. 2. Effective January 1, 2001.)

111068.

Nothing in this article is intended to limit or preempt the jurisdiction of any state agency or commission, or any other state entity, from adopting any regulation or taking any action it deems necessary and appropriate regardless of any local ordinance adopted pursuant to this article.

(Added by Stats. 2000, Ch. 1062, Sec. 2. Effective January 1, 2001.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=12.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 12. Bottled, Vended, Hauled, and Processed Water [111070 - 111198]__

(Article 12 added by Stats. 1995, Ch. 415, Sec. 6.)

111070.

(a)Bottled water,□ means any water that is placed in a sealed container at a water-bottling plant to be used for drinking, culinary, or other purposes involving a likelihood of the water being ingested by humans. Bottled water shall not include water packaged with the approval of the department for use in a public emergency.

(b)Vended water□ means any water that is dispensed by a water-vending machine, retail water facility, or water from a private water source, or other water as defined in Section 111170 that is not placed by a bottler in sealed containers, and that is dispensed by a water-vending machine, retail water facility, water hauler, or any other person or facility for drinking, culinary, or other purposes involving a likelihood of the water being ingested by humans. Vended water,□ does not include water from a public water system that has not undergone additional treatment. Water sold without further treatment is not vended water□ and shall be labeled in accordance with Section 111170.

(c)Water-bottling plant□ means any facility in which bottled water is produced.

(d)A water-vending machine□ means a water-connected vending machine designed to dispense drinking water, or purified or other water products. The machines shall be designed to reduce or remove turbidity,

off-tastes, and odors and to provide disinfection treatment. Processes for dissolved solids reduction or removal shall also be used.

(e)Water hauler,□ means any person who hauls water in bulk by any means of transportation if the water is to be used for drinking, culinary, or other purposes involving a likelihood of the water being ingested by humans.

In bulk,□ as used in this subdivision, means containers having capacities of 250 gallons or greater.

(f)Retail water facility□ means any commercial establishment where vended water is sold, and placed in customerscontainers, or placed in containers sold or given to customers who come to the establishment to obtain water.

(g)Private water source,□ means a privately owned source of water, other than a public water system, that is used for bottled or vended water and meets the requirements of an approved source for bottled water as defined in Section 129.3 of Title 21 of the Code of Federal Regulations.

(h)Bottled water distributor□ means any person, other than an employee or representative of a bottled water plant, who delivers bottled water directly to customers.

(Amended by Stats. 2007, Ch. 575, Sec. 2. Effective January 1, 2008.)

111070.5.

(a)Advanced purified demonstration water□ means product water from an advanced water purification facility that satisfies both of the following requirements:

(1)The product water is treated by all of the following treatment processes:

(A)Microfiltration, ultrafiltration, or other filtration process that removes particulates before reverse osmosis.

(B)Reverse osmosis.

(C)Advanced oxidation.

(2)The product water meets or exceeds all federal and state drinking water standards and is produced in accordance with the advanced treatment criteria for purified water specified in Section 60320.201 of Title 22 of the California Code of Regulations.

(b)A bottler of advanced purified demonstration water shall do all of the following:

(1)Submit sample labels to the department for review at least 30 days before bottling advanced purified demonstration water.

(2)Submit the analyses of the advanced purified demonstration water required under subdivision (e) of Section 13570 of the Water Code to the department at least seven days before bottling advanced purified demonstration water.

(3)Conduct a full sanitation of the bottling and filling equipment immediately after bottling advanced

purified demonstration water.

(Amended by Stats. 2017, Ch. 561, Sec. 132. (AB 1516) Effective January 1, 2018.)

111071.

(a)As a condition of licensure, each bottled water plant, which has the same meaning as the definition in subdivision (c) of Section 111070, shall annually prepare a bottled water report and shall, upon request, make that report available to each customer.

(b)The report shall be prepared in English, Spanish, and in the appropriate languages for each non-English-speaking group other than Spanish that exceeds 10 percent of the statespopulation.

(c)For purposes of complying with this section, when bottled water comes from a municipal source, the relevant information from the consumer confidence report or water quality report prepared for that year by the public water system pursuant to Section 116470 may be used.

(d)The bottled water report shall include, but not be limited to, all of the following:

(1)The source of the bottled water, consistent with applicable state and federal regulations.

(2)A brief and plainly worded definition of the terms statement of quality,□ maximum contaminant level,□ primary drinking water standard,□ and public health goal.□

(3)A brief description of the treatment process.

(4)A reference to the United States Food and Drug Administration Internet Web site that provides product recall information.

(5)The bottled water companysaddress and telephone number that enables customers to obtain further information concerning contaminants and potential health effects.

(6)Information on the levels of unregulated substances, if any, for which water bottlers are required to monitor pursuant to state or federal law or regulation.

(7)(A)The following statement:

Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the United States Food and Drug Administration, Food and Cosmetic Hotline (1-888-723-3366).□

(B)If the telephone number for the United States Food and Drug Administration, Food and Cosmetic Hotline changes, the statement shall be updated to reflect the new telephone number.

(8)The following statement:

Some persons may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons, including, but not limited to, persons with cancer who are undergoing

chemotherapy, persons who have undergone organ transplants, persons with HIV/AIDS or other immune system disorders, some elderly persons, and infants can be particularly at risk from infections. These persons should seek advice about drinking water from their health care providers. The United States Environmental Protection Agency and the federal Centers for Disease Control and Prevention guidelines on appropriate means to lessen the risk of infection by cryptosporidium and other microbial contaminants are available from the Safe Drinking Water Hotline (1-800-426-4791).

(9)The following statement:

The sources of bottled water include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water naturally travels over the surface of the land or through the ground, it can pick up naturally occurring substances as well as substances that are present due to animal and human activity.

Substances that may be present in the source water include any of the following:

(1)Inorganic substances, including, but not limited to, salts and metals, that can be naturally occurring or result from farming, urban stormwater runoff, industrial or domestic wastewater discharges, or oil and gas production.

(2)Pesticides and herbicides that may come from a variety of sources, including, but not limited to, agriculture, urban stormwater runoff, and residential uses.

(3)Organic substances that are byproducts of industrial processes and petroleum production and can also come from gas stations, urban stormwater runoff, agricultural application, and septic systems.

(4)Microbial organisms that may come from wildlife, agricultural livestock operations, sewage treatment plants, and septic systems.

(5)Substances with radioactive properties that can be naturally occurring or be the result of oil and gas production and mining activities.

(10)The following statement:

In order to ensure that bottled water is safe to drink, the United States Food and Drug Administration and the State Department of Public Health prescribe regulations that limit the amount of certain contaminants in water provided by bottled water companies.

(11)(A)The following statement, if nitrate (NO3) levels above 23 ppm but below 45 ppm (the maximum contaminant level for nitrate (NO3)) are detected:

Nitrate in drinking water at levels above 45 mg/L is a health risk for infants of less than six months of age. These nitrate levels in drinking water can interfere with the capacity of the infantsblood to carry oxygen, resulting in a serious illness. Symptoms include shortness of breath and blueness of the skin. Nitrate levels above 45 mg/L may also affect the ability of the blood to carry oxygen in other individuals, including, but not limited to, pregnant women and those with certain specific enzyme deficiencies. If you are caring for an infant, or you are pregnant, you should ask advice from your health care provider.

(B)If the nitrate disclosure requirements for municipal water suppliers are revised by the State Department of Public Health, this statement shall be updated to reflect the revision.

(12)(A)The following statement, if arsenic levels above 5 ppb, but below 10 ppb (the maximum contaminant

level for arsenic), are detected:

Arsenic levels above 5 ppb and up to 10 ppb are present in your drinking water. While your drinking water meets the current EPA standard for arsenic, it does contain low levels of arsenic. The standard balances the current understanding of arsenicspossible health effects against the costs of removing arsenic from drinking water. The State Department of Public Health continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects, including, but not limited to, skin damage and circulatory problems.

(B)If the arsenic disclosure requirements for municipal water suppliers are revised by the State Department of Public Health, this statement shall be updated to reflect the revision.

(13)A full disclosure of any exemption or variance that has been granted to the bottler by the State Department of Public Health, including an explanation of reasons for each exemption or variance and the date of the exemption or variance.

(Amended by Stats. 2008, Ch. 179, Sec. 155. Effective January 1, 2009.)

111075.

(a) Any person who processes, packages, distributes, transfers, or stores bottled water or vended water shall comply with the good manufacturing practices described in Part 129 of Title 21 of the Code of Federal Regulations.

(b) Prior to bottling or vending water, the water shall be subjected to filtration and effective germicidal treatment by ozone, ultraviolet, carbon dioxide, or an equivalent disinfection process approved by the department, except that the requirements for filtration and germicidal treatment shall not apply to mineral water as defined in and from a source that is subject to the council directive of the European Economic Community pertaining to natural mineral waters, dated July 15, 1980, or that is subject to any other natural mineral water standard in the country of origin that prohibits filtration and germicidal treatment, so long as both of the following conditions are met:

(1) The source and product are certified by the responsible authority in the country of origin as complying with microbiological standards at least equal to the standards of this article.

(2) The product complies with microbiological standards of this article.

(c) Bottled or vended water that originates from a surface water source that is not protected from surface contamination shall be subjected to ozonation, filtration, or another effective process that removes or destroys the cysts of the parasite Giardia lamblia. For the purposes of this section, a spring house, catchment basin, storage tank, or bore hole adjacent to a natural spring water source as defined in paragraphs (3) and (8) of subdivision (e) of Section 111170, is not a surface water source.

(d) Ollas or other water-holding dispensers, both refrigerated and nonrefrigerated, water-vending machines, and water dispensers in retail water facilities, shall be examined for cleanliness each time they are serviced by the distributor, bottler, retail water facility, or water-vending machine operator. When necessary, these dispensers shall be sanitized according to the methods described in Part 129 of Title 21 of the Code of Federal Regulations.

(e) Sanitary operations, equipment procedures, and process controls used in the treatment, storage, transport, or dispensing of water at a retail water facility shall comply with the good manufacturing practices described in the following provisions of Part 129 of Title 21 of the Code of Federal Regulations: subdivisions (a) to (c), inclusive, of Section 129.37; Section 129.40; and subdivisions (a), (c), (d), and (h) of Section 129.80.

(f) Sanitary operations, equipment, procedures, and process controls used in the treatment, storage, transfer, transport, or dispensing of water by water haulers, shall comply with the good manufacturing practices described in the following provisions of Part 129 of Title 21 of the Code of Federal Regulations: subdivisions (a) and (b) of Section 129.37; Section 129.40; and subdivisions (a), (c), (d), and (h) of Section 129.89.

(g) The design and construction of wells, bore holes, catchment basins, spring houses, storage tanks, or other water-contact equipment used by private water sources shall comply with the requirements of the local regulatory authority. Sanitary operations, equipment procedures, and transfer controls used in the treatment, storage, transfer, or dispensing of water by private water source operators shall comply with the good manufacturing practices described in the following provisions of Part 129 of Title 21 of the Code of Federal Regulations: subdivision (a) of Section 129.37; Section 129.40; and subdivisions (a), (c), (d), (g), and (h) of Section 129.80.

(h) Bottled water may be processed through lines used also for other food products under the following conditions:

(1) Process lines, including storage tanks and associated equipment, shall be used exclusively for the production of bottled water, except for filling equipment, that may be used also for filling other food products.

(2) Before being used for the bottling of water, filling equipment that is designed to be cleaned in-place and that is used for filling other food products shall be thoroughly cleansed and sanitized in-place in accordance with the manufacturersspecifications and in compliance with Section 129.80 of Title 21 of the Code of Federal Regulations and the supplementary procedures that follow in paragraphs (3) to (7), inclusive, of this section.

(3) Immediately following completion of filling operations for any other food product other than water, the filler shall be thoroughly rinsed internally and externally with potable water.

(4) In accordance with filler manufacturersinstructions, any parts that are not designed to be cleaned in-place shall be disassembled and removed. All of these parts shall be cleansed and sanitized prior to reassembly using appropriate cleansing and sanitizing procedures, as specified in subdivisions (c) and (d) of Section 129.80 of Title 21 of the Code of Federal Regulations.

(5) All surfaces of the filler that do not contact food products shall be cleaned manually so as to render all surfaces clean and free of any residues.

(6) The filler shall be prepared and all appropriate connections made in accordance with the filler manufacturersinstructions to place the filler in the clean-in-place mode. The following procedures shall be followed:

(A) An alkaline cleaning solution of appropriate strength shall be recirculated through the filler to provide effective cleaning of all product contact surfaces, with a minimum recirculation time of 20 minutes at a temperature between 140 and 170 degrees Fahrenheit.

(B) The cleaning solution shall be drained and followed with a potable water rinse-to-drain for the removal of

all residual cleaner alkalinity. This step may be supplemented by the application of an acidified rinse prior to the potable water rinse in order to neutralize any residual alkalinity on product contact surfaces.

(7) Following reassembly of all parts to place the filler into the product mode and just prior to bottling water, the filler shall be sanitized in-place in accordance with procedures specified in subdivision (d) of Section 129.80 of Title 21 of the Code of Federal Regulations.

(8) Any alternate cleaning, rinsing, or sanitizing operations or processes not described in this section shall be approved in writing by the department.

(i) Bottled water and bulk waters sold at retail shall not contact equipment, lines, tanks, or vehicles used for processing, packaging, holding, or hauling of any nonfood product.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111080.

The quality and labeling standards requirements for bottled water and vended water, including mineral water, shall include all standards prescribed by Section 165.110 of Title 21 of the Code of Federal Regulations. In addition, bottled water and vended water, when bottled, shall comply with the following quality standards and any additional quality standards adopted by regulation that the department determines are reasonably necessary to protect the public health:

(a)Bottled water and vended water shall meet all maximum contaminant levels set for public drinking water that the department determines are necessary or appropriate so that bottled water may present no adverse effect on public health. New or revised allowable levels or monitoring provisions adopted for bottled water by the United States Food and Drug Administration under the federal Food, Drug and Cosmetic Act that are more stringent than the state requirements for bottled water are incorporated into this chapter and are effective on the date established by the federal provisions unless otherwise established by regulations of the department.

(b)Bottled and vended water shall not exceed 10 parts per billion of total trihalomethanes or five parts per billion of lead unless the department establishes a lower level by regulation.

(c)Bottled and vended water shall contain no chemicals in concentrations that the United States Food and Drug Administration or the state department has determined may have an adverse effect on public health.

(Amended by Stats. 2006, Ch. 538, Sec. 425. Effective January 1, 2007.)

111085.

Polycarbonate resins manufactured after January 1, 1988, and intended for use in fabricating containers for water products defined in this article shall not contain in excess of three parts per million residual methylene chloride or in excess of 200 parts per million residual monochlorobenzene unless the department establishes a lower level by regulation. For the purpose of monitoring compliance with this section, the concentration of methylene chloride and monochlorobenzene shall not exceed one part per billion in water. Polycarbonate resins means the substances defined by Section 177.1580 of Title 21 of the Code of Federal Regulations

except as modified by this section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111090.

Any owner or operator of a water-vending machine or other device from which any operator or customer dispenses vended water shall comply with the following standards of design, construction and sanitation and any additional standards adopted by regulation that the department determines are reasonably necessary to protect the public health. The water-vending machines or devices shall do all of the following:

(a) Comply with the construction and performance standards established by the department or by an independent authority approved by the department.

(b) Be designed and constructed to permit easy cleaning and maintenance of all exterior and interior surfaces.

(c) Have all parts and surfaces that come into contact with the water constructed of approved, corrosive-resistant and nonabsorbent material capable of withstanding repeated cleaning and sanitizing treatment.

(d) Have a recessed or guarded corrosion-resistant dispensing spout.

(e) Be designed so that all treatment of the vended water by distillation, ion exchange, filtration, ultraviolet light, reverse osmosis, mineral addition, or any other acceptable process is done in an effective manner.

(f) Have an effective system of handling drip, spillage, and overflow of water.

(g) Have a backflow prevention device approved by the department for all connections with the water supply.

(h) Dispense water disinfected by ultraviolet light or other method approved by the department prior to delivery into the customerscontainer.

(i) Be equipped with monitoring devices designed to shutdown operation of the machine when the disinfection unit fails to function, or shall be monitored daily at startup and manually shutdown whenever the unit fails to function.

(j) Be equipped with a self-closing, tight-fitting door on the vending compartment, or enclosing the vending spout to protect the vending spout when the water-vending machine is not in use. As an alternative, water-vending machines or other water-dispensing devices may be enclosed in a room with tight-fitting walls, ceilings, and one of the following: a self-closing door, an effective air screen device, or an alternative effective device approved by the department.

(k) Comply with the American Water Works Association (AWWA) specifications for granular activated carbon if used in the treatment of potable water (AWWA B604-74).

(l) Be maintained in a clean and sanitary condition, free from dirt and vermin.

(m) Use a state approved and regulated public water supply or private water source.

(n) Be located in an area that can be maintained in a clean condition and in a manner that avoids insect and rodent harborage.

(o) Be equipped with monitoring devices designed to shut down the labeled purified water delivery system if treatment of water by the machine does not result in a total dissolved solids content of less than 10 milligrams per liter in the purified water. Alternatively, machines shall be monitored daily at startup and manually shutdown whenever the total dissolved solids content exceeds 10 milligrams per liter in the purified water.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111095.

It shall be unlawful to operate a bottled plant water plant, water-vending machine, retail water facility, or private water source in violation of the minimum health standards of this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111100.

It is unlawful for any person to operate a water vending machine in this state that does not satisfy the minimum standards prescribed by this article for the design, construction, and sanitation of water-vending machines.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111105.

The department, upon the request of a local health officer, may authorize the local health officer to implement and enforce those provisions of this article that relate to water-vending machines, retail water facilities, and water haulers under the terms and conditions specified by the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111110.

No water-vending machine shall be used in this state that does not at least satisfy the minimum standards adopted by the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111115.

(a) Each water-vending machine, retail water treatment plant, water hauler vehicle and facility, and private water source shall be maintained in a clean and sanitary condition at all times.

(b)(1)The department shall require that water-vending machines be cleaned, serviced, and sanitized in accordance with the manufacturersspecifications, but at least once every 31 days.

(2)Inspection records shall be kept for every visit made by either the operator or the maintenance personnel pursuant to this subdivision. These records shall show the date and time of the visit, any tests performed, any maintenance performed, and the signature or electronic signature of the operator or maintenance personnel. The records shall be kept by the owner of the water-vending machine for a minimum of two years and shall be made available to the department upon request.

(c)A record of any consumer complaints shall be kept on file with the owner of the water-vending machine for a minimum of two years, and shall be made available to the department upon request.

(d)If the department determines that there is a violation of this article, the department may do either or both of the following:

(1)Embargo the machine pursuant to Section 111860.

(2)Impose a fine, as determined appropriate by the department.

(e)(1)The department shall, annually, conduct inspections of not less than 20 percent of the licensed water-vending machines in the state and shall include both rural and urban counties. The selection of these machines shall be dependent on the state of the machine and the quality of the water source, and any other factors as determined by the department.

(2)The department may perform, within 12 months of the initial violation, one or more reinspections of each water-vending machine or water retailer that is found to be in violation of this section as necessary to prevent repeated or continuing violations. The department shall charge a fee to the owner to cover the costs of performing the reinspections. The fee shall not exceed the full cost of performing the reinspections up to a maximum of one hundred dollars ($100) per hour.

(f)Subdivisions (b) to (e), inclusive, shall become operative January 1, 2009.

(Amended by Stats. 2007, Ch. 575, Sec. 4. Effective January 1, 2008. Subds. (b) to (e) are operative January 1, 2009, by subd. (f).)

111120.

(a) No person shall operate a water-bottling plant, a private water source, or be a bottled water distributor in this state except pursuant to a license issued by the department. If a person has a valid water-bottling plant license issued by the department, additional license fees for a private water source operator, a retail water facility, a water hauler, or a bottled water distributor based and operating at the same address, shall not be required.

(b) No person shall own or operate a water-vending machine or a retail water facility or be a water hauler, except pursuant to a license issued by the department or to a permit issued by a local health department.

(c) It shall be unlawful for any person to bottle, collect, treat, hold, distribute, haul, vend, or sell bottled water, vended water, operate a retail water facility, or operate a private water source without the license as required by this article. Any bottled water or vended water dispensed by a retail water facility or a private water source that is not licensed in compliance with this article is misbranded and may be embargoed pursuant to subdivision (e) of Section 111120.

(d) It shall be unlawful for a water bottler, distributor, vendor, retail water facility operator, or private water source operator to sell or otherwise distribute water that is adulterated, as defined in Section 110445, 110545, 110560, or 110565, or that is misbranded as defined in Article 6 (commencing with Section 110660) of Chapter 5.

(e) For the purposes of enforcing this section, water may be embargoed pursuant to Section 111860 in its immediate container, well, spring, spring vault, holding tank, water hauling vehicle, retail water treatment system, spigot, or pipe if there is reasonable cause to believe that it is adulterated.

(f) Any retail water facility, water vendor, or water hauler that violates this article may be subjected to the same penalty and enforcement procedure provided for violation of this article by a water bottling facility.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111125.

No bottled water produced in an out-of-state bottling plant shall be sold or distributed within this state unless either the out-of-state bottler or the distributor shall have first obtained a bottlersor distributorslicense.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111130.

(a)The department shall charge and collect a fee for each license application submitted in accordance with the fee schedule in Table 1, that shall be an amount reasonably necessary to produce sufficient revenue to enforce this article. The fees collected shall be adjusted annually as required by Section 100425. New applicants for a water bottling plant license shall pay Category 2 fees for the first license year.

(b)The water-bottling plant and bottled water distributor categories shall be determined by dividing by 52 the number of gallons produced or shipped into California during the previous year. If the result is an average of 5,000 gallons or less per week, the firm is Category 1. If the average exceeds 5,000 gallons per week, the firm is Category 2.

Table 1 License Fees	
License Class	Annual Fee

Water-Bottling Plant Category 1	$‰310
Category 2	‰875
Water-Vending Machine	40
Water Hauler	‰310
Retail Water Facility	‰310
Private Water Source Operator	‰310
Bottled Water Distributor	‰310

(c)The owners or operators of each water-bottling plant, retail water facility, private water source, each water hauler in California and bottlers or distributors of water bottled out-of-state shall make application for a license on forms provided by the department. Applications and license fees shall be submitted annually. Applicants shall provide to the department, in electronic format, the serial number of each machine, and the street address, city, ZIP Code, and county where the machine is located.

(d)Each water-vending machine owner or operator shall make application annually for a license for all machines on forms provided by the department. A decal or seal provided by the department indicating a license fee has been paid shall be affixed in a prominent place to each water-vending machine in service. The duty to display the decal or seal shall apply only on and after the decal has been received by the operator.

(Amended by Stats. 2007, Ch. 575, Sec. 5. Effective January 1, 2008.)

111135.

The department may deny any license application or revoke or suspend any license issued for cause. The department shall inform the person of any denial, revocation, or suspension in writing, stating with particularity reasons for the denial, revocation, or suspension.

Cause, as used in this section, means a violation of any provision of this chapter or any regulation adopted pursuant thereto.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111140.

The department shall charge and collect a fee for each department evaluation required to issue a new license for a water-vending machine model or a retail water facility to determine compliance with standards established by this article. The fee shall be three hundred dollars ($300) and shall be adjusted annually as required by Section 100425.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111145.

(a) The department shall require each bottler, distributor, or vendor of bottled water, each owner or operator of any water-vending machine, each water hauler, each retail water facility operator, each private water

source operator, and each applicant for a license, to test for all substances necessary to establish conformance to standards adopted pursuant to Section 111080 at the times and frequencies the department may reasonably establish.

(b) Each product dispensed by a water-vending machine or a retail water facility shall be sampled and analyzed for coliform bacteria at least once every six months. The analysis shall be submitted to the department indicating whether the water is pure and wholesome. Analysis of vended water or water from retail water facilities shall be submitted to the local health officers if the local health officers are authorized by the department pursuant to subdivision (b) of Section 111105.

(c) Purified waters from retail water facilities shall be analyzed by the operator for dissolved solids by conductivity measurement not less frequently than once every seven days.

(d) Purified water from vending machines shall be analyzed by the operator for the dissolved solids by conductivity measurement each time the vending machine is serviced.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111150.

(a) All sources of bottled water, vended water, and water dispensed by a retail water facility shall be monitored annually for the presence of volatile organic compounds of potential public health concern, as specified by the United States Environmental Protection Agency in Tables 2 and 14 contained in Volume 50 of the Federal Register on pages 46904, 46923, and 46924 on November 13, 1985, or as reasonably specified by the department as a condition of licensure.

(b) In lieu of source water monitoring required by this section, a water bottler, water vendor, or a retail water facility may document that the source monitoring required by this section is conducted by another entity approved by the department, or may comply with the treatment requirements of subdivision (c).

(c) Detection in the source water of a volatile organic compound, except trihalomethanes, for which source monitoring is required pursuant to this section shall be followed immediately by a program of periodic monitoring by the water bottler, water vendor, or retail water facility to confirm the presence or absence in the source water of the volatile organic compound. If the volatile organic compound is confirmed to be present in the source water it shall be treated using granular activated carbon treatment or an equivalent treatment operated in accordance with good manufacturing practices as provided in Section 129.80 of Title 21 of the Code of Federal Regulations until the time that the concentration of the volatile organic compound does not exceed either one part per billion, or any United States Environmental Protection Agency or United States Food and Drug Administration level for drinking water, or a maximum contaminant level established by the department for bottled water.

(d) The department may exempt any water bottler, water vendor, or retail water facility from the monitoring requirements of this section for any source based on a showing satisfactory to the department that the source (1) does not contain the volatile organic compound for which monitoring is required and (2) is not vulnerable to contamination by the volatile organic compound because for surface water sources the compounds are not applied, manufactured, stored, disposed or shipped upstream, and for groundwater sources, the compounds are not applied, manufactured, stored, disposed, or shipped in the groundwater recharge basin.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111155.

Notwithstanding any other provisions of this article, the department may require any bottler, distributor, or vendor of bottled water, any owner or operator of a water-vending machine, any water hauler, any retail water facility operator, any private water source operator, or any applicant for a license to test and submit results to the department for any substance, including organic chemical contaminants, at any time that the department believes the substance may be present in the water source and threaten the public health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111160.

(a) Upon a determination by the department that a particular water source is subject to potential contamination, the department shall notify the bottler, distributor, or vendor of bottled water, the owner and operator of any water-vending machine, any water hauler, any retail water facility operator, or any private water source operator of the specific contaminants or class of contaminants that pose a potential health risk.

(b) Within 90 days after notification by the department, the bottler, distributor, vendor of bottled water, the owner and operator of any water-vending machine, any water hauler, any retail water facility operator, or any private water source operator shall conduct an analysis of the water source and submit the results of the analysis to the department.

(c) If evidence of contamination is found, the department may, by order, require the bottler, distributor, vendor of bottled water, or the owner and operator of any water-vending machine, any water hauler, any retail water facility operator, or any private water source operator to conduct a source and product water analysis for the contaminants of concern in accordance with conditions specified by the department. The water analysis shall be conducted and reported on an annual basis, unless the department finds that reasonable action requires either more frequent or less frequent analysis.

(d) The department may, by order, require the bottler, distributor, vendor of bottled water, the owner and operator of any water-vending machine, any water hauler, any retail water facility operator, or any private water source operator to reduce or eliminate the concentration of any chemical that the department determines may have an adverse effect on public health. Until an enforceable standard has been established for a chemical that may have an adverse effect on human health, the department may require treatment techniques to reduce the concentration of the contaminants that require treatment, in the departmentsjudgment, to prevent known or anticipated adverse effects on the health of persons. The treatment system shall be designed to meet criteria designated by the department or by an independent authority approved by the department.

(e) The department may grant variances from the requirements of subdivision (d), if the bottler, distributor, vendor of bottled water, the owner and operator of any water-vending machine, any water hauler, any retail water facility operator, or any private water source operator demonstrates either of the following:

(1) That the prescribed treatment technique is not necessary to protect the health of consumers because its water source is not subject to, nor is it likely to be subject to, significant chemical contamination.

(2) An alternative treatment technique is at least as efficient in lowering the level of contaminants to be controlled.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111165.

All testing of bottled water, bottled water sources, water distributed by water haulers, water from retail water facility, and water from vending machines shall be done by laboratories approved by the department, laboratories certified by the United States Environmental Protection Agency, laboratories certified by the primary enforcement authority in states that have been granted primacy by the United States Environmental Protection Agency, or laboratories certified (accredited) by a third-party organization acceptable to a primacy state.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111170.

(a)Labeling and advertising of bottled water and vended water shall conform with this section, Chapter 4 (commencing with Section 110290), and applicable portions of Part 101 of Title 21 of the Code of Federal Regulations.

(b)Each container of bottled water sold in this state, each water-vending machine, and each container provided by retail water facilities located in this state shall be clearly labeled in an easily readable format. Retail water facilities that do not provide labeled containers shall post, in a location readily visible to consumers, a sign conveying required label information.

(c)Water-vending machines, retail water facilities, and private water sources that sell water at retail shall display in a position clearly visible to customers the following information:

(1)The name and address of the operator.

(2)The fact that the water is obtained from an approved public water supply or licensed private water source.

(3)A statement describing the treatment process used.

(4)If no treatment process is utilized, a statement to that effect.

(5)A toll-free telephone number or a local telephone number within the area code in which the machine is located that may be called for further information, service, or complaints, and the toll-free telephone number of the departmentsfood and drug branch that may be called for complaints or questions.

(6)A sign or label indicating the date on which the water-vending machine was last sanitized and serviced by the operator or maintenance personnel as required pursuant to paragraph (1) of subdivision (b) of Section 111115.

(7)A notice to consumers listing the industrysrecommendations for the type and condition of container suitable for use with the water-vending machine.

(8)A valid decal or seal received from the department indicating that a license fee has been paid and a license issued for the water-vending machine as set forth in subdivision (d) of Section 111130.

(d)The information required pursuant to subdivision (c) shall be displayed in both English and Spanish.

(e)Bottled water may be labeled drinking water, notwithstanding the source or characteristics of the water, only if it is processed pursuant to the Food and Drug Administration Good Manufacturing Practices contained in Section 165.110 and Parts 110 and 129 of Title 21 of the Code of Federal Regulations, Sections 12235 to 12285, inclusive, of Title 17 of the California Code of Regulations, and any other requirements established by the department pursuant to Sections 111145, 111150, and 111155. Any vended water and any water from a retail water facility may be labeled drinking water, notwithstanding the source or characteristics of the water, only if it is processed pursuant to Article 10 (commencing with Section 114200) of Chapter 4 of Part 7 and any other requirements established by the department pursuant to Sections 111145, 111150, and 111155.

(f)Each container of bottled water sold at retail or wholesale in this state in a beverage container shall include on its label, or on an additional label affixed to the bottle, or on a package insert or attachment, all the following:

(1)The name and contact information for the bottler or brand owner.

(2)The source of the bottled water, in compliance with applicable state and federal regulations.

(3)A clear and conspicuous statement that informs consumers about how to access water quality information contained in the bottled water report required by Section 111071.

(A)The statement shall contain all of the following:

(i)It shall include the term water quality and information appropriately, while informing customers about methods of gaining access to the full bottled water report.

(ii)It shall provide a telephone number, where information can be requested from the bottled water company and one other means of contact for the bottled water company, including, but not limited to, a mailing address, e-mail address, or the bottled water companysWeb site.

(B)The following statement may be used to fulfill the requirements of this paragraph:

For more information and to obtain additional consumer information relating to water quality, including a bottled water report, contact [name of bottled water company] at [telephone number or toll-free telephone number] and [at least one of the following: mailing address, e-mail address, or the bottled water companysWeb site].

(g)Bottlers that distribute bottled or vended water directly to consumers shall provide a statement on each billing statement that includes both of the following:

(1)A telephone number and mailing address of the bottler or brand owner.

(2)The means by which a consumer may obtain consumer information relating to water quality, including a

bottled water report, as described in Section 111071.

(h)Amendments made to this section by SB 220 of the 2007“08 Regular Session shall only apply to bottled water that was bottled on or after January 1, 2009.

(Amended by Stats. 2007, Ch. 575, Sec. 6. Effective January 1, 2008. Operative January 1, 2009, by Sec. 8 of Ch. 575.)

111172.

(a) The labeling on bottled water sold in nonreturnable (one-way) packages in this state shall include one of the following:

(1) A telephone number of the bottler or brand owner.

(2) The bottlersor brand ownersmailing address.

(b) Bottlers or brand owners may also include other forms of contact, including, but not limited to, the bottlersor brand ownersE-mail address or website.

(c) This section shall become operative on January 1, 2002.

(Added by Stats. 2000, Ch. 533, Sec. 3. Effective January 1, 2001. Section operative January 1, 2002, by its own provisions.)

111175.

In addition to the requirements of Section 111170, if a bottler, distributor, water hauler, retail water facility operator, or vending machine operator provides information in the labeling or advertising stating or implying that this water is of a specific water type (for example, spring water) or treated in a specific manner (for example, purified), the type or treatment shall be clearly labeled in an easily readable format. In order to be so labeled, the source or treatment shall conform to the definitions established in Section 165.110 of Title 21 of the Code of Federal Regulations, or, if not defined in that section, with the following criteria:

(1) Mineralized water means bottled or vended water that meets the requirements of mineral water except that the water contains added minerals.

(2) Natural water means bottled or vended spring, artesian well, or well water that is unmodified by mineral addition or deletion, except natural water may be filtered and shall be sanitized with ozone or an equivalent disinfection process and treated to reduce the concentration of any substance that exceeds safety standards established by the department.

(3) Naturally sparkling water means bottled water or vended water with a carbon dioxide content from the same source as the water. Sparkling, carbonated, or carbonation added means bottled water or vended water that contains carbon dioxide.

(4) Notwithstanding any other provision of this section, water from a public water system that is unprocessed by the bottler or vendor shall be in compliance with Section 165.110(a)(3)(ii) of Title 21 of the Code of Federal Regulations.

(Amended by Stats. 2018, Ch. 92, Sec. 150. (SB 1289) Effective January 1, 2019.)

111180.

Except as provided in Section 111080, any bottled water or vended water, the quality of which is below the quality required by this article, shall be labeled with a statement of substandard quality, as prescribed by subsection (b) of Section 165.110 of Subpart B of Part 165 of Title 21 of the Code of Federal Regulations.

(Amended by Stats. 2000, Ch. 533, Sec. 5. Effective January 1, 2001.)

111185.

Any bottler, distributor, vendor of bottled water, or owner or operator of any water-vending machine or retail water facility, whose corporate name or trademark contains the words spring or springs, or any derivative of either of these words, or well, artesian well, or natural shall label each bottle or vending machine with the source of the water in typeface at least equal to the size of the typeface of the corporate name or trademark, if the source of the bottled or vended water is different from the source stated in the corporate name or trademark. Retail water facilities that do not provide labeled containers shall post, in a location readily visible to consumers, a sign conveying required label information.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111190.

(a) A bottled water, as defined in Section 111070, with natural or added carbonation, may be prepared with added flavors, extracts, essences, or fruit juice concentrates derived from a spice or fruit and comprising less than 1 percent by weight of the final product. The final product shall not contain sweeteners, or additives other than the flavors, extracts, essences, or fruit juice concentrates and carbon dioxide and shall be designated on labels and in advertising as follows:

(1) The common or usual name of the characterizing flavor shall accompany the designation of the bottled water product type as defined in subdivision (b) of Section 111170.

(2) The product may be designated as natural only if it meets the requirements for the designation as defined in paragraphs (2) and (3) of subdivision (a) of Section 111175, and naturally derived flavors, extracts, or essences are used.

(b) Products labeled pursuant to this section shall comply with all other provisions of this article. Products with one type or one source of bottled water that are labeled pursuant to this section shall not be blended with water that is not bottled water or that is of another bottled water type.

(Amended by Stats. 2018, Ch. 92, Sec. 151. (SB 1289) Effective January 1, 2019.)

111192.

(a) Bottlers and water haulers that distribute directly to consumers shall provide a sentence on each billing statement that includes one of the following:

(1) A telephone number of the bottler or brand owner.

(2) The bottlersor brand ownersmailing address.

(b) Bottlers or brand owners may also include other forms of contact, including, but not limited to, the bottlersor brand ownersE-mail address or website.

(c) Bottlers and water haulers that distribute directly to consumers shall, in the billing statement, provide to new customers, and to existing customers once per year thereafter, the following statement:

As a food product, bottled water is subject to rules and regulations promulgated by the federal Food and Drug Administration (FDA). For further information, please contact (insert the name of the bottler or brand owner) at (insert the bottlersor brand ownerstelephone number or mailing address).□

(d) Water vending machines shall display the same information on the machines that is required under subdivisions (a) and (c).

(e) Retail water facilities shall provide new customers the same information that is required under subdivisions (a) and (c). These facilities shall also display this information in a take-home format.

(f) This section shall become operative on January 1, 2002.

(Added by Stats. 2000, Ch. 533, Sec. 6. Effective January 1, 2001. Section operative January 1, 2002, by its own provisions.)

111193.

(a) The department may by written permission allow a person to package water for use in public emergencies without obtaining a water bottling license, where the emergency has resulted in the interruption of, or has compromised the quality of, the public drinking water supply. This permission may authorize the suspension of any provision of this chapter and related regulations.

(b) (1) The department may at any time change or impose on the permittee any requirements such as testing, equipment, and documentation that the department deems necessary to protect public health but in doing so shall consider the effect of those requirements in light of the urgency of the situation. The department may grant or withdraw this permission at any time.

(2) Packing, distribution, and use of water under this permit shall only be allowed during the emergency period and shall end upon the restoration of adequate public drinking supplies as determined by the department. Distribution shall be limited to the area affected. Water so packaged shall be prominently

labeled drinking water, for emergency use only, and not for sale, or similar wording approved by the department.

(c) This section shall not be construed to restrict licensed water bottling plants from providing water processed in accordance with this chapter in emergency situations.

(Added by Stats. 2000, Ch. 533, Sec. 7. Effective January 1, 2001.)

111195.

The department, prior to issuing a license, shall review all labels prepared pursuant to this article, and may require any changes in order to comply with this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111198.

The department shall post annually on its Internet Web site, in connection to the entities it regulates under this article, all of the following information:

(a)The total number of licenses, by type and county, issued in the prior calendar year.

(b)The number of inspections performed by the department in the previous calendar year, broken down by county and license type.

(c)The number and type of major violations, and the actions taken to correct those violations.

(d)The number and dollar value of fines levied under subdivision (c).

(Amended by Stats. 2012, Ch. 728, Sec. 103. (SB 71) Effective January 1, 2013.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=13.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 13. Hamburger and Imitation Hamburger [111200 - 111220]__

(Article 13 added by Stats. 1995, Ch. 415, Sec. 6.)

111200.

As used in this article, the following definitions shall apply:

(a) Hamburger means chopped fresh or frozen beef, or a combination of both fresh or frozen beef, with or without the addition of beef fat as such, and with or without the addition of seasoning. Hamburger shall not contain more than 30-percent fat, and shall not contain added water, binders, or extenders. Beef cheek meat (trimmed beef cheeks) may be used in the preparation of hamburger to the extent of 25 percent, and if in excess of natural proportions, its presence shall be declared on the label in the ingredient statement, if any, and otherwise contiguous to the name of the product.

(b) Imitation hamburger means chopped fresh or frozen beef, or a combination of both fresh or frozen beef, with or without the addition of beef fat as such, and with or without the addition of seasoning. Imitation hamburger may contain binders and extenders, with or without the addition of partially defatted beef tissue, without added water or with added water only in amounts that the products™ characteristics are essentially that of a meat pattie.

(c) Restaurant means restaurants, itinerant restaurants, vehicles, vending machines, or institutions including hospitals, schools, asylums, eleemosynaries, and all other places where food is served to the public for consumption on the premises of sale that are not included within the definitions of the terms restaurants, itinerant restaurants, vehicles, and vending machines.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111205.

(a) If imitation hamburger is sold or served in restaurant a list of ingredients thereof shall appear on the menu, or, if there is no menu, the information shall be posted as state department shall by regulations

require. No list of ingredients, however, shall be required for imitation hamburger that contains not more than 10 percent added protein and water, and that does not contain other binders or extenders.

(b) No restaurant shall use the terms hamburger,□ burger,□ or any other cognate thereof in any advertisement, or menu to refer to any imitation hamburger. A restaurant selling or serving imitation hamburger may refer to the product as imitation hamburger or by any other term that accurately informs the customer of the nature of the food product that he or she is sold or served.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111210.

It is unlawful and constitutes misbranding for any person to advertise, offer for sale, sell, or serve as hamburger or imitation hamburger in any restaurant any product that does not come within the definitions of those terms contained in Section 111200. It is unlawful and constitutes misbranding for any person to violate any provision of this article or any regulation adopted pursuant thereto.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111215.

It is the public policy of this state to require restaurants selling hamburger and imitation hamburger to accurately inform the consumer public of the contents of foods.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111220.

This article shall be enforced by the same persons and in the same manner as provided in Article 7 (commencing with Section 28690) of Chapter 11 of Division 22.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=14.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 14. Asian Rice Noodles, Korean Rice Cakes, and Vietnamese Rice Cakes [111222 - 111223]__

(Heading of Article 14 amended by Stats. 2016, Ch. 193, Sec. 1.)

111222.

For purposes of this article the following definitions shall apply:

(a)Asian rice-based noodle is defined as a rice-based pasta that contains rice powder, water, wheat starch, vegetable cooking oil, and optional ingredients to modify the pH or water activity, or to provide a preservative effect. The ingredients shall not include any animal fats or any other products derived from animals. An Asian rice-based noodle is prepared by using a traditional method that includes cooking by steaming at not less than 130 degrees Fahrenheit, for not less than four minutes.

(b)Korean rice cake is defined as a confection that contains rice powder, salt, sugar, various edible seeds, oil, dried beans, nuts, dried fruits, and dried pumpkin. The ingredients may not include any animal fats or any other products derived from animals. A Korean rice cake is prepared by using a traditional Korean method that includes cooking by steaming at not less than 275 degrees Fahrenheit, for not less than five minutes, nor more than 15 minutes.

(c)Vietnamese rice cake, also known as BÃ¡nh TÃ©t or BÃ¡nh ChÆ°ng, is defined as a confection that contains a combination of rice, beans, and meat or fruit wrapped tightly in banana leaves for cooking. BÃ¡nh TÃ©t is a rice cake in a cylindrical shape, and BÃ¡nh ChÆ°ng is a rice cake in a square shape. A Vietnamese rice cake is prepared using a traditional Vietnamese method that includes cooking by boiling in water for not less than 10 hours. Vietnamese rice cakes are required to be handled, prepared, and stored under sanitary conditions both when they are kept at no more than 70 degrees Fahrenheit upon completion of cooking and after the rice cakes have been cooled to below 70 degrees Fahrenheit. Any Vietnamese rice cakes that are unwrapped from the banana leaves after cooking shall be refrigerated.

(Amended by Stats. 2016, Ch. 193, Sec. 2. (SB 969) Effective January 1, 2017.)

111223.

(a)(1)All manufacturers of Asian rice-based noodles shall place a label on the packaging of Asian rice-based noodles that indicates the date and time that the product first came out of hot holding at temperatures above 135 degrees Fahrenheit and includes a statement that the Asian rice-based noodles are perishable.

(2)The product packaging shall only be labeled once.

(3)Notwithstanding paragraphs (1) and (2), this section shall not apply to Asian rice-based noodles that have a pH of 4.6 or below, have a water activity of 0.85 or below, or have been determined by the department to be nonpotentially hazardous foods based on formulation and supporting laboratory documentation submitted to the department by the manufacturer.

(b)All manufacturers of Korean rice cakes shall place a label issued by the Korean Rice Cake Association Corporation on the Korean rice cake that indicates the date of manufacture. The Korean rice cakes label shall include a statement that the rice cake must be consumed within one day of manufacture.

(c)(1)All manufacturers of Vietnamese rice cakes shall place a label, designed by the Vietnamese Rice Cake Association, Inc., on the Vietnamese rice cake that indicates the date and time the cooking process was completed. The Vietnamese rice cakes label shall include a statement that the rice cake must be consumed within 24 hours of the date and time printed on the label.

(2)Notwithstanding paragraph (1), this section does not apply to Vietnamese rice cakes that have been determined by the department to be nonpotentially hazardous foods based on formulation and supporting laboratory documentation submitted to the department by the manufacturer.

(Amended by Stats. 2016, Ch. 193, Sec. 3. (SB 969) Effective January 1, 2017.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=5.&article=15.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Food [110425 - 111224.6]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 15. Eviscerated Crab [111224 - 111224.6]__

(Article 15 added by Stats. 2021, Ch. 757, Sec. 10.)

111224.

For purposes of this article, the following terms have the following meanings:

(a)Eviscerate or evisceration means the processorsaction of removing and discarding the entire intestinal tract, hepatopancreas, and all associated abdominal organs in accordance with this article.

(b)Eviscerated crab means Dungeness crab or rock crab in which the viscera have been removed in accordance with regulations adopted pursuant to this section.

(c)Hazard Analysis Critical Control Point plan means a hazard analysis critical control point plan as described in Section 123.6 of Title 21 of the Code of Federal Regulations or a successor federal definition.

(d)Processor means any person engaged in commercial, custom, or institutional processing of fish or fishery products in California, in another state, or in a foreign country. A processor includes any person engaged in the production of foods that are to be used in market or consumer tests.

(Added by Stats. 2021, Ch. 757, Sec. 10. (SB 80) Effective October 9, 2021.)

111224.5.

The department shall issue an order authorizing the evisceration of Dungeness crab or rock crab pursuant to this article if the domoic acid for Dungeness crab or rock crab exceeds the allowable levels for viscera in a specified area, when all of the following criteria exist:

(a)The Director of Fish and Wildlife has closed waters or otherwise restricted the take of Dungeness crab or rock crab for commercial purposes pursuant to Section 5523 of the Fish and Game Code due to the viscera of the Dungeness crab or rock crab exceeding the allowable levels of domoic acid.

(b)The department has determined the viscera of the Dungeness crab or rock crab exceed the allowable levels of domoic acid.

(c)The department has determined the corresponding meat of the Dungeness crab or rock crab does not exceed the allowable levels of domoic acid.

(Added by Stats. 2021, Ch. 757, Sec. 10. (SB 80) Effective October 9, 2021.)

111224.6.

(a)(1)The department shall only authorize the evisceration of Dungeness crab or rock crab pursuant to this article by a processor that is licensed pursuant to Article 2 (commencing with Section 110460) and that has a Hazard Analysis Critical Control Point plan approved by the department for handling and preparing eviscerated crab.

(2)The department shall collect from a processor a fee of three hundred fifty dollars ($350) for the cost of reviewing the processorsHazard Analysis Critical Control Point plan for handling and preparing eviscerated crab. This fee shall not exceed the cost of reviewing the Hazard Analysis Critical Control Point plan and shall be adjusted pursuant to Section 100425. All moneys collected by the department from this fee shall be deposited in the Food Safety Fund established pursuant to Section 110050 for expenditure by the department, upon appropriation by the Legislature, for the costs of reviewing Hazard Analysis Critical Control Point plans for handling and preparing eviscerated crab.

(3)The department shall establish requirements for labeling eviscerated crab to identify harvest location, harvest date, or lot code, or any combination of these things.

(4)The department shall require the processor to maintain written recall procedures.

(b)(1)The department shall consult with the Dungeness crab task force established pursuant to Section 8276.4 of the Fish and Game Code or a successor task force or committee to establish the criteria for the manufacture, sale, delivery, holding, or offering for sale of Dungeness crab or rock crab that is subject to Section 111224.5.

(2)The Dungeness crab or rock crab criteria established under this subdivision shall become effective by operation of law as a regulation adopted under this article 90 days after the department publishes the notice required by paragraph (3).

(3)The department shall publish a notice in the California Regulatory Notice Register of the departmentsproposed Dungeness crab or rock crab criteria. The notice shall include the proposed text and justification for the addition, change, or deletion of the Dungeness crab or rock crab criteria to allow public comment. The department shall consider the public comments.

(c)This section shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 2021, Ch. 757, Sec. 10. (SB 80) Effective October 9, 2021.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=5.&chapter=6.&article=]

(https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=5.&chapter=6.&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=6.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Drugs and Devices [111225 - 111656.13]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. General Provisions [111225 - 111246]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

111225.

As used in this chapter, with respect to a drug or drug ingredient, established name means either of the following:

(a) The name designated pursuant to Section 508 of the federal act (21 U.S.C. Sec. 358).

(b) If there is no such name and the drug or ingredient is an article recognized in an official compendium, then the official title in the compendium is the established name.

If neither subdivision (a) or (b) of this section applies, the common or usual name, if any, of the drug or of the ingredient is the established name. When an article is recognized in the United States Pharmacopoeia and in the Homeopathic Pharmacopoeia under different official titles, the official title used in the United States Pharmacopoeia shall apply unless it is labeled and offered for sale as a homeopathic drug. If it is labeled and offered for sale as a homeopathic drug, the official title used in the Homeopathic Pharmacopoeia shall apply.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111230.

Any drug represented in its labeling or advertisement as an antiseptic shall be considered to be represented as a germicide, except in the case of a drug that is purported to be or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111235.

Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug. If it is labeled and offered for sale as a homeopathic drug, it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111240.

Any added poisonous or deleterious substance, or color additive, shall be considered unsafe for use with respect to any drug or device unless there is in effect a regulation adopted pursuant to Section 110090 that prescribes its use in or on drugs or devices.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111245.

The department may establish performance standards for devices, that shall be designed to provide

reasonable assurance of safe and effective performance and, where appropriate, requiring the use and prescribing the form and content of labeling for the proper installation, maintenance, operation, or use of the device. However, if a performance standard is established for a device pursuant to Section 514 of the federal act (21 U.S.C. Sec. 360d) or Section 521 of the federal act (21 U.S.C. Sec. 360k), it shall be the performance standard of this state for device.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111246.

Commencing January 1, 2002, any product used for the treatment of lice or scabies in human beings that contains the pesticide Lindane shall not be used or sold in the state.

(Added by Stats. 2000, Ch. 326, Sec. 2. Effective January 1, 2001.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=6.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Drugs and Devices [111225 - 111656.13]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Adulterated Drugs or Devices [111250 - 111325]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

111250.

Any drug or device is adulterated if it consists, in whole or in part, of any filthy, putrid, or decomposed substance.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111255.

Any drug or device is adulterated if it has been produced, prepared, packed, or held under conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111260.

Any drug or device is adulterated if the methods, facilities, or controls used for its manufacture, processing, packing, or holding do not conform to, or are not operated or administered in conformity with current good manufacturing practice to assure that the drug or device meets the requirements of this part as to safety and has the identity and strength, and meets the quality and purity characteristics that it purports or is represented to possess.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111265.

Any drug or device is adulterated if it is packaged and its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111270.

Any drug or device is adulterated if it bears or contains for the purpose of coloring only a color additive that is unsafe within the meaning of Section 111240.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111275.

Any drug or device is adulterated if it is a color additive, the intended use of which in or on drugs or devices is for the purpose of coloring only, and it is unsafe within the meaning of Section 111240.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111280.

Any drug is adulterated if it purports to be, or is represented as, a drug that is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standards set forth in the compendium. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in the compendium, or in the absence of or inadequacy of the tests or methods of assay, those prescribed under authority of this part. No drug defined in an official compendium shall be deemed to be adulterated under this section because it differs from the standard of strength, quality, or purity set forth in the compendium, if its difference in strength, quality, or purity from the standard is plainly stated on the label.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111285.

Any drug or device is adulterated if its strength differs from, or its purity or quality is below, that which it is represented to possess.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111290.

Any drug or device is adulterated if any substance has been mixed or packed with it so as to reduce its quality or strength or if any substance has been substituted, wholly or in part, for the drug or device.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111295.

It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is adulterated.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111300.

It is unlawful for any person to adulterate any drug or device.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111305.

It is unlawful for any person to receive in commerce any drug or device that is adulterated or to deliver or proffer for delivery any drug or device.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111310.

While any regulation described in Section 110090 relating to any color additive is in effect, any drug or device that bears or contains the color additive in accordance with the regulation shall not be considered adulterated.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111315.

Any drug or device intended for export shall not be deemed to be adulterated under this part if it satisfies all of the following requirements:

(a) It accords to the specifications of the foreign purchaser.

(b) It is not in conflict with the laws of the importing country.

(c) It is labeled on the outside of the shipping package to show that it is intended for export.

If the article is sold or offered for sale in domestic commerce, this section shall not exempt it from any of the provisions of this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111320.

Any device is adulterated that fails to meet the applicable performance standard, if any, as provided in Section 111245.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111325.

A drug or device is deemed adulterated under the laws of this state if it is subject to regulations issued by the United States Food and Drug Administration as set forth in Parts 200, 211, 314, and 800 of Volume 21 of the Code of Federal Regulations, as amended, relating to tamper-resistant packaging, but is not in compliance therewith.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=6.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Drugs and Devices [111225 - 111656.13]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Misbranded Drugs or Devices [111330 - 111510]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

111330.

Any drug or device is misbranded if its labeling is false or misleading in any particular.

(Amended by Stats. 2000, Ch. 796, Sec. 7. Effective January 1, 2001.)

111335.

Any drug or device is misbranded if its labeling or packaging does not conform to the requirements of Chapter 4 (commencing with Section 110290).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111340.

Any drug or device is misbranded unless it bears a label containing all of the following information:

(a) The name and place of business of the manufacturer, packer, or distributor.

(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

Reasonable variations from the requirements of subdivision (b) shall be permitted. Requirements for placement and prominence of the information and exemptions as to small packages shall be established in accordance with regulations adopted pursuant to Section 110380.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111345.

Any drug or device is misbranded if any word, statement, or other information required by or under this part to appear on the label or labeling is not prominently placed on the label or labeling with conspicuousness, as compared with other words, statements, designs, or devices in the labeling, and in terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111355.

(a) Any drug is misbranded unless its label bears, to the exclusion of any other nonproprietary name except the applicable, systematic chemical name or the chemical formula, all of the following information:

(1) The established name of the drug, if any.

(2) If it is fabricated from two or more ingredients, the established name and quantity of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active

or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilide, acetophenetidin, antipyrine, atropine, hyoscine, hyoscyamine, codeine, arsenic, digitalis, digitalis glycosides, mercury, ouabain, strophanthin, strychnine, barbituric acid, or any derivative or preparation of any substances contained therein.

(3) For nonprescription drugs, the quantity or proportion of each active ingredient and the established name of each inactive ingredient in accordance with Sections 502(e)(1)(A)(ii) and (iii) of the federal act (21 U.S.C. 352(e)(1)(A)(ii) and (iii)).

(b) The requirement for stating the quantity of the active ingredients of any drug, including the quantity or proportion of any alcohol, and also including, whether active or not, the quantity or proportion of any bromides, ether, chloroform, acetanilide, acetophenetidin, antipyrine, atropine, hyoscine, hyoscyamine, codeine, arsenic, digitalis, digitalis glycosides, mercury, ouabain, strophanthin, strychnine, barbituric acid, or any derivative or preparation of any substances contained therein, shall apply to all drugs, including prescription drugs and nonprescription drugs. However, the requirement for declaration of quantity shall not apply to nonprescription drugs that are also cosmetics, as defined in Section 201(i) of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 321(i)) and that are labeled in compliance with federal labeling requirements concerning declaration of ingredients including active ingredients and also the quantity and proportion of any alcohol, except that the quantity or proportion of the following ingredients, whether active or not, shall be declared: bromides, ether, chloroform, acetanilide, acetophenetidin, antipyrine, atropine, hyoscine, hyoscyamine, codeine, arsenic, digitalis, digitalis glycosides, mercury, ouabain, strophanthin, strychnine, barbituric acid, or any derivative or preparation of any substances contained therein. The department may exempt any nonprescription drug from the requirement of stating the quantity of the active ingredients, other than those specifically named in this subdivision, upon a showing by the applicant through evidence satisfactory to the department that the granting of the exemption will not endanger the public health. For any prescription drug the established name of the drug or ingredient, as the case may be, on the label and on any labeling on which a name for the drug or ingredient is used shall be printed prominently and in type at least half as large as that used thereon for any proprietary name or designation for the drug or ingredient.

The changes made in this section by Chapter 943 of the Statutes of 1978 shall not apply to any drug shipped by a manufacturer or packer to a retailer or wholesaler before January 1, 1980. Any such drugs so shipped shall comply with this section on and after January 1, 1981.

(Amended by Stats. 2000, Ch. 796, Sec. 9. Effective January 1, 2001.)

111360.

Any drug subject to Section 111470 is misbranded unless the manufacturer, packer, or distributor of the drug includes, in all advertisements and other descriptive matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that drug, a true statement of all of the following:

(a) The established name, printed prominently and in a type at least half as large as that used for any proprietary name of the drug.

(b) The formula showing quantitatively each ingredient of the drug to the extent required for labels under Section 111355.

(c) The name and place of business of the manufacturer that produced the finished dosage form of the drug, as prescribed by regulations issued by the department. This subdivision applies only to advertisements or

descriptive matter issued for drugs manufactured in finished dosage form on or after April 1, 1973.

(d) Such other information, in brief summary relating to side effects, contraindications, and effectiveness as shall be required by regulations promulgated by the department.

Regulations relating to side effects, contraindications, and effectiveness issued pursuant to Section 502(n) of the federal act (21 U.S.C. Sec. 352(n)) are the regulations establishing information requirements relating to side effects, contraindications and effectiveness in this state. The department may, by regulation, make other requirements relating to side effects, contraindications, and effectiveness whether or not in accordance with the regulations adopted under the federal act.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111365.

Any drug subject to Section 111470 is misbranded unless the established name of the prescription drug or prescription drug ingredient is printed on the label prominently and in type at least half as large as that used for the proprietary name or designation on the label, labeling, or advertising.

The department may, by regulation, establish exemptions from the requirements of this section when compliance with this section is not considered necessary for the protection of health and safety.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111375.

Any drug or device is misbranded unless its labeling bears all of the following information:

(a) Adequate directions for use.

(b) Such adequate warnings against use in pathological conditions or by children where its use may be dangerous to health.

(c) Adequate warning against unsafe dosage or methods or duration of administration or application.

Warnings shall be in a manner and form as are necessary for the protection of users.

If the department determines that any requirement of subdivision (a), as applied to any drug or device, is not necessary for the protection of the public health, the department may adopt regulations exempting the drug or device from these requirements.

Any drug or device exempted under Section 502(f) of the federal act (21 U.S.C. Sec. 352(f)) is exempt from the requirement of this section. The department, however, may adopt any regulation including a drug or device within, or excluding a drug or device from the requirements of this section, whether or not the inclusion or exclusion of the drug or device is in accord with the federal act.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111380.

Any drug is misbranded if it purports to be a drug that is recognized in an official compendium and it is not packaged and labeled as prescribed in the official compendium. The method of packaging, however, may be modified with the consent of the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111385.

Any drug or device is misbranded if the department determines that the drug or device is liable to deterioration, unless it is packaged in that form and manner and its label bears a statement of the precautions, as the department, by regulation, may require as necessary for the protection of public health. Such regulations shall not be established for any drug or device recognized in an official compendium, unless the department has informed the appropriate body, charged with the revision of the official compendium, of the need for that packaging or labeling requirements and that body has not prescribed the requirements in a reasonable length of time.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111390.

Any drug or device is misbranded if its container is so made, formed, or filled as to be misleading.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111395.

Any drug is misbranded in any of the following cases:

(a) It is an imitation of another drug.

(b) It is offered for sale under the name of another drug.

(c) The contents of the original package have been, wholly or partly, removed and replaced with other material in the package.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111397.

(a)Any foreign dangerous drug that is not approved by the United States Food and Drug Administration or that is obtained outside of the licensed supply chain regulated by the United States Food and Drug Administration, California State Board of Pharmacy, or State Department of Public Health is misbranded.

(b)Any foreign dangerous drug that is imported lawfully under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or pursuant to an announcement by the United States Food and Drug Administration of the exercise of enforcement discretion for instances including, but not limited to, clinical research purposes, drug shortages, development of countermeasures against chemical, biological, radiological, and nuclear terrorism agents, or pandemic influenza preparedness and response is not misbranded.

(Added by Stats. 2014, Ch. 492, Sec. 13. (SB 600) Effective January 1, 2015.)

111400.

Any drug or device is misbranded if it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in its labeling.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111415.

Any drug is misbranded if it is a color additive, intended for use in or on drugs for the purpose of coloring only and its packaging and labeling fail to conform to the packaging and labeling requirements adopted pursuant to Section 110090.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111420.

A drug or device is misbranded if a trademark, trade name, or other identifying mark, imprint, or device of another person, or any likeness of the trademark, trade name, or other identifying mark, imprint, or device of another person, has been placed on the drug or device, or upon its container.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111425.

A drug or device is misbranded if it was manufactured in this state in an establishment not duly licensed as provided in this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111430.

A drug or device is misbranded if it was manufactured in an establishment not duly registered with the Secretary of Health, Education, and Welfare of the United States.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111435.

Any drug is misbranded if its packaging or labeling is in violation of an applicable regulation issued pursuant to Section 108685 or 108700.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111440.

It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111445.

It is unlawful for any person to misbrand any drug or device.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111450.

It is unlawful for any person to receive in commerce any drug or device that is misbranded or to deliver or proffer for delivery any drug or device.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111455.

It is unlawful for any person to alter, mutilate, destroy, obliterate, or remove the label or any part of the labeling of any drug or device if the act results in the drug or device being misbranded.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111460.

Any drug or device intended for export shall not be deemed to be misbranded under this part if it satisfies all of the following requirements:

(a) It accords to the specifications of the foreign purchaser.

(b) It is not in conflict with the laws of the importing country.

(c) It is labeled on the outside of the shipping package to show that it is intended for export.

If the article is sold or offered for sale in domestic commerce, this section shall not exempt it from any of the provisions of this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111465.

A drug or device is deemed misbranded under the laws of this state if it is subject to regulations issued by the United States Food and Drug Administration relating to tamper-resistant packaging, as set forth in Parts 200, 211, 314, and 800 of Volume 21 of the Code of Federal Regulations, as amended, but is not in compliance therewith.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111470.

The following drugs or devices, that are intended for use by man, shall be sold only upon a written prescription of a practitioner licensed by law to prescribe the drug or device, or upon an oral prescription of the licensee that is reduced promptly to writing and filed by the pharmacist, or by refilling the written or oral prescription if the refilling is authorized by the prescriber either in the original prescription or by oral order that is reduced promptly to writing and filed by the pharmacist:

(a) A habit forming drug to which Section 111350 applies.

(b) A drug or device that, because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer the drug or device.

(c) A drug or device for which adequate directions cannot be written for persons, who are not practitioners licensed by law to prescribe the drug or device, for safe and effective self-medication or treatment by those persons, who are not practitioners licensed by law to prescribe the drug or device.

(d) A drug or device that is limited by an effective application under Section 505 of the federal act (21 U.S.C. Sec. 355) or Section 111550 to use under the professional supervision of a practitioner licensed by law to administer the drug or device.

If any prescription for the drug does not indicate the number of times it may be refilled, if any, the prescription may not be refilled unless the pharmacist obtains a new order from the practitioner.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111475.

The act of selling a drug or device contrary to Section 111470 shall be deemed to be an act that results in the drug or device being misbranded while held for sale.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111480.

Any drug or device sold by filling or refilling a written or oral prescription of a practitioner licensed to prescribe the drug or device shall be exempt from the labeling requirements of Sections 111335, 111340, 111350, 111355, 111360, 111365, 111375, 111380, 111385, 111395, 111415, and 111420, if the drug or device bears a label displaying all the following:

(a) Except where the prescriber orders otherwise, either the manufacturerstrade name of the drug, or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturerstrade name or the commonly used name or the principal active ingredients.

(b) The directions for the use of the drug or device.

(c) The name of the patient(s).

(d) The name of the prescriber.

(e) The date of issue.

(f) The name, address of the furnisher, and prescription number or other means of identifying the prescription.

(g) The strength of the drug or drugs dispensed.

(h) The quantity of the drug or drugs dispensed.

(i) The expiration date of the effectiveness of the drug or device if the information is included on the original label of the manufacturer of the drug or device.

If a pharmacist dispenses a prescribed drug by means of a unit dose medication system, as defined by

administrative regulation, for a patient in a skilled nursing, intermediate care or other health care facility, the requirements of this section will be satisfied if the unit dose medication system contains the aforementioned information or the information is otherwise readily available at the time of drug administration.

The exemption shall not apply to any drug or device dispensed in the course of the conduct of a business of dispensing drugs or devices pursuant to diagnosis by mail, or to a drug or device dispensed in violation of Section 111470.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111485.

The department may, by regulation, remove any drug or device subject to Sections 111350 and 111550 from the requirements of Section 111470, when the requirements are not necessary for the protection of the public health. Any drug removed from the prescription requirements of the federal act by regulations adopted pursuant to the federal act is removed from the requirements of Section 111470. The department may, however, by regulation, continue the applicability of Section 111470 for any drug or device, or make these sections inapplicable to any drug or device, whether or not the inclusion or exclusion of the drug or device is in accordance with the regulations adopted pursuant to the federal act.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111490.

(a) A drug or device that is subject to Section 111470 is misbranded if at any time prior to dispensing, its label fails to bear the statement Caution: federal law prohibits dispensing without prescription,□ or Caution: state law prohibits dispensing without prescription,□ or R x only.□ A drug or device to which Section 111470 does not apply is misbranded if at any time prior to dispensing its label bears the caution statement or R x only□ quoted in the preceding sentence.

(b) A device that is subject to Section 111470 is misbranded if, at any time prior to dispensing, its label fails to bear the statement Caution: federal law restricts this device to sale by or on the order of a ____ ,□ the blank to be filled in with the designation of the practitioner licensed to use or order use of the device. A device to which Section 111470 does not apply is misbranded if, at any time prior to dispensing, its label bears the caution statement quoted in the preceding sentence.

(Amended by Stats. 2000, Ch. 796, Sec. 12. Effective January 1, 2001.)

111495.

Nothing in this article shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or that may hereafter be included within the classification stated in Division 10 (commencing with Section 11000) or in the applicable federal law relating to controlled substances.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111500.

A physician, dentist, podiatrist, or veterinarian may personally furnish his or her own patient with drugs as are necessary in the treatment of the condition for which he or she attends the patient provided that the drug is properly labeled to show all the information required in Section 111480 except the prescription number.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111505.

For purposes of Section 111510, the following definitions shall apply:

(a) Distributor means any corporation, person, or other entity, not engaged in the manufacture of a legend drug product, who distributes for resale and distribution a legend drug product under the label of the corporation, person, or entity.

(b) Legend drug means any controlled substance subject to the Federal Controlled Substances Act (Title II, P.L. 91-513) or subject to the Uniform Controlled Substances Act, Division 10 (commencing with Section 11000), and any drug described in Section 4211 of the Business and Professions Code or Section 111470.

(c) Solid dosage forms means capsules or tablets intended for oral administration.

(d) Code imprint means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, or marks or monograms unique to the manufacturer, distributor, or both. The National Drug Code may be used as a code imprint.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111510.

(a) No legend drug in solid dosage form may be manufactured or distributed for sale in this state unless it is clearly marked or imprinted with a code imprint identifying the drug and the manufacturer or distributor of the drug. Manufacturers or distributors who only repack an already finished dosage form of a legend drug shall not have the responsibility to do the imprint.

(b) On or before July 1, 1982, manufacturers or distributors of legend drugs, depending on whether the manufacturersor distributorscode imprint will appear on the surface of the solid dosage form, shall provide to the department a list of their legend drugs and the intended code imprints. The department shall provide for the distribution of the information required to be submitted under this subdivision to all poison control centers in the state. Manufacturers, distributors, and the department shall provide to any licensed health care provider, upon request, lists of legend drugs and code imprints provided to the department under this section, but may charge a reasonable fee to cover copying and postage costs. Updated lists shall be

provided to the department annually or as changes or revisions occur.

(c) The department may grant exemptions from the requirements of this section upon application of a manufacturer or distributor indicating size or other characteristics that render the product impractical for the imprinting required by this section.

(d) A legend drug that does not meet the requirements is misbranded.

(e) It is the intent of the Legislature that all legend drugs having solid dosage forms be imprinted regardless of by whom they are distributed.

(f) This section shall apply to all legend drugs sold in California on or after January 1, 1983.

(g) Pharmacists, pharmacies, and licensed wholesalers shall only be liable for knowing and willful violations of this section, except that no liability shall accrue if the pharmacist acts pursuant to Section 4229.5 of the Business and Professions Code.

(h) The provisions of subdivisions (a) to (g), inclusive, shall not apply to any of the following:

(1) Drugs purchased by a pharmacy, pharmacist, or licensed wholesaler prior to January 1, 1983, and held in stock for resale.

(2) Drugs that are the subject of an investigation pursuant to Section 111590 or 111595.

(3) Drugs that are manufactured by or upon the order of a practitioner licensed by law to prescribe or administer drugs and that are to be used solely by the patient for whom prescribed.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=6.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Drugs and Devices [111225 - 111656.13]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Experimental Use of Drugs [111515 - 111545]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

111515.

As used in this article, experimental drug means any of the following:

A drug intended for investigational use under Section 111595.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111520.

No person shall prescribe or knowingly administer an experimental drug to another person in violation of this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111525.

Prior to prescribing or administering an experimental drug, consent to the use of the drug shall be obtained in the method and manner specified in Chapter 1.3 (commencing with Section 24170) of Division 20.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111530.

(a) Notwithstanding the provisions of Section 24175, if the subject is a minor, consent shall be provided by a parent or guardian of the subject and shall also be provided by the subject if the subject is seven years of age or older.

(b) Consent given pursuant to this section shall only be for the prescribing or administering of an experimental drug that is related to maintaining or improving the health of the subject or related to

obtaining information about a pathological condition of the subject.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111535.

Consent given pursuant to Section 111525 may be revoked at any time by either verbal or written communication to the practitioner supervising the administration of the experimental drug.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111540.

Prior to administering an experimental drug, the experimental activity as a whole, including the consent procedures required by Section 111525, shall be reviewed and approved by a committee for the protection of human subjects that is acceptable, as determined by the department. A committee for the protection of human subjects that operates under a general or special assurance approved by the federal Department of Health, Education, and Welfare pursuant to Part 46 of Title 45 of the Code of Federal Regulations shall be an acceptable committee for purposes of this section. A copy of the consent procedures approved by a committee for the protection of human subjects shall be filed with the department prior to the commencement of the experiment.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111545.

A person having an ownership interest in a skilled nursing facility or intermediate care facility, as those terms are defined in Section 1250, may not prescribe an experimental drug for a patient in the facility.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=6.&article=4.5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Drugs and Devices [111225 - 111656.13]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4.5. Right to Try Act [111548 - 111548.5]__

(Article 4.5 added by Stats. 2016, Ch. 684, Sec. 1.)

111548.

This article shall be known and may be cited as the Right to Try Act.

(Added by Stats. 2016, Ch. 684, Sec. 1. (AB 1668) Effective January 1, 2017.)

111548.1.

For purposes of this article, unless the context otherwise requires, the following definitions shall apply:

(a)Consulting physician means a physician and surgeon licensed under the Medical Practice Act or an osteopathic physician and surgeon licensed under the Osteopathic Act who performs all of the following:

(1)Examines the qualified individual and his or her relevant medical records.

(2)Confirms, in writing, the primary physiciansdiagnosis and prognosis.

(3)Verifies, in the opinion of the consulting physician, that the eligible patient is competent, acting voluntarily, and has made an informed decision.

(b)Eligible patient means a person who meets all of the following conditions:

(1)Has an immediately life-threatening disease or condition.

(2)Has considered all other treatment options currently approved by the United States Food and Drug Administration.

(3)Has not been accepted to participate in the nearest clinical trial to his or her home for the immediately life-threatening disease or condition identified in paragraph (1) within one week of completion of the clinical trial application process, or, in the treating physiciansmedical judgment, it is unreasonable for the patient to participate in that clinical trial due to the patientscurrent condition and stage of disease.

(4)Has received a recommendation from his or her primary physician and a consulting physician for an investigational drug, biological product, or device.

(5)Has given written informed consent for the use of the investigational drug, biological product, or device, or, if he or she lacks the capacity to consent, his or her legally authorized representative has given written informed consent on his or her behalf.

(6)Has documentation from his or her primary physician and a consulting physician attesting that the patient has met the requirements of this subdivision.

(c)Health benefit plan means a plan or program that provides, arranges, pays for, or reimburses the cost of health benefits. Health benefit plan includes, but is not limited to, a health care service plan contract issued by a health care service plan, as defined in Section 1345, and a policy of health insurance, as defined in Section 106 of the Insurance Code, issued by a health insurer.

(d)Immediately life-threatening disease or condition means a stage of disease in which there is a reasonable likelihood that death will occur within a matter of months.

(e)Investigational drug, biological product, or device means a drug, biological product, or device that has successfully completed phase one of a clinical trial approved by the United States Food and Drug Administration, but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial approved by the United States Food and Drug Administration.

(f)Primary physician means a physician and surgeon licensed under the Medical Practice Act or an osteopathic physician and surgeon licensed under the Osteopathic Act.

(g)State regulatory board means the Medical Board of California or the Osteopathic Medical Board of California.

(h)(1)Written, informed consent means a written document that has been approved by the primary physiciansinstitutional review board or an accredited independent institutional review board, is signed by an eligible patient, or his or her legally authorized representative when the patient lacks the capacity to consent, and attested to by the patientsprimary physician and a witness that, at a minimum, does all of the following:

(A)Explains the currently approved products and treatments for the immediately life-threatening disease or condition from which the patient suffers.

(B)Attests to the fact that the patient, or when the patient lacks the capacity to consent his or her legally authorized representative, concurs with the patientsprimary physician in believing that all currently approved and conventionally recognized treatments are unlikely to prolong the patientslife.

(C)Clearly identifies the specific proposed investigational drug, biological product, or device that the patient is seeking to use.

(D)Describes the potentially best and worst outcomes of using the investigational drug, biological product, or device and describes the most likely outcome. This description shall include the possibility that new, unanticipated, different, or worse symptoms might result and that death could be hastened by the proposed treatment. The description shall be based on the primary physiciansknowledge of the proposed treatment in conjunction with an awareness of the patientscondition.

(E)Clearly states that the patientshealth benefit plan, if any, and health care provider are not obligated to pay for the investigational drug, biological product, or device or any care or treatments consequent to use of the investigational drug, biological product, or device.

(F)Clearly states that the patientseligibility for hospice care may be withdrawn if the patient begins curative treatment and that care may be reinstated if the curative treatment ends and the patient meets hospice eligibility requirements.

(G)Clearly states that in-home health care may be denied if treatment begins.

(H)States that the patient understands that he or she is liable for all expenses consequent to the use of the investigational drug, biological product, or device, and that this liability extends to the patientsestate, except as otherwise provided in the patientshealth benefit plan or a contract between the patient and the manufacturer of the drug, biological product, or device.

(2)Written, informed consent for purposes of this article shall be consistent with the informed consent requirements of the Protection of Human Subjects in Medical Experimentation Act (Chapter 1.3 (commencing with Section 24170) of Division 20).

(Added by Stats. 2016, Ch. 684, Sec. 1. (AB 1668) Effective January 1, 2017.)

111548.2.

(a)Notwithstanding Section 110280, 111520, or 111550, a manufacturer of an investigational drug, biological product, or device may make available the manufacturersinvestigational drug, biological product, or device to an eligible patient pursuant to this article. This article does not require that a manufacturer make available an investigational drug, biological product, or device to an eligible patient.

(b)A manufacturer may do both of the following:

(1)Provide an investigational drug, biological product, or device to an eligible patient without receiving compensation.

(2)Require an eligible patient to pay the costs of, or associated with, the manufacture of the investigational drug, biological product, or device.

(c)(1)This article does not expand the coverage provided under Sections 1370.4 and 1370.6 of this code, Sections 10145.3 and 10145.4 of the Insurance Code, or Sections 14087.11 and 14132.98 of the Welfare and Institutions Code.

(2)This article does not require a health benefit plan to provide coverage for the cost of any investigational drug, biological product, or device, or the costs of services related to the use of an investigational drug, biological product, or device under this article. A health benefit plan may provide coverage for an

investigational drug, biological product, or device made available pursuant to this section.

(d)If the clinical trial for an investigational drug, biological product, or device is closed due to the lack of efficacy or for toxicity, the investigational drug, biological product, or device shall not be offered. If notice of closure of a clinical trial is given for an investigational drug, biological product, or device taken by a patient outside of a clinical trial, the manufacturer and the patientsprimary physician shall notify the patient of the information from the safety committee of the clinical trial.

(e)If an eligible patient dies while being treated by an investigational drug, biological product, or device made available pursuant to this article, the patientsheirs and health benefit plan, except to the extent the plan provided coverage pursuant to paragraph (2) of subdivision (c), are not liable for any outstanding debt related to the treatment or lack of insurance for the treatment.

(Added by Stats. 2016, Ch. 684, Sec. 1. (AB 1668) Effective January 1, 2017.)

111548.3.

(a)Notwithstanding any other law, a state regulatory board shall not revoke, fail to renew, or take any other disciplinary action against a physicianslicense based on the physiciansrecommendation to an eligible patient regarding, or prescription for or treatment with, an investigational drug, biological product, or device if the recommendation or prescription is consistent with protocol approved by the physiciansinstitutional review board or an accredited independent institutional review board.

(b)The physiciansinstitutional review board or an accredited institutional review board shall biannually report the following information to the State Department of Public Health, the Medical Board of California, and the Osteopathic Medical Board of California:

(1)The number of requests made for an investigational drug, biological product, or device.

(2)The status of the requests made.

(3)The duration of the treatment.

(4)The costs of the treatment paid by eligible patients.

(5)The success or failure of the investigational drug, biological product, or device in treating the immediately life-threatening disease or condition from which the patient suffers.

(6)Any adverse event for each investigational drug, biological product, or device.

(c)A state agency shall not alter any recommendation made to the federal Centers for Medicare and Medicaid Services regarding a health care providerscertification to participate in the Medicare or Medicaid program based solely on the recommendation from an individual health care provider that a patient have access to an investigational drug, biological product, or device.

(d)A violation of this section shall not be subject to Chapter 8 (commencing with Section 111825).

(Added by Stats. 2016, Ch. 684, Sec. 1. (AB 1668) Effective January 1, 2017.)

111548.5.

This article does not create a private cause of action, and actions taken pursuant to this article shall not serve as a basis for a civil, criminal, or disciplinary claim or cause of action, including, but not limited to, product liability, medical negligence, or wrongful death, against a manufacturer of an investigational drug, biological product, or device, or against any other person or entity involved in the care of an eligible patient for harm done to the eligible patient or his or her heirs resulting from the investigational drug, biological product, or device, or the use or nonuse thereof, if the manufacturer or other person or entity has complied with the terms of this article in relation to the eligible patient, unless there was a failure to exercise reasonable care.

(Added by Stats. 2016, Ch. 684, Sec. 1. (AB 1668) Effective January 1, 2017.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=6.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Drugs and Devices [111225 - 111656.13]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 5. New Drugs or Devices [111550 - 111610]__

(Article 5 added by Stats. 1995, Ch. 415, Sec. 6.)

111550.

No person shall sell, deliver, or give away any new drug or new device unless it satisfies either of the following:

(a)It is one of the following:

(1)A new drug, and a new drug application has been approved for it and that approval has not been withdrawn, terminated, or suspended under Section 505 of the federal act (21 U.S.C. Sec. 355).

(2)A new biologic product for which a license has been issued as required by the federal Public Health Service Act (42 U.S.C. Sec. 262).

(3)A device that is reported under Section 510(k) of the federal act (21 U.S.C. Sec. 360(k)), or is a device exempted pursuant to subsection (l) or (m) of Section 360 of Title 21 of the United States Code, or it is a new device for which a premarket approval application has been approved, and that approval has not been withdrawn, terminated, or suspended under Section 515 of the federal act (21 U.S.C. Sec. 360e).

(b)The department has approved a new drug or device application for that new drug or new device and that approval has not been withdrawn, terminated, or suspended. Any person who files a new drug or device application with the department shall submit, as part of the application, all of the following information:

(1)Full reports of investigations that have been made to show whether or not the new drug or device is safe for use and whether the new drug or device is effective in use under the conditions prescribed, recommended, or suggested in the labeling or advertising of the new drug or device.

(2)A full list of the articles used as components of the new drug or device.

(3)A full statement of the composition of the new drug or device.

(4)A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of the new drug, or in the case of a new device, a full statement of its composition, properties, and construction, and the principles of its operation.

(5)Samples of the new drug or device and of the articles used as components of the drug or device as the department may require.

(6)Specimens of the labeling and advertisements proposed to be used for the new drug or device.

(Amended by Stats. 2012, Ch. 688, Sec. 1. (AB 1277) Effective January 1, 2013.)

111555.

Within 180 days after the filing of an application provided for in Section 111550, or an additional period as shall be agreed upon by the department and the applicant, the department shall do either of the following:

(a) Approve the application, if it finds that none of the grounds for denying approval specified in Section 111550 apply.

(b) Give the applicant written notice for an opportunity for a hearing before the department on the question of whether the application is approvable. If the applicant elects to accept the opportunity for hearing by written request within 30 days after the notice, the hearing shall commence not more than 90 days after the expiration of the 30 days unless the department and the applicant otherwise agree. Any such hearing shall thereafter be conducted on an expedited basis and the departmentsorder thereon shall be issued within 90 days after the date fixed by the department for filing final briefs.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111560.

The department shall issue an order refusing to approve an application if, after written notice to the applicant and after giving him or her an opportunity for a hearing, the department makes any of the following findings:

(a) That the reports of investigation, that are required to be submitted to the department pursuant to Section 111550, do not include adequate tests by all methods reasonably applicable to show whether or not the new drug or device is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling and advertisement of the new drug or device.

(b) That the results of the tests submitted pursuant to Section 111550 to show whether or not the new drug or device is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling and advertisement of the new drug or device show that the drug or device is unsafe for use under these conditions or do not show that the new drug or device is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling and advertisement.

(c) That the methods, facilities, and controls used in the manufacture, processing, or packing of the new drug or device are inadequate to preserve its identity, strength, quality, purity, composition, or other characteristics.

(d) That upon the basis of information submitted as part of the application, or upon the basis of any other information before it with respect to the new drug or device, that the department has insufficient information to determine whether the drug or device is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling and advertisement.

(e) That evaluated on the basis of the information submitted as part of the application and any other information before it with respect to the new drug or device, that there is a lack of substantial evidence that the new drug or device will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling or advertisement of the new drug or device.

(f) That based on an evaluation by the department of all material facts, that the proposed labeling or advertising of the new drug or device is false or misleading in any particular.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111565.

An order pursuant to Section 111560 refusing approval of a new drug application or a new device application shall be revoked whenever the department finds that the facts justify the action.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111570.

In the case of any new drug or device for which an approval of an application filed pursuant to Section 111550 is in effect, the applicant shall establish and maintain records, and make reports to the department, of data relating to clinical experience and other data or information, received or otherwise obtained by the applicant with respect to the new drug or device, as the department may by general regulation, or by order with respect to the application, prescribe. Any regulation or order issued pursuant to this section or pursuant to Section 111595 shall have due regard for the professional ethics of the medical profession and the interest of patients and shall provide, where the department determines that it is reasonably necessary, for the examination upon request, by the persons to whom the regulation or order is applicable, of similar information received or otherwise obtained by the department. Every person required pursuant to this section to maintain records, and every person in charge or in custody of the records, shall, upon request of an authorized agent of the department, permit the agent at all reasonable time to have access to, and copy and verify, the records.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111575.

The department shall issue an order withdrawing approval of an application concerning any new drug or device if, after giving written notice to the applicant and an opportunity for a hearing, the department makes any of the following findings:

(a) That clinical or other experience, tests, or other scientific data show that the new drug or device is unsafe for use under the conditions of use upon the basis of which the application was approved.

(b) That new evidence of clinical experience, not contained in the application or not available to the department until after the application was approved, or tests by new methods, or tests by methods not deemed reasonably applicable when the application was approved, evaluated together with the evidence available to the department when the application was approved, shows that the new drug or device is not shown to be safe for use under the conditions of use upon the basis of which the application was approved.

(c) On the basis of new information with respect to the new drug or device, evaluated together with the evidence available to the department when the application was approved, that there is a lack of substantial evidence that the new drug or device will have the effect it purports or is represented to have, under the conditions of use prescribed, recommended, or suggested in the labeling or advertising of the new drug or device.

(d) That the application contains any untrue statement of a material fact.

(e) That the applicant has failed to establish a system for maintaining required records, or has repeatedly or

deliberately failed to maintain the records or to make required reports, or the applicant has refused to permit access to, or copying or verification of, the records.

(f) That on the basis of new information before the department, evaluated together with the evidence before it when the application was approved, the methods used in, or the facilities and controls used for, the manufacture, processing, and packing of the new drug or device are inadequate to assure and preserve its identity, strength, quality, purity, composition, and characteristics as determined by qualified experts selected by the department, and were not made adequate within a reasonable time after receipt of written notice from the department specifying the matter complained of.

(g) That on the basis of new information before it, evaluated together with the evidence before it when the application was approved, the labeling or advertisement of the new drug or device, based on an evaluation of all material facts, is false or misleading in any particular and is not corrected within a reasonable time after receipt of written notice from the department specifying the matter complained of.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111580.

When the department finds that there is an imminent hazard to the public health, it may suspend the approval for the application immediately.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111585.

An order pursuant to Section 111575 or 111580 withdrawing approval of an application concerning any new drug or device shall be revoked whenever the department finds that the facts justify the action.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111590.

Section 111550 does not apply to a drug or device intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs or devices if the investigation is conducted in accordance with the requirements of Section 505(i) of the federal act (21 U.S.C. Sec. 355(i)) or Section 520(g) thereof (21 U.S.C. Secs. 352 and 360) and the regulations adopted pursuant to the federal act.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111595.

Section 111550 does not apply to any drug or device intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs or devices if all the following conditions are complied with:

(a) The submission to the department, before any clinical testing of a drug or device is undertaken, of reports, by the manufacturer or the sponsor of the investigation of the drug or device, of preclinical tests including tests on animals, of the drug or device adequate to justify the proposed clinical testing.

(b) The manufacturer or the sponsor of the investigation of a drug or a device proposed to be distributed to investigators for clinical testing obtaining a signed, notarized agreement from each of the investigators that patients to whom the drug or device is administered will be under his or her personal supervision, or under the supervision of investigators responsible to him or her, and that he or she will not supply the drug or device to any other investigator, or to clinics, for administration to human beings.

(c) The establishment and maintenance of the records, and the making of the reports to the department, by the manufacturer or the sponsor of the investigation of the drug or device, of data, including but not limited to, analytical reports by investigators, obtained as a result of the investigational use of the drug or device, as the department finds will enable it to evaluate the safety and effectiveness of the drug or device in the event of the filing of an application pursuant to Section 111550.

(d) The manufacturer, or the sponsor of the investigation, require experts using the drugs or devices for investigational purposes to certify to the manufacturer or sponsor that they will comply with the requirements of Article 4 (commencing with Section 111515).

(e) Any other conditions as the department shall adopt as regulations necessary for the protection of the public health. The federal regulations adopted pursuant to Section 505(i) of the federal act (21 U.S.C. Sec. 355(i)) or Section 520(g) thereof (21 U.S.C. Secs. 352 and 360) shall be the regulations for exemptions from Section 111550 in this state. However, the department may prescribe, by regulation, any condition for exemption from Section 111550 whether or not the condition is in accordance with regulations adopted under the federal act.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111605.

(a) In making determinations on requests for approval of AIDS-related drugs, as defined in subdivision (b), in accordance with Section 111550, or for exemptions from these requirements, for purposes of investigations of these drugs, pursuant to Section 111595, the department shall employ persons to conduct reviews of requests for drug marketing approval for AIDS-related drugs, or exemptions from the approval requirements as specified in that section. The AIDS Vaccine Research and Development Advisory Committee shall review and advise the department in its actions under this section.

Where necessary, the department shall enter into contracts with appropriate and qualified persons or entities for the review of these requests, including persons with significant experience in conducting or reviewing clinical trials of drugs or physicians with significant experience in treating AIDS patients.

No person may contract with the department for the review of a request under this subdivision if the person has a financial interest or a conflict of interest involving the drug being evaluated.

(b) AIDS-related drug means either of the following:

(1) A vaccine to protect against human immunodeficiency virus (HIV) infection.

(2) Antiviral agent, immune modulator, or other agent to be administered to persons who have been infected with HIV, to counteract the effects of this infection, or any drug to treat opportunistic infections associated with AIDS.

(c) The immunities provided for in Sections 818.4 and 821.6 of the Government Code shall apply whenever the department grants approval pursuant to Section 111550 or an exemption from the approval requirements pursuant to Section 111595, for an AIDS-related drug.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111610.

Section 111550 does not apply to any of the following:

(a) A drug or device that is sold in this state, or introduced into interstate commerce, at any time prior to the enactment of the federal act, if its labeling and advertising contained the same representations concerning the conditions of its use.

(b) Any drug that is licensed under the Public Health Service Act of July 1, 1944 (58 Stats. 682, as amended; 42 U.S.C. Sec. 201 et seq.) or under the eighth paragraph of the heading of Bureau of Animal Industry of the act of March 4, 1913 (37 Stat. 832"833; 21 U.S.C. Sec. 151 et seq.), commonly known as the Virus-Serum-Toxin Act.

(Amended by Stats. 2000, Ch. 796, Sec. 13. Effective January 1, 2001.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=6.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Drugs and Devices [111225 - 111656.13]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 6. Licenses [111615 - 111656.13]__

(Article 6 added by Stats. 1995, Ch. 415, Sec. 6.)

111615.

No person shall manufacture any drug or device in this state unless he or she has a valid license from the department. The license is valid for two calendar years from the date of issue, unless it is revoked. The license is not transferable.

The department may require any manufacturer, wholesaler, or importer of any prescription ophthalmic device in this state to obtain a license.

(Amended by Stats. 2006, Ch. 74, Sec. 34. Effective July 12, 2006.)

111620.

A separate license is required for each place of manufacture.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111625.

A license application shall be completed biennially and accompanied by an application fee as prescribed in Section 111630. This fee is not refundable if the license is refused.

(Amended by Stats. 2006, Ch. 74, Sec. 35. Effective July 12, 2006.)

111630.

The department shall by regulation establish the application form and set the fee for licensure and renewal of a license. The penalty for failure to apply for renewal of a license within 30 days after its expiration is ten

dollars ($10) and shall be added to the renewal fee and be paid by the applicant before the renewal license may be issued. All moneys collected as fees shall be expended when appropriated by the Legislature in the carrying out of the provisions of this part and the regulations adopted pursuant to this part.

Any person licensed pursuant to this section shall immediately notify the department of any change in the information reported in the license application.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111633.

The State Department of Public Health shall require that an applicant for a human prescription drug manufacturing license submit fingerprints to the Department of Justice, and related information as required by the Department of Justice, as required by this chapter, pursuant to subdivision (u) of Section 11105 of the Penal Code. The Department of Justice shall provide a state- or federal-level response pursuant to subdivision (p) of Section 11105 of the Penal Code.

(Added by Stats. 2023, Ch. 198, Sec. 17. (SB 152) Effective September 13, 2023.)

111635.

(a)Prior to issuing a license required by Section 111615 to any place of business where a drug or device is manufactured, the department shall receive from each place of business documentation that evidences ownership and any of the following:

(1)The place of business is operating pursuant to a valid biologics license issued by the United States Food and Drug Administration in compliance with Section 351 of the federal Public Health Service Act (42 U.S.C. Sec. 262).

(2)The place of business is operating with a valid establishment registration pursuant to Section 510 of the federal act (21 U.S.C. Sec. 360). This documentation shall include an attestation from an officer of the place of business that a federal inspection was completed within the two years prior to the date of the attestation.

(3)The place of business is operating in compliance with audits conducted pursuant to the International Standards Organization (ISO) 9000 series, ISO 13485:2003 quality management systems standards, ISO 15378:2006 quality management systems standards, pursuant to Parts 210 and 211 of Title 21 of the Code of Federal Regulations, or pursuant to Part 820 of Title 21 of the Code of Federal Regulations.

(4)The place of business is operating pursuant to an approved investigational new drug issued by the federal Food and Drug Administration pursuant to Section 312.20 of Title 21 of the Code of Federal Regulations or pursuant to an approved investigational device exemption issued by the federal Food and Drug Administration pursuant to Section 812.20 of Title 21 of the Code of Federal Regulations.

(b)If the department receives documentation that satisfies the requirements of subdivision (a), the department shall not inspect the place of business prior to issuing a license required by Section 111615. If the department does not receive the documentation required, the department shall inspect the place of business prior to issuing a license required by Section 111615.

(c)Upon request by a place of business licensed under Section 111615, the department shall provide an official copy of the valid license to the place of business in accordance with Sections 110230 and 110235.

(d)Notwithstanding Section 111640, for any place of business where a drug or device is manufactured and the manufacturer has received a license pursuant to this section, the department shall make investigations or inspections authorized by Article 2 (commencing with Section 110140) of Chapter 2 only when any of the following occur:

(1)The department becomes aware of an issue and makes a determination that the health and safety of the public is at risk.

(2)A complaint has been registered with the department and the department makes a determination that the health and safety of the public is at risk.

(3)A notification has been sent by the United States Food and Drug Administration to the department that requests assistance regarding any Class I or II recall action memorandum.

(4)The United States Food and Drug Administration has requested assistance for enforcement activities, including, but not limited to, embargoes, seizures, or injunctions.

(e)Inspections made pursuant to subdivision (d) shall be limited to inspections for compliance with, or violations of, Chapter 4 (commencing with Section 110290) or this chapter.

(Amended by Stats. 2012, Ch. 688, Sec. 2. (AB 1277) Effective January 1, 2013.)

111640.

The department shall make investigations or inspections authorized by Article 2 (commencing with Section 110410) of Chapter 2 as it deems necessary to carry out this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111645.

Any violation of any provision of this part or any regulation adopted pursuant to this part shall be grounds for denying a license or for suspending or revoking a license. Proceedings for the denial, suspension, or revocation of a license shall be conducted pursuant to Section 100171.

(Amended by Stats. 1997, Ch. 220, Sec. 28. Effective August 4, 1997.)

111650.

Drug manufacturers who have obtained a license or who are applying for a license pursuant to this article shall submit to the California State Board of Pharmacy information as the Board of Pharmacy deems

reasonably necessary to carry out its drug distribution responsibilities including, but not limited to, information on drug inventories or restricted dangerous drugs. Failure of any manufacturer to report the information to the Board of Pharmacy in a timely fashion shall be grounds for the department to deny, suspend, or revoke the manufacturerslicense.

The California State Board of Pharmacy may adopt regulations that are reasonably necessary to implement this section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111655.

The licensing provisions of this chapter shall not apply to any of the following:

(a) Any pharmacy that maintains establishments in conformance with provisions of the Pharmacy Law, Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code, regulating the practice of pharmacy, and that is regularly engaged in dispensing prescription drugs or devices, upon prescriptions of any person licensed to administer the drugs or devices to patients under the care of the person in the course of his or her professional practice, and that does not manufacture, prepare, propagate, compound, or process drugs or devices for sale other than in the regular course of his or her business of dispensing or selling drugs or devices at retail.

(b) Any pharmacy that solely engages in providing drugs or devices to a person licensed by law to administer the drug or device for his or her use in the course of his or her professional practice.

(c) Any pharmacy that solely provides drugs or devices to another pharmacy in order to meet a temporary inventory shortage.

(d) Any person who is licensed by law to prescribe or administer drugs or devices and who manufactures, prepares, propagates, compounds, or processes drugs or devices solely for use in the course of his or her professional practice.

(e) Any person who manufactures, prepares, propagates, compounds, or processes any drug or device solely for use in nonclinical research, teaching, or chemical analysis and not for sale.

(f) Any wholesaler, as defined in Section 4038 of the Business and Professions Code.

(g) Any such other class of persons as the department may by regulation exempt from the application of this article upon a finding that licensing by a class of persons in accordance with this article is not necessary for the protection of the public health.

(h) Any registered dispensing optician licensed pursuant to the provisions of Chapter 5.5 (commencing with Section 2550) of Division 2 of the Business and Professions Code, who is regularly engaged in dispensing or selling prescription lenses and frames, and not engaged in the manufacture, preparation, processing or assembling of lenses or frames for sale other than in the regular course of his or her business of dispensing or selling lenses or frames at retail.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111656.

(a) No person shall conduct a home medical device retail facility business in the State of California unless he or she has obtained a license from the department. A license shall be required for each home medical device retail facility owned or operated by a specific person. A separate license shall be required for each of the premises of any person operating a home medical device retail facility in more than one location. The license shall be renewed annually and shall not be transferable. The licensee shall be responsible for assuring compliance with all requirements of this article pertaining to home medical device retail facilities.

(b) Applications for a home medical device retail facility license shall be made on a form furnished by the department. The department may require any information it deems reasonably necessary to carry out the purposes of this section.

(c) A warehouse owned by a home medical device retail facility the primary purpose of which is storage, not dispensing of home medical devices to patients, shall be licensed at a fee one-half of that for a home medical device retail facility. There shall be no separate or additional license fee for warehouse premises owned by a home medical device retail facility that are physically connected to the retail premises or that share common access.

(d) The department may, at its discretion, issue a temporary license when the ownership of a home medical device retail facility is transferred from one person to another upon any conditions and for the periods of time as the department determines to be in the public interest. A temporary license fee shall be established by the department at an amount not to exceed the annual fee for renewal of a license to conduct a home medical device retail facility.

(e) Notwithstanding any other provision of law, a licensed home medical device retail facility may furnish a prescription device to a licensed health care facility for storage in a secured emergency pharmaceutical supplies container maintained within the facility in accordance with facility regulations of the State Department of Health Services set forth in Title 22 of the California Code of Regulations.

(f) The licensure requirements of this section shall not apply to the following entities or practitioners, unless the entities or practitioners furnish home medical devices or home medical device services through a separate entity including, but not limited to, a corporate entity, division, or other business entity:

(1) Home health agencies that do not have a Part B Medicare supplier number.

(2) Hospitals, excluding providers of home medical devices that are owned or related to a hospital.

(3) Manufacturers and wholesale distributors, if not selling directly to the patient.

(4) Health care practitioners authorized to prescribe or order home medical devices or who use home medical devices or who use home medical devices to treat their patients.

(5) Licensed pharmacists and pharmacies. Pharmacies that sell or rent home medical devices shall be governed by the provisions of Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code and any rules and regulations adopted by the California State Board of Pharmacy.

(6) Licensed hospice programs.

(7) Licensed nursing homes.

(8) Licensed veterinarians.

(9) Licensed dentists.

(10) Emergency medical services provider.

(11) Breast feeding support programs.

(Amended by Stats. 2001, Ch. 728, Sec. 71. Effective January 1, 2002.)

111656.1.

(a)(1)After January 1, 2002, prior to issuing a license required by Section 111656, the department shall inspect each place of business to determine ownership, adequacy of facilities, and personnel qualifications. Nothing in this section shall prohibit the department from inspecting any medical device retail facility prior to January 1, 2002.

(2)(A)After the initial inspection pursuant to paragraph (1), the department shall inspect a licensee that is accredited by an accreditation organization approved by the federal Centers for Medicare and Medicaid Services, or its successor entity, only upon a complaint made to the department regarding the licensee.

(B)A licensee shall only be deemed to be accredited and subject to inspection pursuant to subparagraph (A) if all of the following conditions exist:

(i)The licensee is accredited by the accrediting organization at least every three years.

(ii)The licensee is subject to unannounced onsite midcycle surveys by the accrediting organization to validate ongoing compliance.

(iii)Within 30 days following an inspection by the accrediting organization, the accrediting organization notifies the department regarding the status of the licenseesaccreditation.

(iv)If the licensee is less than fully accredited, the accrediting organization notifies the department of the reasons for the lack of full accreditation and any corrective action plan recommended to the licensee.

(C)The department shall inspect a licensee that ceased to be accredited in compliance with subparagraph (B) pursuant to paragraph (3).

(3)The department shall inspect a licensee that is not accredited by an accreditation organization approved by the federal Centers for Medicare and Medicaid Services, or its successor entity, at least annually.

(b)The annual license fee for a home medical device retail facility shall be eight hundred fifty dollars ($850) until adjusted pursuant to subdivision (c).

(c)The annual license fee required by Sections 111656 and 111630 shall be adjusted annually, commencing July 1, 2003, by the department so that license fee revenues cover the estimated licensing program costs. Adjusted fee amounts shall take into account the resources required for inspections and other activities to

support licensing during the previous year and shall take into account projected workload and changes in department overhead costs during the upcoming year.

(d)Commencing July 1, 2003, the department shall by July 30 of each year, publish the amount of fees to be charged as adjusted pursuant to this section. This adjustment of fees shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e)Commencing January 1, 2003, the department shall, on or before January 10 of each year, provide the Legislature with a report recommending fee rates. The report shall describe the estimated licensing program costs for the next fiscal year to carry out the licensing, regulating, inspecting, and other duties and responsibilities of the department in carrying out the provisions of this article. The department shall describe the projected license fee amount so that license fee revenues cover the estimated licensing program costs. Projected fee amounts shall take into account the resources required for inspections and other activities to support licensing during the previous year and shall take into account projected workload and changes in department overhead costs during the upcoming year.

(f)The Drug and Device Safety Fund is hereby created as a special fund in the State Treasury. All moneys collected by the department under this section and Sections 111656.7, 111656.8, 111656.12, and 111630, and fines and penalties collected by the department in the enforcement of this article, shall be deposited in the fund for use by the department upon appropriation by the Legislature for the purposes of providing funds necessary to carry out and implement the provisions of this article relating to drugs and devices.

(g)This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

(Amended (as amended by Stats. 2017, Ch. 213, Sec. 1) by Stats. 2022, Ch. 955, Sec. 4. (SB 1500) Effective January 1, 2023. Repealed as of January 1, 2028, by its own provisions. See later operative version, as amended by Sec. 5 of Stats. 2022, Ch. 955.)

111656.1.

(a)Prior to issuing a license required by Section 111656, the department shall inspect each place of business to determine ownership, adequacy of facilities, and personnel qualifications. The department shall inspect each licensee at least annually thereafter.

(b)The annual license fee for a home medical device retail facility shall be eight hundred fifty dollars ($850) until adjusted pursuant to subdivision (c).

(c)The annual license fee required by Sections 111656 and 111630 shall be adjusted annually, commencing July 1, 2003, by the department so that license fee revenues cover the estimated licensing program costs. Adjusted fee amounts shall take into account the resources required for inspections and other activities to support licensing during the previous year and shall take into account projected workload and changes in department overhead costs during the upcoming year.

(d)The department shall by July 30 of each year publish the amount of fees to be charged as adjusted pursuant to this section. This adjustment of fees shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e)The department shall, on or before January 10 of each year, provide the Legislature with a report recommending fee rates. The report shall describe the estimated licensing program costs for the next fiscal

year to carry out the licensing, regulating, inspecting, and other duties and responsibilities of the department in carrying out the provisions of this article. The department shall describe the projected license fee amount so that license fee revenues cover the estimated licensing program costs. Projected fee amounts shall take into account the resources required for inspections and other activities to support licensing during the previous year and shall take into account projected workload and changes in department overhead costs during the upcoming year.

(f)The Drug and Device Safety Fund is hereby created as a special fund in the State Treasury. All moneys collected by the department under this section and Sections 111656.7, 111656.8, 111656.12, and 111630, and fines and penalties collected by the department in the enforcement of this article, shall be deposited in the fund for use by the department upon appropriation by the Legislature for the purposes of providing funds necessary to carry out and implement the provisions of this article relating to drugs and devices.

(g)This section shall become operative on January 1, 2028.

(Amended (as added by Stats. 2017, Ch. 213, Sec. 2) by Stats. 2022, Ch. 955, Sec. 5. (SB 1500) Effective January 1, 2023. Operative January 1, 2028, by its own provisions.)

111656.2.

(a) The following standards shall apply to all home medical device retail facilities:

(1) Each retail facility shall store prescription devices in a manner that does not allow a customer direct access or self-service.

(2) Each retail facility shall maintain the premises, fixtures, and equipment in a clean and orderly condition.

(3) Each retail facility shall maintain the premises in a dry, well-ventilated condition, free from contamination or other conditions that may render home medical devices unfit for their intended use.

(b) The department may by regulation impose any other standards pertaining to the acquisition, storage, and maintenance of prescription devices or other goods or to the maintenance or condition of the licensed premises of any home medical device retail facility as the department determines are reasonably necessary.

(Amended by Stats. 2001, Ch. 728, Sec. 72. Effective January 1, 2002.)

111656.3.

(a) Each home medical device retail facility shall have written policies and procedures related to home medical device handling and, if authorized by the department pursuant to Section 111656.4, the dispensing of prescription devices. Those written policies and procedures shall be adequate to assure compliance with this article and shall include, but not be limited to:

(1) Training of staff, patients, and caregivers.

(2) Cleaning, storage, and maintenance of home medical devices necessary to prevent damage or contamination and to assure their operation in accordance with manufacturer specifications.

(3) Emergency services. If home medical device malfunction may threaten a patientshealth, access to emergency services 24 hours per day, 365 days per year shall be available for device maintenance or replacement.

(4) Maintaining all records required by this article and any regulations adopted pursuant to the provisions of this article.

(5) Storage and security requirements to assure that prescription devices are dispensed in accordance with this article.

(6) Quality assurance.

(b) The home medical device retail facility shall make consultation available to the patient or primary caregiver about the proper use of devices and related supplies furnished by the home medical device retail facility. The home medical device retail facility shall notify the patient or primary care giver that this consultation is available.

(c) Each home medical device retail facility shall ensure all personnel who engage in the taking of orders for, the selling of, or the fitting of prescription devices, if authorized by the department pursuant to Section 111656.4, shall have training and demonstrate initial and continuing competence in the order-taking, fitting, and sale of prescription devices that the home medical device retail facility furnishes pursuant to Section 111656.4.

(d) Each home medical device retail facility shall prepare and maintain records of training and demonstrated employee competence required under this article for employees of the home medical device retail facility. The records shall be maintained for three years from and after the last date of employment.

(e) Each home medical device retail facility shall have an ongoing, documented quality assurance program that includes, but is not limited to, the following:

(1) Monitoring personnel performance to assure compliance with this article.

(2) Storage, maintenance, and dispensing of prescription devices to assure that prescription devices are dispensed in accordance with this article.

(f) The records and documents specified in subdivisions (a) and (e) shall be maintained for three years from the date of making. The records and documents described in subdivisions (a), (d), and (e), shall be open to inspection at all times during business hours by authorized agents of the department or an inspector from the California State Board of Pharmacy for the purpose of investigating a pharmacist.

(Added by Stats. 2000, Ch. 837, Sec. 35. Effective January 1, 2001.)

111656.4.

Section 4051 of the Business and Professions Code shall not prohibit a home medical device retail facility from selling or dispensing prescription devices if the department finds that sufficient qualified supervision is employed by the home medical device retail facility to adequately safeguard and protect the public health. Each person applying to the department for this exemption shall meet the following requirements to obtain

and maintain the exemption:

(a) A licensed pharmacist or an exemptee who meets the requirements set forth in paragraphs (1) to (5), inclusive, and whose license of exemption is currently valid, shall be in charge of the home medical device retail facility.

(1) He or she shall be a high school graduate or possess a general education development equivalent.

(2) He or she shall have a minimum of one year of paid work experience related to the distribution or dispensing of dangerous drugs or dangerous devices.

(3) He or she shall complete a training program that addresses each of the following subjects that are applicable to his or her duties:

(A) Knowledge and understanding of state and federal laws relating to the distribution of dangerous drugs and dangerous devices.

(B) Knowledge and understanding of state and federal laws relating the distribution of controlled substances.

(C) Knowledge and understanding of quality control systems.

(D) Knowledge and understanding of the United States Pharmacopoeia standards relating to the safe storage and handling of drugs.

(E) Knowledge and understanding relating to the safe storage and handling of home medical devices.

(F) Knowledge and understanding of prescription terminology, abbreviations, and format.

(4) The department may, by regulation, require training programs that include additional material.

(5) The department shall not issue an exemptee a license until the applicant provides proof of completion of the required training that the department determines is adequate to fulfill these requirements.

(b) The licensed pharmacist or exemptee shall be on the premises at all times that prescription devices are available for sale or fitting unless the prescription devices are stored separately from other merchandise and are under the exclusive control of the licensed pharmacist or exemptee. A licensed pharmacist or an exemptee need not be present in the warehouse facility of a home medical device retail facility unless the department establishes that requirement by regulation based upon the need to protect the public.

(c) The department may require an exemptee to complete a designated number of hours of coursework in department-approved courses of home health education in the disposition of any disciplinary action taken against the exemptee.

(d) Each premises maintained by a home medical device retail facility shall have a license issued by the department and shall have a licensed pharmacist or exemptee on the premises if prescription devices are furnished, sold, or dispensed.

(e) A home medical device retail facility may establish locked storage (a lock box or locked area) for emergency or after working hours furnishing of prescription devices. Locked storage may be installed or placed in a service vehicle of the home medical device retail facility for emergency or after hours service to patients having prescriptions for prescription devices.

(f) The department may by regulation authorize a licensed pharmacist or exemptee to direct an employee of the home medical device retail facility who operates the service vehicle equipped with locked storage described in subdivision (e) to deliver a prescription device from the locked storage to patients having prescriptions for prescription devices. These regulations shall establish inventory requirements for the locked storage by a licensed pharmacist or exemptee to take place shortly after a prescription device has been delivered from the locked storage to a patient.

(Amended by Stats. 2002, Ch. 1013, Sec. 88. Effective January 1, 2003.)

111656.5.

(a) A person other than a licensed pharmacist, an intern pharmacist, an exemptee, as specified in Section 111656.4, or an authorized agent of the department or a person authorized to prescribe, may not be permitted in that area, place, or premises described in the license issued by the department wherein prescription devices are stored, possessed, prepared, manufactured, or repacked, except that a licensed pharmacist or exemptee shall be responsible for any individual who enters the medical device retail facility for the purposes of receiving, fitting, or consultation from the licensed pharmacist or exemptee or any person performing clerical, inventory control, housekeeping, delivery, maintenance, or similar functions relating to the home medical device retail facility. The licensed pharmacist or exemptee shall remain present in the home medical device retail facility any time an individual is present who is seeking a fitting or consultation. However, a licensed pharmacist or an exemptee need not be present on the premises of a home medical device retail facility at all times of its operation and need not be present in a warehouse facility owned by a home medical device retail facility unless the department establishes that requirement by regulation based upon the need to protect the public. The exemptee need not be present if the prescription devices are stored in a secure locked area under the exclusive control of the exemptee and unavailable for dispensing. This subdivision shall apply only to prescription devices.

(b) A warehouse as used in this section, is a facility owned by a home medical device retail facility that is used for storage only. There may not be fitting, display, or sales at that location. A licensed pharmacist or exemptee shall be designated as in charge of a warehouse but need not be present during its operation. The licensed pharmacist or exemptee may permit others to possess a key to the warehouse.

(c) Notwithstanding the remainder of this section, a home medical device retail facility may establish a locked facility, meeting the requirements of Section 111656.4, for furnishing prescription devices to patients having prescriptions for prescription devices in emergencies or after working hours.

(d) The department may establish reasonable security measures consistent with this section as a condition of licensing in order to prevent unauthorized persons from gaining access to the area, place, or premises, or to the prescription devices therein.

(e) The department may by regulation establish labeling requirements for prescription devices sold, fitted, or dispensed by a home medical device retail facility as it deems necessary for the protection of the public.

(Amended by Stats. 2001, Ch. 159, Sec. 135. Effective January 1, 2002.)

111656.6.

Home medical devices for rental purposes shall at all times while under the control of the home medical device retail facility, be maintained in a clean and sanitary condition and in good working order following, where available, manufacturer specifications.

(Added by Stats. 2000, Ch. 837, Sec. 38. Effective January 1, 2001.)

111656.7.

(a) Without registering as an out-of-state home medical device retail facility, an out-of-state home medical device retail facility shall not sell or distribute prescription devices in this state through any person or media other than a wholesaler who is licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

(b) Applications for an out-of-state home medical device retail facility registration shall be made on a form furnished by the department. The department may require any information it deems reasonably necessary to carry out the purposes of this section.

(c) The Legislature by enacting this section does not intend a registration issued to any out-of-state home medical device retail facility pursuant to this section to change or affect the tax liability imposed by Chapter 3 (commencing with Section 23501) of Part 11 of Division 2 of the Revenue and Taxation Code on any out-of-state home medical device retail facility.

(d) The Legislature by enacting this section does not intend a registration issued to any out-of-state home medical device retail facility pursuant to this section to serve as any evidence that the out-of-state home medical device retail facility is doing business within this state.

(Added by Stats. 2000, Ch. 837, Sec. 39. Effective January 1, 2001.)

111656.8.

(a) No person acting as principal or agent for any out-of-state home medical device retail facility who has not obtained a registration from the department pursuant to this article and who sells or distributes prescription devices in this state that are not obtained through a wholesaler who has obtained a license pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code, or that are not obtained through a selling or distribution outlet of an out-of-state manufacturer that is licensed as a wholesaler pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code, shall conduct the business of selling or distributing prescription devices within this state without registering with the department pursuant to this article.

(b) Registration of persons under this section shall be made on a form furnished by the department. The department may require any information as the department deems reasonably necessary to carry out the purposes of this section including, but not limited to, the name and address of the registrant and the name and address of the manufacturer whose prescription devices he or she is selling or distributing.

(c) The department may deny, revoke, or suspend the registration of persons registered under this article for any violation of this article or Chapter 9 (commencing with Section 4000) of Division 2 of the Business and

Professions Code or for any violation of Part 5 (commencing with Section 109875) of Division 104. The department may deny, revoke, or suspend the personsregistration if the manufacturer whose prescription devices he or she is selling or distributing violates this article or Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code or Part 5 (commencing with Section 109875) of Division 104.

(d) Registration under this section shall be renewed annually.

(Added by Stats. 2000, Ch. 837, Sec. 40. Effective January 1, 2001.)

111656.9.

When, in the opinion of the department, a high standard of patient safety, consistent with good patient care, can be provided by the licensure of a home medical device retail facility that does not meet all of the requirements for licensure as a home medical device retail facility, the department may waive any licensing requirements for that medical device retail facility.

(Added by Stats. 2000, Ch. 837, Sec. 41. Effective January 1, 2001.)

111656.10.

(a) The department may void the license of a home medical device retail facility, if the licensed premises remain closed, as defined in subdivision (e), other than by order of the department. For good cause shown, the department may void a license after a shorter period of closure. To void a license pursuant to this subdivision, the department shall make a diligent, good faith effort to give notice by personal service on the licensee. If no written objection is received within 10 days after personal service is made or a diligent, good faith effort to give notice by personal service on the licensee has failed, the department may void the license without the necessity of a hearing. If the licensee files a written objection, the department shall file an accusation based on the licensee remaining closed. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted in that chapter.

(b) In the event that the license of a home medical device retail facility is voided pursuant to subdivision (a) or revoked or a home medical device retail facility notifies the department of its intent to remain closed or to discontinue business, the licensee shall, within 10 days thereafter, arrange for the transfer of all prescription devices to another licensee authorized to possess the prescription devices. The licensee transferring the prescription devices shall immediately confirm in writing to the department that the transfer has taken place.

(c) If a home medical device retail facility fails to comply with subdivision (b), the department may seek and obtain an order from the superior court in the county in which the home medical device retail facility is located, authorizing the department to enter the home medical device retail facility and inventory and store, transfer, sell, or arrange for the sale of, prescription devices found in the home medical device retail facility.

(d) In the event that the department sells or arranges for the sale of any prescription devices pursuant to subdivision (c), the department may retain from the proceeds of the sale an amount equal to the cost to the department of obtaining and enforcing an order issued pursuant to subdivision (c), including the cost of disposing of the prescription devices. The remaining proceeds, if any, shall be returned to the licensee from

whose premises the prescription devices were removed.

(1) The licensee shall be notified of his or her right to the remaining proceeds by personal service or by certified mail, postage prepaid.

(2) Where a statute or regulation requires the licensee to file with the department his or her address, and any change of address, the notice required by this subdivision may be sent by certified mail, postage prepaid, to the latest address on file with the department, and service of notice in this manner shall be deemed completed on the 10th day after the mailing.

(3) If the licensee is notified as provided in this subdivision, and the licensee fails to contact the department for the remaining proceeds within 30 calendar days after the personal service has been made or service by certified mail, postage prepaid, is deemed completed, the remaining proceeds shall be deposited by the department into the Drug and Device Safety Fund. These deposits shall be deemed to have been received pursuant to Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure and shall be subject to claim or other disposition as provided in that chapter.

(e) For the purposes of this section, closed means not engaged in the ordinary activity for which a license has been issued for at least one day each calendar week during any 120-day period.

(f) Nothing in this section shall be construed as requiring a home medical device retail facility to be open seven days a week.

(Added by Stats. 2000, Ch. 837, Sec. 42. Effective January 1, 2001.)

111656.11.

(a) It is unlawful for any person who is neither a licensed pharmacist nor an exemptee to take charge of a home medical device retail facility or to furnish prescription devices except as otherwise provided in this article.

(b) It is unlawful for any person who has obtained a license to conduct a home medical device retail facility to fail to place a licensed pharmacist or exemptee in charge of that home medical device retail facility or for any person to, by himself or herself, or by any other person, permit the compounding or dispensing of prescriptions, except by a licensed pharmacist or exemptee or as otherwise provided in this article.

(Added by Stats. 2000, Ch. 837, Sec. 43. Effective January 1, 2001.)

111656.12.

(a) The fee for examination and investigation for an exemptee license under Section 111656.4 shall be one hundred dollars ($100).

(b) The fee for an exemptee license and annual renewal under Section 111656.4 shall be one hundred fifty dollars ($150).

(c) The fee for registration as an out-of-state home medical device retail facility or as the principal or agent

of an out-of-state home medical device retail facility shall be one hundred fifty dollars ($150).

(Added by Stats. 2000, Ch. 837, Sec. 44. Effective January 1, 2001.)

111656.13.

(a) Any entity that prior to July 1, 2001, held a current, valid license as a medical device retailer pursuant to Section 4130 of the Business and Professions Code, shall be deemed to be a licensed home medical device retail facility until the expiration of that license if the entity is in compliance with all applicable criteria for obtaining a license as a home medical device retail facility.

(b) Any entity that was not required to obtain a license as a medical device retailer in order to provide equipment or services prior to July 1, 2001, and that is required to obtain a license as a home medical device retail facility pursuant to Section 111656, shall apply for a license as a home medical device retail facility by July 1, 2001; however, the requirement for licensure shall only apply to those entities on and after January 1, 2002.

(Amended by Stats. 2001, Ch. 159, Sec. 136. Effective January 1, 2002.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=5.&chapter=7.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=7.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Cosmetics [111660 - 111820]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. General Provisions and Definitions [111660 - 111665]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

111660.

As used in this chapter, hair dye does not include any eyelash dye or eyebrow dye.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111665.

Any color additive shall be considered unsafe for use with respect to any cosmetic unless there is in effect a regulation adopted pursuant to Section 110090 that prescribes its use in cosmetics.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=7.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Cosmetics [111660 - 111820]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Adulterated Cosmetics [111670 - 111725]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

111670.

A cosmetic is adulterated if it bears or contains any poisonous or deleterious substance that may render it injurious to users under the conditions of use prescribed in the labeling or advertisement of the cosmetic, or under conditions of use as are customary or usual.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111675.

Section 111670 shall not apply to coal tar hair dye, that is conspicuously labeled as follows:

Caution"this product contains ingredients that may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.

The labeling shall also bear adequate directions for such preliminary testing.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111680.

Any cosmetic is adulterated if it consists in whole or in part of any filthy, putrid, or decomposed substance.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111685.

Any cosmetic is adulterated if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111690.

Any cosmetic is adulterated if its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111691.

A cosmetic is not adulterated because it includes industrial hemp, as defined in Section 11018.5, as long as the cannabinoids, extracts, or derivatives from industrial hemp meet the requirements established in Chapter 9 (commencing with Section 111920). The sale of a cosmetic that includes industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp shall not be restricted or prohibited based solely on the inclusion of industrial hemp provided that the cannabinoids, extracts, or derivatives from industrial hemp meet the requirements established in Chapter 9 (commencing with Section 111920).

(Added by Stats. 2021, Ch. 576, Sec. 9. (AB 45) Effective October 6, 2021.)

111695.

Any cosmetic is adulterated if it is not a hair dye and it is, or it bears or contains, a color additive that is unsafe within the meaning of Section 111665.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111700.

It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any cosmetic that is adulterated.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111705.

It is unlawful for any person to adulterate any cosmetic.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111710.

It is unlawful for any person to receive in commerce any cosmetic that is adulterated or to deliver or proffer for delivery any such cosmetic.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111715.

While any regulation relating to any color additive referred to in Section 111665 is in effect, any cosmetic that bears or contains a color additive in accordance with these regulations shall not be considered adulterated.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111720.

Any cosmetic intended for export shall not be deemed to be adulterated under this part if it satisfies all of the following requirements:

(a) It accords to the specifications of the foreign purchaser.

(b) It is not in conflict with the laws of the importing country.

(c) It is labeled on the outside of the shipping package to show that it is intended for export.

If the article is sold or offered for sale in domestic commerce, this section shall not exempt it from any of the provisions of this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111725.

A cosmetic is deemed adulterated under the laws of this state if it is subject to regulations issued by the United States Food and Drug Administration relating to tamper-resistant packaging, as set forth in Part 700 of Volume 21 of the Code of Federal Regulations, as amended, but is not in compliance therewith.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=7.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Cosmetics [111660 - 111820]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Misbranded Cosmetics [111730 - 111790]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

111730.

Any cosmetic is misbranded if its labeling is false or misleading in any particular.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111735.

Any cosmetic is misbranded if its labeling or packaging does not conform to the requirements of Chapter 4 (commencing with Section 110290).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111740.

Any cosmetic is misbranded if it is in package form and it does not bear a label containing all of the following information:

(a) The name and place of business of the manufacturer, packer, or distributor.

(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

Reasonable variations shall be permitted from the requirements of subdivision (b) of this section. Requirements for placement and prominence of the information and exemptions as to small packages shall be established by regulations adopted pursuant to Section 110380.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111745.

A cosmetic is misbranded if any word, statement, or other information required pursuant to this part to appear on the label or labeling is not prominently placed upon the label or labeling with conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111750.

Any cosmetic is misbranded if its container is so made, formed, or filled as to be misleading.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111755.

A cosmetic is misbranded if it is a color additive, unless its packaging and labeling are in conformity with the packaging and labeling requirements applicable to color additives prescribed under the provisions of Section 110090. This section does not apply to packages of color additives that, with respect to their use for cosmetics, are marketed and intended for use only in or on hair dyes.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111760.

Any cosmetic is misbranded if its packaging or labeling is in violation of an applicable regulation issued pursuant to Section 108685 or 108700.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111765.

It is unlawful for any person to manufacture, or sell any cosmetic that is misbranded.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111770.

It is unlawful for any person to misbrand any cosmetic.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111775.

It is unlawful for any person to receive in commerce any cosmetic that is misbranded, or to deliver or proffer for delivery any cosmetic.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111780.

It is unlawful for any person to alter, mutilate, destroy, obliterate, or remove the label or any part of the labeling of any cosmetic if the act results in the cosmetic being misbranded, while held for sale.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111785.

Any cosmetic intended for export shall not be deemed to be misbranded under this part if it satisfies all of the following requirements:

(a) It accords to the specifications of the foreign purchaser.

(b) It is not in conflict with the laws of the country to which it is intended for export.

(c) It is labeled on the outside of the shipping package to show that it is intended for export.

If the article is sold or offered for sale in domestic commerce, this section shall not exempt it from any of the provisions of this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111790.

A cosmetic is deemed misbranded under the laws of this state if it is subject to regulations issued by the United States Food and Drug Administration relating to tamper-resistant packaging, as set forth in Part 700 of Volume 21 of the Code of Federal Regulations, as amended, but is not in compliance therewith.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=7.&article=3.5.

111791.5.

For purposes of this article, the following terms have the following meanings:

(a)Authoritative body means any agency or formally organized program or group recognized pursuant to Section 12306 of Title 22 of the California Code of Regulations as being authoritative for the purpose of identifying chemicals that cause cancer or reproductive toxicity.

(b)Chemical identified as causing cancer or reproductive toxicity means a chemical identified pursuant to Section 25249.8 or identified by an authoritative body as any of the following:

(1)A substance listed as known or reasonably anticipated to be a human carcinogen in a National Toxicology Report on carcinogens.

(2)A substance given an overall carcinogenicity evaluation of Group 1, Group 2A, or Group 2B by the International Agency for Research on Cancer.

(3)A substance identified as a Group A, Group B1, or Group B2 carcinogen, or as a known or likely carcinogen by the United States Environmental Protection Agency.

(4)A substance identified as having some or clear evidence of adverse developmental, male reproductive, or female reproductive toxicity effects in a report by an expert panel of the National Toxicology ProgramsCenter for the Evaluation of Risks to Human Reproduction.

(c)Division means the Division of Environmental and Occupational Disease Control within the State Department of Health Services.

(d)Ingredient has the same meaning as that term is defined in subdivision (e) of Section 700.3 of Part 700 of Chapter 1 of Title 21 of the Code of Federal Regulations and does not include any incidental ingredient as defined in subdivision (l) of Section 701.3 of Part 701 of Chapter 1 of Title 21 of the Code of Federal Regulations.

(e)Manufacturer means any person whose name appears on the label of a cosmetic product pursuant to the requirements of Section 701.12 of Title 21 of the Code of Federal Regulations.

(Added by Stats. 2005, Ch. 729, Sec. 2. Effective January 1, 2006.)

111792.

(a)The manufacturer of any cosmetic product subject to regulation by the federal Food and Drug Administration that is sold in this state shall, on a schedule and in electronic or other format, as determined by the division, provide the division with a complete and accurate list of its cosmetic products that, as of the date of submission, are sold in the state and that contain any ingredient that is a chemical identified as causing cancer or reproductive toxicity, including any chemical that meets either of the following conditions:

(1)A chemical contained in the product for purposes of fragrance or flavoring.

(2)A chemical identified by the phrase and other ingredients and determined to be a trade secret pursuant to the procedure established in Part 20 and Section 720.8 of Part 720 of Title 21 of the Code of Federal Regulations. Any ingredient identified pursuant to this paragraph shall be considered to be a trade secret and shall be treated by the division in a manner consistent with the requirements of Part 20 and Part 720 of Title 21 of the Code of Federal Regulations. Any ingredients considered to be a trade secret shall not be subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) for the purposes of this section.

(b)Any information submitted pursuant to subdivision (a) shall identify each chemical both by name and Chemical Abstract Service number and shall specify the product or products in which the chemical is contained.

(c)If an ingredient identified pursuant to this section subsequently is removed from the product in which it was contained, is removed from the list of chemicals known to cause cancer or reproductive toxicity published under Section 25249.8, or is no longer a chemical identified as causing cancer or reproductive toxicity by an authoritative body, the manufacturer of the product containing the ingredient shall submit the new information to the division. Upon receipt of new information, the division, after verifying the accuracy of that information, shall revise the manufacturersinformation on record with the division to reflect the new information. The manufacturer shall not be under obligation to submit subsequent information on the presence of the ingredient in the product unless subsequent changes require submittal of the information.

(d)This section shall not apply to any manufacturer of cosmetic products with annual aggregate sales of cosmetic products, both within and outside of California, of less than one million dollars ($1,000,000), based on the manufacturersmost recent tax year filing.

(e)On or before December 31, 2013, the State Department of Public Health shall develop and make

operational a consumer-friendly, public internet website that creates a database of the information collected pursuant to this section. The database shall be searchable to accommodate a wide range of users, including users with limited technical and scientific literacy. Data shall be presented in an educational manner with, among other things, hypertext links that explain the meanings of technical terms, including, but not limited to, carcinogenic and reproductive toxicity. The internet website shall be designed to be easily navigable and to enable users to compare and contrast products and reportable ingredients. The internet website shall include hypertext links to other educational and informational internet websites to enhance consumer understanding.

(Amended by Stats. 2021, Ch. 615, Sec. 277. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

111792.6.

(a)For purposes of this section, the following definitions apply:

(1)Cosmetic product means an article for retail sale or professional use intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance.

(2)Designated list means any of the following, including subsequent revisions when adopted by the authoritative body:

(A)Chemicals known to the State of California to cause cancer or reproductive toxicity that are listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5 of Division 20)).

(B)Chemicals classified by the European Union as carcinogens, mutagens, or reproductive toxicants pursuant to Category 1A or 1B in Annex VI to Regulation (EC) 1272/2008.

(C)Chemicals included in the European Union Candidate List of Substances of Very High Concern in accordance with Article 59 of Regulation (EC) 1907/2006 on the basis of Article 57(f) for endocrine disrupting properties.

(D)Chemicals for which a reference dose or reference concentration has been developed based on neurotoxicity in the federal Environmental Protection AgencysIntegrated Risk Information System.

(E)Chemicals that are identified as carcinogenic to humans, likely to be carcinogenic to humans, or as Group A, B1, or B2 carcinogens in the federal Environmental Protection AgencysIntegrated Risk Information System.

(F)Chemicals included in the European Chemicals Agency Candidate List of Substances of Very High Concern in accordance with Article 59 of Regulation (EC) 1907/2006 on the basis of Article 57(d), Article 57(e), or Article 57(f) of Regulation (EC) 1907/2006 for persistent, bioaccumulative and toxic, or very persistent and very bioaccumulative, properties.

(G)Chemicals that are identified as persistent, bioaccumulative, and inherently toxic to the environment by the Canadian Environmental Protection Act Environmental Registry Domestic Substances List.

(H)Chemicals classified by the European Union in Annex VI to Regulation (EC) 1272/2008 as respiratory

sensitizer category 1.

(I)Group 1, 2A, or 2B carcinogens identified by the International Agency for Research on Cancer.

(J)Neurotoxicants that are identified in the federal Agency for Toxic Substances and Disease RegistrysToxic Substances Portal, Health Effects of Toxic Substances and Carcinogens, Nervous System.

(K)Persistent bioaccumulative and toxic priority chemicals that are identified by the federal Environmental Protection Agency National Waste Minimization Program.

(L)Reproductive or developmental toxicants identified in Monographs on the Potential Human Reproductive and Developmental Effects published by the federal National Toxicology Program, Office of Health Assessment and Translation.

(M)Chemicals identified by the federal Environmental Protection AgencysToxics Release Inventory as Persistent, Bioaccumulative and Toxic Chemicals that are subject to reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001, et seq.).

(N)The Washington Department of EcologysPersistent, Bioaccumulative, Toxic (PBT) Chemicals identified in Chapter 173-333 of Title 173 of the Washington Administrative Code.

(O)Chemicals that are identified as known to be, or reasonably anticipated to be, human carcinogens by the 13th Report on Carcinogens prepared by the federal National Toxicology Program.

(P)Chemicals for which notification levels, as defined in Section 116455, have been established by the State Department of Public Health or the State Water Resources Control Board.

(Q)Chemicals for which primary maximum contaminant levels have been established and adopted under Section 64431 or 64444 of Title 22 of the California Code of Regulations.

(R)Chemicals identified as toxic air contaminants under Section 93000 or 93001 of Title 17 of the California Code of Regulations.

(S)Chemicals that are identified as priority pollutants in the California water quality control plans pursuant to subdivision (c) of Section 303 of the federal Clean Water Act (33 U.S.C. Sec. 1341) and in Section 131.38 of Title 40 of the Code of Federal Regulations, or identified as pollutants by the state or the federal Environmental Protection Agency for one or more water bodies in the state under subdivision (d) of Section 303 of the federal Clean Water Act (33 U.S.C. Sec. 1341) and Section 130.7 of Title 40 of the Code of Federal Regulations.

(T)Chemicals that are identified with noncancer endpoints and listed with an inhalation or oral reference exposure level by the Office of Environmental Health Hazard Assessment pursuant to paragraph (2) of subdivision (b) of Section 44360.

(U)Chemicals identified as priority chemicals by the California Environmental Contaminant Biomonitoring Program pursuant to Section 105449.

(V)Chemicals that are identified on Part A of the List of Chemicals for Priority Action prepared by the Oslo and Paris Conventions for the Protection of the Marine Environment of the North-East Atlantic.

(3)Flavor ingredient means any intentionally added substance or complex mixture of aroma chemicals,

flavor chemicals, natural essential oils, and other functional ingredient or ingredients for which the purpose is to impart a flavor or taste, or to counteract a flavor or taste.

(4)Fragrance ingredient means any intentionally added substance or complex mixture of aroma chemicals, natural essential oils, and other functional ingredient or ingredients for which the purpose is to impart an odor or scent, or to counteract an odor.

(5)Manufacturer means any entity whose name appears on the label of a cosmetic product pursuant to the requirements of Section 701.12 of Title 21 of the Code of Federal Regulations.

(6)Professional cosmetic has the same meaning as provided in paragraph (3) of subdivision (b) of Section 110371.

(b)(1)Commencing January 1, 2022, a manufacturer of a cosmetic product sold in the state shall disclose all of the following information to the Division of Environmental and Occupational Disease Control within the State Department of Public Health:

(A)A list of each fragrance ingredient or flavor ingredient that is included on a designated list, as defined in paragraph (2) of subdivision (a), and present in the cosmetic product. This section does not require a manufacturer of a cosmetic product to disclose the presence of any fragrance ingredient or flavor ingredient that is not included on a designated list.

(B)A list of each fragrance allergen included in Annex III of the EU Cosmetics Regulation No. 1223/2009, as required to be disclosed pursuant to the EU Detergents Regulation No. 21 648/2004, and subsequent updates to those regulations, that is present in a rinse-off cosmetic product at a concentration at or above 0.01 percent (100 parts per million) or in a leave-on cosmetic product at a concentration at or above 0.001 percent (10 parts per million). Those ingredients shall appear on the database in a unique manner that distinguishes those ingredients from other reportable ingredients and indicates that they are hazardous only to individuals who suffer from fragrance allergies.

(C)Whether the cosmetic product is intended for professional use or retail cosmetic use.

(D)The Chemical Abstracts Service (CAS) number for each ingredient or allergen that requires disclosure pursuant to subparagraph (A) or (B).

(E)The corresponding Universal Product Code (UPC) for the cosmetic product described in subparagraph (A).

(2)(A)To protect trade secrets, this section does not require a manufacturer to disclose the weight or amount of an ingredient that requires disclosure pursuant to subparagraph (A) or (B) of paragraph (1) or to disclose the manner in which a cosmetic product or intentionally added fragrance ingredient or flavor ingredient is formulated. A manufacturer may protect as a trade secret, and is not required to disclose, any ingredient or combination of ingredients that is not on a designated list or required to be disclosed pursuant to subparagraph (A) or (B) of paragraph (1). A fragrance ingredient or flavor ingredient that is included in a designated list, or a fragrance allergen that requires disclosure pursuant to subparagraph (B) of paragraph (1), does not constitute a trade secret.

(B)Pursuant to Section 7927.705 of the Government Code, a fragrance ingredient or flavor ingredient that constitutes a trade secret is not subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(3)(A)A manufacturer that is required to disclose a fragrance ingredient or flavor ingredient pursuant to

paragraph (1) due to a change in a designated list shall disclose the ingredient no later than six months after the revised list is adopted by the authoritative body, or six months after the revised list becomes effective, whichever is later.

(B)The State Department of Public Health shall create a voluntary electronic mailing list for the department to provide updates on the inclusion or deletion of fragrance allergens, fragrance ingredients, and flavor ingredients on the designated lists.

(c)(1)Commencing January 1, 2022, the Division of Environmental and Occupational Disease Control shall post on the database created pursuant to Section 111792, in an easily readable format, all of the following information related to a cosmetic product described in, and disclosed pursuant to, subparagraph (A) of paragraph (1) of subdivision (b):

(A)A list of all fragrance ingredients and flavor ingredients that are included on a designated list and all fragrance allergens required to be disclosed pursuant to subparagraph (B) of paragraph (1) of subdivision (b).

(B)The health hazards associated with each fragrance ingredient or flavor ingredient.

(2)The division shall identify whether an ingredient is a fragrance ingredient or a flavor ingredient.

(Amended by Stats. 2021, Ch. 615, Sec. 278. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=7.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Cosmetics [111660 - 111820]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Voluntary Registration [111795 - 111820]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

111795.

(a) Any person who manufactures a cosmetic in this state may register with the department. Any registration issued under this article shall be valid for one calendar year from the date of issue, unless it is suspended or revoked. The registration shall not be transferable.

(b) A separate registration shall be required for each place of manufacture.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111800.

A registration application form provided by the department shall be completed annually and accompanied by an application fee of three hundred fifty dollars ($350). This fee shall not be returnable if the registration is denied. The fee amount shall be adjusted annually pursuant to Section 100425. All fees collected pursuant to this section shall be deposited into the Export Document Program Fund established by Section 110240.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111805.

Any person registered pursuant to this article shall immediately notify the department of any change in the information reported in the registration application.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111810.

(a) Prior to issuing a registration under Section 111795, the department shall inspect each place of business to determine ownership, adequacy of facilities, personnel qualifications, and compliance with this part. The department shall annually inspect each registrant.

(b) The department shall provide to each registrant a validated copy of the completed registration application form, sent to the mailing address shown on the form, as evidence of valid registration.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111815.

The department shall make any investigations or inspections authorized by Article 2 (commencing with Section 110410) of Chapter 2 as it deems necessary to carry out this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111820.

Any violation of this part or any regulation adopted pursuant to this part shall be grounds for denying a registration or for suspending or revoking a registration. Proceedings for the denial, suspension, or revocation of the registration shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted in that chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=7.5.&article=

111822.

For purposes of this chapter, the following definitions apply:

(a)Confidential business information means an intentionally added ingredient or combination of ingredients for which a claim has been approved by the federal Environmental Protection Agency for inclusion on the Toxic Substances Control Act (TSCA) Confidential Inventory or for which the manufacturer or its supplier claim protection under the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code). Confidential business information shall not include any of the following:

(1)An intentionally added ingredient or combination of ingredients that is on a designated list, as defined in subdivision (b).

(2)A fragrance allergen included on Annex III of the European Union (EU) Cosmetics Regulation No. 1223/2009 or subsequent updates to those regulations, when present in the product at a concentration at or above 0.001 percent (10 parts per million).

(b)Designated list means any of the following, including subsequent revisions when adopted by the authoritative body:

(1)Chemicals known to the State of California to cause cancer or reproductive toxicity that are listed pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of Division 20).

(2)Chemicals classified by the EU as carcinogens, mutagens, or reproductive toxicants pursuant to Category 1A or 1B in Annex VI to Regulation (EC) 1272/2008.

(3)Chemicals included in the EU Candidate List of Substances of Very High Concern in accordance with Article 59 of Regulation (EC) 1907/2006 on the basis of Article 57(f) for endocrine disrupting properties.

(4)Chemicals for which a reference dose or reference concentration has been developed based on neurotoxicity in the federal Environmental Protection AgencysIntegrated Risk Information System.

(5)Chemicals that are identified as carcinogenic to humans, likely to be carcinogenic to humans, or as Group A, B1, or B2 carcinogens in the federal Environmental Protection AgencysIntegrated Risk Information System.

(6)Chemicals included in the EU Candidate List of Substances of Very High Concern in accordance with Article 59 of Regulation (EC) 1907/2006 on the basis of Article 57(d), Article 57(e), or Article 57(f) for persistent, bioaccumulative and toxic, or very persistent and very bioaccumulative, properties.

(7)Chemicals that are identified as persistent, bioaccumulative, and inherently toxic to the environment by the Canadian Environmental Protection Act Environmental Registry Domestic Substances List.

(8)Chemicals classified by the EU in Annex VI to Regulation (EC) 1272/2008 as respiratory sensitizer category 1.

(9)Group 1, 2A, or 2B carcinogens identified by the International Agency for Research on Cancer.

(10)Neurotoxicants that are identified in the federal Agency for Toxic Substances and Disease RegistrysToxic Substances Portal, Health Effects of Toxic Substances and Carcinogens, Nervous System.

(11)Persistent bioaccumulative and toxic priority chemicals that are identified by the federal Environmental Protection Agency National Waste Minimization Program.

(12)Reproductive or developmental toxicants identified in Monographs on the Potential Human Reproductive and Developmental Effects published by the federal National Toxicology Program, Office of Health Assessment and Translation.

(13)Chemicals identified by the federal Environmental Protection AgencysToxics Release Inventory as Persistent, Bioaccumulative and Toxic Chemicals that are subject to reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001, et seq.).

(14)The Washington Department of EcologysPersistent, Bioaccumulative, Toxic (PBT) Chemicals identified in Chapter 173-333 of Title 173 of the Washington Administrative Code.

(15)Chemicals that are identified as known to be, or reasonably anticipated to be, human carcinogens by the 13th Report on Carcinogens prepared by the federal National Toxicology Program.

(16)Chemicals for which notification levels, as defined in Section 116455, have been established by the State Department of Public Health or the State Water Resources Control Board.

(17)Chemicals for which primary maximum contaminant levels have been established and adopted under Section 64431 or 64444 of Title 22 of the California Code of Regulations.

(18)Chemicals identified as toxic air contaminants under Section 93000 or 93001 of Title 17 of the California Code of Regulations.

(19)Chemicals that are identified as priority pollutants in the California water quality control plans pursuant to subdivision (c) of Section 303 of the federal Clean Water Act (33 U.S.C. Sec. 1341) and in Section 131.38 of Title 40 of the Code of Federal Regulations, or identified as pollutants by the state or the federal Environmental Protection Agency for one or more water bodies in the state under subdivision (d) of Section 303 of the federal Clean Water Act (33 U.S.C. Sec. 1341) and Section 130.7 of Title 40 of the Code of Federal Regulations.

(20)Chemicals that are identified with noncancer endpoints and listed with an inhalation or oral reference exposure level by the Office of Environmental Health Hazard Assessment pursuant to paragraph (2) of subdivision (b) of Section 44360.

(21)Chemicals identified as priority chemicals by the California Environmental Contaminant Biomonitoring Program pursuant to Section 105449.

(22)Chemicals that are identified on Part A of the list of Chemicals for Priority Action prepared by the Oslo and Paris Conventions for the Protection of the Marine Environment of the North-East Atlantic.

(c)(1)Fragrance ingredient means an intentionally added substance or complex mixture of aroma chemicals, natural essential oils, and other functional ingredient present in a menstrual product for which the sole purpose is to impart an odor or scent, or to counteract odor, and that is any of the following:

(A)Present in a menstrual product at a concentration at or above 0.01 percent (100 parts per million), unless the substance is confidential business information, in which case the manufacturer may identify the ingredient by its common name to protect its confidential identity pursuant to subdivision (b) of Section 111822.2.

(B)Included on a designated list.

(C)A fragrance allergen included in Annex III of the EU Cosmetics Regulation No. 1223/2009 or subsequent updates to that regulation when present in the menstrual product in a concentration at or above 0.001 percent (10 parts per million).

(2)The manufacturer shall determine the total concentration of each fragrance ingredient by calculating the total amount of fragrance ingredient as a percentage of the total weight of the menstrual product.

(d)Ingredient means a fragrance ingredient or other intentionally added substance or combination of substances present in the menstrual product, unless the intentionally added substance or combination of substances is confidential business information, in which case the manufacturer may identify the ingredient by its common name to protect its confidential identity pursuant to subdivision (b) of Section 111822.2.

(e)Intentionally added means a substance that serves a technical or functional purpose in the finished menstrual product.

(f)Manufacturer means either of the following:

(1)A person or entity that manufactures the menstrual product and whose name appears on the product label.

(2)A person or entity for whom the product is manufactured or distributed, as identified on the product label pursuant to the federal Fair Packaging and Labeling Act.

(g)Menstrual product means a product used to collect menstruation and vaginal discharge, including, but not limited to, tampons, pads, sponges, menstruation underwear, disks, and menstrual cups, whether disposable or reusable.

(Added by Stats. 2020, Ch. 272, Sec. 1. (AB 1989) Effective January 1, 2021.)

111822.2.

(a)A package or box containing menstrual products that was manufactured on or after January 1, 2023, for sale or distribution in this state shall have printed on the label a plain and conspicuous list of all ingredients in the product.

(b)The ingredients shall be listed in order of predominance by weight in the menstrual product, except that ingredients present at a weight below one percent may be listed in any order following the other ingredients. Ingredients shall be identified using a standardized nomenclature, including, but not limited to, the International Nomenclature of Cosmetic Ingredients (INCI), the Household Commercial Products AssociationsConsumer Product Ingredient Dictionary (HCPA Dictionary), or common chemical name. If a standardized nomenclature does not otherwise exist for an ingredient, a name established by the Center for Baby and Adult Hygiene Products (BAHP) shall be used by all menstrual product manufacturers. A manufacturer may identify any ingredient that is confidential business information by its common name to protect its confidential identity.

(c)Commencing January 1, 2023, a manufacturer of a menstrual product that is manufactured for sale or distribution in the state shall post on an internet website, in an electronically readable format, the ingredient information that is required to be disclosed on a package or box containing menstrual products pursuant to subdivision (a).

(d)This section does not prohibit a manufacturer from using technologies, including, but not limited to, digital link, to communicate the information required by this section.

(Added by Stats. 2020, Ch. 272, Sec. 1. (AB 1989) Effective January 1, 2021.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=5.&chapter=8.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=8.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Penalties and Remedies [111825 - 111915]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Penalties [111825 - 111835]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

111825.

(a)A person who violates a provision of this part or a regulation adopted pursuant to this part shall, if convicted, be subject to imprisonment for not more than one year in a county jail or a fine of not more than one thousand dollars ($1,000), or both the imprisonment and fine.

(b)Notwithstanding subdivision (a), a person who violates Section 111865 by removing, selling, or disposing of an embargoed food, drug, device, or cosmetic without the permission of an authorized agent of the department or court shall, if convicted, be subject to imprisonment for not more than one year in a county jail or a fine of not more than ten thousand dollars ($10,000), or both the fine and imprisonment.

(c)(1)Notwithstanding subdivision (a), a person who purchases or sells a foreign dangerous drug or medical device, an illegitimate product, as defined in Section 360eee(8) of Title 21 of the United States Code, or a

suspect product, as defined in Section 360eee(21) of Title 21 of the United States Code, that is not approved or otherwise authorized by the United States Food and Drug Administration or that is obtained outside of the licensed supply chain regulated by the United States Food and Drug Administration, California State Board of Pharmacy, or State Department of Public Health is guilty of a misdemeanor and subject to imprisonment for not more than one year in a county jail, a fine of not more than ten thousand dollars ($10,000) per occurrence, or both the imprisonment and fine.

(2)This subdivision does not apply to those individuals determined by the United States Food and Drug Administration to have acted in compliance with the requirements under Part H (commencing with Section 360eee) of Subchapter V of Chapter 9 of Title 21 of the United States Code with regard to the illegitimate or suspect products.

(d)If the violation is committed after a previous conviction under this section that has become final, or if the violation is committed with intent to defraud or mislead, or if the person committed a violation of Section 110625 or 111300 that was intentional or that was intended to cause injury, the person shall be subject to imprisonment for not more than one year in a county jail, imprisonment in the state prison, or a fine of not more than ten thousand dollars ($10,000), or both the imprisonment and fine.

(e)This section does not preclude punishment under any other law that provides for a greater punishment.

(Amended by Stats. 2015, Ch. 303, Sec. 341. (AB 731) Effective January 1, 2016.)

111830.

Upon conviction of any violation of this part, or any regulation adopted pursuant to this part, the court may require, as a condition of probation under Section 1203.1 of the Penal Code, that the defendant pay to the department the reasonable costs incurred by the department in investigating and prosecuting the action, including, but not limited to, the costs of storage and testing. This payment shall be in addition to any other costs that a court is authorized to require a defendant to pay under Section 1203.1 of the Penal Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111835.

One-half of all fines collected by any court or judge for any violation of any provision of this part shall be paid into the State Treasury to the credit of the General Fund.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=8.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Penalties and Remedies [111825 - 111915]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Proceedings [111840 - 111855]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

111840.

The Attorney General, any district attorney, or any city attorney to whom the department reports any violation of this part shall begin appropriate proceedings in the proper court.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111845.

The department is not required to institute proceedings under this part for minor violations of this part, if the department believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111850.

When the state asserts a violation of this part, the state need not negative any exemption or exception from

the requirements of this part in any pleading or in any trial, hearing, or other proceeding. The burden of proof with respect to any exemption or exception rests upon the person claiming its benefit.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111855.

(a)If any person violates any provision of this part, or any regulation adopted pursuant to this part, the department may assess a civil penalty against that person as provided by this section.

(b)The penalty may be in an amount not to exceed one thousand dollars ($1,000) per day unless the penalty is for a violation of Section 111825, in which case the penalty may be in an amount not to exceed ten thousand dollars ($10,000) per day. Each day a violation continues shall be considered a separate violation.

(c)If, after examination of a possible violation and the facts surrounding that possible violation, the department concludes that a violation has occurred, the department may issue a complaint to the person charged with the violation. The complaint shall allege the acts or failures to act that constitute the basis for the violation and the amount of the penalty. The complaint shall be served by personal service or by certified mail and shall inform the person so served of the right to a hearing.

(d)Any person served with a complaint pursuant to subdivision (c) of this section may, within 20 days after service of the complaint, request a hearing by filing with the department a notice of defense. A notice of defense is deemed to have been filed within the 20-day period if it is postmarked within the 20-day period. If a hearing is requested by the person, it shall be conducted within 90 days after the receipt by the department of the notice of defense. If no notice of defense is filed within 20 days after service of the complaint, the department shall issue an order setting the penalty as proposed in the complaint unless the department and the person have entered into a settlement agreement, in which case the department shall issue an order setting the penalty in the amount specified in the settlement agreement. When the person has not filed a notice of defense or where the department and the person have entered into a settlement agreement, the order shall not be subject to review by any court or agency.

(e)Any hearing required under this section shall be conducted pursuant to the procedures specified in Section 100171, except to the extent they are inconsistent with the specific requirements of this section.

(f)Orders setting civil penalties under this section shall become effective and final upon issuance thereof, and payment shall be made within 30 days of issuance. A copy of the order shall be served by personal service or by certified mail upon the person served with the complaint.

(g)Within 30 days after service of a copy of a decision issued by the director after a hearing, any person so served may file with the superior court a petition for writ of mandate for review of the decision. Any person who fails to file the petition within this 30-day period may not challenge the reasonableness or validity of the decision or order of the director in any judicial proceeding brought to enforce the decision or order or for other remedies. Section 1094.5 of the Code of Civil Procedure shall govern any proceedings conducted pursuant to this subdivision. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the director if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to this part or the accrual of any penalties assessed pursuant to this section. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(h)The remedies under this section are in addition to, and do not supersede, or limit, any and all other remedies, civil or criminal.

(Amended by Stats. 2005, Ch. 401, Sec. 6. Effective January 1, 2006.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=8.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Penalties and Remedies [111825 - 111915]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Seizure and Embargo [111860 - 111895]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

111860.

Whenever an authorized agent of the department finds, or has probable cause to believe, that any food, drug, device, or cosmetic is adulterated, misbranded, or falsely advertised within the meaning of this part, or the sale of any food, drug, device, or cosmetic would be in violation of this part, that agent shall affix to the food, drug, device, cosmetic, or component thereof, a tag or other appropriate marking. He or she shall give notice that the food, drug, device, or cosmetic is, or is suspected of being, adulterated, misbranded, falsely advertised, or the sale of which would be in violation of this part and has been embargoed, and that no person shall remove or dispose of the food, drug, device, or cosmetic by sale or otherwise until permission

for removal or disposal is given by an authorized agent of the department or the court.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111865.

It is unlawful for any person to remove, sell, or dispose of a detained or embargoed food, drug, device, or cosmetic without permission of an authorized agent of the department or the court.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111870.

When an authorized agent of the department has found that a food, drug, device, or cosmetic that is embargoed, is not adulterated, misbranded, falsely advertised, or the sale of which is not otherwise in violation of this part, that agent shall remove the tag or other marking.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111875.

When an authorized agent of the department finds, or has reasonable cause to believe, that the embargo will be violated, that agent may remove the embargoed food, drug, device, or cosmetic to a place of safekeeping.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111880.

If a food, drug, device, or cosmetic is alleged to be adulterated, misbranded, falsely advertised, or the sale of which is otherwise in violation of this part, the department shall commence proceedings in the superior court in whose jurisdiction the food, drug, device, or cosmetic is located, for condemnation of the article.

(Amended by Stats. 2003, Ch. 449, Sec. 26. Effective January 1, 2004.)

111885.

If the court finds that an embargoed food, drug, device, or cosmetic is adulterated, misbranded, falsely advertised, or the sale of which is otherwise in violation of this part, the food, drug, device, or cosmetic shall, after entry of the judgment, be destroyed at the expense of the claimant or owner, under the supervision of an authorized agent of the department. All court costs and fees and all reasonable costs incurred by the

department in investigating and prosecuting the action, including, but not limited to, the costs of storage and testing, shall be taxed against the claimant or owner of the food, drug, device, or cosmetic or his or her agent. When the adulteration or misbranding can be corrected by proper labeling or processing of the food, drug, device, or cosmetic, or when the false advertisement can be corrected and when all provisions of this part can be complied with, then, after entry of the judgment and after costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that the food, drug, device, or cosmetic will be brought into compliance, the court may, by order, direct that the food, drug, device, or cosmetic be delivered to the claimant or owner to be brought into compliance by labeling, processing, or other means under the supervision of an authorized agent of the department. The expense of the supervision shall be paid by the claimant or owner. The bond shall be discharged when the court finds that the food, drug, device, or cosmetic is no longer held for sale in violation of this part and that all of the expenses of supervision have been paid.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111890.

Whenever an authorized agent of the department finds any meat, meat products, seafood, poultry, vegetable, fruit, or other food that is unsound, or that contains any filthy, decomposed, or putrid substance, or that may be poisonous or deleterious to health, or otherwise unsafe, that agent may declare the food to be a nuisance and the department, or its authorized agent, shall condemn or destroy it, or render it unsalable as human food by decharacterization.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111895.

Any superior court of this state may condemn any food, drug, device, or cosmetic under provisions of this part. In the absence of an order, the food, drug, device, or cosmetic may be destroyed under the supervision of an authorized agent of the department who has the written consent of the owner, his or her attorney, or authorized representative.

(Amended by Stats. 2003, Ch. 449, Sec. 27. Effective January 1, 2004.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=8.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Penalties and Remedies [111825 - 111915]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Injunctions [111900 - 111915]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

111900.

The Attorney General or any district attorney, on behalf of the department, may bring an action in superior court and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of this part. Any proceeding under the provisions of this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the department shall not be required to allege facts necessary to show, or tending to show, lack of adequate remedy at law, or to show, or tending to show, irreparable damage or loss.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111905.

In addition to the injunctive relief provided in Section 111900, or as a nonpunitive alternative to Section 111915, the court, after finding any person has violated this part, shall award to the department all reasonable costs incurred by the department in investigating and prosecuting the action, including, but not limited to, the costs of storage and testing, as determined by the court. The award shall be paid to the department by the person found by the court to have violated this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111910.

(a) Notwithstanding the provisions of Section 111900 or any other provision of law, any person may bring an action in superior court pursuant to this section and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of Article 7 (commencing with Section 110810) of Chapter 5. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the person shall not be required to allege facts necessary to show, or tending to show, lack of adequate remedy at law, or to show, or tending to show, irreparable damage or loss, or to show, or tending to show, unique or special individual injury or damages.

(b) In addition to the injunctive relief provided in subdivision (a), the court may award to that person, organization, or entity reasonable attorneysfees as determined by the court.

(c) This section shall not be construed to limit or alter the powers of the department and its authorized agents to bring an action to enforce this chapter pursuant to Section 111900 or any other provision of law.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111912.

Notwithstanding any provision of this part, or any other provision of law, the department shall have no affirmative obligation to administer, regulate, or enforce state law relating to organic foods except Section 110850, relating to the registration of persons who certify processors of organic foods, and Section 110875, relating to the registration of processors of organic foods.

(Added by Stats. 1996, Ch. 1023, Sec. 315. Effective September 29, 1996.)

111915.

In addition to injunctive relief, the court may impose as a civil penalty, damages in the maximum sum of one thousand dollars ($1,000) for each day the violation is continued. Damages shall be paid one-half to this state and one-half to the county in which the action is brought if brought by the Attorney General, or entirely to the county if brought by a district attorney.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=5.&chapter=9.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=9.&article=1.

111920.

For purposes of this chapter, the following definitions apply:

(a)Department means the State Department of Public Health.

(b)Established and approved industrial hemp program means a program that meets any applicable requirements set forth in federal law regarding the lawful and safe cultivation of industrial hemp.

(c)Final form product is a product intended for consumer use to be sold at a retail premise.

(d)Hemp manufacturer means either of the following:

(1)A processor extracting cannabinoids from hemp biomass.

(2)A processor purchasing industrial hemp raw extract for the purpose of manufacturing a final form product.

(e)Independent testing laboratory means a laboratory that meets all of the following requirements:

(1)Does not have a direct or indirect interest in the entity for which testing is being done.

(2)Does not have a direct or indirect interest in a facility that cultivates, processes, distributes, dispenses, or sells raw hemp products in this state or in another jurisdiction.

(3)Does not have a license issued pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, other than as a licensed testing laboratory.

(4)Is either of the following:

(A)A testing laboratory licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code, if the licensed testing lab has notified the Department of Cannabis Control.

(B)Accredited by a third-party accrediting body as a competent testing laboratory pursuant to ISO/IEC 17025 of the International Organization for Standardization.

(f)Industrial hemp has the same meaning as in Section 11018.5. Industrial hemp does not include cannabinoids produced through chemical synthesis.

(g)(1)Industrial hemp product or hemp product means a finished product containing industrial hemp that meets all of the following conditions:

(A)Is a cosmetic, food, food additive, dietary supplement, or herb.

(B)(i)Is for human or animal consumption.

(ii)Animal does not include livestock or a food animal as defined in Section 4825.1 of the Business and Professions Code.

(iii)Does not include THC isolate as an ingredient.

(2)Industrial hemp product does not include industrial hemp or a hemp product that has been approved by the United States Food and Drug Administration or a hemp product that includes industrial hemp or hemp that has received Generally Recognized As Safe (GRAS) designation. For purposes of nonfood applications, industrial hemp product does not include a hemp product that contains derivatives, substances, or compounds derived from the seed of industrial hemp.

(h)(1)Manufacture or manufacturing means to compound, blend, extract, infuse, or otherwise make or prepare an industrial hemp product.

(2)Manufacturing includes all aspects of the extraction process, infusion process, and packaging and labeling processes, including processing, preparing, holding, and storing of industrial hemp products.

(3)Manufacturing also includes processing, preparing, holding, or storing hemp components and ingredients.

(4)Manufacturing does not include planting, growing, harvesting, drying, curing, grading, or trimming a plant or part of a plant.

(i)Raw extract or industrial hemp raw extract means extract not intended for consumer use and that contains a THC concentration of not more than an amount determined by the department in regulation.

(j)Raw hemp product means a product that is derived from industrial hemp that is intended to be included in a food, beverage, dietary supplement, or cosmetic.

(k)Retail has the same meaning as in Section 113895.

(l)THC or THC or comparable cannabinoid means any of the following:

(1)Tetrahydrocannabinolic acid.

(2)Any tetrahydrocannabinol, including, but not limited to, Delta-8-tetrahydrocannabinol, Delta-9-tetrahydrocannabinol, and Delta-10-tetrahydrocannabinol, however derived, except that the department may exclude one or more isomers of tetrahydrocannabinol from this definition under subdivision (a) of Section 111921.7.

(3)Any other cannabinoid, except cannabidiol, that the department determines, under subdivision (b) of Section 111921.7, to cause intoxication.

(m)THCA means tetrahydrocannabinolic acid, CAS number 23978-85-0.

(n)Total THC means the sum of THC and THCA. Total THC shall be calculated using the following equation: total THC concentration (mg/g) +/- the measurement of uncertainty, as defined by the United States Department of Agriculture.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=9.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Industrial Hemp [111920 - 111929.4]__

(Chapter 9 added by Stats. 2021, Ch. 576, Sec. 10.)

__ARTICLE 2. General Provisions [111921 - 111921.7]__

(Article 2 added by Stats. 2021, Ch. 576, Sec. 10.)

111921.

An industrial hemp product shall not be distributed or sold in the state except in conformity with all applicable state laws and regulations, including this chapter and any regulations promulgated thereunder, and with documentation that includes both of the following:

(a)A certificate of analysis from an independent testing laboratory that confirms both of the following:

(1)The industrial hemp raw extract, in its final form, does not exceed THC concentration of an amount determined allowable by the department in regulation, or the mass of the industrial hemp extract used in the final form product does not exceed a THC concentration of 0.3 percent.

(2)The industrial hemp product was tested for any hemp derivatives identified on the product label or in associated advertising in accordance with Section 111926.2.

(b)The industrial hemp product was produced from industrial hemp grown in compliance with Division 24 (commencing with Section 81000) of the Food and Agricultural Code if sourced from within California, or licensed in accordance with United States Department of Agriculture (USDA) requirements if sourced from outside the state.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111921.3.

The department may adopt regulations imposing an age requirement for the sale of certain industrial hemp products upon a finding of a threat to public health.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111921.5.

(a)Unless explicitly approved by the federal Food and Drug Administration, industrial hemp shall not be included in products in any of the following categories:

(1)Medical devices.

(2)Prescription drugs.

(3)A product containing nicotine or tobacco.

(4)An alcoholic beverage.

(b)The department may prohibit the inclusion of industrial hemp in other products when it poses a risk to human or animal health through regulation.

(c)Cannabis and cannabis products are not subject to this section.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111921.6.

(a)Manufacture or sale of inhalable products is prohibited. Manufacture of inhalable products for the sole purpose of sale in other states is not prohibited.

(b)This section shall become inoperative and is repealed on the effective date of a measure passed by the Legislature that establishes a tax on inhalable products and states the intent of the Legislature to fulfill the

requirements of this section.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021. Conditionally repealed as prescribed by its own provisions.)

111921.7.

(a)The department may exclude from the definition of THC or Comparable Cannabinoid one or more isomers of tetrahydrocannabinol if the department determines, consistent with subdivisions (c) and (d), that the tetrahydrocannabinol isomer does not cause intoxication.

(b)The department may include any other cannabinoid, in addition to those expressly listed in subdivision (l) of Section 111920, in the definition of THC if the department determines, consistent with subdivisions (c) and (d), that the cannabinoid causes intoxication.

(c)In making a determination under subdivision (a) or (b), the department shall consider scientific evidence concerning the pharmacological effects of the tetrahydrocannabinol or other cannabinoid in humans or other animals, if that evidence is available.

(d)Any initial determination under subdivision (a) or (b) shall not be subject to the administrative rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, but the department, without being subject to those administrative rulemaking requirements, shall establish a process to receive public comment regarding those determinations, and shall publicly post all determinations on its internet website. However, any initial determination shall be confirmed subject to the administrative rulemaking requirements no later than 18 months following the date of the initial determination.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=9.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Industrial Hemp [111920 - 111929.4]__

(Chapter 9 added by Stats. 2021, Ch. 576, Sec. 10.)

__ARTICLE 3. Manufacture [111922 - 111922.3]__

(Article 3 added by Stats. 2021, Ch. 576, Sec. 10.)

111922.

(a)The department, through regulation, may determine maximum serving sizes for hemp-derived cannabinoids, hemp extract, and products derived therefrom, active cannabinoid concentration per serving size, the number of servings per container, and any other requirements for foods and beverages.

(b)Food and beverages shall be prepackaged and shelf stable.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111922.3.

(a)A hemp manufacturer who produces raw extract that will only be used for dietary supplements, foods, beverages, and cosmetics, or a hemp manufacturer who produces industrial hemp products shall comply with this chapter and, to the extent applicable, this part.

(b)A hemp manufacturer who produces processed pet food products shall comply with this chapter and Chapter 10 (commencing with Section 113025) of Part 6 and shall follow good manufacturing practices pursuant to those provisions.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=9.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Industrial Hemp [111920 - 111929.4]__

(Chapter 9 added by Stats. 2021, Ch. 576, Sec. 10.)

__ARTICLE 4. Registration and Fees [111923 - 111923.9]__

(Article 4 added by Stats. 2021, Ch. 576, Sec. 10.)

111923.

The Industrial Hemp Enrollment and Oversight Fund is hereby established in the State Treasury. All money received by the department pursuant to Section 111923.5 shall be deposited into this fund and shall be expended by the department, upon appropriation by the Legislature, to carry out and implement this chapter. Moneys in this fund shall not be redirected for any other purpose.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111923.3.

(a)(1)A hemp manufacturer who produces an industrial hemp product that is a food or beverage shall register with the department pursuant to Article 2 (commencing with Section 110460) of Chapter 5.

(2)Sections 110473 and 110474 shall not apply to dietary supplements and food products that include industrial hemp.

(b)Notwithstanding the voluntary nature of registration provided in Section 111795, a hemp manufacturer who produces an industrial hemp product that is a cosmetic shall register pursuant to Article 4 (commencing with Section 111795) of Chapter 7.

(c)A hemp manufacturer who produces an industrial hemp product that is a processed pet food shall obtain

a license pursuant to Article 2 (commencing with Section 113060) of Chapter 10 of Part 6.

(d)(1)An in-state hemp manufacturer who produces raw hemp extract and who does not produce an industrial hemp product, or an out-of-state hemp manufacturer who produces raw hemp extract with the intent to import that raw hemp extract into this state, shall register with the department pursuant to Article 2 (commencing with Section 110460) of Chapter 5.

(2)Sections 110473 and 110474 shall not apply to hemp manufacturers who register pursuant to this subdivision.

(e)All hemp manufacturers shall notify the department immediately of any change of information in their application for a license of registration.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111923.5.

(a)In addition to licensing and registration requirements and fees required pursuant to other applicable laws, as specified in Section 111923.3, a hemp manufacturer shall obtain an industrial hemp enrollment and oversight authorization from the department. Authorization shall be renewed annually.

(b)The department shall assess an authorization fee and renewal fee to cover the actual reasonable costs of implementing the regulatory program in this chapter. Fees may be set at different amounts for different hemp manufacturer types, including food products, cosmetic products, and pet food products, based on the differing costs associated with regulatory requirements, including, but not limited to, the nature and scope of the authorization activities and oversight, inspection, and enforcement activities.

(c)The fee shall be adjusted pursuant to Section 100425.

(d)Fees may be prorated based upon the date of the renewal or issuance of the authorization.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111923.7.

A hemp manufacturer located outside the state shall reimburse the department for travel and per diem required to perform necessary onsite inspections at the facility to ensure compliance with this chapter and related activities pursuant to this part.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111923.9.

A hemp manufacturer or retailer who is operating in conformance with this part and in good faith compliance with their responsibilities under this chapter may manufacture or sell industrial hemp products or

raw hemp extract without authorization for three months after the effective date of the act that added this chapter.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=9.&article=5.

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Industrial Hemp [111920 - 111929.4]__

(Chapter 9 added by Stats. 2021, Ch. 576, Sec. 10.)

__ARTICLE 5. Recordkeeping [111924- 111924.]__

(Article 5 added by Stats. 2021, Ch. 576, Sec. 10.)

111924.

The department may adopt regulations for recordkeeping standards that shall apply to transporters, manufacturers, and retailers of industrial hemp product and raw extract.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=9.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Industrial Hemp [111920 - 111929.4]__

(Chapter 9 added by Stats. 2021, Ch. 576, Sec. 10.)

__ARTICLE 6. Testing Requirements [111925 - 111925.6]__

(Article 6 added by Stats. 2021, Ch. 576, Sec. 10.)

111925.

(a)A hemp manufacturer shall meet all of the following testing requirements:

(1)Industrial hemp shall be tested in raw extract final form, to allow its use as an ingredient, prior to being incorporated into a product.

(2)Testing shall be completed by an independent testing laboratory.

(3)The manufacturer of the hemp extract in its final form or the final form industrial hemp product shall be able to prove total THC concentration does not exceed 0.3 percent. A manufacturer of raw extract shall be able to prove that the THC concentration meets department requirements set forth pursuant to subdivision (a) of Section 111921.

(b)The department may regulate and restrict the cap on extract and may cap the amount of total THC concentration at the product level based on the product form, volume, number of servings, ratio of cannabinoids to THC in the product, or other factors, as needed.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111925.2.

A raw hemp product shall not be distributed or sold in this state without a certificate of analysis from an independent testing laboratory that confirms all of the following:

(a)The raw hemp product is the product of a batch of industrial hemp that was tested by the independent testing laboratory.

(b)A tested representative sample of the batch of industrial hemp contained a total THC concentration that did not exceed 0.3 percent on a dry-weight basis.

(c)The tested sample of the batch did not contain contaminants that are unsafe for human or animal consumption.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111925.4.

(a)As of the effective date of the act adding this chapter, testing requirements for contaminant levels shall be the same as those for cannabis, as established in paragraph (2) of subdivision (d) of Section 26100 of the Business and Professions Code and regulations adopted pursuant thereto.

(b)The department may adjust the specific contaminant levels for industrial hemp by regulation to protect consumers.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111925.6.

(a)A product batch may be reprocessed or remediated after failed testing, but the batch shall not be distributed or sold unless the reprocessed or remediated batch has been retested and successfully passed all the analyses required pursuant to this article.

(b)If the batch cannot be reprocessed or remediated, the product batch shall be destroyed.

(c)If a failed product batch is not reprocessed or remediated in any way, it shall not be retested. Subsequent certificates of analysis produced without reprocessing or remediation of the failed product batch shall not supersede the initial regulatory compliance testing certificate of analysis.

(d)This section shall not prevent a product batch from being retested when the certificate of analysis was obtained 12 months prior or more.

(e)(1)Reprocessing or remediation shall be an available remedy for failed product batches in all industrial hemp product categories and raw extract.

(2)Remediation is not allowed once a product enters the retail market.

(f)A failed product batch that cannot be reprocessed or remediated shall be destroyed, at the expense of the owner, on video surveillance, as authorized by the department, or under the supervision of an authorized agent of the department.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=9.&article=7.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Industrial Hemp [111920 - 111929.4]__

(Chapter 9 added by Stats. 2021, Ch. 576, Sec. 10.)

__ARTICLE 7. Labeling and Advertisement [111926 - 111926.3]__

(Article 7 added by Stats. 2021, Ch. 576, Sec. 10.)

111926.

(a)A manufacturer, distributor, or seller of an industrial hemp product shall follow packaging, labeling, and advertising laws, including, but not limited to, Chapter 4 (commencing with Section 110290), and federal laws incorporated or applicable in this state, including, but not limited to, Sections 110100, 110340, 110371, 110380, 110382, and 110407 and shall not violate this part.

(b)A hemp manufacturer shall not directly target advertising or marketing to children or to persons who are pregnant or breastfeeding.

(c)Advertising or marketing placed in broadcast, cable, radio, print, or digital communications shall only be displayed where at least 70 percent of the audience is reasonably expected to be 18 years of age or older, as determined by reliable, up-to-date audience composition data.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111926.2.

(a)An industrial hemp product that is a dietary supplement, food, or beverage shall not be distributed or sold in the state without packaging and labeling on the product that includes all of the following information:

(1)A label, scannable barcode, internet website, or quick response (QR) code linked to the certificate of analysis of the final form product batch by an independent testing laboratory that provides all of the following information:

(A)The product name.

(B)The name of the productsmanufacturer, packer, or distributor, and their address and telephone number.

(C)The batch number, which matches the batch number on the product.

(D)The concentration of cannabinoids present in the product batch, including, at minimum, total THC and any marketed cannabinoids or ingredient, as required by the department in regulation.

(E)The levels within the product batch of contaminants, as required in subdivision (c) of Section 111925.2.

(2)The product expiration or best by date, if applicable.

(3)A statement indicating that children or those who are pregnant or breastfeeding should avoid using the product prior to consulting with a health care professional about its safety.

(4)A statement that products containing cannabinoids should be kept out of reach of children.

(5)The following statement, THE FDA HAS NOT EVALUATED THIS PRODUCT FOR SAFETY OR EFFICACY.□

(b)The requirements of this section shall apply to products manufactured 90 days or more after the enactment of this section.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111926.3.

(a)An industrial hemp product that is a cosmetic shall not be distributed or sold in the state without packaging and labeling on the product that includes all of the following information:

(1)A label, scannable barcode, internet website, or quick response (QR) code linked to the certificate of analysis of the final form extract or the final form product batch by an independent testing laboratory that provides all of the following information:

(A)The product name.

(B)The name of the productsmanufacturer, packer, or distributor, and their address and telephone number.

(C)The batch number, which matches the batch number on the product.

(D)The concentration of cannabinoids present in the product batch, including, at minimum, total THC and any marketed cannabinoids.

(E)The levels within the product batch of contaminants, as required in subdivision (c) of Section 111925.2.

(2)The product expiration or best by date, if applicable.

(3)The following statement, THE FDA HAS NOT EVALUATED THIS PRODUCT FOR SAFETY OR EFFICACY.□

(b)The requirements of this section shall apply to products manufactured 90 days or more after the enactment of this section.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=9.&article=8.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Industrial Hemp [111920 - 111929.4]__

(Chapter 9 added by Stats. 2021, Ch. 576, Sec. 10.)

__ARTICLE 8. Enforcement [111927 - 111927.4]__

(Article 8 added by Stats. 2021, Ch. 576, Sec. 10.)

111927.

(a)The department shall have the seizure and embargo powers provided for in Article 3 (commencing with Section 111860) of Chapter 7 with respect to industrial hemp products and raw extract.

(b)The department shall have the ability to recall industrial hemp products or raw extract that it determines to be dangerous to the public in the manner prescribed in Section 110806.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111927.2.

(a)In addition to the inspection authority provided elsewhere in this part, the department may inspect financial data, sales data, and personnel data, as needed to enforce this chapter.

(b)State, local, or law enforcement officials may review paperwork from those handling or transporting industrial hemp plant material, raw extract, intermediary industrial hemp product, or final finished product and take samples at any point along the supply chain to test that sample for verification.

(c)Upon inspection, if the industrial hemp plant material, raw extract, intermediary industrial hemp product, or final finished product does not meet the definition of industrial hemp, the state, local, or law enforcement official shall notify the department.

(d)(1)State, local, and law enforcement officials shall immediately notify the department of an arrest made for a violation over which the department has jurisdiction that involves a person authorized pursuant to this chapter.

(2)The department shall promptly investigate whether grounds exist for suspension or revocation of the authorization or if other actions are warranted under this part.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

111927.4.

Violations of this chapter are subject to the fines and penalties established in Article 1 (commencing with Section 111825) of Chapter 8.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=9.&article=9.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Industrial Hemp [111920 - 111929.4]__

(Chapter 9 added by Stats. 2021, Ch. 576, Sec. 10.)

__ARTICLE 9. Agency Coordination [111928- 111928.]__

(Article 9 added by Stats. 2021, Ch. 576, Sec. 10.)

111928.

(a)The Department of Food and Agriculture and the State Department of Public Health, in consultation with the Department of Cannabis Control, if necessary, shall develop a process to share license, registration,

cultivar, and enforcement information to facilitate compliance and enforcement against unlicensed manufacturers or the sale of industrial hemp that does not meet the requirements of this part.

(b)Communications shared between state agencies and local and law enforcement officials regarding license, registration, cultivar, and enforcement information of manufacturers and retailers of industrial hemp products and raw extract shall not be subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and shall be considered official information pursuant to Section 1040 of the Evidence Code.

(Amended by Stats. 2022, Ch. 28, Sec. 103. (SB 1380) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=5.&chapter=9.&article=10.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 5. SHERMAN FOOD, DRUG, AND COSMETIC LAWS [109875 - 111929.4]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Industrial Hemp [111920 - 111929.4]__

(Chapter 9 added by Stats. 2021, Ch. 576, Sec. 10.)

__ARTICLE 10. Inhalable Products [111929 - 111929.4]__

(Article 10 added by Stats. 2021, Ch. 576, Sec. 10.)

111929.

Inhalable products shall not be sold to consumers under 21 years of age.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021. Conditionally operative as prescribed by Section 111929.4.)

111929.1.

A hemp manufacturer who produces inhalable products shall comply with this chapter and, to the extent applicable, with the provisions of this part.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021. Conditionally operative as prescribed by Section 111929.4.)

111929.2.

An inhalable product shall not contain any of the following:

(a)Flavorings other than natural terpenes.

(b)Polyethylene glycol (PEG).

(c)Vitamin E acetate.

(d)Medium chain triglycerides (MCT oil).

(e)Squalene or squalane.

(f)Any other substance that the department finds to be a danger to public health.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021. Conditionally operative as prescribed by Section 111929.4.)

111929.3.

The department may enter into a memorandum of understanding or other interagency agreement with another state agency to administer and enforce provisions of this chapter as they relate to inhalable products, including, but not limited to, testing provisions, advertising and labeling provisions, and the provisions relating to the manufacture and sale of inhalable products.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021. Conditionally operative as prescribed by Section 111929.4.)

111929.4.

This article shall become operative upon the effective date of a measure passed by the Legislature that establishes a tax on inhalable products and states the intent of the Legislature to fulfill the requirements of this section.

(Added by Stats. 2021, Ch. 576, Sec. 10. (AB 45) Effective October 6, 2021. Note: Operative provisions affect Article 10, commencing with Section 111929.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=6.&chapter=&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=6.&chapter=1.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=6.&chapter=2.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=3.&article=

111940.

(a) If any person violates any provision of Chapter 4 (commencing with Section 111950), Chapter 5 (commencing with Section 112150), Chapter 6 (commencing with Section 112350), Chapter 7 (commencing with Section 112500), Chapter 8 (commencing with Section 112650), Chapter 10 (commencing with Section 113025), or Article 3 (commencing with Section 113250) of Chapter 11 of this part, or Chapter 4 (commencing with Section 108100) of Part 3, or any regulation adopted pursuant to these provisions, the department may assess a civil penalty against that person as provided by this section.

(b) The penalty may be in an amount not to exceed one thousand dollars ($1,000) per day. Each day that a violation continues shall be considered a separate violation.

(c) If, after examination of a possible violation and the facts surrounding that possible violation, the department concludes that a violation has occurred, the department may issue a complaint to the person charged with the violation. The complaint shall allege the acts or failures to act that constitute the basis for the violation and the amount of the penalty. The complaint shall be served by personal service or by certified mail and shall inform the person so served of the right to a hearing.

(d) Any person served with a complaint pursuant to subdivision (c) of this section may, within 20 days after service of the complaint, request a hearing by filing with the department a notice of defense. A notice of defense is deemed to have been filed within the 20-day period if it is postmarked within the 20-day period. If a hearing is requested by the person, it shall be conducted within 90 days after the receipt by the department of the notice of defense. If no notice of defense is filed within 20 days after service of the complaint, the department shall issue an order setting the penalty as proposed in the complaint unless the department and the person have entered into a settlement agreement, in which case the department shall issue an order setting the penalty in the amount specified in the settlement agreement. When the person has not filed a notice of defense or where the department and the person have entered into a settlement agreement, the order shall not be subject to review by any court or agency.

(e) Any hearing required under this section shall be conducted pursuant to the procedures specified in Section 100171, except to the extent they are inconsistent with the specific requirements of this section.

(f) Orders setting civil penalties under this section shall become effective and final upon issuance thereof, and payment shall be made within 30 days of issuance. A copy of the order shall be served by personal service or by certified mail upon the person served with the complaint.

(g) Within 30 days after service of a copy of a decision issued by the director after a hearing, any person so served may file with the superior court a petition for writ of mandate for review of the decision. Any person who fails to file the petition within this 30-day period may not challenge the reasonableness or validity of the decision or order of the director in any judicial proceeding brought to enforce the decision or order or for other remedies. Section 1094.5 of the Code of Civil Procedure shall govern any proceedings conducted pursuant to this subdivision. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the director if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to the Miscellaneous Food, Food Facility, and Hazardous Substances Act, as defined in subdivision (b) of Section 27, or the accrual of any penalties assessed pursuant to this section. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(h) The remedies under this section are in addition to, and do not supersede, or limit, any and all other remedies, civil or criminal.

(Amended by Stats. 1999, Ch. 83, Sec. 115. Effective January 1, 2000.)

111945.

In addition to injunctive relief, the court may impose as a civil penalty, damages up to a maximum amount of one thousand dollars ($1,000) for each day the violation is continued. Damages shall be paid one-half to the State Treasury, and one-half to the county where the action is brought.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=6.&chapter=4.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=4.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Wholesale Food Processors [111950 - 112130]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Food Processing Establishments [111950 - 112055]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

111950.

Food, as used in this chapter, includes all articles used for food, drink, confectionery, or condiment, whether simple or compound, and all substances and ingredients used in the preparation thereof.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111955.

Food processing establishment, as used in this chapter, shall mean any room, building, or place or portion thereof, maintained, used, or operated for the purpose of commercially storing, packaging, making, cooking, mixing, processing, bottling, canning, packing, slaughtering, or otherwise preparing or handling food except restaurants. Food processing establishment shall not include a cottage food operation that is registered or has a permit pursuant to Section 114365 or a microenterprise home kitchen, as defined in Section 113825.

(Amended by Stats. 2018, Ch. 470, Sec. 3. (AB 626) Effective January 1, 2019.)

111960.

Every food processing establishment shall be properly lighted, drained, plumbed, and ventilated; and shall be conducted with strict regard to the influence of lighting, drainage, plumbing, and ventilation upon the health of persons therein employed, and upon the purity and wholesomeness of the food therein produced, prepared for sale, manufactured, packed, stored, kept, handled, sold, or distributed.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111965.

The floors, side walls, ceiling, furniture, receptacles, utensils, implements, and machinery of every food processing establishment shall at no time be kept in an unclean, unhealthful, or unsanitary condition.

Any of the following is deemed to be an unclean, unhealthful, or unsanitary condition:

(a) If food in the process of manufacture, preparation, packing, storing, sale, or distribution is not securely protected from flies, dust, or dirt, and from all other foreign or injurious contamination.

(b) If refuse, dirt, and waste products subject to decomposition and fermentation incident to the manufacture, preparation, packing, storing, selling, and distributing of food, are not removed daily.

(c) If all trucks, trays, boxes, baskets, buckets, other receptacles, chutes, platforms, racks, tables, shelves, knives, saws, cleavers, and all other utensils, receptacles, and machinery used in moving, handling, cutting, chopping, mixing, canning, and all other processes employed in the preparation of food are not thoroughly cleaned daily.

(d) If the clothing of employees is unclean or if they dress, undress, or leave or store their clothing in the place where the food is produced, prepared, manufactured, packed, sold or distributed.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111970.

No live animal or fowl shall be kept or allowed in any establishment where food is prepared, manufactured, kept, stored, offered for sale or sold unless the establishment is exclusively devoted to the slaughter, processing and/or sale of the animal or fowl. This section does not apply to dogs used by uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while those employees are acting within the course and scope of their employment as private patrolmen.

The state department may adopt regulations as it determines are reasonably necessary under this section for the protection of the public health and safety.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111975.

The side walls and ceilings of every bakery, confectionery, hotel, or restaurant kitchen shall be well plastered or ceiled with metal or lumber, or shall be oil painted or kept well lime washed, or otherwise kept in a good sanitary condition.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111980.

All interior woodwork of every bakery, confectionery, hotel, or restaurant kitchen shall be kept well oiled or painted with oil paint, and shall be kept washed clean with soap and water, or otherwise kept in a good sanitary condition.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111985.

Every building, room, basement, or cellar occupied or used for the preparation, manufacture, packing, storage, sale, or distribution of food shall have an impermeable floor, made of cement, or of tile laid in cement, brick, wood, or other suitable, nonabsorbent material that can be flushed and washed clean with water.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111990.

Where practicable, the doors, windows, and other openings of every food producing or distributing establishment shall be fitted with stationary or self-closing screen doors and wire window screens, of not coarser than 14 mesh wire gauze.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

111995.

Every building, room, basement, or cellar occupied or used for the production, preparation, manufacture, packing, canning, sale, or distribution of food shall have convenient toilet or toilet-rooms, separate and apart from the room or rooms where the process of production, preparation, manufacture, packing, canning, selling, or distributing is conducted.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112000.

The floors of toilet-rooms shall be made of cement, or of tile laid in cement, wood, brick, or other nonabsorbent material, and shall be washed and scoured daily.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112005.

The toilets shall be furnished with separate ventilating pipes or flues discharging either into soil pipes or on the outside of the building in which they are situated.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112010.

Lavatories and washrooms shall be adjacent to toilet-rooms and shall be supplied with soap, running water, and towels, and shall be maintained in a clean and sanitary condition.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112015.

Employees and others who handle the material from which food is prepared or the finished product shall before beginning work and immediately after visiting a toilet or lavatory, wash their hands and arms thoroughly in clean water.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112020.

No employee or other person shall sit or lie upon any table, bench, trough, shelf, or other equipment that is intended for use in connection with any food manufacturing process.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112025.

No employee or other person shall expectorate or discharge any substance from his or her nose or mouth on the floor or interior side wall of any building, room, basement, or cellar where the production, preparation, manufacture, packing, storing, or sale of any food is conducted.

(Amended by Stats. 2006, Ch. 538, Sec. 426. Effective January 1, 2007.)

112030.

No person shall, nor shall any person be allowed to, reside or sleep in any room of a bake-shop, public dining room, hotel or restaurant kitchen, confectionery, or other place where food is prepared, produced, manufactured, served, or sold.

(Amended by Stats. 2006, Ch. 538, Sec. 427. Effective January 1, 2007.)

112035.

No employer shall require or permit any person to work, in a food processing establishment or vehicle used

for the production, preparation, manufacture, sale, or transportation of food if the person is infected with any contagious, infectious, or communicable disease that can be transmitted by the food involved.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112040.

(a) Prior to January 1, 2001, the department, its inspectors and agents, and all local health officers and inspectors may at all times enter any building, room, basement, cellar, or other place occupied or used, or suspected of being occupied or used, for the production, preparation, manufacture, storage, sale, or distribution of food, and inspect the premises and all utensils, implements, receptacles, fixtures, furniture, and machinery used.

(b) Commencing January 1, 2001, only the department, its inspectors and agents, and the local health officers and inspectors of Los Angeles, San Bernardino, and Orange Counties and the City of Vernon may exercise the authority to enter and inspect granted in subdivision (a) except as provided in subdivision (c).

(c) Commencing January 1, 2001, the local health officer or inspector of each city or county, or city and county may exercise the authority to enter and inspect granted in subdivision (a) for the sole purpose of inspecting a food processing establishment that only holds or warehouses processed food, provided that:

(1) The warehouse does not manufacture or pack processed food.

(2) The warehouse does not hold fresh seafood, frozen seafood held in bulk for further processing, or fresh or frozen raw shellfish.

(3) The warehouse is not operated as an integral part of a food processing facility required to be registered pursuant to Section 110460.

(4) The warehouse facilities are located entirely within the area under the jurisdiction of the local health department.

(5) The warehouse does not salvage food as the primary business.

(d) All inspections of food processing establishments conducted by local health departments shall be reported to the department within 60 days. The department shall consider this information when scheduling the departmentsinspection activities.

(Amended by Stats. 2000, Ch. 135, Sec. 104. Effective January 1, 2001.)

112045.

If upon inspection any building, room, basement, cellar, or other place, or any vehicle, employer, employee, or other person is found to be in violation of or violating any of the provisions of this article, or if the production, preparation, manufacture, packing, storing, sale, or distribution of food is being conducted in a manner detrimental to the health of the employees or to the character or quality of the food being produced, prepared, manufactured, packed, stored, sold, distributed, or conveyed, the person making the

inspection shall at once make a written report of the violation to the district attorney of the county, who shall prosecute the violator. He or she shall make a like report to the department. The department, from time to time, may publish the reports in its monthly bulletin.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112050.

Every building, room, basement, cellar, or other place or thing kept, maintained, or operated in violation of this article, and all food produced, prepared, manufactured, packed, stored, kept, sold, distributed, or transported in violation of this article, is a public nuisance dangerous to health. Any such nuisance may be abated or enjoined in an action brought for that purpose by the local or state department or may be summarily abated in the manner provided by law for the summary abatement of public nuisances dangerous to health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112055.

The sections contained in this article are to be known as the California Food Sanitation Act.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=4.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Wholesale Food Processors [111950 - 112130]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Food Containers [112060 - 112120]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

112060.

Bottle, as employed in this article, includes any bottle or any glass or crockery food container, other than one not previously used, that is used or sold for use in the manufacture, production, preparation, compounding, blending, or packing for sale of any food, drug, or liquor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112065.

This article is not applicable to containers subject to Division 15 (commencing with Section 32501) of the Food and Agricultural Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112070.

The provisions of this article in reference to sterilization procedures and methods in cleaning bottles, as in this article defined, shall apply to all persons cleaning previously used bottles who are engaged in the business of packaging food, drugs, or liquors and to all persons maintaining a place of business for the cleaning and resale of the bottles sold for and to be used for packing a food, drug or liquor.

The sale for use of any such bottle by any person not licensed by the board as herein provided, when the use intended by purchaser is to package for sale a food, drug or liquor produced or packaged by the purchaser is unlawful, except in the case of a sale to a purchaser for export out of this state or who is engaged in the business of packaging food, drugs, or liquors at a fixed place of business in this state and is equipped to cleanse and sterilize bottles as in this article provided.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112075.

The department shall issue a license to an applicant therefor upon the receipt of the evidence as the department may require showing that the applicant is properly equipped for the cleansing and sterilization of bottles as provided in this article, or at its option upon the recommendation of a city, county or city and county health officer. This license is nontransferable.

The license provisions of this article shall not apply to food, drug or liquor manufacturers or packers who buy bottles for their own use and purposes, but do apply to any other person, firm or corporation engaged in the business of cleaning, sterilizing and reselling bottles to manufacturers or packers except as hereinabove provided.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112080.

An establishment is deemed properly equipped for the cleansing and sterilization of bottles if it maintains and employs the following standards:

(a) Cleanses and sterilizes bottles by first soaking them in a hot caustic solution of not less than 120 degrees F. for a period of not less than five minutes which temperature shall be indicated by a thermometer. The solution shall contain not less than 2 1/2 percent of caustic soda expressed in terms of sodium hydrates.

(b) Changes the cleansing solution frequently so as to prevent its becoming foul and insanitary.

(c) Thoroughly rinses the bottles after the soaking.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112085.

All bottles shall be cleansed and sterilized as specified in Section 112080, and shall be kept free from rust or contamination.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112090.

A licensee shall issue a certificate of sterilization with each shipment of bottles to a purchaser, stating that the licensee has cleansed and sterilized the bottles in the manner required by this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112095.

If any licensee fails to maintain his or her equipment and to cleanse or sterilize any bottle in the manner required by this article, and issues a certificate knowing its contents to be untrue the state department may revoke or suspend his or her license after a hearing. The proceedings for the revocation or suspension of a license shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted therein.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112100.

Any purchaser of a bottle who shows a certificate of sterilization signed by a licensed seller thereof complies sufficiently with this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112105.

Nothing in this article prohibits the sale for use of any uncleansed or unsterilized bottle to a purchaser who is licensed under this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112110.

Food containers manufactured from second-hand tin plate and intended for the packing of hermetically sealed canned food products intended to be used for human consumption shall not be so used unless the tin plate from which they are manufactured has, prior to their manufacture, been cleansed and sterilized by thorough immersion in boiling water, and then dried on hot rolls or by the use of heated air.

The board may inspect any place where the containers are manufactured for the purpose of enforcing this section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112115.

This article, with the exception of any licensing provisions, may be enforced by any local enforcement division, which shall be construed to mean the local health department, headed by the duly appointed, qualified and acting health officer of any county, city or city and county. The territory may include one or more counties, cities, or cities and counties.

(Amended by Stats. 1999, Ch. 915, Sec. 20. Effective January 1, 2000.)

112120.

A nonalcoholic soft drink, whether or not carbonated, shall be deemed to be misbranded if in a bottle or other closed container unless the name and address of the bottler or distributor thereof appears on the container by being molded, printed, or otherwise labeled thereon, or the name and address is shown on the crown or cap of the container if the container is a permanently and distinctively branded bottle. The beverage shall not be deemed to be misbranded under this section if in a bottle or other closed container on which is molded, printed or otherwise labeled the product name, trademark or brand of the distributor or bottler thereof and if a sworn affidavit has been filed with the department stating the name, trademark, or brand of the beverage, a full and complete description of each territory or area of the state in which the beverage is to be distributed, and the names and addresses of the persons as are responsible for the Miscellaneous Food, Food Facility, and Hazardous Substances Act (Section 27) in the bottling and distribution of the beverage in each territory or area of the state in which the beverage is distributed. Nothing in this section shall be deemed to exempt any bottler or distributor of a beverage or beverages from any provision of Part 5 (commencing with Section 109875).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=4.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Wholesale Food Processors [111950 - 112130]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Closed Containers [112125- 112125.]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

112125.

Except when sold in bulk for manufacturing purposes, it is unlawful to sell or otherwise dispose of at retail jams, jellies, preserves, marmalades, peanut butter, horse-radish, mayonnaise, or salad dressings other than in closed containers approved by the department, when the department determines that any other method of sale or disposition of any such food or food product is conducive to its contamination by flies, insects, dust, dirt, or foreign material of any kind whatsoever.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=4.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Wholesale Food Processors [111950 - 112130]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Violations [112130- 112130.]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

112130.

Any person, whether as principal or agent, employer or employee, who violates any of the provisions of this chapter is guilty of a misdemeanor punishable upon conviction by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment. Each daysviolation is a separate and distinct offense.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=6.&chapter=5.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=5.&article=1.

112150.

The Legislature finds and declares that the public health interest requires that the people of this state be protected from adulterated shellfish grown and harvested in state waters for sale to the public and for introduction into interstate commerce. This protection is a matter of statewide concern and the purpose of this chapter is to establish uniform sanitation standards for the growing waters, harvesting, shucking, packing, repacking, and handling of shellfish and shellstock intended for human consumption.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112155.

Unless the context otherwise requires, the definitions set forth in this article govern the construction of this chapter.

(a) Shellfish means native or nonnative bivalve mollusks, which include oysters, rock scallops, clams, and mussels, either fresh or frozen, and either shucked or in the shell.

(b) Shellstock means shellfish which remain in their shells.

(c) Growing area means any offshore ocean, coastal estuarine, or freshwater area that may be classified by the department for natural shellfish growth or artificial shellfish propagation and includes open seawater systems.

(d) Approved area means a shellfish-growing area not adversely affected by sewage or other wastes.

(e) Conditionally approved area means a shellfish-growing area that may be occasionally affected by sewage or other wastes.

(f) Prohibited area means a shellfish-growing area not certified because of its proximity to a waste discharge or because the area is influenced by other detrimental environmental factors.

(g) Restricted area means a shellfish-growing area subjected to a limited degree of pollution which makes it unsafe to harvest shellfish for direct marketing but where harvesting for relaying or depuration may be permitted.

(h) Other wastes means wastes, such as, but not limited to, animal, industrial, radiological, and agricultural wastes which would render shellfish unsafe or unfit for human consumption.

(i) Department means the State Department of Health Services.

(j) Director means the State Director of Health Services.

(k) Person includes any individual, partnership, corporation, limited liability company, and association.

(l) Closed area means an area that the shellfish taken therefrom have been declared to be unsafe or unfit for human consumption.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=5.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Sanitary Control of Shellfish [112150 - 112280]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. General Requirements [112160 - 112230]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

112160.

(a) The director may declare any area within the jurisdiction of this state to be a closed area if it is determined that shellfish taken from the growing area may be unsafe or unfit for human consumption.

(b) The director shall close to the taking of shellfish for a period deemed advisable any waters to which shellfish from a closed area may have been transferred.

(c) The director shall establish by order the areas that he or she declares unsafe or unfit for shellfish harvesting and shall modify or revoke the order in accordance with the results of chemical, toxicologic, and bacteriological surveys conducted by the department. The director shall file the order in the office of the department, and shall furnish copies of the orders describing closed areas to the Department of Fish and Game, the State Water Resources Control Board, and to any interested person without charge.

(d) Prior to the directorsdeclaration that shellfish-growing waters may be unsafe and shellfish grown in these waters may not be taken for human consumption, the department shall do all of the following:

(1) Give at least 20 days™ notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subject and issues involved, and the time when, the place where, and the manner in which, interested persons may present their views thereon.

(2) Afford all interested persons reasonable opportunity to submit data, views, or arguments orally or in writing. The department shall consider fully all written and oral submissions respecting the proposed action.

(e) If the department finds that the shellfish harvested from an area is unsafe or unfit for human consumption and states in writing its reasons for that finding, it may proceed without prior notice or hearing to take emergency action. The action may be effective for a period of not longer than 30 days, during which time the department shall initiate the procedures contained in subdivision (d).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112165.

(a) The department shall adopt regulations regarding all of the following:

(1) The classification and minimum requirements for growing and harvesting areas, for relaying and depuration procedures, and for aquaculture facilities that are used for the cultivation and production of shellfish.

(2) Specifications for plant facilities and for the harvesting, transporting, storing, handling, packing, and repacking of shellfish.

(3) Fees.

(b) The department shall adopt regulations by January 1, 1999, to interpret and enforce the provisions of this chapter. The regulations shall be adopted by the department in the manner prescribed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The regulations shall conform, so far as possible, to the standards or procedures established in the guidelines adopted by the National Shellfish Sanitation Program that pertain to the evaluation of shellfish-growing areas and handling facilities, but shall provide for regulating other wastes or contaminants not covered by the guidelines adopted by the National Shellfish Sanitation Program that would render shellfish unsafe or unfit for human consumption. If the department adopts standards or procedures that exceed standards or procedures established in the guidelines adopted by the National Shellfish Sanitation Program, the department shall provide a written finding describing the public health need for those standards and procedures in the rulemaking process.

(Amended by Stats. 1997, Ch. 236, Sec. 1. Effective January 1, 1998.)

112170.

(a) The director, or the directorsduly authorized agent, shall conduct sanitary surveys of any shellfish growing water as deemed necessary to assure each of the following:

(1) Any shellfish grown in the water is safe as an article of food and meets bacteriological, chemical, and toxicologic standards as prescribed by regulation.

(2) Any shellfish grown in prohibited or restricted areas is either relayed to or depurated in approved water for a period of time as necessary to meet bacteriological, chemical, and toxicologic standards, as prescribed by regulation.

(3) For good cause shown, a shellfish grower or harvester may request the resurvey of restricted or unapproved growing water, and the director, or the directorsduly authorized agent, shall conduct the sanitary resurvey.

(b) If it is found that the shellfish and growing water are in compliance with the regulations promulgated under this chapter, the director shall issue a certificate attesting to the compliance to the lawful grower or harvester of the shellfish.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112175.

It is unlawful for any person to engage in commercial shellfish cultivation or the harvesting for human consumption of shellfish from naturally occurring populations, except as provided for in Sections 5670, 7850, 8500, and 15101 of the Fish and Game Code and in regulations adopted by the department pursuant to this chapter, with regard to growing areas, relaying and depuration procedures, and aquaculture facilities.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112180.

The director, or the directorsduly authorized agent, may, at any reasonable hour of the day, do any of the following:

(a) Enter and inspect any facility or area used for cultivation, production, depuration, processing, transporting, or sale of shellfish.

(b) Obtain samples of water and shellfish. Upon request, split samples shall be given to the person from whose property the samples were obtained.

(c) Inspect all shellfish plants and the practices followed in the handling and packaging of shellfish. If it is found that the operator is complying with the regulations promulgated under this chapter, the director shall issue a certificate attesting to the compliance.

(d) Cause a reinspection to be made at any time and may revoke the certificate upon refusal of the operator to permit an inspection or free access at all reasonable hours, or upon a finding that the plant is not being operated in compliance with the regulations promulgated under this chapter.

(e) No revocation, suspension, annulment, or withdrawal of any certificate is lawful unless, prior to the institution of department proceedings, the department gave notice by mail, to the certificate holder, of facts or conduct that warrants the intended action, and the certificate holder was given an opportunity to show compliance with all lawful requirements for the retention of the certificate, pursuant to Section 112265. This section does not preclude the department from taking immediate action in accordance with subdivision (e) of Section 112160.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112185.

It is unlawful for any person to take, sell, offer, or hold for sale any shellfish from an area declared by the director to be unsuitable for harvesting for human consumption, without complying with all regulations adopted by the department to ensure that the shellfish have been purified.

The intent of this section is not to prohibit the transplanting of shellfish from restricted or prohibited growing areas, if permission for the transplanting is first obtained from the Department of Fish and Game pursuant to Section 237 of Title 14 of the California Code of Regulations.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112190.

It is unlawful for any person to sell, offer, or hold for sale any shellstock or shucked shellfish that has not been harvested from a growing area which has been certified by the department or that has not been purified in accordance with Section 112170.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112195.

It is unlawful for any person to sell, offer, or hold for sale any shellstock or shucked shellfish that has not been handled and packaged in accordance with specifications under this chapter, and regulations adopted pursuant to this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112200.

It is unlawful for any person to sell, offer, or hold for sale any shellfish where the facilities for packaging and handling of the shellfish do not comply with regulations adopted by the department under this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112205.

It is unlawful for any person to operate a shellfish plant engaged in the handling and packaging of shellfish, either shucked or in the shell, without a valid certificate issued by the department for each plant or place of business.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112210.

It is unlawful for any person to sell, offer, or hold for sale any shellstock or shucked shellfish without a label that bears a valid certificate number and is in compliance with Chapter 4 (commencing with Section 110290)

of Part 5.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112215.

It is unlawful for any person to sell, offer, or hold for sale any shellfish not in a container bearing a valid certificate number from a state or a nation whose shellfish certification program conforms to the then current Manual of Recommended Practice for Sanitary Control of the Shellfish Industry, issued by the United States Public Health Service.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112220.

The provisions of Sections 112210 and 112215, with respect to labeling requirements, shall not apply to any of the following:

(a) Shellstock held in dry storage under refrigerated conditions not for shipment or sale.

(b) Shellstock sold on premises when the sale is the ultimate point of sale.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112225.

Any shellfish that are held or offered for sale at retail or for human consumption, and that have not been handled and packaged in accordance with the specifications fixed by the department under this chapter, or that are not in a certified container as provided in Sections 112210 and 112215, or that are otherwise found by the director to be unfit for human consumption, are subject to immediate condemnation, seizure, and confiscation by the director or the directorsduly authorized agent. The shellfish shall be held, destroyed, or otherwise disposed of as directed by the director.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112230.

The director may suspend or revoke any certificate issued pursuant to this chapter for any violation of this chapter or the regulations adopted pursuant thereto.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=5.&article=3.

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Sanitary Control of Shellfish [112150 - 112280]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Fees [112235- 112235.]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

112235.

The department shall charge and collect a fee for each certificate issued. The amount of the fee shall be established by regulation.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=5.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Sanitary Control of Shellfish [112150 - 112280]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Penalties [112240 - 112245]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

112240.

Any person who willfully violates any provision of this chapter, or any regulation adopted pursuant to this chapter, is guilty of a misdemeanor and shall, if convicted, be subject to imprisonment for not more than six months in the county jail or a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or both. If the violation is committed after a previous conviction under this section that has become final, or if the violation is committed with the intent to defraud or mislead, the person shall be subject to imprisonment for not more than one year in the county jail or a fine of not more than one thousand dollars ($1,000), or both.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112245.

One-half of all fines collected by any court or judge for any violation of any provision of this chapter shall be paid into the State Treasury to the credit of the General Fund.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=5.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Sanitary Control of Shellfish [112150 - 112280]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 5. Proceedings [112250 - 112280]__

(Article 5 added by Stats. 1995, Ch. 415, Sec. 6.)

112250.

(a) The Attorney General, any district attorney, or any city attorney to whom the department reports any violation of this chapter shall begin appropriate proceedings in the proper court.

(b) Before any alleged violation of this chapter is reported to the Attorney General, a district attorney, or a city attorney for the institution of a criminal proceeding, the person against whom this proceeding is contemplated may be given appropriate notice and an opportunity to show cause why he or she should not be prosecuted and to present additional facts that may mitigate the action. The showing may be presented either orally or in writing, in person, or by attorney.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112255.

The department is not required to institute proceedings under this chapter for minor violations of this chapter, if the department believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112260.

When the state asserts a violation of this chapter, the state need not negate any exemption or exception from the requirements of this chapter in any pleading, or in any trial, hearing, or other proceeding. The burden of proof with respect to any exemption or exception rests upon the person claiming its benefits.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112265.

(a) Except to the extent otherwise provided in Section 112160 and subdivision (e) of Section 112180, or when a violation is asserted pursuant to Section 112240, when the department asserts a violation of this chapter, all affected persons shall be afforded an opportunity for an administrative hearing after 20 days notice.

(b) The notice shall include all of the following:

(1) A statement of the time, place, and nature of the hearing.

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(3) A reference to the particular sections of the statutes, regulations, and rules involved.

(4) A short and plain statement of the matters asserted.

(c) Opportunity shall be afforded all persons to respond and present evidence on the issues involved.

(d) Hearings authorized or required by this chapter shall be conducted by the department or any agent as the department may designate for that purpose.

(e) Oral proceedings or any part thereof shall be transcribed at the request of any person. The person requesting the transcription shall bear the cost of the transcript.

(f) Final decisions or orders adverse to any person shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, that shall be separately stated. Persons shall be notified either personally or by mail of any decision or order.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112270.

In lieu of administrative proceedings pursuant to Section 112265, the department may proceed under Section 119940.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112275.

A person who has exhausted all administrative remedies available within the department and who is aggrieved by a final decision or order is entitled to judicial review pursuant to this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112280.

All regulations applicable to this chapter, and currently in effect at the time this chapter takes effect, shall remain in effect until the department adopts regulations pursuant to Section 112165.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=6.&chapter=6.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=6.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Cold Storage [112350 - 112495]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Definitions and General Provisions [112350 - 112380]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

112350.

Unless the context otherwise requires, the definitions set forth in this article govern the construction of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112355.

Cold storage means a place artificially refrigerated to a temperature above zero of 45 degrees Fahrenheit or below. It does not include any place where food that is privately owned and not held for resale is stored inside of lockers or compartments that are not more than 25 cubic feet in capacity, and which lockers or compartments are leased to private individuals for their exclusive use.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112360.

Cold stored means the keeping of articles of food in cold storage for a period exceeding ten days.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112365.

Article of food means any article of food used for human consumption. It includes fresh meat and fresh meat products (except in process of manufacture), fresh and dried fruit or vegetables, fish, shellfish, game, poultry, eggs, butter, and cheese, but not malt beverages.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112370.

Storer means a person who offers articles of food for cold storage.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112375.

This chapter does not apply to any cold storage or refrigerating plant or warehouse that is maintained or operated by a restaurant, hotel, exclusively wholesale or retail establishment, cannery, winery, brewery, or other food processing place that is used for the storage of food and which place is owned by or is for the exclusive use of the occupant owner or maintainer thereof, and said food is not stored for other persons.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112380.

The term locker plant as used in this chapter shall mean any building or portion thereof that is artificially cooled to or below a temperature above zero of 45 degrees Fahrenheit and used exclusively for the storage of any article of food for the sole use of the storer, and that article or articles of food are not for resale.

If any article or articles of food stored in locker plants are for resale and/or to be used for manufacturing purposes, said locker plant is subject to the license provisions of this chapter and all sections thereof.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=6.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Cold Storage [112350 - 112495]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Licenses [112385 - 112410]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

112385.

Any person desiring to operate a cold storage or refrigerating warehouse for storing articles of food shall make application in writing to the board for a license for that purpose, stating the location of his or her plant or plants. For the purpose of securing the proper enforcement of this chapter, those buildings or structures that are served by a central refrigerating plant shall be considered as one cold storage or refrigerating warehouse or plant, and subject to one license.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112390.

On receipt of the application the board shall examine into the sanitary condition of the plant.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112395.

If it finds the plant to be in a sanitary condition and otherwise properly equipped for the business of cold storage, the state department, upon the payment of the license fee specified in this chapter, shall issue a license authorizing the applicant to operate a cold storage or refrigerating warehouse for a period of not more than one year.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112400.

No person, firm, or corporation shall engage in the operation of a cold storage or refrigerating warehouse for storing articles of food without having obtained from the state department a license for each such place of business. This license is nontransferable.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112405.

Each application for a license under this chapter shall be accompanied by a fee of fifty dollars ($50). Each license issued under this chapter shall expire on December 31st of each calendar year. License fees of fifty dollars ($50) are due on the first of January of each year. The fee for licenses initially issued after January 1st of each year shall not be prorated.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112410.

The director shall keep a full and correct account of all fees received under this chapter. At least once each month he or she shall deposit all the fees with the Treasurer for credit to the General Fund.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=6.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Cold Storage [112350 - 112495]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Licensee Regulations [112415 - 112430]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

112415.

If any place or portion of a place for which a license is issued is deemed by the department to be in an unsanitary condition, the department shall give written notification to the licensee of the condition, stating in particular the matters found to be unsanitary.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112420.

Upon failure of the licensee to correct the situation within a designated time the department shall prohibit the licensee from using the place or specified portion until such time as it is restored to a sanitary condition.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112425.

Every licensee shall keep an accurate record of receipts and withdrawals of articles of food, and the department shall have free access to these records at any time.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112430.

When requested by the department or an agent thereof, any licensee shall within a reasonable time submit a report setting forth in itemized particulars the quantity of food products held by him or her in cold storage.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=6.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Cold Storage [112350 - 112495]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. General Regulations [112435 - 112490]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

112435.

No storer shall place in cold storage any article of food whose keeping qualities have been impaired by disease, taint, or deterioration, or that has not been slaughtered, handled, and prepared for storage in accordance with food laws pertaining thereto and the regulations as may be prescribed by the state department for the sanitary preparation of food products for cold storage.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112440.

Any article of food intended for use other than human consumption shall, before being cold stored, be marked by the owner in accordance with forms prescribed by the department in a way as to indicate plainly that the article is not to be sold for human food.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112445.

Each separate lot of food, when deposited in cold storage, shall be marked plainly with the lot number covering that particular lot of articles of food indicated and recorded on the records maintained on the premises.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112450.

The department shall inspect and supervise all cold storage or refrigerating warehouses, and make the inspection of the entry of articles of food therein as it deems necessary to secure the proper enforcement of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112455.

The department and its duly authorized employees shall be permitted access to cold storage or refrigerating warehouses at all reasonable times for purposes of inspection and enforcing this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112460.

The department may also appoint at the salary as it may designate, any person it deems qualified to make any inspection required by this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112465.

No person shall keep any article of food in cold storage for more than twelve calendar months, except with the consent of the board. Thirty days prior to the expiration of the 12-month period, the licensee shall send notice to the board advising them of this fact. Duplicate notice shall be sent to the owner of the food.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112470.

The department shall, upon application, grant permission to extend the period of storage beyond 12 months for a particular consignment of goods, if the goods in question are found, upon examination, to be in proper condition for further storage at the end of 12 months. The length of time for which further storage is allowed shall be specified in the order granting the permission.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112475.

For the purpose of determining whether or not food locker plants come under the provisions of this chapter, the operators or owners of all such frozen food locker plants shall make available, upon request to any agent of the department, the names and addresses of any and all persons, firms, or corporations renting, leasing, or occupying the lockers or compartments.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112480.

Unless otherwise permitted by this article, it is unlawful to represent or advertise as fresh goods articles of food that have been placed in cold storage. This section shall not apply to vegetables, fruit or other foods sold as fresh frozen and so labeled, when stored at or below zero degrees Fahrenheit, or to eggs held in cold storage for 30 days or less.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112485.

It is unlawful to return to cold storage any article of food that has once been released from such storage and placed on the market for sale to consumers. However, nothing in this section prevents the transfer of goods from one cold storage or refrigerating warehouse to another, if the transfer is not made for the purpose of evading any provision of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112490.

The department may make regulations to secure the proper enforcement of this chapter, including regulations with respect to the sanitary preparation of articles of food for cold storage, the use of marks, tags, or labels, and the display of signs.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=6.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Cold Storage [112350 - 112495]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 5. Violations [112495- 112495.]__

(Article 5 added by Stats. 1995, Ch. 415, Sec. 6.)

112495.

Any person violating any of the provisions of this chapter, or any rule or regulation issued pursuant to this chapter, shall upon conviction be punished for the first offense by a fine not exceeding one thousand dollars ($1,000) or by imprisonment for not more than 90 days, or by both. The punishment for a second offense is the same, except that the maximum fine is two thousand dollars ($2,000).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=7.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Frozen Foods [112500 - 112635]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 6.)

112500.

When used in this chapter, unless the context otherwise requires:

(a) Food means any article used by man for food, drink, confectionery or condiment, or which enters into the composition thereof, whether simple, blended, mixed or compounded.

(b) Locker means the individual sections or compartments of a capacity of not to exceed 25 cubic feet in the locker room of a frozen food locker plant.

(c) Frozen food locker plant means an establishment in which space in the individual lockers is rented, leased, or loaned to individuals, firms, or corporations, for the storage of food for their own use and which is artificially cooled for the purpose of preserving the food. The term includes service locker plant, storage

locker plant, and branch locker plant.

(d) Service locker plant means a frozen food locker plant in which patrons™ foods are prepared or packaged by the operator of the plant before the foods are placed in the lockers for storage.

(e) Storage locker plant means a frozen food locker plant, the operator of which does not prepare or package the foods of patrons.

(f) Branch locker plant means a frozen food locker plant in any location or establishment artificially cooled in which space in individual lockers is rented, leased, or loaned to individuals, firms, or corporations for the storage of food for their own use after preparation for storage in a central or parent plant.

(g) Frozen means food frozen in a room or compartment in which the temperature is plus 5 degrees Fahrenheit or lower.

(h) Temperature means the average air temperature in refrigerated rooms.

(i) Department means the State Department of Health Services.

(j) Operator means any person, firm or corporation operating or maintaining a frozen food locker plant.

(k) Processor means an establishment in which, for compensation directly or indirectly, meat or meat products are cut, wrapped, or frozen to be delivered for frozen storage by the ultimate consumer.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112505.

No person hereafter shall engage within this State in the business of operating any frozen food locker plant without having applied for and obtained from the director of the department a license for each such place of business. Applications for the license shall be made in writing to the director of the department, on the forms and with the pertinent information as he or she may deem necessary. These licenses shall be granted promptly as a matter of right unless conditions exist that are grounds for denial of a license, as hereinafter set forth.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112510.

The annual license fee for a frozen food locker plant shall be twenty-five dollars ($25). Such fees shall be paid into the General Fund.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112515.

Upon receipt of the application for a license accompanied by the required fee, the department shall promptly inspect the plant to be licensed and shall issue a license; provided, the plant, its equipment, facilities and its surrounding premises, and its operations comply with this chapter and regulations pertaining to this chapter. The department shall inspect all frozen food locker plants licensed under this chapter, whenever the department considers the inspection necessary. The department and its representatives shall have access to the plants at all reasonable times for the purpose of making inspections.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112520.

The license issued hereunder shall be in a form as the department shall prescribe and shall be under the seal of the department and shall set forth the name of the licensee, the location for which the license is issued, the period of the license and other information as the department may determine. Licenses shall be for a term of one calendar year and shall be renewed annually. The license is nontransferable. The original license or a certified copy thereof shall be conspicuously displayed by the licensee in the locker plant for which the license is issued.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112525.

The floors, walls and ceilings of frozen food locker plants shall be of a construction and finish that they can be conveniently maintained in a clean and sanitary condition. The lockers in any plant shall be so constructed as to protect the contents from contamination, deterioration or injury. Lockers with perforated bottoms shall be provided with a suitable unperforated liner or tray.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112530.

Any frozen food locker plant using a toxic gas refrigerant shall have at least one gas mask of a type approved by the department and shall keep the same where it will be readily accessible.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112535.

All rooms of a frozen food locker plant shall at all times be maintained in a clean and sanitary condition. All equipment and utensils shall be cleaned when put into use and shall be thoroughly cleaned after each daysuse and shall be so stored or protected as not to become contaminated. Lockers shall be thoroughly cleaned before they are leased or put into the possession of any patron. The premises and surroundings of

the plants shall be maintained in a clean and sanitary condition. The food stored shall be protected from filth, flies, dust, dirt, insects, vermin and any other contamination and from any unclean or filthy practice in the handling thereof or caring therefor. No food shall be stored in a condition or in a manner as to cause injury to or deterioration of articles of food in adjacent lockers.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112540.

Frozen food locker plants shall have an ample water supply readily available and the water that comes in contact with any food product or the equipment shall be uncontaminated. Such plants shall be provided with adequate toilet facilities so located as to be readily accessible to employees and equipped with adequate washing fixtures or have such fixtures or facilities convenient thereto and shall be supplied with running water, single soap and single towel service. The doors of all toilet rooms shall be full length and self-closing and no toilet room shall open directly into any room in which foods are prepared, processed, chilled, frozen or stored. Toilet facilities and rooms shall be kept in a clean and sanitary condition.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112545.

The director shall publish and declare reasonable regulations as are consistent with the enforcement of the provisions of this chapter providing for adequate cleanliness and sanitation to protect public health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112550.

The refrigeration system for a frozen food locker plant shall be equipped with reliable controls for the maintenance of uniform temperatures as required in the various refrigerated rooms and shall be of adequate capacity to provide under extreme conditions of outside temperature and activity of the plant, the following temperatures in the several rooms, respectively:

(a) In pre-cool, chill, or aging rooms, temperatures shall be commensurate with good commercial practice.

(b) In locker rooms, temperature shall not exceed plus five (5) degrees Fahrenheit, with customary commercial variations.

The foregoing temperatures shall not be construed as prohibiting variations therefrom as may occur during short periods of time incidental to operating conditions beyond the control of the operator.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112555.

Any processor, prior to delivery to the consumer, shall quick-freeze all meat or meat products in a blast-type freezing room at zero degrees Fahrenheit with one side of the package exposed to circulated air, or in a still-air-type freezing room at a minimum of minus 10 degrees Fahrenheit with one surface side of each package in direct contact with coils of a freezing plate. This section shall not apply to the sale of retail cuts of meat sold over the counter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112560.

Thermometers in good order shall be provided in all rooms held under low temperature at locations therein that will reflect true storage temperatures of foods in the rooms.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112565.

No frozen food locker plant shall be licensed under this chapter unless the following facilities are provided:

Sufficient chill or aging room space, freezing facilities, locker room, and facilities for cutting, preparing, wrapping and packaging meats and meat products, except that storage locker plants and branch locker plants need install only locker room facilities as specified in Section 112550.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112570.

A branch plant may be operated only in conjunction with a parent locker plant that shall have processing facilities sufficiently large for the locker plant and all branch plants.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112575.

Storage of fish and game by patrons shall comply with federal and state fish and game laws. All pertinent abstracts of state and federal fish and game regulations shall be furnished by the department and shall be conspicuously displayed in the locker plant.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112580.

Every operator of a frozen food locker plant, shall keep a record showing names and addresses of renters of lockers and the records shall be available for examination by the Director of Food and Agriculture or his or her representatives, or the department or its representatives, during business hours of the plants.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112585.

Only food for human consumption, or clean, sanitary byproducts therefrom to be used for food, shall be stored in the frozen food locker plant. Each package of food wrapped and frozen for storage shall be labeled designating the product and identifying the processor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112590.

The person owning or operating a frozen food locker plant shall have a lien upon all property therein for all charges due from the owner of the property. The lien may be secured and enforced in the same manner as warehousemensliens are secured and enforced.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112595.

Operators of frozen food locker plants operating solely as such shall not be construed to be warehousemen or public utilities, nor shall receipts or other instruments issued by those persons in the ordinary conduct of their locker business be construed to be warehouse receipts or subject to the laws applicable thereto.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112600.

Cold storage or refrigerating warehouses subject to Chapter 6 (commencing with Section 112350) shall be exempt from the licensing provisions of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112605.

The licensing provisions of this chapter shall not apply to retail premises in which individual frozen food lockers are not rented, leased, loaned, or otherwise furnished to individuals, firms or corporations, or processors.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112610.

The department, after notice and hearing, may revoke the license issued for any frozen food locker plant for failure to comply with the provisions of this chapter. The proceedings under this section shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted therein.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112615.

In the event the director suspends or revokes any license, the licensee may obtain judicial review of the order by filing a petition for a writ of mandate in accordance with the Code of Civil Procedure in the superior court of the county in which the licensed premises are located within thirty (30) days from the date notice in writing of the directorsorder revoking or suspending the license has been served upon said licensee.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112620.

The liability of the owner or operator of lockers for loss of goods in lockers or in the ownersor operatorscare shall be limited to negligence of the owner or operator or his or her employee.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112625.

Upon the signed petition of at least 25 owners or operators of frozen food locker plants licensed under this chapter, the director shall within 10 days after receipt of said petition, cause to be held at places and at times as he or she may provide, a public hearing for the purpose of gathering facts and data for the revision, correction or amendment of any rule or regulation issued pertaining to this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112630.

This chapter shall be known as the Frozen Food Locker Plant Act of 1951.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112635.

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for a term not exceeding six months, or by both the fine and imprisonment.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=6.&chapter=8.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=8.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Canneries [112650 - 112855]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Definitions and Scope [112650 - 112680]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

112650.

State board, or State Board of Public Health, as used in this chapter, means the State Department of Health Services.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112655.

Meat or meat products as used in this chapter, means any meat or meat product or poultry or poultry product that is not subject to the inspection of the Bureau of Meat Inspection or the Bureau of Poultry Inspection of the Department of Food and Agriculture, or of the Meat Inspection Division or Poultry Division of the United States Department of Agriculture, or of an approved municipal inspection department or establishment.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112660.

Food product, as used in this chapter, includes any fish or fish product, meat or meat product, or any other food product.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112665.

The operation of noncommercial canning centers by community canning centers, schools, churches, other organizations, or housewives who pack hermetically sealed canned food products for their own consumption and do not sell the canned food, is exempt from the licensing provisions of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112670.

In lieu of a license, a permit to operate a canning center shall be issued without cost by the department upon the submission of evidence as the department requires to show that the persons operating the center are qualified and that the center is properly equipped and meets all other provisions of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112675.

Food products that do not require the use of a pressure cooker but necessitate acidulation and pH determinations come within this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112680.

No act that is unlawful under Part 5 (commencing with Section 109875), relating to the adulterating, mislabeling, misbranding, false advertising, and sale of foods, is lawful by reason of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=8.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Canneries [112650 - 112855]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Cannery Inspection Board [112685 - 112725]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

112685.

There is in the state government a Cannery Inspection Board consisting of the following six members:

(a)The director of the state department, who shall act as chairperson.

(b)One person appointed by the director who shall have had at the time of his or her appointment at least 10 years experience in or with canning technology and has a degree in chemistry, bacteriology, or medicine.

(c)Four persons appointed by the director who are experienced, have substantial investments, and are actively engaged in the canning industry at the time of their appointment.

One of the four appointive members shall be engaged in the canning of animal food.

(Amended by Stats. 2004, Ch. 314, Sec. 1. Effective January 1, 2005.)

112690.

Each appointed member holds office for a term of one year or until his or her successor is appointed.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112695.

Members of the board serve without compensation. The board shall meet at least quarterly.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112700.

The Cannery Inspection Board shall, subject to the approval of the department, estimate the cost of the separate inspection and laboratory control required to be made for each food product subject to this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112705.

The estimate shall be made prior to the opening of the canning season for each product having a canning season of less than three consecutive months, and prior to each quarter for each product having a canning season of more than three consecutive months.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112710.

For the purpose of prorating the estimated cost of inspection and laboratory control, the Cannery Inspection Board, subject to the approval of the department, shall estimate the number of cases to be packed, the number of tons to be packed, or the number of man-hours necessary to be employed, whichever in its discretion is most equitable as a basis of proration.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112715.

Based on the estimates required by the last three sections, the Cannery Inspection Board, subject to the approval of the department, shall determine the probable cost of inspection and laboratory control per thousand cases, per ton, or per man-hour, whichever in its discretion is most equitable.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112720.

The cost of laboratory control and research on products subject to this chapter shall be prorated by the Cannery Inspection Board in the same manner as the costs of inspection are prorated by it.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112725.

If the delegation of discretion to determine whether the case, ton, or man-hour basis is most equitable as a basis of prorating the cost of inspection and laboratory control is held invalid as an unlawful delegation of legislative power, the invalidity shall not affect the validity of the remaining portions of this chapter. The Legislature hereby declares that if it had known that the delegation of the discretion would be declared invalid as an unlawful delegation of legislative power, it would have designated the man-hour basis of proration as the most equitable basis of proration. In the event of an invalidity, the cost of inspection and laboratory control shall be prorated on the man-hour basis.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=8.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Canneries [112650 - 112855]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Proration of Costs [112730 - 112745]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

112730.

At the end of each quarter, or at the close of any canning season that does not exceed three consecutive months, the state department shall determine the actual cost of inspection and laboratory control of each

separate food product for the preceding quarter or preceding canning season, and shall prorate the cost to each person licensed under this chapter on the basis of cases packed, tons packed, or number of man-hours necessary to be employed, whichever has been determined by the Cannery Inspection Board, with the approval of the state department, to be most equitable.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112735.

In making any separate inspection and laboratory control for any food product, the state department shall not spend more than the amount estimated by the Cannery Inspection Board as the cost of the inspection without the approval of the Cannery Inspection Board.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112740.

In making estimates, determinations, assessments, and prorations under this article and Article 2 (commencing with Section 112685), the Cannery Inspection Board and the state department may include as a part of the cost of inspection a reasonable charge for standby services of inspectors.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112745.

In lieu of all other procedures in this article and Article 2 (commencing with Section 112685), each person licensed under this chapter may be assessed at an estimated annual hourly rate set by the Cannery Inspection Board with the approval of the department and of the State Director of Finance. The annual rate shall be set for each industry group based on the estimated cost.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=8.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Canneries [112650 - 112855]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Licenses and Licensees [112750 - 112795]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

112750.

It is unlawful for any person to engage in the noncommercial canning of salmon, or in the commercial canning of any fish or fish product, meat or meat product, or any other food product for the use of man or animal, the sterilization of which in the opinion of the department requires the use of a pressure cooker or a retort, without first obtaining a license from the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112755.

The department shall issue an annual license, that is nontransferable, to any person on the receipt of fifty dollars ($50) per plant, and evidence as the board may require to show that (1) the applicant is properly equipped with a retort or pressure cooker that has recording thermometers, indicating thermometers, and pressure gauges to carry out regulations as the department may adopt for the sterilization of food products for the canning of which a license is sought and (2) the applicant is in compliance with the sanitary regulations of the department. The applicant shall be deemed to be in compliance with the sanitary regulations unless the applicant has been given written notice by the department not less than 60 days prior to the expiration of the existing license that the cannery does not comply with the sanitary regulations, and the applicant has subsequently failed to bring the cannery into compliance therewith.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112760.

Any person who has been denied the annual license provided in this chapter may obtain a hearing by the department by mailing a written request therefor to the department. The department shall give the applicant at least 10 days notice of the hearing and shall hold such hearing within 30 days of the receipt of the request.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112765.

In addition to the annual license fee, the department shall demand from each licensee a cash deposit for the payment of his or her pro rata share of the estimated cost of inspection and laboratory control as the department may deem necessary.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112770.

If the deposit made by any licensee is insufficient to meet the actual cost of an inspection and laboratory control of any product determined by the department, the latter shall demand from the licensee, and the licensee shall immediately pay to the department, in addition to the license fee payable by the licensee, the difference between the deposit and his or her pro rata share of the actual cost of the inspection and laboratory control.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112775.

If at the end of the calendar year, or at the end of any canning season of less than three consecutive months the deposit made by any licensee under this chapter is greater than the actual cost prorated to the licensee, the difference shall be refunded if requested by the licensee in accordance with law. If the difference is not so refunded, it shall be credited toward the required deposit for the next calendar year or canning season.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112780.

No food product subject to the inspection required by this chapter shall be shipped by the licensee who packed it until the licensee has either paid his or her pro rata share of the estimated cost of inspection or has furnished the department a cash deposit for the payment of his or her pro rata share of the cost.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112785.

The department may after notice and opportunity for hearing suspend or revoke a license issued under this chapter for any of the following causes:

(a) Nonpayment of the pro rata share of the cost of inspection and laboratory control, or failure to comply with a demand for a cash deposit or other security by the holder of the license.

(b) Noncompliance with any of the regulations of the department.

(c) Operation of an insanitary cannery after due notice by registered mail has been received.

(d) Inadequate ratproofing of a cannery throughout.

(e) Willful packing of any canned food commodity that has been rejected by an agent of the department.

(f) Packing of any canned food commodity subject to this chapter without notifying the department before packing.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112790.

After conviction for a violation of Part 5 (commencing with Section 109875), the license of the person convicted may be suspended for a period of from 1 to 30 days.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112795.

Proceedings for the suspension and revocation of licenses shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code; and the department has all the powers granted therein.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=8.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Canneries [112650 - 112855]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 5. General Provisions [112800 - 112820]__

(Article 5 added by Stats. 1995, Ch. 415, Sec. 6.)

112800.

No person shall permit another to operate a steam-controlled retort used in the commercial canning industry for the sterilization of food products, unless the latter first obtains a permit from the department. The department may pass upon and determine the qualifications of the applicant with a view to the preservation of the public health.

Any permit granted is revocable by the department whenever in its judgment the public health requires such action.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112805.

It is unlawful for any person to place upon the label of any bottle, can, jar, carton, case, box, barrel, or any other receptacle, vessel, or container of whatever material or nature that may be used by a packer, manufacturer, producer, jobber, or dealer for enclosing any canned food product, fish or fish product, or meat or meat product, any statement relative to the product having been inspected, unless the statement has been approved in writing by the department.

Approval of a statement is revocable at any time by the department upon written notice.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112810.

Any food product packed in violation of this chapter may be quarantined by the department until a laboratory examination has established that the product meets the requirements of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112815.

Any person who packs any food product that has been quarantined by the department shall pay the department all reasonable costs of any laboratory examination, determined by the Cannery Inspection Board, subject to the approval of the department, to be necessary to ascertain that the seized product was packed in violation of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112820.

The Division of Cannery Inspections has supervision over the inspection and examination of raw fish and fish products preparatory to canning.

The cost of the inspection and examination shall be determined and paid in the manner provided in Article 2 (commencing with Section 112685).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=8.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Canneries [112650 - 112855]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 6. Rules and Enforcement [112825 - 112840]__

(Article 6 added by Stats. 1995, Ch. 415, Sec. 6.)

112825.

The department may make regulations as it deems necessary for the proper enforcement of this chapter, and the regulations shall have the force and effect of law.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112830.

No rule or regulation or amendment thereto shall be adopted unless submitted by the department to the Cannery Inspection Board at least five days prior to the date of adoption.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112835.

The state board shall enforce its regulations and the provisions of Part 5 (commencing with Section 109875), relating to the canning of food products, through the Chief of the Bureau of Cannery Inspections and other employees as it deems necessary. The state board shall, so far as practicable, acquaint each licensee subject to this chapter with its regulations, and upon request therefor by any licensee shall furnish a copy of the regulations.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112840.

The district attorney of the county in which any violation of this chapter occurs shall prosecute the person accused of the violation.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=8.&article=7.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Canneries [112650 - 112855]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 7. Funds [112845 - 112850]__

(Article 7 added by Stats. 1995, Ch. 415, Sec. 6.)

112845.

The Cannery Inspection Fund is hereby established as a special fund in the State Treasury. All money received by the department under this chapter shall be deposited in the fund and expended by the department, upon appropriation by the Legislature, for the purpose of carrying out and implementing this chapter.

(Amended by Stats. 2004, Ch. 314, Sec. 2. Effective January 1, 2005.)

112850.

Notwithstanding Section 112845, the department and the Department of Finance may authorize the deposit in the Special Deposit Fund of cash deposits received by the department under Section 112765; and in that event, upon the determination by the department that all or a part of any deposit is due the state for payment on account of the depositorspro rata share of costs incurred by the state under this chapter, the amount so determined shall, on order of the Controller, be transferred from the Special Deposit Fund to the Cannery Inspection Fund.

All money deposited in the Special Deposit Fund under this section shall be subject to Article 2 (commencing with Section 16370) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

(Amended by Stats. 2004, Ch. 314, Sec. 3. Effective January 1, 2005.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=8.&article=8.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Canneries [112650 - 112855]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 8. Violations [112855- 112855.]__

(Article 8 added by Stats. 1995, Ch. 415, Sec. 6.)

112855.

Any person who does not obtain a license required of him or her by this chapter, or who engages in canning operations after his or her license has been suspended or revoked, or who otherwise violates this chapter, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not exceeding six months.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=6.&chapter=9.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=9.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Olive Oil [112875 - 112935]__

(Chapter 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Olive Oil Grades [112875 - 112880]__

(Article 1 added by Stats. 2008, Ch. 694, Sec. 2.)

112875.

Olive oil, as used in this chapter means the edible oil obtained solely from the fruit of the olive tree (Olea europea L.) to the exclusion of oils obtained using solvents or reesterification processes and of any mixture with oils of other kinds except in the making of flavored olive oil, as defined in Section 112878.

(Amended by Stats. 2011, Ch. 567, Sec. 1. (SB 818) Effective January 1, 2012.)

112876.

The hierarchy for virgin olive oil grades shall be, from highest to lowest, extra-virgin olive oil, virgin olive oil, and virgin olive oil not fit for human consumption, sometimes known as lampante virgin olive oil, which shall be the lowest level of quality among the virgin olive oils. In terms of hierarchy, olive oil and refined olive oil shall fall below the virgin olive oil category. Olive oil grades shall be in the following categories:

(a)Virgin olive oils.

(1)Extra virgin olive oil.

(2)Virgin olive oil.

(3)Virgin olive oil not fit for human consumption without further processing, sometimes known as lampante virgin olive oil.

(b)Olive oil.

(c)Refined olive oil.

(Amended by Stats. 2011, Ch. 567, Sec. 2. (SB 818) Effective January 1, 2012.)

112876.5.

The hierarchy for olive-pomace oil grades shall be, from highest to lowest, olive-pomace oil, refined olive-pomace oil, and crude olive-pomace oil, which is the lowest level of quality among the olive-pomace oils. Olive-pomace oil grades shall be in the following categories:

(a)Olive-pomace oil.

(b)Refined olive-pomace oil.

(c)Crude olive-pomace oil.

(Added by Stats. 2011, Ch. 567, Sec. 3. (SB 818) Effective January 1, 2012.)

112877.

Olive oil grades are defined as follows:

(a)Virgin olive oils are the oils obtained from the fruit of the olive tree solely by mechanical or other physical means under conditions, including thermal conditions, that do not lead to alterations in the oil, and that have not undergone any treatment other than washing, decanting, centrifuging, and filtration. Virgin olive oils without further processing include:

(1)Extra virgin olive oil is virgin olive oil that has excellent flavor and odor expressed as a median of defects equal to zero and a median of fruitiness greater than zero, has a free fatty acid content, expressed as oleic acid, of not more than 0.8 grams per 100 grams oil, has a peroxide value of not more than 20 milliequivalent peroxide oxygen per kilogram oil and meets the additional requirements for United States Extra Virgin Olive Oil outlined in the United States Standards for Grades of Olive Oil and Olive-Pomace Oil published in the Federal Register that are in effect on October 25, 2010.

(2)Virgin olive oil is virgin olive oil that has reasonably good flavor and odor expressed as a median of defects between zero and 2.5 and a median of fruitiness greater than zero, has a free fatty acid content, expressed as oleic acid, of not more than 2 grams per 100 grams oil, has a peroxide value of not more than 20 milliequivalent peroxide oxygen per kilogram oil, and meets the additional requirements for United States Virgin Olive Oil outlined in the United States Standards for Grades of Olive Oil and Olive-Pomace Oil published in the Federal Register that are in effect on October 25, 2010.

(3)Virgin olive oil not fit for human consumption without further processing, sometimes known as lampante virgin olive oil, is virgin olive oil which has poor flavor and odor expressed as a median of defects between 2.5 and 6.0 or when the median of defects is less than or equal to 2.5 and the median of fruitiness is zero, has a free fatty acid content, expressed as oleic acid, of more than 2 grams per 100 grams, and meets the additional requirements of the United States Virgin Olive Oil Not Fit For Human Consumption Without Further Processing as outlined in the United States Standards for Grades of Olive Oil and Olive-Pomace Oil published in the Federal Register that are in effect on October 25, 2010. This grade of olive oil is intended for refining or for purposes other than food use.

(b)Olive oil is the oil consisting of a blend of refined olive oil and virgin olive oils fit for consumption without further processing. It has a free fatty acid content, expressed as oleic acid, of not more than 1 gram per 100 grams oil and meets the additional requirements for United States Olive Oil described in the United States Standards for Grades of Olive Oil and Olive-Pomace Oil published in the Federal Register that are in effect on October 25, 2010.

(c)Refined olive oil is the olive oil obtained from virgin olive oils by refining methods that do not lead to alterations in the initial glyceridic structure (basic glycerin-fatty acid content). It has a free fatty acid content, expressed as oleic acid, of not more than 0.3 grams per 100 grams oil, and meets the additional

requirements for United States Refined Olive Oil described in the United States Standards for Grades of Olive Oil and Olive-Pomace Oil published in the Federal Register that are in effect on October 25, 2010.

(d)Olive-pomace oil is oil obtained by treating olive pomace, which is the product that remains after the mechanical extraction of olive oil, with solvents or other physical treatments, to the exclusion of oils obtained by synthetic processes and a mixture with oils of other kinds. Olive-pomace oils shall be labeled and marketed with the following designations and definitions:

(1)Olive-pomace oil is the oil comprising the blend of refined olive-pomace oil and virgin olive oils fit for consumption without further processing. It has a free fatty acid content, expressed as oleic acid, of not more than 1 gram per 100 grams oil, and meets the additional requirements for United States Olive-Pomace Oil outlined in the United States Standards for Grades of Olive Oil and Olive-Pomace Oil published in the Federal Register that are in effect on October 25, 2010.

(2)Refined olive-pomace oil is the oil obtained from crude olive-pomace oil by refining methods that do not lead to alterations in the initial glyceridic structure. It has a free fatty acid content, expressed as oleic acid, of not more than 0.3 grams per 100 grams oil, and meets the additional requirements for United States Refined Olive-Pomace Oil outlined in the United States Standards for Grades of Olive Oil and Olive-Pomace Oil Published in the Federal Register that are in effect on October 25, 2010.

(3)Crude olive-pomace oil is olive-pomace oil that is intended for refining for use for human consumption or that is intended for technical use and that meets the requirements for United States Crude Olive-Pomace Oil outlined in the United States Standards for Grades of Olive Oil and Olive-Pomace Oil published in the Federal Register that are in effect on October 25, 2010.

(Amended (as amended by Stats. 2009, Ch. 140, Sec. 121) by Stats. 2011, Ch. 567, Sec. 5. (SB 818) Effective January 1, 2012.)

112878.

Flavored olive oil, as used in this chapter, means extra virgin olive oil, virgin olive oil, or olive oil, that is mixed with a flavoring, or olives that are processed into oil with any fruit, vegetable, herb, nut, seed, or spice and the product resulting from either process contains not less than 90 percent extra virgin olive oil, virgin olive oil, or olive oil, and is labeled for sale as an olive oil that has been flavored.

(Added by Stats. 2008, Ch. 694, Sec. 2. Effective January 1, 2009.)

112879.

Imitation olive oil, as used in this chapter, means the mixture of any edible oil artificially colored or flavored to resemble olive oil.

(Added by Stats. 2008, Ch. 694, Sec. 2. Effective January 1, 2009.)

112880.

For purposes this chapter, the following definitions shall apply:

(a)Median of defects means a calculation of the median score from a panel of tasters that characterizes the negative flavor and odor attributes of virgin olive oil, such as, but not limited to, musty, fusty, winey-vinegary, muddy-sediment, and rancid.

(b)Median of fruitiness means a calculation of the median score from a panel of tasters that characterizes virgin olive oil produced from olives, such as, but not limited to, olive, apple, green, sweet, grass, nutty, and tomato.

(c)Panel of tasters means the method of analyzing organoleptic characteristics of virgin olive oil, as defined in the United States Standards for Grades of Olive Oil and Olive-Pomace Oil published in the Federal Register that are in effect on October 25, 2010.

(Added by Stats. 2011, Ch. 567, Sec. 6. (SB 818) Effective January 1, 2012.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=9.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Olive Oil [112875 - 112935]__

(Chapter 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Olive Oil Manufacture and Marketing [112891 - 112935]__

(Article 2 heading added by Stats. 2008, Ch. 694, Sec. 6.)

112891.

Any olive oil and olive-pomace oil labeled for sale shall be consistent with this chapter.

(Amended by Stats. 2011, Ch. 567, Sec. 7. (SB 818) Effective January 1, 2012.)

112893.

Alpha-tocopherol may be added to refined olive oil, olive oil, refined olive-pomace oil, and olive-pomace oil to restore natural tocopherol lost in the refining process. The concentration of alpha-tocopherol in the final product shall not exceed 200 milligrams per kilogram.

(Added by Stats. 2008, Ch. 694, Sec. 9. Effective January 1, 2009.)

112894.

Virgin olive oil not fit for human consumption, sometimes known as lampante virgin olive oil, shall be refined before consumption.

(Added by Stats. 2011, Ch. 567, Sec. 8. (SB 818) Effective January 1, 2012.)

112895.

(a)It is unlawful to manufacture, sell, offer for sale, give away, or to possess imitation olive oil in California.

(b)This section does not prohibit the blending of olive oil with other edible oils, if the blend is not labeled as olive oil or imitation olive oil, is clearly labeled as a blended vegetable oil, and if the contents and proportions of the blend are prominently displayed on the containerslabel, or if the oil is a flavored olive oil.

(c)If any olive oil is produced, processed, sold, offered for sale, given away, or possessed in California, that indicates on its label California Olive Oil, or uses words of similar import that indicate that California is the source of the oil, 100 percent of that oil shall be derived from olives grown in California.

(d)Any container of olive oil produced, processed, sold, offered for sale, given away, or possessed in California which contains olive oil produced from olives grown in locations other than California, in whole or in part, and includes California in any form on the principal display panel shall state on the same panel the minimum percentage of olive oil in the container produced from olives grown in California in a font size that is no less than the largest font used to print California on the same panel. The percentage shall be declared by the words, ___percent (or ____%) California or ____ percent (or ____%) California olive oil. This subdivision shall not apply to a container of olive oil produced on or before December 31, 2021.

(e)Any olive oil produced, processed, sold, offered for sale, given away, or possessed in California with a

principal display panel that uses California or any reference to it shall comply with the quality and purity standards set forth in the Grade and Labeling Standards for Olive Oil, Refined-Olive Oil, and Olive-Pomace Oil published by the Department of Food and Agriculture.

(f)Olive oil produced, processed, sold, offered for sale, given away, or possessed in California, that indicates on its label that it is from a specific region of California shall be made of oil at least 85 percent of which, by weight, is derived from olives grown in the specified region.

(g)This section does not prohibit an olive oil producer or processor from using a truthful, nonmisleading statement or representation regarding the geographic origin of the olives used in the production of the olive oil in any label, packaging material, or advertising if the label, packaging material, or advertising contains no representation that is prohibited by this section.

(h)Olive oil produced, processed, sold, offered for sale, given away, or possessed in California, that indicates on its label that it is from a specific estate in California shall be made of oil at least 95 percent of which, by weight, is derived from olives grown on the specified estate.

(i)Olive-pomace oil shall not be labeled as olive oil.

(Amended by Stats. 2021, Ch. 466, Sec. 1. (AB 535) Effective January 1, 2022.)

112905.

It is unlawful to prepare, express, mix, or blend olive pomace or meats with any bland fixed oil other than olive oil.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112910.

All records of those operating under the provisions of this chapter that concern the amounts of olive oil produced, purchased, or produced and purchased, or the sale, distribution, or sale and distribution of any olive oil, shall be open to inspection upon demand of any agent of the department.

(Amended by Stats. 2008, Ch. 694, Sec. 12. Effective January 1, 2009.)

112915.

It is unlawful to reuse any olive oil container, can, or drum for repacking any fixed oil intended to be used for food purposes, except on the premises of the processor or when a consumer fills a clean container from a sanitary olive oil dispenser at a retail outlet.

(Amended by Stats. 2008, Ch. 694, Sec. 13. Effective January 1, 2009.)

112920.

All olive oil for technical purposes shall be denatured with an odoriferous substance so as to render it unfit for food purposes.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112925.

It is unlawful to sell or offer for sale olive oil containing more than 5 percent free fatty acid without first denaturing the oil and making it unfit for human consumption.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112930.

The department shall enforce this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

112935.

Any person violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not exceeding one year, or by both fine and imprisonment.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=6.&chapter=10.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=10.&article=1.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=104.&title=&part=6.&chapter=10.&article=1.)

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 10. Processed Pet Foods [113025 - 113120]__

(Chapter 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Definitions [113025 - 113055]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

113025.

Processed pet food means a food for pets that has been prepared by heating, drying, semidrying, canning, or by a method of treatment prescribed by regulation of the department. The term includes, special diet, health foods, supplements, treats and candy for pets, but does not include fresh or frozen pet foods subject to the control of the Department of Food and Agriculture of this state.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113030.

Pet means any household animal including but not limited to cats or dogs and other carnivores whether or not for exhibition.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113035.

Pet food ingredients means each of the constituent materials making up a processed pet food. Pet food ingredients of animal or poultry origin shall be only from animals or poultry slaughtered or processed in an approved or licensed establishment. Such animal or poultry ingredients condemned for human food but passed for animal food in an establishment inspected by the United States Department of Agriculture or the Department of Food and Agriculture of this state may be used for pet food, provided it is properly denatured or handled in accordance with this chapter and regulations of the department and the regulations of the Department of Food and Agriculture of this state so as to render the ingredients safe for pet food. Animals or poultry classified as deads are prohibited.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113040.

Incubator reject eggs may not be used in food for human consumption but may be used for animal food or animal-food products.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113045.

The term advertisement means all representations disseminated in any manner or by any means for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of processed pet food. An advertisement shall be deemed false if it is false or misleading in any particular.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113050.

If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only misrepresentations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of representations or material with respect to consequences that may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under conditions of use as are customary or usual.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113055.

This chapter shall be known, and may be cited, as the Pure Pet Food Act of 1969.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=10.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 10. Processed Pet Foods [113025 - 113120]__

(Chapter 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Licenses and Registration Certificates [113060 - 113070]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

113060.

Every person who manufactures a processed pet food in California shall first obtain a license from, and every person who manufactures a processed pet food for import into California from another state shall first obtain a registration certificate from, the department. Each license or registration certificate is good for one calendar year from the date of issue and is nontransferable.

An application for a license or registration certificate shall be made on an application form provided by the

department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113065.

A separate license shall be required for each processing plant located in California.

The annual license fee shall be one hundred dollars ($100). The annual registration fee shall be one hundred dollars ($100). The penalty for failure to apply for renewal of a license or registration certificate within 30 days after the expiration is thirty dollars ($30) and shall be added to the renewal fee and be paid by the applicant before the renewal license or registration certificate may be issued. All fees collected shall be expended as appropriated by the Legislature in the carrying out of the provisions of this chapter and the regulations adopted thereto.

The annual license fee for a pet food canner also licensed under Chapter 8 (commencing with Section 112650) is one hundred dollars ($100). No additional fee is payable by such a person for a license issued to him or her under that chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113070.

An annual license or registration certificate shall be issued only when the following provisions have been met:

(a) Inspection of the manufacturing facilities demonstrates that they are properly equipped and are operated in a sanitary manner.

(b) In the case of an out-of-state manufacturer, the application for a registration certificate is accompanied by a certificate issued by a federal, state, or local health agency certifying that the processed pet foods manufactured conform to the requirements of this chapter or the regulations adopted hereunder.

(c) The applicant submits to the department the label that would be attached to the container of each type of processed pet food and a complete list of the pet food ingredients thereof in their order of predominance by weight.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=10.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 10. Processed Pet Foods [113025 - 113120]__

(Chapter 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Prohibited Acts and Penalties [113075 - 113085]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

113075.

The following acts and the causing thereof within the State of California are hereby prohibited:

(a) The manufacture, sale, or delivery, holding or offering for sale of any pet food ingredient or processed pet food that is adulterated or misbranded.

(b) The adulteration or misbranding of any pet food ingredient or processed pet food.

(c) The dissemination of any false advertising.

(d) The refusal to permit entry or inspection, or to permit the taking of a sample.

(e) The removal, sale, or disposal of a detained or embargoed processed pet food without permission of an authorized agent or the court.

(f) The giving of a guaranty or undertaking that is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the State of California from whom he or she received in good faith the pet food ingredient or the processed pet food.

(g) The receipt in commerce of any pet food ingredient or processed pet food that is adulterated,

misbranded or falsely advertised and the delivery or proffered delivery thereof for pay or otherwise.

(h) Failure to obtain a license as required by this chapter.

(i) Use of any pet food ingredient that fails to conform to the standard of identity for the pet food ingredient as adopted pursuant to Section 113115.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113080.

(a) Any person who violates any of the provisions of this chapter or the regulations promulgated under this chapter is subject to imprisonment for not more than six months or a fine of not more than one thousand dollars ($1,000), or both that imprisonment and fine; but if the violation is committed after a conviction of that person under this section has become final, or the violation is committed with intent to defraud or mislead, the person shall be subject to imprisonment for not more than one year, or a fine of not more than one thousand dollars ($1,000), or both imprisonment and fine.

(b) No person shall be subject to the penalties of subdivision (a) for having violated provisions of this chapter if he or she establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the State of California from whom he or she received in good faith the article, to the effect that the article conforms to all provisions of this chapter, designating this chapter.

If the guaranty is to the effect that the article is not in violation within the meaning of the federal act, as provided in Section 303 (c) of the federal act, it shall be sufficient for all the purposes of this chapter and have the same force and effect as though it referred to this chapter, unless at any time the standard for the article concerned under this chapter is higher than the standard for a like article under the federal act.

(c) No publisher, radio or television broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section for the dissemination of false advertisement, unless he or she has refused, on the request of the department, to furnish the department the name and post office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the State of California who caused him or her to disseminate the advertisement.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113085.

In addition to other remedies herein provided, the department may bring an action in the superior court, and the court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of this chapter. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the department shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or to show or tending to show irreparable damage or loss.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=10.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 10. Processed Pet Foods [113025 - 113120]__

(Chapter 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Adulteration [113090 - 113091]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

113090.

A pet food ingredient or a processed pet food shall be deemed to be adulterated:

(a) If it bears or contains any poisonous or deleterious substance that may render it injurious to health; but in case the substance is not an added substance, the pet food shall not be considered adulterated under this subdivision if the quantity of the substance in pet food does not ordinarily render it injurious to health.

(b) If it bears or contains any added poisonous or deleterious substance, any food additive, any pesticide chemical, or any color additive that is unsafe within the meaning of the Federal Food, Drug and Cosmetic Act, or Part 5 (commencing with Section 109875), or Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

(c) If it contains a pet food ingredient for which a standard of identity has been established and the pet food ingredient fails to meet that standard.

(d) If it has been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health.

(e) If its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(f) If any valuable constituent has been in whole or in part omitted or abstracted therefrom.

(g) If any substance has been substituted wholly or in part therefor.

(h) If damage or inferiority has been concealed in any manner.

(i) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight or reduce its quality or strength or make it appear better or of greater value than it is.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113091.

A processed pet food is not adulterated because it includes industrial hemp, as defined in Section 11018.5, or cannabinoids, extracts, or derivatives from industrial hemp, if the cannabinoids, extracts, or derivatives from industrial hemp meet the requirements established in Chapter 9 (commencing with Section 111920) of Part 5. The sale of processed pet food that includes industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp shall not be restricted or prohibited based solely on the inclusion of industrial hemp or cannabinoids, extracts, or derivatives from industrial hemp, if the cannabinoids, extracts, or derivatives from industrial hemp meet the requirements established in Chapter 9 (commencing with Section 111920) of Part 5.

(Added by Stats. 2021, Ch. 576, Sec. 11. (AB 45) Effective October 6, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=10.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 10. Processed Pet Foods [113025 - 113120]__

(Chapter 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 5. Misbranding [113095 - 113110]__

(Article 5 added by Stats. 1995, Ch. 415, Sec. 6.)

113095.

A pet food ingredient or processed pet food shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

(b) If its container is so made, formed or filled as to be misleading.

(c) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count.

Under clause (2) of subdivision (c), reasonable variation shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the department.

(d) If any word, statement or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with conspicuousness (as compared with other words, statements, designs or emblems, in the labeling) and in terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113100.

A pet food shall be deemed to be misbranded if it is not subject to Section 113105, unless its label bears (a) the common or usual name of the food, if any there be, and (b) in case it is fabricated from two or more

ingredients, the common or usual name of each ingredient listed in descending order of predominance in the product. Spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113105.

A processed pet food shall be deemed to be misbranded if it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by Section 113115 unless (a) it conforms to the definition and standard, and (b) its label bears the name of the processed pet food specified in the definition and standard, and, insofar as may be required by regulations, the common names of optional pet food ingredients present in processed pet food. Spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113110.

A processed pet food shall be deemed to be misbranded:

(a) If it purports to be or is represented for special dietary uses, unless its label bears information concerning its vitamin, mineral, and other dietary properties as the department determines to be, and by regulations prescribes as, necessary in order fully to inform purchasers as to its value for those uses.

(b) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact. To the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=10.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 10. Processed Pet Foods [113025 - 113120]__

(Chapter 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 6. Administration [113115 - 113120]__

(Article 6 added by Stats. 1995, Ch. 415, Sec. 6.)

113115.

When in the judgment of the department the action will promote honesty and fair dealing in the interest of the ultimate purchaser, the department may promulgate regulations establishing for any processed pet food or pet food ingredient any of the following:

(a) A reasonable definition and standard of identity.

(b) A reasonable standard of quality or fill of container.

(c) The method of treatment of products or ingredients to render them safe for pet feeding.

(d) Labeling information necessary to fully inform the purchaser thereof.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113120.

This chapter shall be administered by the department in accordance with Part 5 (commencing with Section 109875).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=6.&chapter=11.&article=]

(https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=6.&chapter=11.&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=11.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 11. Miscellaneous Food Laws [113150 - 113360]__

(Chapter 11 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Dairy Product Safety [113150 - 113155]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

113150.

(a) When there occurs, in the household of any dairy worker, milkman, milk dealer, milk distributor, creamery worker, or pasteurizing plant operator, a case or a suspected case of a milk transmitted disease listed pursuant to Section 120130, the sale or distribution of milk from those premises is prohibited unless written authorization for its sale or distribution is given by the health officer.

(b) A case or suspected case of any disease that occurs in the household of any of the above-mentioned persons, and that is known to be transmitted by milk, shall be reported immediately to the health officer.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113155.

The department shall cooperate with the Department of Food and Agriculture in the inspection of any milk products plants associated with diseases reported pursuant to Section 120130. The Department of Food and Agriculture shall consult with the department prior to condemning milk or milk products that are determined to be contaminated based on a finding of illnesses listed pursuant to Section 120130.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=11.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 11. Miscellaneous Food Laws [113150 - 113360]__

(Chapter 11 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Beverage Containers [113200 - 113220]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

113200.

As used in this article, unless the context requires otherwise:

(a) Beverage means beer or other malt beverages and mineral waters, soda water and similar carbonated soft drinks in liquid form and intended for human consumption.

(b) Beverage container means the individual, separate, sealed glass, metal or plastic bottle, can, jar or carton containing a beverage.

(c) Flip-top container means a metal beverage container so designed and constructed that a part of the container is severable in opening the containers.

(d) In this state means within the exterior limits of the State of California and includes all territory within these limits owned by or ceded to the United States of America.

(e) Non-flip-top container means a metal beverage container so designed and constructed that no part of the container is severable in opening the container.

(Amended by Stats. 1996, Ch. 1023, Sec. 316. Effective September 29, 1996.)

113205.

On and after January 1, 1979, no person shall sell or offer for sale in this state any metal beverage container so designed and constructed that a part of the container is severable in opening the container. Nothing in this section shall prohibit the sale in California of the containers for shipment out of state.

Any person who violates the provisions of this section is guilty of an infraction.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113210.

The Secretary of the Resources Agency may extend permission to a manufacturer to sell flip-top containers for one or more periods of time for a total period not to exceed one year after January 1, 1979. The subsequent resale of these flip-top containers by other persons at wholesale or retail, empty or filled with beverages at any time subsequent to January 1, 1979, shall not be a violation of Section 113205.

In order to be eligible for an extension of permission to sell flip-top containers after January 1, 1979, a manufacturer shall file a request for extension by July 1, 1978, with the Secretary of the Resources Agency and shall accompany the request with a report that will indicate:

(a) The percentage of the total production of metal beverage containers made by the manufacturer in the calendar years of 1976 and 1977, and to May 31, 1978, that were non-flip-top containers manufactured for

use within this state.

(b) The percentage of production of metal beverage containers the manufacturer shifted from flip-top containers to non-flip-top containers in the calendar years 1976 and 1977, and to May 31, 1978, for use within this state.

(c) The projected date when all production of metal beverage containers manufactured for use in this state will be non-flip-top containers.

(d) A general statement of the procedures the manufacturer is employing to effect the changeover to production of only non-flip-top containers for use within this state, and specific economic information regarding the manufacturersplanned investment in conversion to new equipment and techniques to effect the changeover to production of only non-flip-top containers for use within this state.

The secretary shall make public disclosure of all reports received.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113215.

The Secretary of the Resources Agency shall conduct hearings upon the requests for extension prior to making decisions, so that members of the public and manufacturers may be heard, and shall receive evidence and make findings of fact. The secretary shall cause public notification of the time and place of the hearings 30 days prior to each hearing.

In order to grant an extension of permission to sell flip-top containers after January 1, 1979, the Secretary of the Resources Agency must make a determination that the manufacturer requesting the extension has made good faith efforts to comply with the act, but is unable to meet the time requirement for conversion, and that the manufacturer will suffer severe economic hardship as a direct result of the requirements of conversion.

If an extension is granted, the Secretary of the Resources Agency may require reports as often as he or she deems necessary, indicating the progress of the manufacturer toward compliance.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113220.

There shall be no administrative appeal of the secretarysdecision regarding a request for an extension. Judicial review of the decision of the Secretary of the Resources Agency on any request for an extension may be made by the manufacturer. In addition, any member of the public, without damages, at his or her own expense, has standing to bring an action for the purpose of inquiring into the validity of a decision of the secretary on the grounds of the abuse of discretion where the findings are unsupported by the evidence. This section shall not be construed to prohibit the use of any other remedy available under any other provision of law.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=11.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 11. Miscellaneous Food Laws [113150 - 113360]__

(Chapter 11 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Frozen Foods [113250 - 113280]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

113250.

Low acid frozen food means a food that, by virtue of its low acid content, does not preclude the growth of Clostridium botulinum.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113255.

Low acid frozen food shall be packaged in a container of distinctive appearance so as to indicate to the purchaser that the package is not ordinary canned goods of a nonperishable nature.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113260.

The container shall bear a suitable legend to warn consumers that the product must be kept frozen until ready for use and that the contents should not be heated before opening.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113265.

Low acid foods that are to be frozen and packaged in hermetically sealed metal containers, shall not be cooked in the container before freezing.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113270.

The department shall enforce this article.

(Amended by Stats. 1996, Ch. 1023, Sec. 317. Effective September 29, 1996.)

113275.

The department may make regulations to secure the proper enforcement of this article, including regulations with respect to the sanitary preparation of articles of food for freezing, the use of containers, marks, tags, or labels, and the display of signs.

(Amended by Stats. 1996, Ch. 1023, Sec. 318. Effective September 29, 1996.)

113280.

Any person, firm, corporation, or agent violating any of the provisions of this article with the exception of Article 4 (commencing with Section 113310), or any rule or regulation issued pursuant to this article, shall upon conviction be punished for the first offense by a fine not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both.

(Amended by Stats. 1996, Ch. 1023, Sec. 319. Effective September 29, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=6.&chapter=11.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 6. WHOLESALE FOOD [111940 - 113360]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 11. Miscellaneous Food Laws [113150 - 113360]__

(Chapter 11 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Food Crop Growing [113310 - 113360]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

113310.

The Legislature finds and declares that the people of the State of California have a primary interest in the sanitary conditions under which food crops are grown and harvested for human consumption and in the health and related sanitary conditions under which the workers are employed in the growing and harvesting of food crops.

The Legislature hereby finds and declares that the provision of sanitary and handwashing facilities for those employed in the growing and harvesting of food crops is necessary to the preservation of sanitation and health and that facilities are necessary to maintain the dignity of workers.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113315.

For the purposes of this article food crop shall mean all fruits and vegetables intended for human consumption.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113320.

For the purpose of this article food crop growing and harvesting operation shall mean any field activity or operation wherein a food crop is grown and harvested, where five or more employees are working as a crew, unit, or group for a period of two or more hours.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113325.

Every employer shall provide or cause to be provided toilet and handwashing facilities for every food crop growing and harvesting operation.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113330.

Employees shall use the toilet and handwashing facilities provided.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113335.

Toilet facilities shall provide privacy and shall be so designed as to keep human excreta from contaminating the crop and to keep flies away from the excreta. Toilet paper shall be provided. Toilet facilities shall be maintained in a clean and sanitary condition.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113340.

Handwashing facilities shall be such as to afford an opportunity to wash hands in clean water using soap or other suitable cleansing agent and to dispose of used wash water without nuisance or contamination of food crop.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113345.

Toilet and handwashing facilities for food crop harvesting operations shall be provided at convenient locations. For the purpose of this article convenient means within a five-minute walk of place of work.

When, because of layout of access roads, ground terrain, or other physical conditions, it is not possible to comply with the foregoing requirement, toilet and handwashing facilities shall be located at the point of vehicular access closest to the workers.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113350.

(a) Except as provided in Section 18930, the department, after consultation with the State Departments of Food and Agriculture and Industrial Relations, may make and adopt reasonable regulations in accordance with this article pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and may adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13. The regulations shall be at least as effective as those adopted pursuant to Section 6712 of the Labor Code.

(b) No part of this article shall be construed to abridge or limit in any manner the jurisdiction of the Division of Occupational Safety and Health pursuant to Division 5 (commencing with Section 6300) of the Labor Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

113355.

(a) The primary responsibility for enforcement of this article shall be vested in the local health officers; county agricultural commissioners may participate in enforcement. The State Departments of Health Services, Industrial Relations, and Food and Agriculture may also enforce this article.

(b) Any agency enforcing this article shall report any violation to all field offices of the Employment Development Department located in the county where the violation occurs. The report shall identify the employer responsible for the violation, the nature of the violation, and the location of the food crop growing and harvesting operation where the violation occurs. The Employment Development Department shall not refer persons for employment to any employer or food crop growing and harvesting operation identified in the report until the agency reporting the violation certifies that the violation has been corrected.

(Amended by Stats. 1999, Ch. 915, Sec. 21. Effective January 1, 2000.)

113360.

Any person who knowingly and willfully violates any of the provisions of this article, or of the regulations adopted under this article, is guilty of a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=7.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 1. General Provisions [113700 - 113725.3]__

(Chapter 1 added by Stats. 2006, Ch. 23, Sec. 2.)

113700.

These provisions shall be known, and may be cited, as the California Retail Food Code, hereafter referred to as this part.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113703.

The purpose of this part is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented through adoption of science-based standards.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113705.

The Legislature finds and declares that the public health interest requires that there be uniform statewide health and sanitation standards for retail food facilities to assure the people of this state that the food will be pure, safe, and unadulterated. Except as provided in Section 113709, it is the intent of the Legislature to occupy the whole field of health and sanitation standards for retail food facilities, and the standards set forth in this part and regulations adopted pursuant to this part shall be exclusive of all local health and sanitation standards relating to retail food facilities.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113707.

The department shall adopt regulations to implement and administer this part.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113709.

This part does not prohibit a local governing body from adopting an evaluation or grading system for food facilities, from prohibiting any type of food facility, from adopting an employee health certification program, from regulating the provision of consumer toilet and handwashing facilities, from adopting requirements for the public safety regulating the type of vending and the time, place, and manner of vending from vehicles upon a street pursuant to its authority under subdivision (b) of Section 22455 of the Vehicle Code, or from prohibiting the presence of pet dogs in outdoor dining areas of food facilities.

(Amended by Stats. 2014, Ch. 234, Sec. 1. (AB 1965) Effective January 1, 2015.)

113711.

In all laws and regulations, references to Chapter 4 (commencing with Section 113700) or the California Uniform Retail Food Facilities Law, shall mean this part or the California Retail Food Code.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113713.

(a)Primary responsibility for enforcement of this part shall be with the local enforcement agency. Nothing in this part shall prevent the department from taking any necessary program or enforcement actions for the protection of the public health and safety.

(b)The department shall provide technical assistance, training, standardization, program evaluation, and other services to local health agencies as necessary to ensure the uniform interpretation and application of this part, when an appropriation is made to the department for this purpose.

(c)Whenever the enforcement of the requirements of this part by any local enforcement agency is satisfactory to the department, the enforcement of this part shall not be duplicated by the department. The department shall investigate to determine satisfactory enforcement of this part by evaluating the program of each local enforcement agency at least once every three years and shall prepare a report of the evaluation and list any program improvements needed only when an appropriation is made to the department for these purposes.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113715.

Any construction, alteration, remodeling, or operation of a food facility shall be approved by the enforcement agency and shall be in accordance with all applicable local, state, and federal statutes, regulations, and ordinances, including but not limited to, fire, building, and zoning codes.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113717.

(a)Any person requesting the department to undertake any activity pursuant to paragraph (5) of subdivision (c) of Section 113871, Section 114417, paragraph (2) of subdivision (b) of Section 114419, and Section 114419.3 shall pay the departmentscosts incurred in undertaking the activity. The departmentsservices shall be assessed at the current hourly cost-recovery rate, and it shall be entitled to recover any other costs reasonably and actually incurred in performing those activities, including, but not limited to, the costs of

additional inspection and laboratory testing. For purposes of this section, the departmentshourly rate shall be adjusted annually in accordance with Section 100425.

(b)The department shall provide to the person paying the required fee a statement, invoice, or similar document that describes in reasonable detail the costs paid.

(c)For purposes of this section only, the term person does not include any city, county, city and county, or other political subdivision of the state or local government.

(Amended by Stats. 2012, Ch. 23, Sec. 27. (AB 1467) Effective June 27, 2012.)

113718.

Notwithstanding Section 16350 of the Government Code, all moneys deposited in the Retail Food Safety and Defense Fund shall be transferred to the Food Safety Fund for appropriation and expenditure as specified by Section 110050.

(Repealed and added by Stats. 2012, Ch. 23, Sec. 29. (AB 1467) Effective June 27, 2012.)

113719.

Structural and sanitation requirements shall be based on the food service activity to be conducted, the type of food that is to be prepared or served, and the extent of food preparation that is to be conducted at the food facility.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113725.

(a)The enforcement agency shall utilize a standardized food facility inspection format for food facility inspections that includes all of the following:

(1)The name and address of the food facility.

(2)Identification of the following inspection criteria, which shall be the basis of the inspection report:

(A)Improper holding temperatures of potentially hazardous foods.

(B)Improper cooling of potentially hazardous foods.

(C)Inadequate cooking of potentially hazardous foods.

(D)Poor personal hygiene of food employees.

(E)Contaminated equipment.

(F)Food from unapproved sources.

(3)For each violation identified pursuant to paragraph (2), classification of the violation as a minor violation or major violation.

(b)An enforcement agency may modify the format to add criteria to those specified pursuant to paragraph (2) of subdivision (a), if both of the following conditions are met:

(1)The additional criteria are based on other provisions of this part.

(2)A violation is identified by reference to items and sections of this part, or the regulations adopted pursuant to this part relating to those items, if a food facility is cited for a violation of the additional criteria.

(c)This section shall not restrict the ability of the enforcement agency to inspect and report on criteria other than those subject to regulation under this part.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113725.1.

A copy of the most recent routine inspection report conducted to assess compliance with this part shall be maintained at the food facility and made available upon request. The food facility shall post a notice advising consumers that a copy of the most recent routine inspection report is available for review by any interested party.

(Amended by Stats. 2007, Ch. 96, Sec. 2. Effective July 20, 2007.)

113725.2.

Local enforcement agencies, and the department when adequate funding is made available to the department, shall conduct routine training on food facility inspection standardization to promote the uniform application of inspection procedures.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113725.3.

(a)The department shall publish standardized procedures for enforcement agencies to report food facility inspection information regarding each food facility. The report shall include all of the following:

(1)Name and address of the food facility.

(2)Date of last inspection.

(3)Identification of any major violation identified in a food facility inspection.

(4)Reinspection date, if applicable.

(5)Period of closure, if applicable.

(b)The department, in consultation with local environmental health directors, representatives of the retail food industry, and other interested parties, may periodically review and revise the standardized procedures established pursuant to subdivision (a). In making any revisions, the department shall strive to ensure that the required information can be reported and made available in the most efficient, timely, and cost-effective manner.

(c)(1)The standardized procedures established pursuant to this section shall include a standardized electronic format and protocol for reporting the food facility inspection data in a timely manner, and shall strive to ensure that the information is readily accessible, can be rapidly reported, and, if necessary, corrected, for each food facility that has been inspected or reinspected. If the enforcement agency determines that reported information is materially in error, that error shall be corrected within 48 hours after that determination.

(2)The department may establish standardized procedures for reporting the information on electronic media, including, but not limited to, floppy disks or compact disks.

(d)Within 60 days after the department has established the standardized procedures pursuant to this section, the department shall publish these procedures.

(e)(1)Each enforcement agency that reports food facility inspection information on an Internet Web site shall report the information in accordance with the standardized procedures established pursuant to this section.

(2)This section shall not restrict the ability of an enforcement agency to report on matters other than matters subject to regulation under this part.

(f)The department may establish a link to each Internet Web site utilized by any enforcement agency containing the food facility inspection information pursuant to subdivision (e).

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=2.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 2. Definitions [113728 - 113941]__

(Chapter 2 added by Stats. 2006, Ch. 23, Sec. 2.)

113728.

The following definitions apply in the interpretation and application of this part.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113729.

Food additive has the meaning stated in Section 109940. Color additive has the meaning stated in Section 109895.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113729.5.

Acceptable market name means a name that the FDA recognizes as a suitable statement of identity, as described in Section 101.3 of Title 21 of the Code of Federal Regulations, in the labeling of a species. An acceptable market name fairly represents the identity of the species to United States consumers because it is not confusingly similar to the name of another species and because it is not otherwise misleading. An acceptable market name may be any of the following:

(a)A common or usual name established by either a history of common usage in the United States or by regulation.

(b)The common name.

(c)A name specifically coined as the market name for a species. For example, basa is the market name coined for Pangasius bocourti.

(Added by Stats. 2015, Ch. 615, Sec. 1. (AB 226) Effective January 1, 2016.)

113732.

Adulterated means either of the following:

(a)Food that bears or contains any poisonous or deleterious substance that may render the food impure or injurious to health.

(b)Food that is manufactured, prepared, or stored in a manner that deviates from a HACCP plan so as to pose a discernable increase in risk.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113733.

Acute gastrointestinal illness means a short duration illness most often characterized by either of the following, which are known to be commonly associated with the agents most likely to be transmitted from infected food employees through contamination of food:

(a)Diarrhea, either alone or in conjunction with other gastrointestinal symptoms, such as vomiting, fever, or abdominal cramps.

(b)Vomiting in conjunction with either diarrhea or two other gastrointestinal symptoms, such as fever or abdominal cramps.

(Amended by Stats. 2009, Ch. 571, Sec. 1. (SB 241) Effective October 11, 2009.)

113734.

Approved means acceptable to the enforcement agency based on a determination of conformity with applicable laws, or, in the absence of applicable laws, current public health principles, practices, and generally recognized industry standards that protect public health.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113735.

(a)Approved source means a food source allowed under Article 3 (commencing with Section 114021) of Chapter 4, or a producer, manufacturer, distributor, or food facility that is acceptable to the enforcement agency based on a determination of conformity with applicable laws, or, in the absence of applicable laws, with current public health principles and practices, and generally recognized industry standards that protect public health.

(b)Any whole uncut fruit or vegetable or unrefrigerated shell egg grown or produced in compliance with all applicable federal, state, or local laws, regulations, and food safety guidelines issued by a regulatory agency shall be deemed to be from an approved source.

(Amended by Stats. 2013, Ch. 404, Sec. 3. (AB 224) Effective January 1, 2014.)

113737.

aw means water activity that is a measure of the free moisture in a food, is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol aw.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113739.

Beverage means a liquid for drinking, including water.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113739.1.

(a)Catering operation means a food service that is conducted by a permanent food facility approved for food preparation where food is served, or limited food preparation is conducted, at a location other than its permitted location, in either of the following circumstances:

(1)As part of a contracted offsite food service event.

(2)When operating in conjunction with a host facility with direct food sales.

(b)Catering operation shall not include either of the following:

(1)Food ordered as takeout or delivery from a food facility, where the food is provided to the consumer for self-service.

(2)A food facility that is participating as part of a community event.

(Added by Stats. 2018, Ch. 493, Sec. 1. (AB 2524) Effective January 1, 2019.)

113740.

CCR means the California Code of Regulations.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113742.

Certified farmers™ market means a location that is certified by the State of California through the enforcement officers of the county agricultural commissioners and operated pursuant to Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and regulations adopted pursuant to that chapter.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113744.

C.F.R. means the Code of Federal Regulations. Citations in this part to the C.F.R. refer sequentially to the title, part, and section numbers, such as 21 C.F.R. 178.1010 refers to Title 21, Part 178, Section 1010.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113747.

(a)CIP means cleaned in place by the circulation or flowing by mechanical means through a piping system of a detergent solution, water rinse, and sanitizing solution onto or over equipment surfaces that require cleaning, such as the method used, in part, to clean and sanitize a frozen dessert machine.

(b)CIP does not include the cleaning of equipment such as band saws, slicers, or mixers that are subjected to in-place manual cleaning without the use of a CIP system.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113747.1.

Cold water means potable water that is not heated by an auxiliary method or source.

(Added by Stats. 2009, Ch. 571, Sec. 3. (SB 241) Effective October 11, 2009.)

113748.

Commingle means:

(a)To combine shellstock harvested on different days or from different growing areas as identified on the tag or label.

(b)To combine shucked shellfish from containers with different container codes or different shucking dates.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113750.

(a)Comminuted means reduced in size by methods including chopping, flaking, grinding, or mincing.

(b)Comminuted includes fish or meat products that are reduced in size and restructured or reformulated including, but not limited to, gefilte fish, formed roast beef, gyros, ground beef, sausage, and a mixture of two or more types of meat that have been reduced in size and combined, including, but not limited to, sausages made from two or more meats.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113751.

Commissary means a food facility that services mobile food facilities, mobile support units, or vending machines where any of the following occur:

(a)Food, containers, or supplies are stored.

(b)Food is prepared or prepackaged for sale or service at other locations.

(c)Utensils are cleaned.

(d)Liquid and solid wastes are disposed, or potable water is obtained.

(Amended by Stats. 2007, Ch. 96, Sec. 3. Effective July 20, 2007.)

113752.

Community food producer means a producer of agricultural products on land that is not zoned for agricultural use but is otherwise in compliance with applicable local land use and zoning restrictions, including, but not limited to, restrictions governing personal gardens, community gardens, school gardens, and culinary gardens.

(Added by Stats. 2014, Ch. 580, Sec. 2. (AB 1990) Effective January 1, 2015.)

113755.

Community event means an event conducted for not more than 25 consecutive or nonconsecutive days in a 90-day period and that is of a civic, political, public, or educational nature, including state and county fairs, city festivals, circuses, and other public gathering events approved by the local enforcement agency.

(Amended by Stats. 2015, Ch. 164, Sec. 1. (AB 143) Effective January 1, 2016.)

113756.

Condiment means a nonpotentially hazardous food, such as relishes, spices, sauces, confections, or seasonings, that requires no additional preparation, and that is used on a food item, including, but not limited to, ketchup, mustard, mayonnaise, sauerkraut, salsa, salt, sugar, pepper, or chile peppers.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113757.

Consumer means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food facility, and does not offer the food for resale.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113758.

(a)Cottage food operation means an enterprise that has no more than the amount in gross annual sales that is specified in this subdivision, is operated by a cottage food operator, and has no more than one full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers pursuant to this part. A Class A cottage food operation shall not have more than seventy-five thousand dollars ($75,000) in verifiable gross annual sales. A Class B cottage food operation shall not have more than one hundred fifty thousand dollars ($150,000) in verifiable gross annual sales. The gross annual sales for a Class A or Class B cottage food operation shall be annually adjusted for inflation based on the California Consumer Price Index. A cottage food operation includes both of the following:

(1)A Class A cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products from the cottage food operation or other direct sales venues described in paragraph (4) of subdivision (b).

(2)A Class B cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products from the cottage food operation, from direct sales venues described in paragraph (4) of subdivision (b), from offsite events, or from a third-party retail food facility described in paragraph (5) of subdivision (b).

(b)For purposes of this section, the following definitions shall apply:

(1)Cottage food employee means an individual, paid or volunteer, who is involved in the preparation, packaging, handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An employee does not include an immediate family member or household member of the cottage food operator, nor an individual who delivers a cottage food product.

(2)Cottage food operator means an individual who operates a cottage food operation in their private home and is the owner of the cottage food operation.

(3)Cottage food products means nonpotentially hazardous foods, including foods that are described in Section 114365.5 and that are prepared for sale in the kitchen of a cottage food operation.

(4)Direct sale means a transaction within the state between a cottage food operation and a consumer, in which the consumer purchases the cottage food product directly from the cottage food operation. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers™ markets, or through community-supported agriculture subscriptions, transactions occurring in person in the cottage food operation, and transactions made via the phone, internet, or any other digital method. A direct sale may be fulfilled in person, via mail delivery, or using any other third-party delivery service.

(5)Indirect sale means a transaction within the state between a cottage food operation, a third-party retailer, and a consumer, in which the consumer purchases cottage food products made by the cottage food operation from a third-party retailer that holds a valid permit issued pursuant to Section 114381. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises. An indirect sale may be fulfilled in person, via mail delivery, or using any other third-party delivery service.

(6)Private home means a dwelling, including an apartment or other leased space, where individuals reside.

(7)Registered or permitted area means the portion of a private home that contains the private homeskitchen used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, and attached rooms within the home that are used exclusively for storage.

(Amended by Stats. 2021, Ch. 178, Sec. 1. (AB 1144) Effective January 1, 2022.)

113759.

Control point means any distinct procedure or step in receiving, storing, handling, preparing, displaying, transporting, or dispensing a food.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113760.

Critical control point means a point or procedure in a specific food system where loss of control may result

in an unacceptable health risk.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113761.

Critical limit means the maximum or minimum value to which a physical, biological, or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113763.

Department means the State Department of Public Health.

(Amended by Stats. 2007, Ch. 483, Sec. 25. Effective January 1, 2008.)

113767.

Easily cleanable means a characteristic of a surface that allows effective removal of soil, food residue, or other organic or inorganic materials by normal cleaning methods.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113768.

Easily movable means either of the following:

(a)Portable; mounted on casters, gliders, or rollers so as to be moveable by one person; or provided with a mechanical means to safely tilt or move a unit of equipment for cleaning.

(b)Having no utility connection, a utility connection that disconnects quickly, or a flexible utility connection line of sufficient length to allow the equipment to be moved for cleaning of the equipment and adjacent area.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113769.

Egg means the shell egg of an avian species that includes chicken, duck, goose, guinea, quail, ratite, or turkey, except a balut and an egg product. Egg does not include the egg of a reptile species, including an alligator.

(Amended by Stats. 2009, Ch. 571, Sec. 4. (SB 241) Effective October 11, 2009.)

113770.

Employee means the permitholder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working in a food facility.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113773.

Enforcement agency means the department or the local health agency having jurisdiction over the food facility.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113774.

Enforcement officer means the director, agents, or environmental health specialists appointed by the State Public Health Officer, and all local health officers, directors of environmental health, and their duly authorized registered environmental health specialists and environmental health specialist trainees.

(Amended by Stats. 2007, Ch. 483, Sec. 26. Effective January 1, 2008.)

113777.

(a)Equipment means an article that is used in the operation of a food facility, including, but not limited to, a freezer, grinder, hood, icemaker, meat block, mixer, oven, reach-in refrigerator, scale, food and utensil shelving and cabinets, sink, slicer, stove, table, temperature measuring device for ambient air, vending machine, or warewashing machine.

(b)Equipment does not include items used for handling or storing large quantities of prepackaged foods that are received from a supplier in a cased or overwrapped lot, such as hand trucks, forklifts, dollies, pallets, racks, and skids.

_(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec.

3 of Ch. 23.)_

113778.

Exclude means to prevent a person from working as a food employee or entering a food facility except for those areas open to the general public.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113778.1.

FDA means the United States Food and Drug Administration.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113778.2.

Farm stands are premises, established in accordance with local ordinances and land use codes, defined under and operated pursuant to Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and regulations adopted and enforced pursuant to that chapter, operating within the requirements set forth in Sections 113789 and 114375.

(Added by Stats. 2008, Ch. 447, Sec. 7. Effective January 1, 2009.)

113778.4.

Fabric implement means a cloth or fabric, including, but not limited to, burlap and cheesecloth, that is used as part of the food process and comes in direct contact with food that is subsequently cooked.

(Added by Stats. 2009, Ch. 571, Sec. 5. (SB 241) Effective October 11, 2009.)

113779.

(a)Fish means fresh or saltwater finfish, crustaceans, and other forms of aquatic life, other than birds or mammals, and all molluscan shellfish, if intended for human consumption. Fish also includes alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin, and the roe of these animals.

(b)Fish includes a product derived in whole or in part from fish, including fish that have been processed in any manner.

(Amended by Stats. 2015, Ch. 615, Sec. 2. (AB 226) Effective January 1, 2016.)

113780.

Fishermensmarket means a location that is operated by a commercial fisherman licensed by the Department of Fish and Wildlife or an entity representing two or more California-licensed commercial fishermen or California-licensed commercial fishermen and California-registered aquaculturists, that sells only raw edible aquatic plants, raw fresh fish, or fresh frozen fish, caught by commercial fishermen licensed by the Department of Fish and Wildlife or harvested by California-registered aquaculturists, directly to consumers.

(Added by Stats. 2015, Ch. 615, Sec. 3. (AB 226) Effective January 1, 2016.)

113781.

Food means a raw, cooked, or processed edible substance, ice, beverage, an ingredient used or intended for use or for sale in whole or in part for human consumption, and chewing gum.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113783.

Food bank means a surplus food collection and distribution system operated and established to assist in bringing donated food to nonprofit charitable organizations and individuals for the purposes of reducing hunger and supplying nutritional needs.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113784.

Food compartment means an enclosed space, including, but not limited to, an air pot, blender, bulk dispensing system, covered chafing dish, and covered ice bin, with all of the following characteristics:

(a)The space is defined by a physical barrier from the outside environment that completely encloses all food, food-contact surfaces, and the handling of nonprepackaged food.

(b)All access openings are equipped with tight-fitting closures, or one or more alternative barriers that effectively protect the food from contamination, facilitate safe food handling, while minimizing exposure to the environment.

(c)It is constructed from materials that are nontoxic, smooth, easily cleanable, and durable and is constructed to facilitate the cleaning of the interior and exterior of the compartment.

(Amended by Stats. 2009, Ch. 571, Sec. 6. (SB 241) Effective October 11, 2009.)

113786.

Food-contact surface means either of the following:

(a)A surface of equipment or a utensil with which food normally comes into contact.

(b)A surface of equipment or a utensil from which food may drain, drip, or splash into a food or onto a surface normally in contact with food.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113788.

Food employee means an employee working with food, food equipment or utensils, or food-contact surfaces.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113789.

(a)Food facility means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1)An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2)A place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b)Food facility includes permanent and nonpermanent food facilities, including, but not limited to, the following:

(1)Public and private school cafeterias.

(2)Restricted food service facilities.

(3) Licensed health care facilities, except as provided in paragraph (12) of subdivision (c).

(4)Commissaries.

(5)Mobile food facilities.

(6)Mobile support units.

(7)Temporary food facilities.

(8)Vending machines.

(9)Certified farmers™ markets, for purposes of permitting and enforcement pursuant to Section 114370.

(10)Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.

(11)Fishermensmarkets.

(12)Microenterprise home kitchen operations.

(13)Catering operation.

(14)Host facility.

(c)Food facility does not include any of the following:

(1)A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2)A private home when used for private, noncommercial purposes or when used as a cottage food operation that is registered or has a permit pursuant to Section 114365.

(3)A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4)A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5)Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code, or premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, and in the regulations adopted pursuant to those sections, that comply with Section 118375, regardless of whether there is a charge for the wine or beer tasting, if no other beverage, except for bottles of wine or beer and prepackaged nonpotentially hazardous beverages, is offered for sale or for onsite consumption and no food, except for crackers, pretzels, or prepackaged food that is not potentially hazardous food is offered for sale or for onsite consumption.

(6)An outlet or location, including, but not limited to, premises, operated by a producer, selling or offering for sale only whole produce grown by the producer or shell eggs, or both, provided the sales are conducted at an outlet or location controlled by the producer.

(7)A commercial food processing establishment, as defined in Section 111955.

(8)A child day care facility, as defined in Section 1596.750.

(9)A community care facility, as defined in Section 1502.

(10)A residential care facility for the elderly, as defined in Section 1569.2.

(11)A residential care facility for the chronically ill, which has the same meaning as a residential care facility,

as defined in Section 1568.01.

(12)(A)An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B)A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

(13)A community food producer, as defined in Section 113752.

(14)A limited service charitable feeding operation, as defined in Section 113819.

(Amended by Stats. 2018, Ch. 493, Sec. 2.3. (AB 2524) Effective January 1, 2019.)

113790.

(a)Food handler means an individual who is involved in the preparation, storage, or service of food in a food facility, as defined in subdivision (b), other than an individual holding a valid food safety certificate issued pursuant to Section 113947.3 or an individual involved in the preparation, storage, or service of food in a temporary food facility, as defined in Section 113930.

(b)For purposes of the definition of a food facility in subdivision (a) and in Section 113948, a food facility means a food facility, as defined in Section 113789, that sells food for human consumption to the general public.

(Amended by Stats. 2011, Ch. 233, Sec. 1. (SB 303) Effective September 6, 2011.)

113791.

Food preparation means packaging, processing, assembling, portioning, or any operation that changes the form, flavor, or consistency of food, but does not include trimming of produce.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113794.

Food safety program means any city, county, or city and county program that requires, at a minimum, either of the following:

(a)The training of one or more individuals, whether denominated as owners, managers, handlers, or otherwise, relating in any manner to food safety issues.

(b)Individuals to pass a food safety certification examination.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113794.1.

Food handler program means any city, county, or city and county program that requires that all or a substantial portion of the employees of a food facility who are involved in the preparation, storage, service, or handling of food products, engage in an approved food safety training or pass an approved food safety certification examination, or both.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113794.3.

Fresh frozen means that the food was quickly frozen while still fresh, including immediately after the food had been harvested or fish had been caught.

(Added by Stats. 2015, Ch. 615, Sec. 5. (AB 226) Effective January 1, 2016.)

113794.4.

Frozen food means a food maintained at a temperature at which all moisture therein is in a solid state.

(Added by Stats. 2009, Ch. 571, Sec. 8. (SB 241) Effective October 11, 2009.)

113795.

(a)Game animal means an animal, the products of which are food, that is not classified as cattle, sheep, swine, goat, horse, mule, or other equine in Part 301 of Title 9 of the Code of Federal Regulations, as poultry in Part 381 of Title 9 of the Code of Federal Regulations, or as fish as defined under Subpart 1"201.10(B)(31) of the Food and Drug Administration 2001 Food Code.

(b)Game animal includes mammals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, opossum, raccoon, nutria, or muskrat, and nonaquatic reptiles such as land snakes.

(c)Game animal does not include ratites.

(Amended by Stats. 2016, Ch. 195, Sec. 1. (SB 1067) Effective January 1, 2017.)

113796.

Gleaner means a person who legally gathers remnants of an agricultural crop or harvests part of, or all of, an agricultural crop made available by the owner of the agricultural crop.

(Added by Stats. 2014, Ch. 580, Sec. 4. (AB 1990) Effective January 1, 2015.)

113797.

Grade A standards means the requirements of the United States Public Health Service/FDA Grade A Pasteurized Milk Ordinance and Grade A Condensed and Dry Milk Ordinance with which certain fluid and dry milk and milk products comply.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113799.

HACCP means a Hazard Analysis Critical Control Point.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113801.

HACCP plan means a written document that complies with the requirements of Section 114419.1 and that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by the National Advisory Committee on Microbiological Criteria for Foods. These principles include completion of the following basic steps:

(a)Completion of hazard analysis identification by identifying the likely hazards to consumers presented by a specific food.

(b)Determination of critical control points in receiving, storage, preparation, displaying, and dispensing of a food.

(c)Setting of measurable critical limits for each critical control point determined.

(d)Developing and maintaining monitoring practices to determine if critical limits are being met.

(e)Developing and utilizing corrective action plans when failure to meet critical limits is detected.

(f)Establishing and maintaining a recordkeeping system to verify adherence to an HACCP plan.

(g)Establishing a system of audits to do both of the following:

(1)Initially verify the effectiveness of the critical limits set and appropriateness of the determination of critical control points.

(2)Periodically verify the effectiveness of the HACCP plan.

(Amended by Stats. 2009, Ch. 571, Sec. 9. (SB 241) Effective October 11, 2009.)

113803.

Hazard means a biological, chemical, or physical property that may cause an unacceptable public health risk.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113804.

Hearing officer means a local health officer, a director of environmental health, or his or her designee.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113805.

Hermetically sealed container means a container that is designed and intended to be secure against the entry of micro-organisms and, in the case of low acid canned foods, to maintain the commercial sterility of its contents after processing.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113806.

Highly susceptible population means a group of persons who are more likely than other people in the general population to experience foodborne disease because both of the following conditions exist:

(a)The group is comprised of immunocompromised persons, preschool age children, or older adults.

(b)The group obtains food at a facility, including, but not limited to, a kidney dialysis center, hospital, nursing home, or senior center, that provides services, such as custodial care, health care, assisted living, or socialization services.

(Added by Stats. 2013, Ch. 556, Sec. 2. (AB 1252) Effective January 1, 2014.)

113806.1.

Host facility means a facility located in a brewery, winery, commercial building, or another location as approved by the local enforcement agency, that meets applicable requirements to support a catering operation that provides food directly to individual consumers for a limited period of time, up to four hours, in any one 12-hour period and that has a permit pursuant to Section 114328.1. Host facility does not include the premises described in paragraph (5) of subdivision (c) of Section 113789.

(Added by Stats. 2018, Ch. 493, Sec. 3. (AB 2524) Effective January 1, 2019.)

113807.

Hot dog means a whole, cured, cooked sausage that is skinless or stuffed in a casing, that may be known as a frankfurter, frank, furter, wiener, red hot, vienna, bologna, garlic bologna, or knockwurst, and that may be served in a bun or roll.

(Added by Stats. 2013, Ch. 556, Sec. 3. (AB 1252) Effective January 1, 2014.)

113810.

Imminent health hazard means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that can cause food infection, food intoxication, disease transmission, vermin infestation, or hazardous condition that requires immediate correction or cessation of operation to prevent injury, illness, or death.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113812.

Impound means the legal control exercised by the enforcement officer over the use, sale, disposal, or removal of any food, equipment, or utensils.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113814.

Injected means manipulating meat to which a solution has been introduced into its interior by processes that are referred to as injecting, pinning, or stitch pumping.

(Amended by Stats. 2016, Ch. 195, Sec. 2. (SB 1067) Effective January 1, 2017.)

113815.

Juice means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purees of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or puree. Juice includes juice as a beverage, an ingredient of a beverage, and a puree as an ingredient of a beverage.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113816.

Law means applicable local, state, and federal statutes, regulations, and ordinances.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113818.

(a)Limited food preparation means food preparation that is restricted to one or more of the following:

(1)Heating, frying, baking, roasting, popping, shaving of ice, blending, steaming or boiling of hot dogs, or assembly of nonprepackaged food.

(2)Dispensing and portioning of nonpotentially hazardous food or dispensing and portioning for immediate service to a customer of food that has been temperature controlled until immediately prior to portioning or dispensing.

(3)Holding, portioning, and dispensing of any foods that are prepared for satellite food service by the onsite permanent food facility or prepackaged by another approved source.

(4)Holding, portioning, and dispensing of any foods that are prepared by a catering operation.

(5)Slicing and chopping of nonpotentially hazardous food or produce that has been washed at an approved facility or slicing and chopping of food on a heated cooking surface during the cooking process.

(6)Cooking and seasoning to order.

(7)Juicing or preparing beverages that are for immediate service, in response to an individual consumer order, that do not contain frozen milk products.

(8)Hot and cold holding of food that has been prepared at an approved permanent food facility.

(9)Reheating of food that has been previously prepared at an approved permanent food facility and held at temperatures required by this chapter.

(b)Limited food preparation does not include any of the following:

(1)Slicing and chopping potentially hazardous food, other than produce, unless it is on the heated cooking

surface.

(2)Thawing.

(3)Cooling of cooked, potentially hazardous food.

(4)Grinding raw ingredients or potentially hazardous food.

(5)Washing of foods.

(6)Cooking of potentially hazardous foods for later use.

(7)Handling, manufacturing, freezing, processing, or packaging of milk, milk products, or products resembling milk products subject to licensing under Division 15 (commencing with Section 32501) of the Food and Agricultural Code.

(Amended by Stats. 2022, Ch. 489, Sec. 1. (SB 972) Effective January 1, 2023.)

113819.

(a)Limited service charitable feeding operation means an operation for food service to a consumer solely for providing charity, that is conducted by a nonprofit charitable organization operating pursuant to Chapter 10.6 (commencing with Section 114333), and whose food service is limited to any of the following functions:

(1)Storage and distribution of whole, uncut produce, or of prepackaged, nonpotentially hazardous foods in their original manufacturerspackaging.

(2)Storage and distribution of commercially prepared and commercially packaged potentially hazardous cold or frozen foods.

(3)Heating, portioning, or assembling a small volume of commercially prepared foods or ingredients for same-day food service to the consumer, as follows:

(A)Heating, portioning, or assembling a small volume of commercially prepared foods means food preparation that is restricted to one or more of the following:

(i)Assembly of ready-to-eat foods that require no further preparation aside from assembly.

(ii)Heating, including boiling of pasta and grains, and serving.

(iii)Dispensing, portioning, or repackaging of bulk foods.

(B)Heating, portioning, or assembling a small volume of commercially prepared foods does not include any of the following:

(i)Chopping or dicing.

(ii)Cooking of raw animal products.

(iii)Blending.

(iv)Other food processing as identified by the local enforcement agency.

(4)Reheating or portioning of only commercially prepared foods with no further processing, for same-day food service to the consumer.

(b)Limited service charitable feeding operation does not include a nonprofit charitable temporary food facility operating pursuant to Chapter 10.5 (commencing with Section 114332), or a temporary food facility operating pursuant to Chapter 11 (commencing with Section 114335). A limited service charitable feeding operation shall operate pursuant to Chapter 10.5 (commencing with Section 114332) or Chapter 11 (commencing with Section 114335) if it operates a nonprofit charitable temporary food facility or a temporary food facility, respectively.

(Amended by Stats. 2021, Ch. 155, Sec. 2. (AB 831) Effective January 1, 2022.)

113820.

Linens means fabric items such as cloth hampers, cloth napkins, tablecloths, wiping cloths, and work garments, including cloth gloves.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113820.5.

(a)Major food allergen means all of the following:

(1)Milk.

(2)Eggs.

(3)Fish, including, but not limited to, bass, flounder, and cod.

(4)Crustacean shellfish, including, but not limited to, crab, lobster, and shrimp.

(5)Tree nuts, including, but not limited to, almonds, pecans, and walnuts.

(6)Wheat.

(7)Peanuts.

(8)Soybeans.

(9)A food ingredient that contains protein derived from a food listed in paragraphs (1) to (8), inclusive.

(b)Major food allergen does not include either of the following:

(1)A highly refined oil derived from a food specified in paragraphs (1) to (8), inclusive, of subdivision (a) and any ingredient derived from that highly refined oil.

(2)An ingredient that is exempt under the petition or notification process specified in the federal Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282).

(Added by Stats. 2016, Ch. 195, Sec. 4. (SB 1067) Effective January 1, 2017.)

113821.

Major violation means a violation of this part that may pose an imminent health hazard and warrants immediate closure or other corrective action.

(Amended by Stats. 2009, Ch. 571, Sec. 11. (SB 241) Effective October 11, 2009.)

113823.

Meat means the flesh of animals used as food, including the dressed flesh of cattle, swine, sheep, goats, and other edible animals, except fish, poultry, and wild game animals specified in subdivision (a) of Section 114031.

(Amended by Stats. 2016, Ch. 195, Sec. 5. (SB 1067) Effective January 1, 2017.)

113824.

Menu change means a modification of a food facilitysmenu that would require a change in the food facilitysfood preparation methods, storage equipment, or storage capacity previously approved by the local enforcement agency. These changes may include, but are not limited to, the addition of potentially hazardous foods to a menu, installation of new food preparation or storage equipment, or increasing storage capacity.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113825.

(a)Microenterprise home kitchen operation means a food facility that is operated by a resident in a private home where food is stored, handled, and prepared for, and may be served to, consumers, and that meets all of the following requirements:

(1)The operation has no more than one full-time equivalent food employee, not including a family member or household member.

(2)Food is prepared, cooked, and served on the same day.

(3)Food is consumed onsite at the microenterprise home kitchen operation or offsite if the food is picked up by the consumer or delivered within a safe time period based on holding equipment capacity.

(4)Food preparation does not involve processes that require a HACCP plan, as specified in Section 114419, or the production, service, or sale of raw milk or raw milk products, as defined in Section 11380 of Title 17 of the California Code of Regulations.

(5)The service and sale of raw oysters is prohibited.

(6)The production, manufacturing, processing, freezing, or packaging of milk or milk products, including, but not limited to, cheese, ice cream, yogurt, sour cream, and butter, is prohibited.

(7)Food preparation is limited to no more than 30 individual meals per day, or the approximate equivalent of meal components when sold separately, and no more than 90 individual meals, or the approximate equivalent of meal components when sold separately, per week. The local enforcement agency may decrease the limit of the number of individual meals prepared based on food preparation capacity of the operation, but shall not, in any case, increase the limit of the number of individual meals prepared.

(8)The operation has no more than one hundred thousand dollars ($100,000) in verifiable gross annual sales, as adjusted annually for inflation based on the California Consumer Price Index.

(9)The operation only sells food directly to consumers and not to any wholesaler or retailer. For purposes of this paragraph, the sale of food prepared in a microenterprise home kitchen operation through the internet website or mobile application of an internet food service intermediary, as defined in Section 114367.6, is a direct sale to consumers. An operation that sells food through the internet website or mobile application of an internet food service intermediary shall consent to the disclosures specified in paragraphs (6) and (7) of subdivision (a) of Section 114367.6.

(b)Microenterprise home kitchen operation does not include either of the following:

(1)A catering operation.

(2)A cottage food operation, as defined in Section 113758.

(c)For purposes of this section, resident of a private home means an individual who resides in the private home when not elsewhere for labor or other special or temporary purpose.

(d)For purposes of this section, meal means the amount or quantity of food that is intended to be consumed by one customer in one sitting. A meal may include one or more of any of the following:

(1)A main dish.

(2)Appetizers.

(3)Side dishes.

(4)Beverages.

(5)Baked goods.

(6)Desserts.

(Amended by Stats. 2023, Ch. 101, Sec. 1. (AB 1325) Effective July 21, 2023.)

113827.

Minor violation means a violation of this part that does not pose an imminent health hazard, but does warrant correction.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113831.

(a)Mobile food facility means any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. Mobile food facility does not include a transporter used to transport packaged food from a food facility, or other approved source to the consumer.

(b)Single operating site mobile food facilities means at least one, but not more than four, unenclosed mobile food facilities, and their auxiliary units, that operate adjacent to each other at a single location.

(c)Compact mobile food operation means a mobile food facility that operates from an individual or from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance.

(Amended by Stats. 2022, Ch. 489, Sec. 2. (SB 972) Effective January 1, 2023.)

113833.

Mobile support unit means a vehicle used in conjunction with a commissary or other permanent food facility that travels to and services mobile food facilities as needed to replenish supplies, including food and potable water, clean the interior of the unit, or dispose of liquid or solid wastes.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113835.

Molluscan shellfish means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions thereof, except when the scallop product consists only of the shucked adductor muscle.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113837.

Multiservice utensil means a utensil manufactured for use more than one time.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113839.

Nonpermanent food facility means a food facility that operates from a mobile unit or at a nonpermanent location, including, but not limited to, a certified farmers™ market, a fishermensmarket, a mobile food facility, a mobile support unit, a temporary food facility, or a vending machine.

(Amended by Stats. 2015, Ch. 615, Sec. 6. (AB 226) Effective January 1, 2016.)

113841.

Nonprofit charitable organization means either of the following:

(a)A corporation incorporated pursuant to the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code), that is exempt from taxation pursuant to paragraphs (1) to (10), inclusive, and paragraph (19) of Section 501(c) of the Internal Revenue Code and Section 23701d of the Revenue and Taxation Code.

(b)An organization that was organized and is in operation for charitable purposes and meets the requirements of Section 214 of the Revenue and Taxation Code.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113842.

Nonprofit charitable temporary food facilities means either one of the following:

(a)A temporary food facility, as defined in Section 113930, that is conducted by a nonprofit charitable organization, as defined in Section 113841.

(b)An established club or organization of students that operates under the authorization of a school or other educational facility.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113843.

Open-air barbecue means a piece of equipment designed for barbecuing food, where the food is prepared out of doors by cooking directly over hot coals, heated lava, hot stones, gas flame, or other method approved by the department, on equipment suitably designed and maintained for use out of doors, that is operated by a temporary food facility, a catering operation, or a mobile food facility that remains fixed during hours of operations at a community event or a permanent food facility.

(Amended by Stats. 2018, Ch. 493, Sec. 5. (AB 2524) Effective January 1, 2019.)

113846.

Outdoor wood-burning oven means an oven located out of doors, that utilizes wood as the primary fuel for cooking and is operated by a temporary food facility, mobile food facility that remains fixed during hours of operation at a community event, permanent food facility, satellite food service, or catering operation.

(Amended by Stats. 2021, Ch. 155, Sec. 3. (AB 831) Effective January 1, 2022.)

113849.

Permanent food facility means a food facility operating in a permanently constructed structure, including any room, building, place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, manufacturing, packaging, or otherwise handling food at the retail level.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113851.

(a)Permit means the document issued by the enforcement agency that authorizes a person to operate a food facility or cottage food operation.

(b)Registration shall have the same meaning as permit for purposes of implementation and enforcement of this part.

(Amended by Stats. 2012, Ch. 415, Sec. 9. (AB 1616) Effective January 1, 2013.)

113853.

Permitholder means the entity that is legally responsible for the operation of the food facility, such as the owner, the ownersagent, or other person, and possesses a valid permit to operate a food facility.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113855.

Person means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, syndicate, city, county, or other political subdivision, or any other group or combination acting as a unit.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113856.

Person in charge means the individual present at a food facility who is responsible for the operation of the food facility.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113859.

(a)Personal care items means items or substances that may be poisonous, toxic, or a source of contamination and are used to maintain or enhance a personshealth, hygiene, or appearance.

(b)Personal care items include items such as medicines, first aid supplies, cosmetics, and toiletries such as toothpaste and mouthwash.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113861.

pH means the symbol for the negative logarithm of the hydrogen ion concentration, which is a measure of the degree of acidity or alkalinity of a solution. Values between 0 and 7 indicate acidity and values between 7 and 14 indicate alkalinity. The value for pure distilled water is 7, which is considered neutral.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113863.

Plumbing fixture means a receptacle or device that is permanently or temporarily connected to the water distribution system of the premises and demands a supply of water from the system or discharges used water, waste materials, or sewage directly or indirectly to the drainage system of the premises.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113865.

Plumbing system means the water supply and distribution pipes, plumbing fixtures and traps, soil, waste, and vent pipes, sanitary and storm sewers and building drains, including their respective connections, devices, and appurtenances within the premises, and water-treating equipment.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113867.

Poisonous or toxic materials means substances that are not intended for ingestion and are included in one of the following categories:

(a)Cleaners and sanitizers, which include cleaning and sanitizing agents and agents such as caustics, acids, drying agents, polishes, and other chemicals.

(b)Pesticides except sanitizers, which include substances such as insecticides and rodenticides.

(c)Substances necessary for the operation and maintenance of the facility, such as nonfood grade lubricants and personal care items that may be deleterious to health.

(d)Substances that are not necessary for the operation and maintenance of the facility and are on the premises for retail sale, such as petroleum products and paints.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113868.

Portable means equipment that is capable of being lifted and moved or has utility connections that are designed to be disconnected or of sufficient length to permit the unit to be moved for cleaning, and does not exceed 100 pounds (46 kg) in weight or is otherwise designed to be mobile.

(Amended by Stats. 2022, Ch. 489, Sec. 3. (SB 972) Effective January 1, 2023.)

113869.

Potable water means water that complies with the standards for transient noncommunity water systems pursuant to the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116270) of Part 12, to the extent permitted by federal law.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113871.

(a)Potentially hazardous food means a food that requires time or temperature control to limit pathogenic micro-organism growth or toxin formation.

(b)Potentially hazardous food includes a food of animal origin that is raw or heat-treated, a food of plant origin that is heat-treated or consists of raw seed sprouts, cut melons, cut tomatoes or mixtures of cut tomatoes that are not modified to render them unable to support pathogenic micro-organism growth or toxin formation, and garlic-in-oil mixtures that are not acidified or otherwise modified at a food processing plant in a way that results in mixtures that do not support growth or toxin formation as specified under subdivision (a).

(c)Potentially hazardous food does not include any of the following:

(1)A food with an aw value of 0.85 or less.

(2)A food with a pH level of 4.6 or below when measured at 75Â°F.

(3)An air-cooled, hard-boiled egg with shell intact, or an egg with shell intact that is not hard boiled, but has been pasteurized to destroy all viable salmonellae.

(4)A food in an unopened, hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution.

(5)A food that has been shown by appropriate microbial challenge studies approved by the enforcement agency not to support the rapid and progressive growth of infectious or toxigenic micro-organisms that may cause food infections or food intoxications, or the growth and toxin production of Clostridium botulinum, such as a food that has an aw and a pH that are above the levels specified under paragraphs (1) and (2) and that may contain a preservative, other barrier to the growth of micro-organisms, or a combination of barriers that inhibit the growth of micro-organisms.

(6)A food that does not support the rapid and progressive growth of infectious or toxigenic micro-organisms, even though the food may contain an infectious or toxigenic micro-organism or chemical or physical contaminant at a level sufficient to cause illness.

(Amended by Stats. 2009, Ch. 571, Sec. 13. (SB 241) Effective October 11, 2009.)

113873.

Poultry means either of the following:

(a)Any domesticated bird, including chickens, turkeys, ducks, geese, or guineas, whether live or dead, as defined in Poultry Products Inspection Regulations (9 C.F.R. 381).

(b)Any migratory waterfowl, game bird, including a pheasant, partridge, quail, grouse, or guinea, or pigeon, ratites, or squab, whether live or dead, as defined in the Voluntary Poultry Inspection Regulations (9 C.F.R. 362).

(Amended by Stats. 2016, Ch. 195, Sec. 6. (SB 1067) Effective January 1, 2017.)

113874.

Premises means:

(a)The food facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the permitholder.

(b)The food facility, its contents, and the land or property not described in subdivision (a) if the facility and contents are under the control of the permitholder and may impact food facility personnel, facilities, or operations.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113876.

Prepackaged food means any properly labeled processed food, prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer, a food facility, or other approved source.

(Amended by Stats. 2009, Ch. 571, Sec. 14. (SB 241) Effective October 11, 2009.)

113877.

Produce means any whole edible portion of a plant in its raw and natural state.

(Amended by Stats. 2008, Ch. 447, Sec. 9. Effective January 1, 2009.)

113879.

Produce stand means a permanent food facility that sells, offers for sale, or gives away only produce or shell eggs, or both, except that produce stand does not include premises operated by a producer selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided that the sales are conducted on premises controlled by the producer.

(Amended by Stats. 2009, Ch. 571, Sec. 15. (SB 241) Effective October 11, 2009.)

113880.

Producer means a person or entity who produces shell eggs or edible plants by practice of the agricultural arts upon land that the person or entity controls.

(Amended by Stats. 2008, Ch. 447, Sec. 10. Effective January 1, 2009.)

113881.

Ready-to-eat food means food that is in a form that is edible without additional preparation to achieve food safety, as specified in Section 114004 or Section 114008, is a raw or partially cooked food of animal origin and the consumer is advised as specified under Section 114093, or may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes. Ready-to-eat food includes all of the following:

(a)Raw food of animal origin that is cooked as specified in Section 114004 or 114008.

(b)Raw fruits and vegetables that are washed as specified in Section 113992.

(c)Fruits and vegetables that are cooked for hot holding as specified in Section 114010.

(d)All potentially hazardous food that is cooked to the temperature and time required for the specific food under Sections 114004, 114008, and 114010 and cooled as specified in Section 114002.

(e)Produce for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shells, if naturally present, are removed.

(f)Substances derived from plants, such as spices, seasonings, and sugar.

(g)A bakery item, such as bread, cakes, pies, fillings, or icing, for which further cooking is not required for food safety.

(h)The following products that are produced in accordance with USDA guidelines and that have received a lethality treatment for pathogens: dry, fermented sausages, such as dry salami or pepperoni; salt-cured meat and poultry products, such as prosciutto ham, country cured ham, and parma ham; and dried meat and poultry products, such as jerky or beef sticks.

(i)Foods manufactured according to 21 C.F.R. Part 113"Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113883.

Reduced-oxygen packaging means the reduction of the amount of oxygen in a package by mechanically evacuating the oxygen, displacing the oxygen with another gas or combination of gases, or otherwise controlling the oxygen content in a package to a level below that normally found in the surrounding atmosphere, which is 21 percent oxygen.

Reduced-oxygen packaging includes methods that may be referred to as altered atmosphere, modified atmosphere, controlled atmosphere, low oxygen, and vacuum packaging, including sous vide.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113885.

Refrigeration unit means a mechanical unit that extracts heat from an area through liquefaction and evaporation of a fluid by a compressor, flame, or thermoelectric device, and includes a mechanical thermostatic control device that regulates refrigerated blown air into an enclosed area at or below the minimum required food storage temperature of potentially hazardous foods in conformance with Section 113996.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113887.

Refuse means solid waste not carried by water through the sewage system.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113889.

Remodel means construction, building, or repair to the food facility that requires a permit from the local building authority. For purposes of mobile food facilities, temporary food facilities, and satellite food service, remodel means any replacement or significant modification of an integral piece of equipment.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113893.

(a)Restricted food service facility means either of the following:

(1)A food facility of 20 guestrooms or less that provides overnight transient occupancy accommodations, that serves food only to its registered guests, that serves only a breakfast or similar early morning meal and no other meals, and that includes the price of food in the price of the overnight transient occupancy accommodation.

(2)An agricultural homestay facility that meets all of the following requirements:

(A)Has not more than six guest rooms or accommodates not more than 15 guests.

(B)Provides overnight transient accommodations.

(C)Serves food only to its registered guests and serves meals at any time, and includes the price of food in the price of the overnight transient occupancy accommodation.

(D)Lodging and meals are incidental and not the primary function of the agricultural homestay facility.

(E)The agricultural homestay facility is located on, and is a part of, a farm, as defined in Section 52262 of the Food and Agricultural Code, that produces agricultural products as its primary source of income.

(b)Notwithstanding subdivision (a), a restricted food service facility may serve light foods or snacks presented to the guest for self-service.

(c)The predominant relationship between the occupants of a restricted food service facility and the permitholder of the facility is that of innkeeper and guest. For purposes of this section, the existence of some other legal relationships as between some occupants and the permitholder shall be immaterial.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113894.

Restrict means to limit the activities of a food employee so that there is no risk of transmitting a disease that is transmissible through food and the food employee does not work with exposed food, clean equipment, utensils, linens, and unwrapped single-use articles.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113895.

Retail means the storing, preparing, serving, manufacturing, packaging, transporting, salvaging, or otherwise handling food for dispensing or sale directly to the consumer or indirectly through a delivery service.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113897.

Sanitization means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of five logs, which is equal to a 99.999 percent reduction, of representative disease micro-organisms of public health importance.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113899.

Satellite food service means a remotely located food service operation that is conducted on the same property as, in reasonable proximity to, and in conjunction with and by, a fully enclosed permanent food facility. Satellite food service located within a fully enclosed permanent food facility shall be temporary by nature.

(Amended by Stats. 2021, Ch. 155, Sec. 4. (AB 831) Effective January 1, 2022.)

113901.

Sealed means free of cracks or other openings that allow the entry or passage of moisture.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113903.

(a)Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability, or that is in training to do that work or perform those tasks. Service animal does not include any other species of animals, whether wild or domestic, trained or untrained.

(b)The work or tasks performed by a service animal shall include assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing nonviolent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, or helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animalspresence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this subdivision.

(Amended by Stats. 2013, Ch. 556, Sec. 5. (AB 1252) Effective January 1, 2014.)

113907.

Shellfish certification number means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to law or to the provisions of the National Shellfish Sanitation Program.

(Amended by Stats. 2007, Ch. 96, Sec. 6. Effective July 20, 2007.)

113909.

Shellfish control authority means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers.

(Amended by Stats. 2007, Ch. 96, Sec. 7. Effective July 20, 2007.)

113911.

Shellstock means raw, in-shell molluscan shellfish.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113912.

Shucked shellfish means molluscan shellfish that have one or both shells removed.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113914.

Single-use articles mean utensils, tableware, carry-out utensils, bulk food containers, and other items such as bags, containers, placemats, stirrers, straws, toothpicks, and wrappers that are designed and constructed for one time, one person use, after which they are intended for discard. Single-use articles also include items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, and number 10 cans that do not meet the materials, durability, strength, and cleanability specifications for utensils under Sections 114130, 114130.1, and 114130.3.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113916.

Smooth means any of the following:

(a)A food-contact surface that is free of pits, pinholes, cracks, crevices, inclusions, rough edges, and other surface imperfections detectable by visual or tactile inspection.

(b)A nonfood-contact equipment surface equal to that of commercial grade hot-rolled steel free of visible scale.

(c)A floor, wall, or ceiling having an even or level surface with no roughness or projections that render it

difficult to clean.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113917.

Swap meet shall have the meaning set forth in Section 21661 of the Business and Professions Code.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113924.

Table-mounted equipment means equipment that is not portable and is designed to be mounted off the floor on a table, counter, or shelf.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113926.

Tableware means eating, drinking, and serving utensils for table use, including forks, knives, spoons, bowls, cups, serving dishes, tumblers, and plates.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113928.

Temperature measuring device means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air, or water.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113930.

Temporary food facility means a food facility approved by the enforcement officer that operates at a fixed location for the duration of an approved community event or at a swap meet and only as a part of the community event or swap meet.

(Amended by Stats. 2009, Ch. 571, Sec. 17. (SB 241) Effective October 11, 2009.)

113930.5.

Third-party food delivery platform means a business engaged in the service of online food ordering and delivery from a food facility to a consumer. For purposes of this section, a food facility does not include a grocery store, as defined in Section 113948, or a room, building, or place or portion thereof, excluding a restaurant, used to sell to a customer primarily the following products: fresh produce, meat, poultry, fish, deli products, dairy products, perishable beverages, baked foods, and prepared foods.

(Added by Stats. 2020, Ch. 105, Sec. 1. (AB 3336) Effective January 1, 2021.)

113931.

Tight-fitting means fabricated so that joining members are in contact along the entire seam with no opening greater than 1/64th inch (.04 cm).

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113932.

Transporter means any vehicle used to transport food pursuant to a prior order from a manufacturer, distributor, retail food facility, or other approved source to a retail food facility or consumer.

(Amended by Stats. 2009, Ch. 571, Sec. 18. (SB 241) Effective October 11, 2009.)

113933.

USDA means the United States Department of Agriculture.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113934.

Utensil means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale, or service of food, such as kitchenware or tableware that is multiuse, single-service, or single-use, gloves used in contact with food, temperature sensing probes of food temperature measuring devices, and probe-type price or identification tags used in contact with food.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113936.

Variance means a written document issued by the department that allows the use of an alternative practice or procedure based on a determination by the department that the alternate practice or procedure is equivalent to the existing requirements, and that a health hazard will not result from the alternative practice or procedure. A variance may be issued in the following circumstances:

(a)For employee hygiene, as described in subdivision (e) of Section 113953, and Sections 113953.3 and 113953.4.

(b)For protection of food from contamination, as described in Sections 113984, 113986, 113988, and 113992.

(c)For time as a public health control, as described in Section 114000.

(d)For cooling time and methods, as described in Sections 114002 and 114002.1.

(e)For cooking and reheating temperatures for potentially hazardous food, as described in Sections 114004, 114008, 114010, and 114016.

(f)For use of raw shell eggs in foods that are not thoroughly cooked, as described in Section 114012.

(g)For thawing of frozen food, as described in Section 114020.

(h)For receiving temperatures of potentially hazardous foods, as described in Section 114037.

(i)For reduced-oxygen packaging of potentially hazardous food, as described in Sections 114057 and 114057.1.

(j)For sanitization methods for food-contact and nonfood-contact surfaces, as described in Sections 114099.6, 114109, 114117, 114119, and 114121.

(k)For dispensing bulk potentially hazardous food from vending machines as described in subdivision (c) of Section 114145.

(Amended by Stats. 2017, Ch. 259, Sec. 1. (AB 836) Effective January 1, 2018.)

113938.

Vending machine means a self-service device that, upon insertion of money or tokens, dispenses food without the necessity of replenishing the device between each vending operation and that operates in conjunction with a commissary. Vending machine does not include any device dispensing exclusively peanuts, nuts, popcorn, gum, or hard candy, prepackaged candy, cookies, crackers, or similar snacks and beverages that are not potentially hazardous food, and prepackaged ice.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113939.

Vermin means cockroaches, mice, rats, and similar pests that carry disease.

(Amended by Stats. 2009, Ch. 571, Sec. 19. (SB 241) Effective October 11, 2009.)

113939.1.

Vermin infestation means the presence of vermin within the food facility as evidenced by actual live bodies, fresh droppings or vomitus, urine stains, or gnaw marks, that could result in contamination to the food, equipment, packaging, or utensils.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113940.

Warewashing means the cleaning and sanitizing of utensils and food-contact surfaces of equipment.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113941.

Warm water means water that is supplied through a mixing valve or combination faucet at a temperature of at least 100ÂºF.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=7.&chapter=3.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=3.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 3. Management and Personnel [113945 - 113978]__

(Chapter 3 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 1. Supervision [113945 - 113945.1]__

(Article 1 added by Stats. 2006, Ch. 23, Sec. 2.)

113945.

The permitholder shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food facility during all hours of operation.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113945.1.

Except as specified in Section 113984.1, the person in charge shall ensure that persons unnecessary to the food facility operation shall not be allowed in the food preparation, food storage, or warewashing areas.

(Amended by Stats. 2007, Ch. 96, Sec. 8. Effective July 20, 2007.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=3.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 3. Management and Personnel [113945 - 113978]__

(Chapter 3 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 2. Employee Knowledge [113947 - 113948]__

(Article 2 added by Stats. 2006, Ch. 23, Sec. 2.)

113947.

(a)The person in charge and all food employees shall have adequate knowledge of, and shall be properly trained in, food safety as it relates to their assigned duties.

(b)The person in charge shall comply with both of the following:

(1)Have adequate knowledge of major food allergens, foods identified as major food allergens, and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction.

(2)Educate the employees at the food facility regarding the information described in paragraph (1), which the person in charge may elect to accomplish by, among other methods, using a poster or job aid to which the employee can refer.

(c) For purposes of this section, person in charge means a designated person who has knowledge of safe food handling practices and the major food allergens as they relate to the specific food preparation activities that occur at the food facility.

(Amended by Stats. 2016, Ch. 195, Sec. 7. (SB 1067) Effective January 1, 2017.)

113947.1.

(a)Food facilities that prepare, handle, or serve nonprepackaged potentially hazardous food, except temporary food facilities, shall have an owner or employee who has successfully passed an approved and accredited food safety certification examination as specified in Sections 113947.2 and 113947.3. There shall be at least one food safety certified owner or employee at each food facility. No certified person at a food facility may serve at any other food facility as the person required to be certified pursuant to this subdivision. The certified owner or employee need not be present at the food facility during all hours of operation.

(b)Food facilities that are not subject to the requirements of subdivision (a) that prepare, handle, or serve nonprepackaged, nonpotentially hazardous foods, except temporary food facilities, shall do one of the following:

(1)Have an owner or employee who has successfully passed an approved and accredited food safety certification examination as specified in Sections 113947.2 and 113947.3.

(2)Demonstrate to the enforcement officer that the employees have an adequate knowledge of food safety principles as they relate to the specific operation involved in their assigned duties.

(c)On and after July 1, 2007, temporary food facilities that prepare, handle, or serve nonprepackaged food shall have an owner or person in charge who can demonstrate to the enforcement officer that he or she has an adequate knowledge of food safety principles as they relate to the specific food facility operation.

(d)(1)For the purposes of this section, multiple contiguous food facilities permitted within the same site and under the same management, ownership, or control shall be deemed to be one food facility, notwithstanding the fact that the food facilities may operate under separate permits.

(2)This subdivision shall not apply to the premises of a licensed winegrower or brandy manufacturer utilized for wine tastings conducted pursuant to Section 23356.1 of the Business and Professions Code of wine or brandy produced or bottled by, or produced and prepackaged for, that licensee when use is limited to wine tasting.

(e)A food facility that commences operation, changes ownership, or no longer has a certified owner or employee pursuant to this section shall have 60 days to comply with this subdivision.

(f)The responsibilities of a certified owner or employee at a food facility or an owner or person in charge of a temporary food facility described in subdivision (c) shall include the safety of food preparation and service, including ensuring that all employees who handle, or have responsibility for handling, nonprepackaged foods of any kind, have sufficient knowledge to ensure the safe preparation or service of the food, or both. The nature and extent of the knowledge that each employee is required to have may be tailored, as appropriate, to the employeesduties related to food safety issues.

(g)The food safety certificate issued pursuant to Section 113947.3 shall be retained on file at the food facility at all times, and shall be made available for inspection by the enforcement officer.

(h)Certified individuals shall be recertified every five years by passing an approved and accredited food safety certification examination.

(i)A food safety program that was not in effect prior to January 1, 1999, shall not be enacted, adopted, implemented, or enforced, unless the program fully conforms to the requirements of this part.

(Amended by Stats. 2007, Ch. 96, Sec. 9. Effective July 20, 2007.)

113947.2.

The food safety certification examination for purposes of Section 113947.1 shall include, but need not be limited to, all of the following elements of knowledge:

(a)Foodborne illness, including terms associated with foodborne illness, micro-organisms, hepatitis A, and toxins that can contaminate food and the illness that can be associated with contamination, definition and recognition of potentially hazardous foods, chemical, biological, and physical contamination of food, and the illnesses that can be associated with food contamination, and major contributing factors for foodborne illness.

(b)The relationship between time and temperature with respect to foodborne illness, including the relationship between time and temperature and micro-organisms during the various food handling, preparation, and serving states, and the type, calibration, and use of thermometers in monitoring food temperatures.

(c)The relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food employee health to foodborne illness, and the recognition of how policies, procedures, and management contribute to improved food safety practices.

(d)Methods of preventing food contamination in all stages of food handling, including terms associated with contamination and potential hazards prior to, during, and after delivery.

(e)Procedures for cleaning and sanitizing equipment and utensils.

(f)Problems and potential solutions associated with facility and equipment design, layout, and construction.

(g)Problems and potential solutions associated with temperature control, preventing cross-contamination, housekeeping, and maintenance.

(h)Describing foods identified as major food allergens and the symptoms that a major food allergen could cause in a sensitive individual who has an allergic reaction.

(Amended by Stats. 2016, Ch. 195, Sec. 8. (SB 1067) Effective January 1, 2017.)

113947.3.

(a)Food safety certification required pursuant to Section 113947.1 shall be achieved by successfully passing an examination from an accredited food protection manager certification organization. The certification organization shall be accredited by the American National Standards Institute as meeting the requirements of the Conference for Food ProtectionsStandards for Accreditation of Food Protection Manager Certification Programs. Those food employees who successfully pass an approved certification examination shall be

issued a certificate by the certifying organization. The issuance date for each original certificate issued pursuant to this section shall be the date when the individual successfully completes the examination. Certificates shall be valid for five years from the date of original issuance. Any replacement or duplicate certificate shall have as its expiration date the same expiration date that was on the original certificate.

(b)(1)By July 20, 2008, the department, in consultation with the California Conference of Directors of Environmental Health, representatives of the retail food industry, and other interested parties, shall develop and implement a program for the purposes of demonstrating adequate knowledge for operators of temporary food facilities.

(2)At least one of the accredited food safety certification examinations shall cost no more than sixty dollars ($60), including the certificate. However, the department may adjust the cost of food safety certification examinations to reflect actual expenses incurred in producing and administering the food safety certification examinations required under this section. If a food safety certification examination is not available at the price established by the department, the certification and recertification requirements relative to food safety certification examinations imposed by this section shall not apply.

(3)At least one of the accredited food safety certification examinations shall be offered online.

(4)An accredited food safety certification examination that is provided with an in-person trainer-led class or is offered online shall be proctored under secure conditions to protect the validity of the food protection manager certification examination.

(Amended by Stats. 2011, Ch. 233, Sec. 2. (SB 303) Effective September 6, 2011.)

113947.4.

Except as provided in Section 113947.5, no city, county, or city and county may enact, adopt, implement, or enforce any requirement that any food facility or any person certified pursuant to this section do any of the following:

(a)Obtain any food safety certificate or other document in addition to the certificate required by Section 113947.1.

(b)Post, place, maintain, or keep the certificate other than as specified in subdivision (e) of Section 113947.1.

(c)Pay any fee or other sum as a condition for having a certificate verified, validated, or otherwise processed by the city, county, or city and county.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113947.5.

Certification conferred pursuant to this part shall be recognized throughout the state. Nothing in this part shall be construed to prohibit any enforcement agency from implementing or enforcing a food handler program that took effect prior to January 1, 1998, but only in the form in which the program existed prior to January 1, 1998.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113947.6.

Notwithstanding Section 114395, a violation of any provision in Sections 113947.1 to 113947.5, inclusive, shall constitute an infraction punishable by a fine of not more than one hundred dollars ($100) for each day of operation in violation.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113948.

(a)(1)Subject to the exceptions described in subdivision (e), a food handler who is hired prior to June 1, 2011, shall obtain a food handler card on or before July 1, 2011. Subject to the exceptions described in subdivision (e), a food handler who is hired on or after June 1, 2011, shall obtain a food handler card within 30 days after the date of hire. Each food handler shall maintain a valid food handler card for the duration of the food handlersemployment as a food handler.

(2)Food handler cards shall be valid for three years from the date of issuance, regardless of whether the food handler changes employers during that period.

(3)A food handler card shall be recognized throughout the state, except in jurisdictions described in subdivision (f).

(b)(1)Prior to January 1, 2012, a food handler may obtain a food handler card from either one of the following:

(A)An American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs.

(B)A food protection manager certification organization described in Section 113947.3.

(2)Commencing January 1, 2012, a food handler shall obtain a food handler card only from an American National Standards Institute (ANSI) accredited training provider that meets ASTM International E2659-09 Standard Practice for Certificate Programs.

(3)A food handler card shall be issued only upon successful completion of a food handler training course and examination that meets at least all of the following requirements:

(A)(i)The course provides basic, introductory instruction on the elements of knowledge described in subdivisions (a), (b), (c), (d), (e), and (g) of Section 113947.2.

(ii)On or before January 1, 2021, the course shall include instruction on both of the following:

(I)The elements of knowledge described in paragraph (1) of subdivision (b) of Section 113947 that are consistent with recommendations from a nationally organized allergy organization.

(II)Safe handling food practices for major food allergens, as defined in Section 113820.5, as they relate to food preparation activities that occur at a food facility, including, but not limited to, training on the avoidance of allergen cross-contamination.

(B)The course and examination is designed to be completed within approximately two and one-half hours.

(C)The examination consists of at least 40 questions regarding the required subject matter.

(D)A minimum score of 70 percent on the examination is required to successfully complete the examination.

(c)The food handler training course and examination may be offered through a trainer-led class and examination, through the use of a computer program or the internet, or through a combination of a trainer-led class and the use of a computer program or the internet. The use of a computer program or the internet shall have sufficient security channels and procedures to guard against fraudulent activity. However, this subdivision shall not be construed to require the presence or participation of a proctor during a food handler training course examination that is provided through a computer program or the internet.

(d)This section shall apply to a food handler who is employed by a food facility, as defined in Section 113790, or an organized camp, as defined in Section 18897, consistent with Section 30730 of Title 17 of the California Code of Regulations.

(e)This section shall not apply to a food handler who is employed by any of the following:

(1)Certified farmersmarkets.

(2)Commissaries.

(3)Grocery stores, except for separately owned food facilities to which this section otherwise applies that are located in the grocery store. For purposes of this paragraph, grocery store means a store primarily engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, and fresh meats, fish, and poultry and any area that is not separately owned within the store where food is prepared and served, including a bakery, deli, and meat and seafood counter. Grocery store includes convenience stores.

(4)Licensed health care facilities.

(5)Mobile support units.

(6)Public and private school cafeterias.

(7)Restricted food service facilities.

(8)Retail stores in which a majority of sales are from a pharmacy, as defined in Section 4037 of the Business and Professions Code, and venues with snack bar service in which the majority of sales are from admission tickets, but excluding any area in which restaurant-style sit-down service is provided.

(9)A food facility that provides in-house food safety training to all employees involved in the preparation, storage, or service of food if all of the following conditions are met:

(A)The food facility uses a training course that has been approved for use by the food facility in another state that has adopted the requirements described in Subpart 2-103.11 of the 2001 edition of the model Food

Code, not including the April 2004 update, published by the federal Food and Drug Administration.

(B)Upon request, the food facility provides evidence satisfactory to the local enforcement officer demonstrating that the food facility training program has been approved for use in another state pursuant to subparagraph (A).

(C)The training is provided during normal work hours, and at no cost to the employee.

(10)A food facility that is subject to a collective bargaining agreement with its food handlers.

(11)Any city, county, city and county, state, or regional facility used for the confinement of adults or minors, including, but not limited to, a county jail, juvenile hall, camp, ranch, or residential facility.

(12)An elderly nutrition program, administered by the California Department of Aging, pursuant to the Older Americans Act of 1965 (42 U.S.C. Sec. 3001 et seq.), as amended.

(f)The requirements of this section, except for subdivision (i), shall not apply to a food handler subject to an existing local food handler program that took effect prior to January 1, 2009.

(g)Each food facility that employs a food handler subject to the requirements of this section shall maintain records documenting that each food handler employed by the food facility possesses a valid food handler card, and shall provide those records to the local enforcement officer upon request.

(h)(1)By January 1, 2025, the department shall post on its internet website a link to the internet website of ANSI-accredited food handler training programs. A local public health department shall provide a link to that web page on its own internet website.

(2)At least one food handler training course and examination shall cost no more than fifteen dollars ($15), including a food handler card. If a food handler training course and examination is not available at that cost, the requirement to obtain a food handler card imposed by this section shall not apply.

(i)(1)An employer shall consider the time that it takes for the employee to complete the training and the examination as compensable hours worked, for which the employer shall pay and, pursuant to Section 2802 of the Labor Code, shall pay the employee for any necessary expenditures or losses associated with the employee obtaining a food handler card. An employer shall relieve an employee of all other work duties while the employee is taking the training course and examination.

(2)An employer shall not condition employment on an applicant or employee having an existing food handler card.

(Amended by Stats. 2023, Ch. 610, Sec. 1. (SB 476) Effective January 1, 2024.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=3.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 3. Management and Personnel [113945 - 113978]__

(Chapter 3 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 3. Employee Health [113949 - 113950.5]__

(Article 3 added by Stats. 2006, Ch. 23, Sec. 2.)

113949.

It is the intent of the Legislature to reduce the likelihood of foodborne disease transmission by preventing any food employee who is suffering from symptoms associated with an acute gastrointestinal illness, or known to be infected with a communicable disease that is transmissible through food, from engaging in the handling of food until the food employee is determined to be free of that illness or disease, or incapable of transmitting the illness or disease through food as specified in this article.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113949.1.

(a)When a local health officer is notified of an illness that can be transmitted by food in a food facility or by an employee of a food facility, the local health officer shall inform the local enforcement agency. The local health officer or the local enforcement agency, or both, shall notify the person in charge of the food facility and shall investigate conditions and may, after the investigation, take appropriate action, and for reasonable cause, require any or all of the following measures to be taken:

(1)The immediate restriction or exclusion of any food employee from the affected food facility.

(2)The immediate closing of the food facility until, in the opinion of the local enforcement agency, the

identified danger of disease outbreak has been addressed. Any appeal of the closure shall be made in writing within five days to the applicable local enforcement agency.

(3) Any medical evaluation of any employee, including any laboratory test or procedure, that may be indicated. If an employee refuses to participate in a medical evaluation, the local enforcement agency may require the immediate exclusion of the refusing employee from that or any other food facility until an acceptable medical evaluation or laboratory test or procedure shows that the employee is not infectious.

(b)For purposes of this section, illness means a condition caused by any of the following infectious agents:

(1)Salmonella typhi.

(2)Salmonella spp.

(3)Shigella spp.

(4)Entamoeba histolytica.

(5)Enterohemorrhagic or shiga toxin producing Escherichia coli.

(6)Hepatitis A virus.

(7)Norovirus.

(8)Other communicable diseases that are transmissible through food.

(Amended by Stats. 2009, Ch. 571, Sec. 21. (SB 241) Effective October 11, 2009.)

113949.2.

The owner who has a food safety certificate issued pursuant to Section 113947.1 or the food employee who has this food safety certificate shall instruct all food employees regarding the relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food employee health to foodborne illness. The owner or food safety certified employee shall require food employees to report the following to the person in charge:

(a)If a food employee is diagnosed with an illness due to one of the following:

(1)Salmonella typhi.

(2)Salmonella spp.

(3)Shigella spp.

(4)Entamoeba histolytica.

(5)Enterohemorrhagic or shiga toxin producing Escherichia coli.

(6)Hepatitis A virus.

(7)Norovirus.

(b)If a food employee has a wound that is one of the following:

(1)On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the wound and a single-use glove is worn over the impermeable cover.

(2)On exposed portions of the arms, unless the wound is protected by an impermeable cover.

(3)On other parts of the body, unless the wound is covered by a dry, durable, tight-fitting bandage.

(Amended by Stats. 2013, Ch. 556, Sec. 6. (AB 1252) Effective January 1, 2014.)

113949.4.

A food employee shall do both of the following:

(a)Report to the person in charge the information specified under Section 113949.2.

(b)Comply with the exclusions or restrictions, or both, that are specified under Section 113950.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113949.5.

(a)The person in charge shall notify the local enforcement agency when notified that the food employee has been diagnosed with an infectious agent specified under subdivision (b) of Section 113949.1.

(b)A person in charge shall notify the local enforcement agency when he or she is aware that two or more food employees are concurrently experiencing symptoms associated with an acute gastrointestinal illness.

(Amended by Stats. 2007, Ch. 96, Sec. 13. Effective July 20, 2007.)

113950.

(a)The local health officer or, in consultation with the local health officer, the local enforcement agency shall do either of the following:

(1) Exclude a food employee from a food facility if the food employee is diagnosed with an infectious agent specified in subdivision (b) of Section 113949.1 and the food employee is symptomatic and still considered infectious.

(2)Restrict a food employee if the food employee is diagnosed with an infectious agent specified under subdivision (b) of Section 113949.1 and is not experiencing symptoms of the illness associated with that

agent but is still considered infectious with an agent specified in subdivision (b) of Section 113949.1.

(b)The person in charge shall do either of the following:

(1)Exclude a food employee from a food facility if the food employee is diagnosed with an infectious agent specified under subdivision (b) of Section 113949.1.

(2)Restrict a food employee from working with exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles in a food facility if the food employee is suffering from symptoms of an acute gastrointestinal illness.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113950.5.

(a)The person in charge may remove a restriction for a food employee upon the resolution of symptoms as reported by a food employee if the food employee states that he or she no longer has any symptoms of an acute gastrointestinal illness.

(b)Only the local health officer or the local enforcement agency, or both, shall remove exclusions or restrictions, or both, related to diagnosed illnesses due to infectious agents specified in subdivision (b) of Section 113949.1 after the local health officer provides a written clearance stating that the excluded or restricted food employee is no longer considered infectious.

(Amended by Stats. 2009, Ch. 571, Sec. 23. (SB 241) Effective October 11, 2009.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=3.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 3. Management and Personnel [113945 - 113978]__

(Chapter 3 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 4. Handwashing [113952 - 113963]__

(Article 4 added by Stats. 2006, Ch. 23, Sec. 2.)

113952.

Food employees shall keep their hands and exposed portions of their arms clean.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113953.

(a)Handwashing facilities shall be provided within or adjacent to toilet rooms. The number of handwashing facilities required shall be in accordance with local building and plumbing codes.

(b)(1)Except as otherwise provided in Section 114358, food facilities constructed or extensively remodeled after January 1, 1996, that handle nonprepackaged food, shall provide facilities exclusively for handwashing in food preparation areas and in warewashing areas that are not located within or immediately adjacent to food preparation areas. Handwashing facilities shall be sufficient in number and conveniently located so as to be accessible at all times for use by food employees.

(2)The handwashing facility shall be separated from the warewashing sink by a metal splashguard with a height of at least 6 inches, that extends from the back edge of the drainboard to the front edge of the drainboard, the corners of the barrier to be rounded. No splashguard is required if the distance between the handwashing sink and the warewashing sink drainboards is 24 inches or more.

(c)Handwashing facilities shall be equipped to provide warm water under pressure for a minimum of 15 seconds through a mixing valve or combination faucet. If the temperature of water provided to a handwashing sink is not readily adjustable at the faucet, the temperature of the water shall be at least 100Â° F, but not greater than 108Â°F.

(d)An automatic handwashing facility may be installed and used in accordance with the manufacturersinstructions.

(e)Notwithstanding subdivision (b), the enforcement agency may allow handwashing facilities other than those required by this section when it deems that the alternate facilities are adequate.

(Amended by Stats. 2009, Ch. 571, Sec. 24. (SB 241) Effective October 11, 2009.)

113953.1.

(a)A handwashing facility shall be clean, unobstructed, and accessible at all times for employee use.

(b)A handwashing facility shall not be used for purposes other than handwashing.

(c)Employees shall not clean their hands in a sink used for food preparation, warewashing, or in a service sink or a curbed cleaning facility used for the disposal of mop water and similar liquid waste.

(d)Notwithstanding subdivision (c), a warewashing sink may be used for handwashing as specified in Section 114125.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113953.2.

A handwashing facility shall be provided with the following in dispensers at, or adjacent to, each handwashing facility:

(a)Handwashing cleanser.

(b)Sanitary single-use towels or a heated-air hand drying device.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113953.3.

(a)Except as specified in subdivisions (b) and (c), all employees shall thoroughly wash their hands and that portion, if any, of their arms exposed to direct food contact with cleanser and warm water by vigorously rubbing together the surfaces of their lathered hands and arms for at least 10 to 15 seconds and thoroughly rinsing with clean running water followed by drying of cleaned hands and that portion, if any, of their arms exposed. Employees shall pay particular attention to the areas underneath the fingernails and between the fingers. Employees shall wash their hands in all of the following instances:

(1)Immediately before engaging in food preparation, including working with nonprepackaged food, clean equipment and utensils, and unwrapped single-use food containers and utensils.

(2)After touching bare human body parts other than clean hands and clean, exposed portions of arms.

(3)After using the toilet room.

(4)After caring for or handling any animal allowed in a food facility pursuant to this part.

(5)After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking.

(6)After handling soiled equipment or utensils.

(7)During food preparation, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks.

(8)When switching between working with raw food and working with ready-to-eat food.

(9)Before initially donning gloves for working with food.

(10)Before dispensing or serving food or handling clean tableware and serving utensils in the food service area.

(11)After engaging in other activities that contaminate the hands.

(b)If approved and capable of removing the types of soils encountered in the food operations involved, an automatic handwashing facility may be used by food employees to clean their hands.

(c)A food facility may incorporate an alternate glove use procedure in which double gloves are worn to handle raw animal proteins. The loose-fitting outer glove shall be removed in a manner to prevent cross-contamination of the tight-fitting inner glove before the inner glove is used as a barrier to bare hand contact with ready-to-eat food.

(Amended by Stats. 2021, Ch. 155, Sec. 5. (AB 831) Effective January 1, 2022.)

113953.4.

(a)A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall meet either one of the following requirements:

(1)Be an approved drug that is listed in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations as an approved drug based on safety and effectiveness.

(2)Have active antimicrobial ingredients that are listed in the FDA monograph for OTC Antiseptic Health-Care Drug Products as an antiseptic handwash.

(b)In addition to the requirements of subdivision (a), the hand antiseptic used as a topical application, hand antiseptic solution used as a hand dip, or hand antiseptic soap shall meet either one of the following requirements:

(1)Have components that are exempted from the requirement of being listed in federal Food Additive regulations as specified in 21 CFR 170.39" Threshold of regulation for substances used in food-contact articles.

(2)Comply with, and be listed in, either of the following federal regulations:

(A)21 CFR 178 " Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a Food Additive with conditions of safety use.

(B)21 CFR 182 " Substances Generally Recognized as Safe, 21 CFR 184 " Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 CFR 186 " Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food.

(c)A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap that meets the requirements of subdivisions (a) and (b) shall be applied only to hands that are cleaned in a manner described in Section 113953.3.

(d)If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the requirements of subdivision (b), the hand antiseptic or hand antiseptic solution used as a hand dip may be used only if its use is either of the following:

(1)Followed by thorough hand rinsing in clean water before hand contact with food directly or with the use of gloves.

(2)Limited to situations where bare hands do not come in direct contact with food.

(e)A hand antiseptic solution used as a hand dip shall be maintained clean and at a strength equivalent to at least 100 mg/l chlorine.

(Repealed and added by Stats. 2007, Ch. 96, Sec. 15. Effective July 20, 2007.)

113953.5.

(a)Except as specified in subdivision (b), a sign or poster that notifies food employees to wash their hands shall be posted at all handwashing lavatories used by food employees, and shall be clearly visible to food employees.

(b)This section does not apply to toilet rooms in guestrooms of restricted food service facilities.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113961.

(a)Food employees shall minimize bare hand and arm contact with nonprepackaged food that is in a ready-to-eat form.

(b)Food employees shall use nonlatex utensils, including scoops, forks, tongs, paper wrappers, gloves, or other implements, to assemble ready-to-eat food or to place ready-to-eat food on tableware or in other containers. However, food employees may assemble or place on tableware or in other containers ready-to-eat food in an approved food preparation area without using utensils if hands are cleaned in accordance with Section 113953.3.

(c)Food that has been served to the consumer and then wrapped or prepackaged at the direction of the consumer shall be handled only with utensils. These utensils shall be properly sanitized before reuse.

(Amended by Stats. 2019, Ch. 254, Sec. 2. (SB 677) Effective January 1, 2020.)

113963.

Consistent with Section 113952, a food employee working in any food facility, as defined in Section 113789 of the Health and Safety Code, shall be permitted to wash their hands every 30 minutes and additionally as needed.

(Added by Stats. 2020, Ch. 45, Sec. 2. (AB 1867) Effective September 9, 2020.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=3.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 3. Management and Personnel [113945 - 113978]__

(Chapter 3 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 5. Personal Cleanliness [113967 - 113971]__

(Article 5 added by Stats. 2006, Ch. 23, Sec. 2.)

113967.

No employee shall commit any act that may cause the contamination or adulteration of food, food-contact

surfaces, or utensils.

(Amended by Stats. 2007, Ch. 96, Sec. 17. Effective July 20, 2007.)

113968.

Food employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113969.

(a)Except as specified in subdivision (b), all food employees preparing, serving, or handling food or utensils shall wear hair restraints, such as hats, hair coverings, or nets, which are designed and worn to effectively keep their hair from contacting nonprepackaged food, clean equipment, utensils, linens, and unwrapped single-use articles.

(b)This section does not apply to food employees, such as counter staff who only serve beverages and wrapped or prepackaged foods, hostesses, and wait staff, if they present a minimal risk of contaminating nonprepackaged food, clean equipment, utensils, linens, and unwrapped single-use articles.

(Amended by Stats. 2009, Ch. 571, Sec. 25. (SB 241) Effective October 11, 2009.)

113971.

Food employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-use articles.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=3.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 3. Management and Personnel [113945 - 113978]__

(Chapter 3 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 6. Hygienic Practices [113973 - 113978]__

(Article 6 added by Stats. 2006, Ch. 23, Sec. 2.)

113973.

(a)Single-use nonlatex gloves shall be worn when contacting food and food-contact surfaces if the employee has any cuts, sores, rashes, artificial nails, nail polish, rings, other than a plain ring, such as a wedding band, uncleanable orthopedic support devices, or fingernails that are not clean, smooth, or neatly trimmed.

(b)Whenever gloves are worn, they shall be changed, replaced, or washed as often as handwashing is required by this part. Single-use gloves shall not be washed.

(c)If used, single-use gloves shall be used for only one task, such as working with ready-to-eat food or with raw food of animal origin, used for no other purpose, and shall be discarded when damaged or soiled, or when interruptions in the food handling occur.

(d)Except as specified in subdivision (e), nonlatex, slash-resistant gloves that are used to protect the hands during operations requiring cutting shall be used only with food that is subsequently cooked as specified in Section 114004, such as frozen food or a primal cut of meat.

(e)Nonlatex, slash-resistant gloves may be used with ready-to-eat food that will not be subsequently cooked if the slash-resistant gloves have a smooth, durable, and nonabsorbent outer surface or if the slash-resistant gloves are covered with a smooth, durable, nonabsorbent glove, or a single-use glove.

(f)Cloth gloves may not be used in direct contact with food unless the food is subsequently cooked.

(g)The use of latex gloves is prohibited in food facilities and retail food establishments. Types of nonlatex gloves that may be used in a food facility or retail food establishment include, but are not limited to, nitrile, polyethylene, and vinyl.

(Amended by Stats. 2019, Ch. 254, Sec. 3. (SB 677) Effective January 1, 2020.)

113974.

Food employees experiencing, while at work in a food facility, persistent sneezing, coughing, or runny nose that is associated with discharges from the eyes, nose, or mouth, and that cannot be controlled by medication, shall not work with exposed food; clean equipment, utensils, or linens; or unwrapped single-use utensils.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113975.

(a)Except as provided in subdivision (b), an employee who has a wound that is open or draining shall not handle food.

(b)A food employee who has a wound is restricted from food handling unless the food employee complies with all of the following:

(1)If the wound is located on the hand or wrist, an impermeable cover, such as a finger cot or stall, shall protect the wound. A single-use glove shall be worn over the impermeable cover.

(2)If the wound is located on exposed portions of the arms, an impermeable cover shall protect the wound.

(3)If the wound is located on other parts of the body, a dry, durable, tight-fitting bandage shall cover the wound.

(4)For purposes of this section, a wound also includes a cut, sore, rash, or lesion.

(Added by Stats. 2013, Ch. 556, Sec. 11. (AB 1252) Effective January 1, 2014.)

113976.

Unless a utensil used to taste food is discarded after the first time it is used for this purpose and before the next tasting or any other use, the utensil shall be washed, rinsed, and sanitized pursuant to Chapter 5 (commencing with Section 114095) between tastings and before any other use.

(Amended by Stats. 2009, Ch. 571, Sec. 26. (SB 241) Effective October 11, 2009.)

113977.

(a)Except as specified in subdivision (b), an employee shall eat, drink, or use any form of tobacco only in designated areas where contamination of nonprepackaged food; clean equipment, utensils, and linens; unwrapped single-use articles; or other items needing protection cannot result.

(b)A food employee may drink from a closed beverage container if the container is handled to prevent contamination of the employeeshands, the container, nonprepackaged food, and food-contact surfaces.

(Amended by Stats. 2007, Ch. 96, Sec. 18. Effective July 20, 2007.)

113978.

Food facilities shall have a no smoking sign posted in the food preparation, food storage, and warewashing areas.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=7.&chapter=4.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=4.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 4. General Food Safety Requirements [113980 - 114094.5]__

(Chapter 4 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 1. Protection from Contamination [113980 - 113992]__

(Article 1 added by Stats. 2006, Ch. 23, Sec. 2.)

113980.

All food shall be manufactured, produced, prepared, compounded, packed, stored, transported, kept for sale, and served so as to be pure and free from adulteration and spoilage; shall have been obtained from approved sources; shall be protected from dirt, vermin, unnecessary handling, droplet contamination, overhead leakage, or other environmental sources of contamination; shall otherwise be fully fit for human consumption; and shall conform to the applicable provisions of the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)).

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113982.

(a)Except as specified in subdivision (b), food shall be transported in a manner that meets the following requirements:

(1)The interior floor, sides, and top of the food holding area shall be constructed of a smooth, washable, impervious material capable of withstanding frequent cleaning.

(2)The food holding area shall be constructed and operated so that no liquid wastes can drain onto any street, sidewalk, or premises.

(3)Except as provided in subdivision (a) of Section 113996, potentially hazardous food shall be maintained at the required holding temperatures.

(b)(1)Ready-to-eat food delivered through a third-party food delivery platform shall be transported in a manner that meets all of the following requirements:

(A)The interior floor, sides, and top of the food holding area shall be clean and capable of withstanding frequent cleaning.

(B)Ready-to-eat food shall be protected from contamination in accordance with Section 113980.

(C)The food shall be maintained at holding temperature necessary to prevent spoilage.

(2)All bags or containers in which ready-to-eat foods are being transported or delivered from a food facility to a customer through a third-party food delivery platform shall be closed by the food facility with a tamper-evident method prior to the food deliverer, who transports and delivers ready-to-eat food for the third-party food delivery platform, taking possession of the ready-to-eat food.

(3)Enforcement officers may recover from a third-party food delivery platform reasonable costs that are associated with the enforcement of this section against food deliverers who transport and deliver ready-to-eat food for the third-party food delivery platform.

(c)(1)This section shall not apply to the transportation of prepackaged nonpotentially hazardous foods.

(2)Paragraph (2) of subdivision (b) shall not apply to food transported as part of a charitable feeding program or food being donated to a food bank, as defined in Section 113783.

(Amended by Stats. 2020, Ch. 105, Sec. 2. (AB 3336) Effective January 1, 2021.)

113984.

(a)Adequate and suitable counter space shall be provided for all food preparation operations.

(b)Except as specified in subdivision (c), food preparation shall be conducted within a fully enclosed food facility.

(c)Limited food preparation shall be conducted within a food compartment or as approved by the enforcement agency. Subject to subdivision (g), this subdivision does not require an additional food compartment when adding ingredients to a beverage or dispensing into a serving container when the beverage is prepared for immediate service in response to an individual consumer order.

(d)Food shall be prepared with suitable utensils and on surfaces that, prior to use, have been cleaned, rinsed, and sanitized as specified in Section 114117 to prevent cross-contamination.

(e)Overhead protection shall be provided above all food preparation, food display, warewashing, and food storage areas.

(f)All food shall be thawed, washed, sliced, and cooled within an approved fully enclosed food facility.

(g)Based upon local environmental conditions, location, and other similar factors, the enforcement officer may establish additional structural or operational requirements, or both, for mobile food facilities as necessary to ensure that foods, food-contact surfaces, and utensils are of a safe and sanitary quality.

(Amended by Stats. 2015, Ch. 615, Sec. 7. (AB 226) Effective January 1, 2016.)

113984.1.

Consumer access to a food facility through the food preparation area is permissible, at the discretion of the permitholder, if ready-to-eat foods are prepared in approved areas separated from sources of contamination by a space of at least three feet from the consumer and in areas that are separate from raw or undercooked

foods. The route of access shall be separated from the required space by a rail or wall at least three feet high or otherwise clearly delineated.

(Amended by Stats. 2007, Ch. 96, Sec. 21. Effective July 20, 2007.)

113986.

(a)Food shall be protected from cross-contamination by utilizing one or more of the following methods:

(1)Separating raw food of animal origin during transportation, storage, preparation, holding, and display from raw ready-to-eat food, including other raw food of animal origin such as fish for sushi or molluscan shellfish, or other raw ready-to-eat food such as produce, and cooked ready-to-eat food in any of the following ways:

(A)Using separate equipment of each type.

(B)Arranging each type of food in equipment so that cross-contamination of one type with another is prevented.

(C)Preparing each type of food at different times or in separate areas.

(D)Except as specified in subdivision (b), storing the food in packages, covered containers, or wrappings.

(E)Cleaning hermetically sealed containers of food of visible soil before opening.

(F)Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened.

(G)Storing damaged, spoiled, or recalled food being held in the food establishment as specified in Section 114055.

(H)Separating fruits and vegetables before they are washed, as specified in Section 113992, from ready-to-eat food.

(2)Except when combined as ingredients, separating types of raw foods of animal origin from each other during transportation, storage, preparation, holding, and display in the following ways:

(A)Using separate equipment for each type.

(B)Arranging each type of food in equipment so that cross-contamination of one type with another is prevented.

(C)Preparing each type of food at different times or in separate areas.

(D)Except as specified in subdivision (b), storing the food in packages, covered containers, or wrappings.

(E)Cleaning hermetically sealed containers of food of visible soil before opening.

(F)Protecting food containers that are received packaged together in a case or overwrap from cuts when the

case or overwrap is opened.

(G)Storing damaged, spoiled, or recalled food being held in the food establishment as specified in Section 114055.

(H)Separating fruits and vegetables before they are washed, as specified in Section 113992, from ready-to-eat food.

(b)Subparagraph (D) of paragraph (2) of subdivision (a) of this section shall not apply to any of the following:

(1)Whole, uncut, raw fruits and vegetables and nuts in the shell that require peeling or hulling before consumption.

(2)Primal cuts, quarters, or sides of raw meat or slab bacon that are hung on clean, sanitized hooks or placed on clean, sanitized racks.

(3)Whole, uncut, processed meats, such as country hams, and smoked or cured sausages that are placed on clean, sanitized racks.

(4)Food being cooled as specified in subdivision (b) of Section 114002.1.

(5)Shellstock.

(Amended by Stats. 2009, Ch. 571, Sec. 29. (SB 241) Effective October 11, 2009.)

113988.

(a)Food shall be protected from contamination that may result from the addition of unsafe or unapproved food or color additives or unsafe or unapproved levels of approved food and color additives.

(b)A food employee may not apply sulfiting agents to fresh fruits and vegetables intended for raw consumption, or to any potentially hazardous food.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113990.

Ice that has been used as a medium for cooling the exterior surfaces of food such as melons or fish, prepackaged foods such as canned beverages, or cooling coils and tubes of equipment, shall not be used as food.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

113992.

(a)Produce shall be thoroughly washed in potable water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form, except as specified in subdivision (b) and except when intended for washing by the consumer before consumption.

(b)Chemicals used to wash or peel produce shall meet the requirements specified in 21 C.F.R. 173.315.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=4.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 4. General Food Safety Requirements [113980 - 114094.5]__

(Chapter 4 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 2. Time and Temperature Relationships [113996 - 114020]__

(Article 2 added by Stats. 2006, Ch. 23, Sec. 2.)

113996.

(a)Except during preparation, cooking, cooling, transportation to or from a retail food facility for a period of less than 30 minutes, or when time is used as the public health control as specified under Section 114000, or

as otherwise provided in this section, potentially hazardous food shall be maintained at or above 135Â°F, or at or below 41Â°F.

(b)Roasts cooked to a temperature and for a time specified in subdivision (b) of Section 114004 shall be held at a temperature of 130Â°F or above.

(c)The following foods may be held at or below 45Â°F:

(1)Raw shell eggs.

(2)Unshucked live molluscan shellfish.

(3)Pasteurized milk and pasteurized milk products in original, sealed containers.

(4)Potentially hazardous foods held for dispensing in vending machines.

(5)Potentially hazardous foods held for sampling at a certified farmers™ market.

(6)Potentially hazardous foods held during transportation.

(d)Potentially hazardous foods held for dispensing in serving lines and salad bars may be maintained above 41Â°F, but not above 45Â°F, during periods not to exceed 12 hours in any 24-hour period only if the unused portions are disposed of at or before the end of this 24-hour period. For purposes of this subdivision, a display case shall not be deemed to be a serving line.

(Amended by Stats. 2009, Ch. 571, Sec. 30. (SB 241) Effective October 11, 2009.)

113998.

If it is necessary to remove potentially hazardous food from the specified holding temperatures to facilitate preparation, this preparation shall in no case exceed two cumulative hours without a return to the specified holding temperatures.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114000.

(a)Except as specified in subdivision (b), if time only, rather than time in conjunction with temperature, is used as the public health control for a working supply of potentially hazardous food before cooking or for ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption, the following shall occur:

(1)The food shall be marked or otherwise identified to indicate the time that is four hours past the point in time when the food is removed from temperature control.

(2)The food shall be cooked and served, served if ready-to-eat, or discarded within four hours from the point

in time when the food is removed from temperature control.

(3)The food in unmarked containers or packages or marked to exceed a four-hour limit shall be discarded.

(4)Written procedures shall be maintained in the food facility and made available to the enforcement agency upon request, that ensure compliance with this section and Section 114002, for food that is prepared, cooked, and refrigerated before time is used as a public health control.

(b)Time only, rather than time in conjunction with temperature, may not be used as the public health control for raw eggs in the following food facilities:

(1)Licensed health care facilities.

(2)Public and private school cafeterias.

(Amended by Stats. 2007, Ch. 96, Sec. 24. Effective July 20, 2007.)

114002.

(a)Whenever food has been prepared or heated so that it becomes potentially hazardous, it shall be rapidly cooled if not held at or above 135Â°F.

(b)After heating or hot holding, potentially hazardous food shall be cooled rapidly from 135ÂºF to 41Â°F or below within six hours and, during this time the decrease in temperature from 135Â°F to 70Â°F shall occur within two hours.

(c)Potentially hazardous food shall be cooled within four hours to 41Â°F or less if prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.

(d)Except as specified in subdivision (e), a potentially hazardous food received in compliance with laws allowing a temperature above 41Â°F during shipment from the supplier as specified in Section 114037 shall be cooled within four hours to 41Â°F or less.

(e)Pasteurized milk in original, sealed containers, pasteurized milk products in original, sealed containers, raw shell eggs, and unshucked live molluscan shellfish need not comply with subdivision (c) or (d) if these foods are placed immediately upon their receipt in refrigerated equipment that maintains an ambient temperature of 45Â°F or less.

(Amended by Stats. 2009, Ch. 571, Sec. 31. (SB 241) Effective October 11, 2009.)

114002.1.

(a)The rapid cooling of potentially hazardous foods shall be accomplished in accordance with the time and temperature criteria specified in Section 114002 by using one or more of the following methods based on the type of food being cooled:

(1)Placing the food in shallow pans.

(2)Separating the food into smaller or thinner portions.

(3)Using rapid cooling equipment.

(4)Using containers that facilitate heat transfer.

(5)Adding ice as an ingredient.

(6)Using ice paddles.

(7)Inserting appropriately designed containers in an ice bath and stirring frequently.

(8)In accordance with an HACCP plan adopted pursuant to this part.

(9)Utilizing other effective means that have been approved by the enforcement agency.

(b)When placed in cooling or cold holding equipment, food containers in which food is being cooled shall be arranged in the equipment to provide maximum heat transfer through the container walls, loosely covered, or uncovered if protected from overhead contamination during the cooling period to facilitate heat transfer from the surface of the food, and stirred as necessary to evenly cool a liquid or a semi-liquid food.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114004.

(a)Except as specified in subdivision (b) or (c), raw animal foods such as eggs, fish, meat, poultry, and foods containing these raw animal foods shall be cooked to heat all parts of the food to a temperature and for a time that complies with the following methods based on the food that is cooked:

(1)The following shall be heated to a minimum internal temperature of 145 degrees Fahrenheit or above for 15 seconds:

(A)Raw shell eggs that are broken and prepared in response to a consumersorder and for immediate service.

(B)Except as specified in paragraph (2) or (3) of subdivision (a) or subdivision (b) or (c), fish and meat, including game animals commercially raised for food.

(2)The following foods shall be heated to a minimum internal temperature of 155 degrees Fahrenheit for 15 seconds or the temperature specified in the following chart that corresponds to the holding time:

(A)Ratites and mechanically tenderized and injected meats.

(B)The following foods, if they are comminuted: fish, meat, and game animals commercially raised for food as specified in subparagraph (B) of paragraph (1).

(C)Raw eggs that are not prepared as specified in paragraph (1).

Minimum Temperature (Â°F)	Time
145	3 minutes
150	1 minute
158	< 1 second (instantaneous)

(3)The following shall be heated to a minimum internal temperature of 165 degrees Fahrenheit for 15 seconds:

(A)Poultry.

(B)Baluts.

(C)Stuffed fish, stuffed meat, stuffed poultry, and stuffed ratites.

(D)Stuffing containing fish, meat, poultry, or ratites.

(E)Pasta and any other food stuffed with fish, meat, poultry, or ratites.

(F)Wild game animals.

(b)Whole beef roasts, corned beef roasts, pork roasts, lamb roasts, and cured pork roasts, such as ham, shall be cooked as specified in both of the following:

(1)In an oven that is preheated to the temperature specified for the roastsweight in the following chart and that is held at that temperature:

Oven Type	Oven Temperature Based on Roast Weight	
	Less than 10 lbs	10 lbs or more
Still Dry	350Â°F or more	250Â°F or more
Convection	325Â°F or more	250Â°F or more
High Humidity*	250Â°F or less	250Â°F or less
*Relative humidity greater than 90 percent for at least 1 hour measured in the cooking chamber or exit of the oven; or in a moisture-impermeable bag that provides 100 percent humidity.		

(2)As specified in the following chart, to heat all parts of the food to a temperature and for the holding time that corresponds to that temperature:

| ---------- | ---------- | ---------- | ---------- |
Temperature (Â°F)	Time* in Minutes	Temperature (Â°F)	Time* in Seconds
130	112	147	134
131	89	149	85
133	56	151	54
135	36	153	34
136	28	155	22
138	18	157	14
140	12	158	0
142	8		
144	5		
145	4		
* Holding time may include postoven heat rise.			

(c)A raw or undercooked whole-muscle, intact beef steak may be served or offered for sale in a ready-to-eat form if all of the following conditions are satisfied:

(1)The food facility serves a population that is not a highly susceptible population.

(2)The steak is labeled to indicate that it meets the definition of whole-muscle, intact beef as specified in subdivision (c) of Section 114021.

(3)The steak is cooked on both the top and bottom to a surface temperature of 145 degrees Fahrenheit or above and a cooked color change is achieved on all external surfaces.

(d)A raw animal food such as raw egg, raw fish, raw marinated fish, raw molluscan shellfish, or steak tartare, or a partially cooked food such as lightly cooked fish, soft cooked eggs, or rare meat other than whole-muscle, intact beef steaks as specified in subdivision (c), may be served or offered for sale upon consumer request or selection in a ready-to-eat form if either of the following conditions are satisfied:

(1)All of the following requirements are met:

(A)As specified in paragraph (1) or (2) of subdivision (e) of Section 114091, the food facility serves a population that is not a highly susceptible population.

(B)The food, if served or offered for service by consumer selection from a childrensmenu, does not contain comminuted meat.

(C)The consumer is informed pursuant to Section 114093 to ensure its safety, the food should be cooked as specified in subdivision (a) or (b).

(2)The department grants a variance from subdivision (a) or (b) pursuant to Section 114417 based on a HACCP plan that satisfies all of the following conditions:

(A)It is submitted by the permitholder and approved pursuant to Sections 114417.1 and 114417.3.

(B)It documents scientific data or other information showing that a lesser time and temperature regimen results in safe food.

(C)It verifies that equipment and procedures for food prepared and training of food employees at the food facility meet the conditions of the variance.

(Amended by Stats. 2016, Ch. 195, Sec. 9. (SB 1067) Effective January 1, 2017.)

114008.

Raw foods of animal origin cooked in a microwave oven shall meet all of the following requirements:

(a)Be rotated or stirred throughout or midway during cooking to compensate for uneven distribution of heat.

(b)Be covered to retain surface moisture.

(c)Be heated to a temperature of at least 165Â°F in all parts of the food.

(d)Stand covered for at least two minutes after cooking to obtain temperature equilibrium.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114010.

Fruits and vegetables that are cooked for hot holding shall be cooked to a minimum temperature of 135ÂºF.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114012.

Except as specified in Section 114091, pasteurized eggs or pasteurized egg products shall be substituted for raw shell eggs in the preparation of foods such as Caesar salad, hollandaise or BÃ©arnaise sauce, mayonnaise, eggnog, ice cream, and egg-fortified beverages that are not cooked as specified under Section 114004, nor included in Section 114093.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114014.

Cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order may be served at any temperature.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114016.

(a)Except as specified under subdivisions (b) and (c), potentially hazardous food that is cooked, cooled, and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165Â° F for 15 seconds.

(b)Except as specified under subdivision (c), potentially hazardous food reheated in a microwave oven for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165Â°F and the food is rotated or stirred, covered, and allowed to stand covered for at least two minutes after reheating.

(c)Ready-to-eat food taken from a commercially processed, hermetically sealed container, or from an intact package from a food processing plant shall be heated to a temperature of at least 135ÂºF for hot holding.

(d)Reheating for hot holding shall be done rapidly, and the time the food is between 41ÂºF and 165ÂºF shall not exceed two hours.

(e)Remaining unsliced portions of roasts that are cooked as specified under Section 114004 may be reheated for hot holding using the oven parameters and minimum time and temperature conditions as specified in Section 114004.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114018.

Frozen foods shall be stored and displayed in their frozen state unless being thawed in accordance with Section 114020.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114020.

Frozen potentially hazardous food shall only be thawed in one of the following ways:

(a)Under refrigeration that maintains the food temperature at 41Â°F or below.

(b)Completely submerged under potable running water for a period not to exceed two hours at a water temperature of 70Â°F or below, and with sufficient water velocity to agitate and flush off loose particles into the sink drain.

(c)In a microwave oven if immediately followed by immediate preparation.

(d)As part of a cooking process.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=4.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 4. General Food Safety Requirements [113980 - 114094.5]__

(Chapter 4 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 3. Food from Approved Sources [114021 - 114031]__

(Article 3 added by Stats. 2006, Ch. 23, Sec. 2.)

114021.

(a)Food shall be obtained from sources that comply with all applicable laws.

(b)Food stored or prepared in a private home shall not be used or offered for sale in a food facility, unless that food is prepared by a cottage food operation that is registered or has a permit pursuant to Section 114365.

(c)Whole-muscle, intact beef steaks that are intended for consumption in an undercooked form that does not satisfy the conditions for service pursuant to Section 114093 shall satisfy all of the following conditions:

(1)Either the food has been obtained from a food processing plant that, upon request by the purchaser, packages the steaks and labels them to indicate that the steak meets the definition of whole-muscle, intact beef, or is deemed acceptable by the enforcement agency based on other evidence, such as written buyer specifications or invoices, that indicate that the steaks meet the definition of whole-muscle intact beef.

(2)If the food is individually cut in a food facility, all of the following conditions are satisfied:

(A)The food is cut from whole-muscle intact beef that is labeled by a food processing plant as specified in paragraph (1).

(B)The food is prepared so it remains intact.

(C)If the food is packaged for undercooking in a food facility, the food is labeled as specified in paragraph (1).

(Amended by Stats. 2016, Ch. 195, Sec. 10. (SB 1067) Effective January 1, 2017.)

114023.

Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant, or from a cottage food operation that produces jams, jellies, and preserves and that is registered or has a permit pursuant to Section 114365.

(Amended by Stats. 2012, Ch. 415, Sec. 11. (AB 1616) Effective January 1, 2013.)

114024.

(a)Liquid, frozen, and dry eggs and egg products shall be obtained pasteurized.

(b)Frozen milk products, such as ice cream, shall be obtained pasteurized as specified in 21 C.F.R. 135"Frozen Desserts.

(c)Fluid and dry milk and milk products complying with Grade A standard as specified in law shall be obtained pasteurized.

(d)This section shall not apply to properly labeled prepackaged raw milk and raw milk products obtained from an approved source and dispensed and sold at retail by the food facility in compliance with 17 CCR 11380.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114025.

Ice for use as a food or a cooling medium shall be made from potable water.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114027.

Fish that are received for sale or service shall be commercially and legally caught or harvested.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114029.

(a)Molluscan shellfish shall be obtained from sources according to law or the requirements specified in the United States Department of Health and Human Services, Public Health Service, Food and Drug Administration, National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.

(b)Molluscan shellfish received in interstate commerce shall be from sources that are listed in the Interstate Certified Shellfish Shippers List.

(c)Molluscan shellfish that are recreationally caught shall not be received for sale or service.

(Amended by Stats. 2007, Ch. 96, Sec. 25. Effective July 20, 2007.)

114031.

(a)Game animals shall be received from an approved source.

(b)A game animal shall not be received for sale or service if it is a species of wildlife that is listed in 50 C.F.R. 17 Endangered and Threatened Wildlife and Plants or is listed as an endangered or threatened animal by the Department of Fish and Game.

(c)The enforcement agency may approve the use of legally obtained donated fish and game by nonprofit organizations authorized to serve meals to indigent persons.

(1)Fish,□ as used in this subdivision, shall be defined as that term is used in Section 45 of the Fish and Game Code.

(2)Game,□ as used in this subdivision, means any game bird, as defined in Section 3500 of the Fish and Game Code, or game mammal, as defined in Section 3950 of the Fish and Game Code.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=4.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 4. General Food Safety Requirements [113980 - 114094.5]__

(Chapter 4 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 4. Receipt of Food [114035 - 114041]__

(Article 4 added by Stats. 2006, Ch. 23, Sec. 2.)

114035.

(a)Food shall be inspected as soon as practicable upon receipt and prior to any use, storage, or resale.

(b)Food shall be accepted only if the inspection conducted upon receipt determines that the food satisfies all of the following:

(1)Was prepared by and received from approved sources.

(2)Is received in a wholesome condition.

(3)Is received in packages that are in good condition and that protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.

(4)Is in containers and on pallets that are not infested with vermin or otherwise contaminated.

(c)Potentially hazardous food shall be inspected for signs of spoilage and randomly checked for adherence to the temperature requirements as specified in Section 113996.

(Amended by Stats. 2007, Ch. 96, Sec. 26. Effective July 20, 2007.)

114037.

(a)Except as specified in subdivision (b), refrigerated, potentially hazardous food may be at a temperature of 45Â°F or below when received, if the potentially hazardous food is cooled within four hours of receipt to a temperature at or below 41Â°F.

(b)If a temperature other than 41Â°F for a potentially hazardous food is specified in law governing its distribution, the food may be received at the specified temperature and cooled as specified in subdivisions (d) and (e) of Section 114002.

(c)Live molluscan shellfish shall not be accepted unless received at an internal temperature of 45Â°F or below, or, if received on the date of harvest, at a temperature above 45Â°F.

(d)Potentially hazardous food that is received hot shall be at a temperature of 135ÂºF or above.

(e)A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen and accepted only if there are not visible signs of thawing or refreezing.

(f)Upon receipt, potentially hazardous food shall be free of evidence of previous temperature abuse.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114039.

(a)Raw shucked shellfish shall be obtained in nonreturnable packages that bear a legible label that identifies the name, address, and certification number of the shucker-packer or repacker of the molluscan shellfish, and a sell by date or a best if used by date for packages with a capacity of less than one-half gallon, or the date shucked for packages with a capacity of one-half gallon or more.

(b)A package of raw shucked shellfish that does not bear a label or that bears a label that does not contain all the information required by subdivision (a) shall be subject to impound pursuant to Section 114393.

(Amended by Stats. 2007, Ch. 96, Sec. 27. Effective July 20, 2007.)

114039.1.

(a)Shellstock shall be obtained in containers bearing legible source identification tags or labels that are affixed by the harvester or each dealer that depurates, ships, or reships the shellstock. Except as specified by subdivision (c), on the harvestersor dealerstag or label, the following information shall be listed in the following order:

(1)The harvestersor dealersname and address.

(2)The harvesterscertification number as assigned by the authority and the original shellstock shipperscertification number.

(3)The date of harvesting.

(4)The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested.

(5)The type and quantity of shellfish.

(6)The following statement in bold, capitalized type: THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS.

(7)The dealerstag or label shall also indicate the original shipperscertification number, including the abbreviation of the name of the state or country in which the shellfish are harvested.

(b)A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information required under subdivision (a) shall be subject to impound pursuant to Section 114393.

(c)If the harvesterstag or label is designed to accommodate each dealersidentification, individual dealer tags or labels need not be provided.

(Amended by Stats. 2007, Ch. 96, Sec. 28. Effective July 20, 2007.)

114039.2.

When received by a food facility, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock with badly broken shells shall be discarded.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114039.3.

(a)Except as specified in subdivisions (b) and (c), molluscan shellfish shall not be removed from the container in which they are received other than immediately before sale or preparation for service.

(b)Shellstock may be removed from the container in which they are received and displayed on drained ice or held in a display container. A quantity specified by a consumer may be removed from the display or display container and provided to the consumer if the source of the shellstock on display is identified as specified under Section 114039.1 and recorded as specified under Section 114039.4 and the shellstock are protected from contamination.

(c)Shucked shellfish may be removed from the container in which they were received and held in a display container from which individual servings are dispensed upon a consumersrequest if the labeling information for the shellfish on display as specified under Section 114039 is retained and correlated to the date when, or dates during which, the shellfish are sold or served and the shellfish are protected from contamination.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114039.4.

(a)Except as specified by subdivision (b), shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.

(b)The identity of the source of shellstock that are sold or served shall be maintained for 90 calendar days from the dates of harvest by using an approved recordkeeping system that keeps the tags or labels in chronological order correlated to the date or dates the shellstock are sold or served.

(c)Notwithstanding subdivision (b), if shellstock are removed from their tagged or labeled container, the identity of the source of shellstock that are sold or served shall be maintained by doing the following:

(1)Using a recordkeeping system as required under subdivision (b).

(2)Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with different certification numbers, harvest dates, or growing areas as identified on the tag or label before being ordered by the consumer.

(3)If shellstock are portioned and prepackaged, including a copy of the corresponding shellstock tag or properly labeling the package with the required shellfish information.

(Amended by Stats. 2007, Ch. 96, Sec. 29. Effective July 20, 2007.)

114039.5.

(a)Except as specified in subdivision (b), molluscan shellfish life-support system display tanks shall not be used to display shellfish that are offered for human consumption and shall be conspicuously marked so that it is obvious to the consumer that the shellfish are for display only.

(b)Molluscan shellfish life support system display tanks that are used to store and display shellfish that are offered for human consumption shall be operated and maintained in accordance with an HACCP plan as specified in Section 114419.1. Operation and maintenance shall ensure the following:

(1)Water used with fish other than molluscan shellfish does not flow into the molluscan tank.

(2)The safety and quality of the shellfish as they were received are not compromised by the use of the tank.

(3)The identity of the source of the shellstock is retained as specified in Section 114039.4.

(c)Molluscan shellfish life support system display tanks that were in operation prior to the effective date of this part need not comply with Section 114419.

(Amended by Stats. 2007, Ch. 96, Sec. 30. Effective July 20, 2007.)

114041.

(a)Shell eggs shall be received clean and sound.

(b)Shell eggs shall not exceed the restricted egg tolerances for United States Consumer Grade B Standards.

(Amended by Stats. 2009, Ch. 571, Sec. 35. (SB 241) Effective October 11, 2009.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=4.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 4. General Food Safety Requirements [113980 - 114094.5]__

(Chapter 4 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 5. Food Storage [114047 - 114055]__

(Article 5 added by Stats. 2006, Ch. 23, Sec. 2.)

114047.

(a)Adequate and suitable space shall be provided for the storage of food.

(b)Except as specified in subdivisions (c), (d), and (e), food shall be protected from contamination by storing the food in a clean, dry location, where it is not exposed to splash, dust, vermin, or other forms of contamination or adulteration, and at least six inches above the floor.

(c)Food in packages and working containers may be stored less than six inches above the floor on case lot handling equipment as specified under Section 114165.

(d)Pressurized beverage containers, cased food in waterproof containers such as bottles or cans, and milk containers in plastic crates may be stored on a floor that is clean and not exposed to moisture.

(e)Temporary alternate food storage methods and locations may be approved by the local enforcement agency.

(Amended by Stats. 2013, Ch. 556, Sec. 12. (AB 1252) Effective January 1, 2014.)

114049.

Food shall not be stored in any of the following ways:

(a)In locker rooms.

(b)In toilet rooms.

(c)In dressing rooms.

(d)In refuse rooms.

(e)In mechanical rooms.

(f)Under sewer lines that are not shielded to intercept potential drips.

(g)Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed.

(h)Under open stairwells.

(i)Under other sources of contamination.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114051.

Working containers holding food or food ingredients that are removed from their original packages for use in the food facility, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar, shall be identified with the common name of the food, except that containers holding food that can be readily and unmistakably recognized, such as dry pasta, need not be identified.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114053.

(a)Prepackaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container, or its positioning in the ice or water.

(b)Except as specified in subdivisions (c) and (d), nonprepackaged food may not be stored in direct contact with undrained ice.

(c)Whole raw fruits or vegetables, cut raw vegetables, and tofu may be immersed in ice or water.

(d)Raw chicken and raw fish that are received immersed in ice in shipping containers may remain in that condition while in storage awaiting preparation, display, service, or sale.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114055.

(a)Products that are held by the permitholder for credit, redemption, or return to the distributor, such as damaged, spoiled, or recalled products, shall be segregated and held in designated areas that are separated from food, equipment, utensils, linens, and single-use articles.

(b)All returned or damaged food products and food products from which the label has been removed shall be separated and stored in a separate area and in a manner that shall prevent adulteration of other foods and shall not contribute to a vermin problem.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=4.&article=6.

114057.

(a)Potentially hazardous foods that are packed by the food facility in reduced-oxygen packaging or have been partially cooked and sealed in any container or configuration that creates anaerobic conditions shall be plainly date coded. The date coding shall state Use By,□ followed by the appropriate month, day, and year.

(b)For purposes of this section, partially cooked□ means potentially hazardous foods that have not been sufficiently cooked to assure commercial sterility or fail to have barriers to prevent the growth of or toxin formation by Clostridium botulinum.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114057.1.

(a)A food facility that packages food using a reduced-oxygen packaging method and Clostridium botulinum is identified as a microbiological hazard in the final prepackaged form shall ensure that there are at least two barriers in place to control the growth and toxin formation of Clostridium botulinum.

(b)A food facility that packages food using a reduced-oxygen packaging method and Clostridium botulinum is identified as a microbiological hazard in the final prepackaged form shall have an approved HACCP plan that does all of the following:

(1)Contains the information specified under Section 114419.1.

(2)Identifies the food to be prepackaged.

(3)Limits the food prepackaged to a food that does not support the growth of Clostridium botulinum because it complies with one of the following:

(A)Has an aw of 0.91 or less.

(B)Has a pH of 4.6 or less.

(C)Is a meat or poultry product cured at a food processing plant regulated by the United States Department of Agriculture and is received in an intact package.

(D)Is a food with a high level of competing organisms, such as raw meat or raw poultry.

(4)Specifies methods for maintaining food at 41 degrees Fahrenheit or below.

(5)Describes how the packages shall be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to maintain the food at 41Â°F or below and discard the food if within 30 calendar days of its packaging it is not served for on-premises consumption, or consumed if served or sold for off-premises consumption.

(6)Limits the refrigerated shelf life to no more than 30 calendar days from packaging to consumption, except the time product is maintained frozen, or the original manufacturerssell by or use by date, whichever occurs first.

(7)Includes operational procedures that prohibit contacting food with bare hands, identify a designated area and the method by which physical barriers or methods of separation of raw foods and ready-to-eat foods minimize cross-contamination and access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation, and delineate cleaning and sanitization procedures for food-contact surfaces.

(8)Describes the training program that ensures that individuals responsible for the reduced-oxygen packaging operation understand the concepts required for a safe operation, the equipment and facilities, and the procedures specified under paragraph (7) and Section 114419.1.

(c)Except for fish that is frozen before, during, and after packaging, a food facility shall not package fish using

a reduced-oxygen packaging method.

(d)A food facility is not required to have an HACCP plan if the food facility uses a reduced-oxygen packaging method to package hazardous food that always complies with the following standards with respect to packaging the hazardous food:

(1)The food is labeled with the production time and date.

(2)The food is held at 41 degrees Fahrenheit or lower during refrigerated storage.

(3)The food is removed from its package in the food facility within 48 hours after packaging.

(e)A food facility that packages potentially hazardous foods using a cook-chill or sous vide process shall meet the requirements of Section 3-502.12 (D) of the Food Code published by the FDA.

(Amended by Stats. 2021, Ch. 155, Sec. 6. (AB 831) Effective January 1, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=4.&article=7.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 4. General Food Safety Requirements [113980 - 114094.5]__

(Chapter 4 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 7. Food Display and Service [114060 - 114083]__

(Article 7 added by Stats. 2006, Ch. 23, Sec. 2.)

114060.

(a)Except for nuts in the shell and whole raw fruits and vegetables that are intended for hulling, peeling, or washing by the consumer before consumption, food on display shall be protected from contamination by the use of packaging, counter, service line, or sneeze guards that intercept a direct line between the consumersmouth and the food being displayed, containers with tight-fitting securely attached lids, display cases, mechanical dispensers, or other effective means.

(b)Nonprepackaged food may be displayed and sold in bulk in other than self-service containers if both of the following conditions are satisfied:

(1)The food is served by a food employee directly to a consumer.

(2)The food is displayed in clean, sanitary, and covered, or otherwise protected, containers.

(Amended by Stats. 2007, Ch. 96, Sec. 32. Effective July 20, 2007.)

114063.

(a)Raw, nonprepackaged food of animal origin, such as beef, lamb, pork, poultry, and eviscerated fish, shall not be offered for consumer self-service. This subdivision does not apply to the following:

(1)Consumer self-service of ready-to-eat foods at buffets or salad bars that serve foods such as sushi or raw shellfish.

(2)Ready-to-cook individual portions for immediate cooking and consumption on the premises, such as consumer-cooked meats or consumer-selected ingredients for Mongolian barbecue, or raw, frozen shrimp, lobster, finfish, or scallop abductor muscle, or frozen breaded seafood.

(b)Nonprepackaged food may be displayed in bulk for consumer self-service if all of the following conditions are satisfied:

(1)Produce and food requiring further processing, except raw food of animal origin, may be displayed on open counters or in containers.

(2)Except for salad bar and buffet-type food service, a label shall be conspicuously displayed in plain view of the consumer and securely attached to each self-service container, or in clear relationship to it, and shall contain the information required in Section 114089.

(3)Nonfood items shall be displayed and stored in an area separate from food.

(c)French style, hearth-baked, or hard-crusted loaves and rolls shall be considered properly wrapped if contained in an open-end bag of sufficient size to enclose the loaves or rolls.

(d)Consumer self-service operations for ready-to-eat foods such as buffets and salad bars shall be provided with a suitable food dispensing utensil for each container displayed or effective dispensing methods that

protect the food from contamination.

(e)Consumer self-service operations such as buffets and salad bars shall be checked periodically on a regular basis by food employees trained in safe operating procedures.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114065.

Notwithstanding Section 114266, this section shall not be construed to require the enclosure, during operating hours, of consumer self-service nonpotentially hazardous bulk beverage dispensing operations that meet the following requirements:

(a)The dispensing operation is installed contiguous with a permanent food facility and is operated by the food facility.

(b)The beverages are dispensed from enclosed equipment that precludes exposure of the beverages until they are dispensed at the nozzles. The dispensing equipment actuating lever or mechanism and filling device of consumer self-service beverage dispensing equipment shall be designed to prevent contact with the lip-contact surface of glasses or cups that are refilled.

(c)Ice and ice product are dispensed only from an ice product dispenser. Ice and ice product are not scooped or manually loaded into a dispenser out-of-doors.

(d)Single-use utensils are protected from contamination and are individually wrapped or dispensed from approved sanitary dispensers.

(e)The dispensing operations have overhead protection that fully extends over all equipment associated with the facility.

(f)During nonoperating hours the dispensing operations are fully enclosed so as to be protected from contamination by vermin and exposure to the elements.

(g)The permitholder of the permanent food facility demonstrates to the enforcement agency that adequate methods are in place to properly clean and sanitize the beverage dispensing equipment.

(h)Beverage dispensing operations are in compliance with Section 113980 and have been approved by the enforcement agency.

(i)Beverage dispensing operations are under the constant and complete control of the person in charge of the permanent food facility who is operating the dispensing equipment.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114067.

(a)Satellite food service is restricted to limited food preparation.

(b)Satellite food service shall only be operated by a fully enclosed permanent food facility that meets the requirements for food preparation and service and that is responsible for servicing the satellite food service operation.

(c)Before conducting satellite food service, the permitholder of the permanent food facility shall submit to the enforcement agency written standard operating procedures that include all of the following information:

(1)All food products that will be handled and dispensed.

(2)The proposed procedures and methods of food preparation and handling.

(3)Procedures, methods, and schedules for cleaning utensils, equipment, structures, and for the disposal of refuse.

(4)How food will be transported to and from the permanent food facility and the satellite food service operation, and procedures to prevent contamination of foods.

(5)How potentially hazardous foods will be maintained in accordance with Section 113996.

(d)All food preparation shall be conducted within a food compartment or fully enclosed facility approved by the enforcement officer.

(e)Satellite food service areas shall have overhead protection that extends over all food handling areas.

(f)Satellite food service operations that handle nonprepackaged food shall be equipped with approved handwashing facilities and warewashing facilities that are either permanently plumbed or self-contained.

(g)Notwithstanding subdivision (f), the local enforcement agency may approve the use of alternative warewashing facilities.

(h)During nonoperating hours and periods of inclement weather, food, food contact surfaces, and utensils shall be stored within any of the following:

(1)A fully enclosed satellite food service operation.

(2)Approved food compartments where food, food contact surfaces, and utensils are protected at all times from contamination, exposure to the elements, ingress of vermin, and temperature abuse.

(3)A fully enclosed permanent food facility.

(i)Satellite food service activities shall be conducted by and under the constant and complete control of the permitholder of the fully enclosed permanent food facility, or the duly contracted personnel of, or third-party providers to, the permitholder.

(j)For purposes of permitting and enforcement, the permitholder of the permanent food facility and the permitholder of the satellite food service shall be the same.

(k)(1)A permitted food facility within any local jurisdiction that is subject to retail food operation restrictions related to a COVID-19 public health response may prepare and serve food as a temporary satellite food

service without obtaining a separate satellite food service permit or submitting written operating procedures pursuant to subdivision (c). The written operating procedures shall be maintained onsite for review, upon request, by the local jurisdiction.

(2)This subdivision shall remain operative until July 1, 2026.

(Amended by Stats. 2023, Ch. 569, Sec. 4. (AB 1217) Effective January 1, 2024.)

114069.

Only prepackaged nonpotentially hazardous food or uncut produce may be displayed or sold outdoors by a food facility if all of the following conditions are satisfied:

(a)Outdoor displays have overhead protection that extends over all food items.

(b)Food items from the outdoor display are stored inside the fully enclosed food facility at all times other than during business hours.

(c)Outdoor displays comply with Section 113980 and have been approved by the enforcement agency.

(d)Outdoor displays are under the control of the permitholder of the fully enclosed food facility and are checked periodically on a regular basis.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114073.

Bulk milk container dispensing tubes shall be cut on the diagonal leaving no more than one inch protruding from the chilled dispensing head.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114074.

If tableware is preset, exposed, and unused, extra settings shall either be removed when a consumer is seated or cleaned and sanitized before further use.

(Amended by Stats. 2007, Ch. 96, Sec. 33. Effective July 20, 2007.)

114075.

(a)Except for refilling a consumersdrinking cup or container without contact between the pouring utensil and the lip-contact area of the drinking cup or container, food employees shall not use tableware, including

single-use articles, soiled by the consumer, to provide second portions or refills.

(b)Except as specified in subdivision (d), self-service consumers shall not be allowed to use soiled tableware, including single-use articles, to obtain additional food from the display and serving equipment.

(c)Consumers shall be notified that clean tableware is to be used when they return to self-service areas such as salad bars and buffets.

(d)Drinking cups and containers may be reused by self-service consumers if refilling of a consumersdrinking cup is done without contact between the pouring utensil and the lip contact area of the cup or container.

(e)Personal take-out beverage containers, such as thermally insulated bottles, nonspill coffee cups, and promotional beverage glasses, may be refilled by employees or the consumer if refilling is a contamination-free process as specified in subdivision (a).

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114077.

Condiments shall be protected from contamination by being kept in dispensers that are designed to provide protection, protected food displays provided with the proper utensils, original containers designed for dispensing, or individual packages or portions.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114079.

(a)Except as specified in subdivisions (b) and (c), after being served or sold and in the possession of a consumer, food that is unused or returned by the consumer shall not be offered as food for human consumption.

(b)A container of food that is not potentially hazardous may be transferred from one consumer to another if the food is dispensed so that it is protected from contamination and the container is closed between uses, such as a narrow-neck bottle containing catsup, steak sauce, or wine, or if the food, such as crackers, salt, or pepper, is in an unopened original package and is maintained in sound condition, and if the food is checked periodically on a regular basis.

(c)(1)A local educational agency may do both of the following to minimize waste and to reduce food insecurity:

(A)Provide sharing tables where food service staff, pupils, and faculty may return appropriate food items consistent with subparagraph (B) and make those food items available to pupils during the course of a regular school meal time.

(B)Allow the food placed on the sharing tables that is not taken by a pupil during the course of a regular school meal time in accordance with subparagraph (A) to be donated to a food bank or any other nonprofit

charitable organization.

(2)Donations of food or food made available to pupils during the course of a regular school meal time pursuant to paragraph (1) may include prepackaged, nonpotentially hazardous food with the packaging still intact and in good condition, whole uncut produce that complies with Section 113992 before donation, unopened bags of sliced fruit, unopened containers of milk that are immediately stored in a cooling bin maintained at 41 degrees Fahrenheit or below, and perishable prepackaged food if it is placed in a proper temperature-controlled environment.

(3)When a local educational agency, pursuant to paragraph (1), makes food available to pupils during the course of a regular school meal time or donates food to a food bank or any other nonprofit charitable organization for distribution, the preparation, safety, and donation of food shall be consistent with Section 113980.

(4)For purposes of this subdivision, local educational agency means a county office of education, school district, or charter school.

(Amended by Stats. 2017, Ch. 285, Sec. 2. (SB 557) Effective January 1, 2018.)

114081.

(a)Single-use articles and cleaned and sanitized multiservice utensils shall be handled, displayed, and dispensed so that contamination of food and lip-contact surfaces is prevented.

(b)Knives, forks, and spoons that are not prewrapped shall be presented so that only the handles are touched by employees, and by consumers if consumer self-service is provided.

(c)Except as specified under subdivision (b), single-use articles that are intended for food or lip-contact shall be furnished for consumer self-service with the original individual wrapper intact or from an approved dispenser.

(d)Single-use articles shall not be reused.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114083.

Soiled tableware shall be removed from consumer eating and drinking areas and handled so that clean tableware, food, and food-contact surfaces are not contaminated.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=4.&article=8.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 4. General Food Safety Requirements [113980 - 114094.5]__

(Chapter 4 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 8. Consumer Information [114087 - 114094.5]__

(Article 8 added by Stats. 2006, Ch. 23, Sec. 2.)

114087.

(a)Food offered for human consumption shall be honestly presented in a way that does not mislead or misinform the consumer.

(b)Food or color additives, colored overwraps, lights or other misleading artificial means shall not be used to misrepresent the true appearance, color, or quality of a food.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114088.

A cottage food product, as defined in Section 113758, that is served by a food facility without packaging or labeling, as described in Section 114365, shall be identified to the consumer as homemade on the menu, menu board, or other location that would reasonably inform a consumer of its homemade status.

(Added by Stats. 2012, Ch. 415, Sec. 12. (AB 1616) Effective January 1, 2013.)

114089.

(a)Food prepackaged in a food facility shall bear a label that complies with the labeling requirements prescribed by the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)), 21 C.F.R. 101-Food Labeling, 9 C.F.R. 317-Labeling, Marking Devices, and Containers, and 9 C.F.R. 381-Subpart N Labeling and Containers, and as specified under Sections 114039 and 114039.1.

(b)Label information shall include the following:

(1)The common name of the food, or absent a common name, an adequately descriptive identity statement.

(2)If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food.

(3)An accurate declaration of the quantity of contents.

(4)The name and place of business of the manufacturer, packer, or distributor.

(5)Except as exempted in the Federal Food, Drug, and Cosmetic Act (Section 403(Q)(3)"(5) (21 U.S.C. Sec. 343(q)(3)"(5), incl.)), nutrition labeling as specified in 21 C.F.R. 101-Food Labeling and 9 C.F.R. 317 Subpart B Nutrition Labeling.

(c)Bulk food that is available for consumer self-service shall be prominently labeled with either of the following in plain view of the consumer:

(1)The manufacturersor processorslabel that was provided with the food.

(2)A card, sign, or other method of notification that includes the information specified under paragraphs (1), (2), and (5) of subdivision (b).

(Amended by Stats. 2009, Ch. 571, Sec. 37. (SB 241) Effective October 11, 2009.)

114089.1.

(a)Except as specified in subdivision (c) of Section 114089, every bakery product shall have a protective wrapping that shall bear a label that complies with the labeling requirements prescribed by the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)).

(b)Bakery products sold directly to a restaurant, catering service, retail bakery, or sold over the counter directly to the consumer by the manufacturer or bakery distributor shall be exempt from the labeling provisions of this section.

(c)French style, hearth-baked, or hard-crusted loaves and rolls shall be considered properly wrapped if contained in an open-end bag that encloses the loaves or rolls.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114090.

(a) If required by law, consumer warnings shall be provided.

(b)Food facilitysor manufacturersdating information on foods may not be concealed or altered.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114091.

In a licensed health care facility and a public or private school cafeteria, the following shall apply:

(a)Only pasteurized juice may be served.

(b)Only pasteurized fluid and dry milk and milk products complying with Grade A standards as specified in law shall be served.

(c)Pasteurized shell eggs or pasteurized liquid, frozen, or dry eggs or egg products shall be substituted for raw shell eggs in the preparation of foods such as Caesar salad, hollandaise or bÃ©arnaise sauce, mayonnaise, eggnog, ice cream, and egg-fortified beverages, and, except as specified in subdivision (e), recipes in which more than one egg is broken and the eggs are combined.

(d)(1)Food shall not be reserved where the food was already served to patients or clients who are under contact precautions in medical isolation or quarantine or protective environment isolation.

(2)Food shall not be reserved to a patient or client in protective environment isolation.

(e)The following foods may not be served or offered for sale in a ready-to-eat form:

(1)Raw foods of animal origin such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare.

(2)A partially cooked food of animal origin, such as lightly cooked fish, rare meat, soft-cooked eggs, that is made from raw shell eggs, and meringue.

(3)Raw seed sprouts.

(f)Subdivision (c) does not apply in any of the following instances:

(1)The raw eggs are combined immediately before cooking for one consumersserving at a single meal, cooked as specified under Section 114004, and served immediately, such as an omelet, soufflÃ©, or scrambled eggs.

(2)The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread.

(3)The preparation of the food is conducted under a HACCP plan that:

(A)Identifies the food to be prepared.

(B)Prohibits contacting ready-to-eat food with bare hands.

(C)Includes specifications and practices that ensure salmonella enteritidis growth is controlled before and after cooking and is destroyed by cooking the eggs to an internal temperature of 145Â°F.

(D)Contains the information specified under a HACCP plan, including procedures that control cross-contamination of ready-to-eat food with raw eggs, and delineate cleaning and sanitization procedures for food-contact surfaces.

(E)Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

(Amended by Stats. 2007, Ch. 96, Sec. 34. Effective July 20, 2007.)

114093.

(a)Except as specified in subdivision (c) and paragraph (2) of subdivision (d) of Section 114004 and pursuant to subdivision (e) of Section 114091, if an animal food, including beef, eggs, fish, lamb, milk, pork, poultry, or shellfish, is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permitholder shall inform consumers of the significantly increased risk of consuming those foods by way of a disclosure pursuant to subdivision (b) and reminder pursuant to subdivision (c), using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

(b)Disclosure means a written statement that clearly includes either of the following:

(1)A description of the animal-derived foods, such as oysters on the half shell (raw oysters), raw-egg Caesar salad, and hamburgers (can be cooked to order).

(2)Identification of the animal-derived foods marked by an asterisk denoting a footnote that states that the items are served raw or undercooked, or contain or may contain raw or undercooked ingredients.

(c)Reminder means a written statement that identifies the animal-derived foods by an asterisk that denotes a footnote that includes either of the following disclosure statements:

(1)Written information regarding the safety of these food items is available upon request.

(2)Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.

(Repealed and added by Stats. 2016, Ch. 195, Sec. 13. (SB 1067) Effective January 1, 2017.)

114093.1.

(a)Any food facility that serves or sells over the counter directly to the consumer an unlabeled or nonprepackaged food that is a confectionery that contains alcohol in excess of one-half of 1 percent by weight shall provide written notice to the consumer of that fact.

(b)The notice shall be prominently displayed or be provided in some other manner, as determined by the department.

(c)The department shall adopt regulations to govern the notice required by this section in order to effectuate the purposes of this section.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114094.

(a)A food facility subject to Section 343(q)(5)(H) of Title 21 of the United States Code or subject to this section as it read on July 1, 2011, shall comply with the requirements of that section of the United States Code and the regulations adopted pursuant thereto.

(b)Notwithstanding the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104), and to the extent permitted by federal law:

(1)Enforcement of this section shall be made pursuant to Section 113713.

(2)(A)A violation of this section is, notwithstanding Section 114395, an infraction, punishable by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500). A second violation within a five-year period from a prior violation shall be punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000). For a third or subsequent violation within a five-year period, the fine shall be not less than two hundred fifty dollars ($250) nor more than two thousand five hundred dollars ($2,500). A food facility shall not be found to have committed a violation under this paragraph more than once during an inspection visit.

(B)Alternatively, the enforcement agency may assess a civil penalty of an amount that is no less than or greater than the amounts specified for fines in this paragraph.

(c)Except for the civil penalties authorized by this section, this section shall not be construed to create or enhance any claim, right of action, or civil liability that did not exist under state law prior to January 1, 2009, or limit any claim, right of action, or civil liability that otherwise existed under state law prior to January 1, 2009. The only enforcement mechanism of this section is the department or local enforcement agency, as set forth in Section 113713.

(d)This section shall become operative only on and after the compliance date specified in the federal regulation implementing Section 343(q)(5)(H) of Title 21 of the United States Code.

(Repealed and added by Stats. 2011, Ch. 415, Sec. 3. (SB 20) Effective January 1, 2012. Added section operative on date prescribed by its own provisions.)

114094.5.

(a)A retail food facility shall not sell or offer for sale after the use by date, infant formula or baby food that is required to have this date on its packaging pursuant to the federal act, as defined in Section 109930, and federal regulations adopted pursuant to the federal act, including, but not limited to, Section 107.20 of Title 21 of the Code of Federal Regulations.

(b)Notwithstanding Section 114395, any retail food facility that violates this section is guilty of an infraction, punishable by a fine of not more than ten dollars ($10) per day for each item sold or offered for sale after the use by date. The fine shall be calculated based upon the number of days past the use by date that the product is either found being offered for sale, or if the product is sold, the date of sale as established by evidence of the proof of purchase, including, but not limited to, a sales receipt.

(c)An enforcement agency may assess administrative penalties on a retail food facility that violates this section in the amount of ten dollars ($10) per day for each item sold or offered for sale, in addition to other penalties authorized by law.

(d)For purposes of this section, the following definitions shall apply:

(1)Baby food shall have the meaning given to baby foods in paragraph (c) of Section 407.81 of Title 40 of the Code of Federal Regulations.

(2)Infant formula shall have the meaning given in subdivision (z) of Section 321 of Title 21 of the United States Code.

(Added by Stats. 2011, Ch. 681, Sec. 2. (AB 688) Effective January 1, 2012.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=5.&article=

__CHAPTER 5. Cleaning and Sanitizing of Equipment and Utensils [114095 - 114125]__

(Chapter 5 added by Stats. 2006, Ch. 23, Sec. 2.)

114095.

All food facilities in which food is prepared or in which multiservice utensils and equipment are used shall provide manual methods to effectively clean and sanitize utensils as specified in Section 114099.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114097.

Equipment food-contact surfaces and multiservice utensils shall be effectively washed to remove or completely loosen soils by the use of manual or mechanical methods necessary, such as the application of detergents containing wetting agents and emulsifiers, acid, alkaline, or abrasive cleaners, hot water, brushes, scouring pads, high pressure sprays, or ultrasonic devices.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114099.

(a)Manual warewashing sinks, except as specified in subdivision (c), shall have at least three compartments with two integral metal drainboards for manually washing, rinsing, and sanitizing equipment and utensils.

(b)Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils. If equipment or utensils are not designed to be washed in a warewashing sink, alternate approved methods as specified in Section 114099.3 shall be followed.

(c)A two compartment sink that is in use on January 1, 1996, need not be replaced when used as specified in Section 114099.3. The enforcement officer shall approve the continued use of a two-compartment sink even upon replacement if the installation of a three-compartment sink would not be readily achievable and where other approved sanitation methods are used.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114099.1.

(a)During manual or mechanical warewashing, food debris on equipment and utensils shall be scraped over a waste disposal unit, scupper, or garbage receptacle.

(b)If necessary for effective cleaning, utensils and equipment shall be preflushed, presoaked, or scrubbed with abrasives.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114099.2.

(a)Notwithstanding Section 114099, manual warewashing shall be accomplished by using a three-compartment sink.

(b)The temperature of the washing solution shall be maintained at not less than 100Â°F or the temperature specified by the manufacturer on the cleaning agent manufacturerslabel instructions or as provided in

writing by the manufacturer.

(c)The utensils shall then be rinsed in clear water before being immersed in a sanitizing solution.

(d)Manual sanitization shall be accomplished as specified in Section 114099.6.

(e)In-place sanitizing shall be accomplished as specified in Section 114099.6.

(f)Other methods may be used if approved by the enforcement agency.

(Amended by Stats. 2009, Ch. 571, Sec. 38. (SB 241) Effective October 11, 2009.)

114099.3.

Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints, such as when equipment is fixed or the utensils are large, and the enforcement agency has approved the use of the alternative equipment. Alternative manual warewashing equipment may include any of the following:

(a)High-pressure detergent sprayers.

(b)Low-or-line pressure spray detergent foamers.

(c)Other task-specific cleaning equipment.

(d)Brushes or other implements.

(e)(1)A two-compartment sink, if the permitholder limits the number of utensils cleaned and sanitized in the two-compartment sink, limits warewashing to batch operations for cleaning and sanitizing utensils, such as between cutting one type of raw meat and another or cleanup at the end of a shift, and does either of the following:

(A)Makes up the cleaning and sanitizing solutions immediately before use and drains them immediately after use, as well as uses a detergent sanitizer to clean and sanitize in accordance with the manufacturerslabel instructions where there is no distinct water rinse between the washing and sanitizing steps. The agent applied in the sanitizing step shall be the same detergent sanitizer that is used in the washing step.

(B)Use a hot water sanitization immersion step that incorporates a nondistinct water rinse.

(2)A two-compartment sink shall not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of utensils in an ongoing warewashing process.

(Amended by Stats. 2007, Ch. 96, Sec. 36. Effective July 20, 2007.)

114099.4.

If hot water is used for sanitization in manual warewashing operations, the sanitizing compartment of the

sink shall be designed with an integral heating device that is capable of maintaining water at a temperature not less than 171Â°F and provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114099.5.

In manual warewashing operations, a temperature measuring device shall be provided and readily accessible for frequently measuring the washing and sanitizing temperatures.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114099.6.

Manual sanitization shall be accomplished in the final sanitizing rinse by one of the following:

(a)Immersion for at least 30 seconds where the water temperature is maintained at 171 degrees Fahrenheit or above.

(b)The application of sanitizing chemicals by immersion, manual swabbing, or brushing, using one of the following solutions:

(1)Contact with a solution of 100 ppm available chlorine solution for at least 30 seconds.

(2)Contact with a solution of 25 ppm available iodine for at least one minute.

(3)Contact with a solution of 200 ppm quaternary ammonium for at least one minute.

(4)Contact with a solution of ozone that meets the requirements of Section 180.940 of Title 40 of the Code of Federal Regulations and that is generated by a device located onsite at the food facility that meets all of the following requirements:

(A)Complies with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

(B)Complies with federal device requirements as specified in Section 152.500 of Title 40 of the Code of Federal Regulations, and federal labeling requirements as specified in Section 156.10 of Title 40 of the Code of Federal Regulations.

(C)Displays the United States Environmental Protection Agency device manufacturing facility registration number on the device.

(D)Is operated and maintained in accordance with the manufacturersinstructions, and manufactured using good manufacturing practices as specified in Part 110 of Title 21 of the Code of Federal Regulations.

(5)Contact with any chemical sanitizer that meets the requirements of Section 180.940 of Title 40 of the Code of Federal Regulations when used in accordance with the manufacturersuse directions.

(c)Other methods approved by the enforcement agency.

(Amended by Stats. 2012, Ch. 629, Sec. 1. (AB 1427) Effective January 1, 2013.)

114099.7.

Mechanical sanitization shall be accomplished in the final sanitizing rinse by one of the following:

(a)By being cycled through equipment that is used in accordance with the manufacturersspecifications and achieving a utensil surface temperature of 160ÂºF as measured by an irreversible registering temperature indicator.

(b)The mechanical application of sanitizing chemicals by pressure spraying methods using one of the following solutions:

(1)Contact with a solution of 50 ppm available chlorine for at least 30 seconds.

(2)Contact with a solution of 25 ppm available iodine for at least one minute.

(3)Contact with any chemical sanitizer that meets the requirements of Section 180.940 of Title 40 of the Code of Federal Regulations when used in accordance with the following:

(A)The sanitizer manufacturersuse directions as specified on the product label.

(B)The machine manufacturersspecifications as provided in the manufacturersoperating instructions.

(c)After being cleaned and sanitized, equipment and utensils shall not be rinsed before air drying or use unless:

(1)The rinse is applied directly from a potable water supply by a warewashing machine that meets the requirements of subdivision (b) of Section 114130 and is maintained and operated in accordance with the manufacturersspecifications.

(2)The rinse is applied only after the equipment and utensils have been sanitized by the application of hot water or by the application of a chemical sanitizer solution whose United States Environmental Protection Agency-registered, label use instructions require rinsing off the sanitizer after it is applied in an approved commercial warewashing machine.

(Amended by Stats. 2013, Ch. 556, Sec. 13. (AB 1252) Effective January 1, 2014.)

114101.

(a)Mechanical machine warewashing shall be accomplished by using an approved machine installed and operated in accordance with the manufacturersspecifications.

(b)Soiled items to be cleaned in a warewashing machine shall be loaded in racks, trays, or baskets or onto

conveyors in a position that exposes the items to the unobstructed spray during all cycles and allows the items to drain.

(c)The velocity, quantity, and distribution of the washwater, type, and concentration of detergent used therein, and the time the utensils are exposed to the water shall be sufficient to clean the utensils.

(d)Restricted food service facilities need not comply with Section 114130 if the domestic or commercial dishwasher utilized for warewashing is capable of providing heat to the surface of the utensils of a temperature of at least 160Â°F.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114101.1.

A warewashing machine shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer that indicates the machinesdesign and operating specifications including the temperatures required for washing, rinsing, and sanitizing, the pressure required for the fresh water sanitizing rinse, unless the machine is designed to use only a pumped sanitizing rinse, and the conveyor speed for conveyor machines or cycle time for stationary rack machines.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114101.2.

A warewashing machine shall be equipped with a temperature measuring device that indicates the temperature of the water as the water enters the hot water sanitizing final rinse manifold or in the chemical sanitizing solution tank.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114103.

(a)Except as provided in subdivisions (b) and (c), all warewashing equipment shall be provided with two integral metal drainboards of adequate size and construction. One drainboard shall be attached at the point of entry for soiled equipment and utensils and one shall be attached at the point of exit for cleaned and sanitized equipment and utensils.

(b)Where a mechanical warewashing machine is used, there shall be two metal drainboards, one for soiled equipment and utensils, and one for clean equipment and utensils, located adjacent to the machine. The requirement for a drainboard for soiled equipment and utensils or the requirement for a drainboard for clean equipment and utensils, or both requirements, may be satisfied by using the drainboards that are part of the manual warewashing sinks if the sink is located adjacent to the machine.

(c)Pot and pan washers shall be equipped with drainboards as required in subdivision (a), or shall be equipped with approved alternative equipment that provides adequate and suitable space for soiled and

clean equipment and utensils.

(d)Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing.

(e)Sinks and drainboards of warewashing equipment shall be sloped and drained to an approved liquid waste receptor.

(Amended by Stats. 2016, Ch. 195, Sec. 14. (SB 1067) Effective January 1, 2017.)

114105.

After cleaning and sanitizing, equipment and utensils shall be air dried or used after adequate draining before contact with food and shall not be cloth dried, except that utensils that have been air dried may be polished with cloths that are maintained clean and dry.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114107.

(a)Testing equipment and materials shall be provided to adequately measure the applicable sanitization method used during manual or mechanical warewashing.

(b)The concentration of the sanitizing solution shall be accurately determined to ensure proper dosage.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114109.

(a)Drying agents used in conjunction with sanitization shall contain only components that are listed as one of the following:

(1)Generally Recognized as Safe for use in food as specified in 21 C.F.R. 182 " Substances Generally Recognized as Safe, or 21 C.F.R. 184 " Direct Food Substances Affirmed as Generally Recognized as Safe.

(2)Generally Recognized as Safe for the intended use as specified in 21 C.F.R. 186 " Indirect Food Substances Affirmed as Generally Recognized as Safe.

(3)Approved for use as a drying agent under a prior sanction specified in 21 C.F.R. 181 " Prior-Sanctioned Food Ingredients.

(4)Specifically regulated as an indirect food additive for use as a drying agent as specified in 21 C.F.R. 175"178, inclusive.

(5)Approved for use as a drying agent under the threshold of regulation process established by 21 C.F.R. 170.39.

(b)When sanitization is with chemicals, the approval required under paragraph (3) or (5) of subdivision (a) or the regulation as an indirect food additive required under paragraph (4) of subdivision (a), shall be specifically for use with chemical sanitizing solutions.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114111.

(a)If used, dry cleaning methods such as brushing, scraping, and vacuuming shall contact only surfaces that are soiled with dry nonpotentially hazardous food residues.

(b)Cleaning equipment used in dry cleaning food-contact surfaces shall not be used for any other purpose.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114113.

Food shall only contact surfaces of equipment and utensils that are cleaned and sanitized.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114115.

(a)Equipment food-contact surfaces and utensils shall be clean to sight and touch.

(b)The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.

(c)Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

(d)Equipment shall be reassembled so that food-contact surfaces are not contaminated.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114117.

(a)Equipment food-contact surfaces and utensils shall be cleaned and sanitized at the following times:

(1)Except as specified in subdivision (b), before each use with a different type of raw food of animal origin such as beef, fish, lamb, pork, or poultry.

(2)Each time there is a change from working with raw foods to working with ready-to-eat foods.

(3)Between uses with raw produce and with potentially hazardous food.

(4)Before using or storing a food temperature measuring device.

(5)At any time during the operation when contamination may have occurred.

(b)Paragraph (1) of subdivision (a) does not apply if the food contact surface or utensil is in contact with a succession of different raw foods of animal origin, each requiring a higher cooking temperature as specified in Section 114004 than the previous food, such as preparing raw fish followed by cutting raw poultry on the same cutting board.

(c)Except as specified in subdivision (d), if used with potentially hazardous food, equipment food-contact surfaces and utensils shall be cleaned and sanitized throughout the day at least every four hours.

(d)Surfaces of utensils and equipment contacting potentially hazardous food may be cleaned and sanitized less frequently than every four hours if any of the following occurs:

(1)In storage, containers of potentially hazardous food and their contents are maintained at temperatures as specified in Section 113996 and the containers are cleaned and sanitized when they are empty.

(2)Utensils and equipment are used to prepare food in a refrigerated room or area that is maintained at or below 55ÂºF. In that case, the utensils and equipment shall be cleaned and sanitized at the frequency that corresponds to the temperature as depicted in the following chart and the cleaning frequency based on the ambient temperature of the refrigerated room or area shall be documented and records shall be maintained in the food facility and made available to the enforcement agency upon request:

Temperature	Cleaning Frequency
5.0Â°C (41Â°F) or less	24 hours
>5.0Â°C " 7.2Â°C(>41Â°F " 45Â°F)	20 hours
>7.2Â°C " 10.0Â°C(>45Â°F " 50Â°F)	16 hours
>10.0Â°C " 12.8Â°C(>50Â°F " 55Â°F)	10 hours

(3)Containers in serving situations such as salad bars, delis, and cafeteria lines that hold ready-to-eat potentially hazardous food that is maintained at the temperatures specified in subdivisions (a) to (c), inclusive, of Section 113996 are intermittently combined with additional supplies of the same food that is at the required temperature, and the containers are cleaned and sanitized at least every 24 hours. Utensils and containers holding potentially hazardous foods in accordance with subdivision (d) of Section 113996 are cleaned when they are empty or when the remaining contents are disposed of.

(4)Temperature measuring devices are maintained in contact with food, such as when left in a container of deli food or in a roast, held at temperatures specified in Sections 113996 and 114004.

(5)Equipment is used for storage of packaged or unpackaged food, such as a reach-in refrigerator, and the

equipment is cleaned and sanitized at a frequency necessary to preclude accumulation of soil residues.

(6)The cleaning schedule is approved based on consideration of characteristics of the equipment and its use, the type of food involved, the amount of food residue accumulation, and the temperature at which the food is maintained during the operation and the potential for the rapid and progressive multiplication of pathogenic or toxigenic micro-organisms that are capable of causing foodborne disease.

(7)In-use utensils are intermittently stored in a container of water in which the water is maintained at 135ÂºF or higher and the utensils and container are cleaned and sanitized at least every 24 hours or at a frequency necessary to preclude accumulation of soil residues.

(e)Except when dry cleaning methods are used as specified in Section 114111, surfaces of utensils and equipment contacting food that is not potentially hazardous shall be cleaned and sanitized in any of the following circumstances:

(1)At any time when contamination may have occurred.

(2)At least every 24 hours for iced tea dispensers and consumer self-service utensils such as tongs, scoops, or ladles.

(3)Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers.

(4)In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment, at a frequency specified by the manufacturer, or, absent manufacturer specifications, at a frequency necessary to preclude accumulation of soil or mold.

(Amended by Stats. 2009, Ch. 571, Sec. 41. (SB 241) Effective October 11, 2009.)

114118.

Fabric implements shall be laundered and sanitized before or after use in direct contact with food.

(Added by Stats. 2009, Ch. 571, Sec. 42. (SB 241) Effective October 11, 2009.)

114119.

During pauses in food preparation or dispensing, food preparation and dispensing utensils shall be stored in the following manner:

(a)Except as specified under subdivision (b), in the food with their handles above the top of the food and the container.

(b)In food that is not potentially hazardous, with their handles above the top of the food within containers or equipment that can be closed, such as bins of sugar, flour, or cinnamon.

(c)On a clean portion of the food preparation table or cooking equipment only if the in-use utensil and the food-contact surface of the food preparation table or cooking equipment are cleaned and sanitized at a frequency specified under Section 114117.

(d)In running water of sufficient velocity to flush particulates to the drain, if used with moist food such as ice cream or mashed potatoes.

(e)In a clean, protected location if the utensils, such as ice scoops, are used only with a food that is not potentially hazardous.

(f)In a container of water if the water is maintained at a temperature of at least 135ÂºF and the container is cleaned at least every 24 hours or at a frequency necessary to preclude the accumulation of soil residues.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114121.

(a)Except as specified in subdivisions (b), (c), and (d), returned empty containers intended for filling with food or beverage shall be cleaned and filled in an approved facility.

(b)(1)Clean consumer-owned containers provided or returned to the food facility for filling may be filled and returned to the same consumer if the container is filled by either an employee of the food facility or the owner of the container. For the purposes of this section, a consumer-owned container shall be designed and constructed for reuse in accordance with Section 3-304.17(B)(1) of the 2017 Food Code published by the federal Food and Drug Administration.

(2)The food facility shall either isolate the consumer-owned containers from the serving surface or sanitize the serving surface after each filling.

(c)The food facility shall prepare, maintain, and adhere to written procedures to prevent cross-contamination, as described in Section 113986, and the written procedures shall address waste water disposal. The food facility shall make the written procedures available to the enforcement agency upon request or at the time of an inspection.

(d)Consumer-owned containers that are not food specific may be filled at a water vending machine or system.

(e)The food facility shall ensure compliance with the handwashing requirements specified in Article 4 (commencing with Section 113952) of Chapter 3.

(Amended by Stats. 2019, Ch. 93, Sec. 1. (AB 619) Effective January 1, 2020.)

114123.

Except as specified in Section 114125, food preparation sinks, handwashing lavatories, and warewashing equipment shall not be used for the cleaning of maintenance tools, the preparation or holding of maintenance materials, or the disposal of mop water and similar liquid wastes.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114125.

(a)A warewashing sink shall not be used for handwashing except in food facilities that were not constructed or extensively remodeled since January 1, 1996, and where there are no facilities exclusively for handwashing in food preparation areas.

(b)If a warewashing sink is used to wash wiping cloths, wash produce, or thaw food, the sink shall be cleaned and sanitized before and after each time it is used to wash wiping cloths or wash produce or thaw food.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=7.&chapter=6.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=6.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 6. Equipment, Utensils, and Linens [114130 - 114185.5]__

(Chapter 6 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 1. Design and Construction [114130 - 114145]__

(Article 1 added by Stats. 2006, Ch. 23, Sec. 2.)

114130.

(a)Equipment and utensils shall be designed and constructed to be durable and to retain their characteristic qualities under normal use conditions.

(b)Except as specified in subdivision (c), all new and replacement food-related and utensil-related equipment shall be certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program. In the absence of an applicable ANSI certified sanitation standard, food-related and utensil-related equipment shall be evaluated for approval by the enforcement agency.

(c) Restricted food service facilities need not comply with subdivision (b), depending on the extent of the food service activities, and if the enforcement officer determines that the equipment meets the characteristics of subdivision (a).

(d)All new and replacement electrical appliances shall meet applicable Underwriters Laboratories standards for electrical equipment as determined by an ANSI accredited certification program.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114130.1.

Materials that are used in the construction of utensils and food-contact surfaces of equipment shall not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be safe, durable, corrosion-resistant, and nonabsorbent, sufficient in weight and thickness to withstand repeated warewashing, finished to have a smooth, easily cleanable surface, and resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114130.2.

Materials that are used to make single-use articles shall not allow the migration of deleterious substances or impart colors, odors, or tastes to food, and shall be safe and clean.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114130.3.

(a)Multiuse food-contact surfaces shall be all of the following:

(1)Smooth.

(2)Free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections.

(3)Free of sharp internal angles, corners, and crevices.

(4)Finished to have smooth welds and joints.

(5)Except as specified in subdivision (b), accessible for cleaning and inspection by one of the following methods:

(A)Without being disassembled.

(B)By disassembling without the use of tools.

(C)By easy disassembling with the use of handheld tools commonly available to maintenance and cleaning personnel such as screwdrivers, pliers, open-end wrenches, and Allen wrenches.

(b)Paragraph (5) of subdivision (a) shall not apply to cooking oil storage tanks, distribution lines for cooking oils, or beverage syrup lines or tubes.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114130.4.

Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, and smooth material that allows easy cleaning and to facilitate maintenance and free of unnecessary ledges, projections, and crevices to allow for easy cleaning and to facilitate maintenance.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114130.5.

(a)Except for CIP equipment in operation before the effective date of this part, CIP equipment shall meet the characteristics of a food contact surface and shall be designed and constructed so that cleaning and sanitizing solutions circulate throughout a fixed system and contact all interior food-contact surfaces and the system is self-draining or capable of being completely drained of cleaning and sanitizing solutions.

(b)CIP equipment that is not designed to be disassembled for cleaning shall be designed with inspection access points to ensure that all interior food-contact surfaces throughout the fixed system are being effectively cleaned.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114130.6.

Materials that are used in fabric implements shall not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be safe, durable, and sufficient in strength to withstand repeated cleaning or laundering and shall be resistant to fraying and deterioration.

(Added by Stats. 2009, Ch. 571, Sec. 43. (SB 241) Effective October 11, 2009.)

114132.

(a)Except as specified in this section, wood and wood wicker shall not be used as a food-contact surface.

(b)Hard maple or an equivalently hard, close-grained wood may be used for cutting boards, cutting blocks, bakers™ tables, utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks, wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 230Â°F or above, and cedar planks used for grilling or baking seafood.

(c)Whole, uncut, raw fruits and vegetables and nuts in the shell may be kept in wood shipping containers until the fruits, vegetables, or nuts are used.

(d)When wood or wood shipping containers become cracked, splintered, or otherwise damaged, they shall be refurbished or replaced.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114133.

(a)Except as specified in subdivision (b), copper and copper alloys such as brass may not be used in contact with a food that has a pH below six, such as vinegar, fruit juice, or wine, or for a fitting or tubing installed between a backflow prevention device and a carbonator.

(b)Copper and copper alloys may be used in contact with beer brewing ingredients that have a pH below six in the prefermentation and fermentation steps of a beer brewing operation, such as a brewpub or microbrewery.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114135.

Sponges shall not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114137.

Except for hot oil cooking or filtering equipment, V type threads shall not be used on food-contact surfaces.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114139.

Cutting or piercing parts of can openers shall be readily removable for cleaning and for replacement.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114141.

Lubricants shall be applied to food-contact surfaces that require lubrication in a manner that does not contaminate food or food-contact surfaces. Equipment shall be reassembled after lubrication so that food contact surfaces are not contaminated. Only approved food grade lubricants shall be used for this purpose.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114143.

Notwithstanding any of the provisions of this part, neither the department nor any city, county, city and county air pollution control district, or air quality management district shall require the enclosure of an open-air barbecue or outdoor wood-burning oven if the enforcement officer determines that the barbecue or wood-burning oven meets all of the following requirements:

(a)The open-air barbecue or outdoor wood-burning oven is operated on the same premises as, in reasonable proximity to, and in conjunction with, a permanent food facility that is approved for food preparation, a temporary food facility or a mobile food facility that is operating at a community event, or a catering operation. The permitholder of the permanent food facility, temporary food facility, mobile food facility, or catering operation shall be deemed to be the permitholder of the open-air barbecue or outdoor wood-burning oven, and shall be responsible for ensuring that it is operated in full compliance with this part.

(b)The open-air barbecue or outdoor wood-burning oven is not operated in, or out of, any motor vehicle, or in any area or location that may constitute a fire hazard, as determined by the enforcement officer.

(c)The open-air barbecue or outdoor wood-burning oven is separated from public access to prevent food contamination or injury to the public by using ropes or other approved methods.

(d)If the open-air barbecue or outdoor wood-burning oven is a permanent structure, it shall be equipped with an impervious and easily cleanable floor surface that extends a minimum of five feet from the open-air barbecue or outdoor wood-burning oven facility on all open sides.

(e)Sanitary facilities, including, but not limited to, toilet facilities and handwashing facilities shall be available for use within 200 feet in travel distance of the open-air barbecue or outdoor wood-burning oven and shall comply with all provisions of this part.

(Amended by Stats. 2018, Ch. 493, Sec. 7. (AB 2524) Effective January 1, 2019.)

114145.

Vending machines shall meet all applicable requirements of this part and shall comply with the following:

(a)Each vending machine or machine location shall have posted in a prominent place a sign indicating the ownersname, address, and telephone number.

(b)Wet storage of prepackaged products is prohibited.

(c)Potentially hazardous food shall be dispensed to the consumer in the original package into which it was placed at the commissary or food processing plant. Bulk potentially hazardous food is prohibited.

(d)Single-use articles that are used in machines dispensing products in bulk shall be obtained in sanitary packages. The single-use articles shall be stored in the original package until introduced into the container magazine or dispenser of the vending machine.

(e)A record of cleaning and sanitizing shall be maintained by the operator in each machine and shall be current for at least the past 30 days.

(f)All vending machines shall be constructed in accordance with applicable NSF International or National Automatic Merchandizing Association standards, or the equivalent thereof.

(g)If located outside, a vending machine shall be provided with overhead protection.

(h)The dispensing compartment of a vending machine shall be equipped with a self-closing door or cover if the machine is located in an outside area that does not otherwise afford the protection of an enclosure against the rain, windblown debris, insects, rodents, and other contaminants that are present in the environment, or if the machine is available for self-service during hours when it is not under the full-time supervision of an employee.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=6.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 6. Equipment, Utensils, and Linens [114130 - 114185.5]__

(Chapter 6 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 2. Ventilation [114149 - 114149.3]__

(Article 2 added by Stats. 2006, Ch. 23, Sec. 2.)

114149.

(a)All areas of a food facility shall have sufficient ventilation to facilitate proper food storage and to provide a reasonable condition of comfort for each employee, consistent with the job performed by the employee.

(b)Toilet rooms shall be vented to the outside air by means of an openable, screened window, an air shaft, or a light-switch-activated exhaust fan, consistent with the requirements of local building codes.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114149.1.

(a)Mechanical exhaust ventilation equipment shall be provided over all cooking equipment as required to effectively remove cooking odors, smoke, steam, grease, heat, and vapors. All mechanical exhaust ventilation equipment shall be installed and maintained in accordance with the California Mechanical Code, except that for units subject to Part 2 (commencing with Section 18000) of Division 13, an alternative code adopted pursuant to Section 18028 shall govern the construction standards.

(b)Restricted food service facilities shall be exempt from subdivision (a), but shall still provide ventilation to remove gases, odors, steam, heat, grease, vapors and smoke from the food facility. In the event that the enforcement officer determines that the ventilation must be mechanical in nature, the ventilation shall be accomplished by methods approved by the enforcement agency.

(c)This section shall not apply to cooking equipment when the equipment has been submitted to the local enforcement agency for evaluation, and the local enforcement agency has found that the equipment does not produce toxic gases, smoke, grease, vapors, or heat when operated under conditions recommended by the manufacturer. The local enforcement agency may recognize a testing organization to perform any necessary evaluations.

(d)Makeup air shall be provided at the rate of that exhausted.

(Amended by Stats. 2007, Ch. 96, Sec. 37. Effective July 20, 2007.)

114149.2.

(a)Every hood shall be installed to provide for thorough cleaning of all interior and exterior surfaces, including, but not limited to, the hood, filters, piping, lights, troughs, hangers, flanges, and exhaust ducts.

(b)Exhaust ventilation hood systems in food preparation and warewashing areas, including components such as hoods, fans, guards, and ducting, shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-use articles.

(c)Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

(d)Every joint and seam shall be substantially tight. No solder shall be used, except for sealing a joint or seam.

(e)When grease gutters are provided they shall drain to a collecting receptacle fabricated, designed, and installed to be readily accessible for cleaning.

(f)Exhaust hood ducting shall meet the following requirements:

(1)All seams in the duct shall be completely tight to prevent the accumulation of grease.

(2)The ducts shall have sufficient clean-outs to make the ducts readily accessible for cleaning.

(3)All ducts in the exhaust system shall be properly sloped.

(4)Intake and exhaust air ducts shall be cleaned and filters changed so they are not a source of contamination by dust, dirt, and other materials.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114149.3.

Heating, ventilating, and air conditioning systems shall be designed and installed so that make-up air intake and exhaust vents do not cause contamination of food, food-contact surfaces, equipment, or utensils and do not create air currents that cause difficulty in maintaining the required temperatures of potentially hazardous foods.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=6.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 6. Equipment, Utensils, and Linens [114130 - 114185.5]__

(Chapter 6 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 3. Location and Installation [114153 - 114172]__

(Article 3 added by Stats. 2006, Ch. 23, Sec. 2.)

114153.

Equipment for cooling and heating food and for holding cold and hot food shall be sufficient in number and capacity to ensure proper food temperature control during transportation and operation as specified in Section 113996.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114157.

(a)A thermometer shall be provided for each refrigeration unit.

(b)The thermometer shall be located to indicate the air temperature in the warmest part of the unit and, except for vending machines, shall be affixed to be readily visible.

(c)Except as specified in subdivision (d), cold or hot holding equipment used for potentially hazardous food shall be designed to include and shall be equipped with at least one integral or permanently affixed temperature measuring device that is located to allow easy viewing of the devicestemperature display. Alternative hot or cold holding equipment can be equipped with approved product mimicking sensors placed in devices located in the warmest part of the mechanically refrigerated unit in lieu of an ambient air sensor.

(d)Subdivision (c) shall not apply to equipment for which the placement of a temperature measuring device is not a practical means for measuring the ambient air surrounding the food because of the design, type, and use of the equipment, such as calrod units, heat lamps, cold plates, bainmaries, steam tables, insulated food transport containers, and salad bars.

(e)Temperature measuring devices shall be easily readable and have a numerical scale, printed record, or digital readout in increments no greater than 2Â°F or over the intended range of use.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114159.

(a)Except for vending machines, an accurate, easily readable, metal probe thermometer suitable for measuring the temperature of food shall be readily available on the premises of each food facility holding potentially hazardous food.

(b)A food temperature measuring device with a suitable small-diameter probe that is designed to measure the temperature of thin masses shall be provided and readily accessible to accurately measure the temperature in thin foods such as meat patties and fish fillets.

(c)Food temperature measuring devices that are scaled only in Fahrenheit shall be accurate to Â±2Â°F in the intended range of use. Food temperature measuring devices that are scaled only in Celsius or dually scaled in Celsius and Fahrenheit shall be accurate to Â±1Â°C in the intended range of use.

(d)Food temperature measuring devices shall not have sensors or stems constructed of glass, except that

thermometers with glass sensors or stems that are encased in a shatterproof coating, such as candy thermometers, may be used.

(e)Food temperature measuring devices shall be calibrated in accordance with manufacturersspecifications as necessary to ensure their accuracy.

(Amended by Stats. 2009, Ch. 571, Sec. 44. (SB 241) Effective October 11, 2009.)

114161.

(a)Except as specified in subdivision (b), equipment, a cabinet used for the storage of food, or a cabinet that is used to store cleaned and sanitized equipment, utensils, laundered linens, and single-use articles shall not be in any of the following locations:

(1)In locker rooms.

(2)In toilet rooms.

(3)In refuse rooms.

(4)In mechanical rooms.

(5)Under sewer lines that are not shielded to intercept potential drips.

(6)Under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed.

(7)Under open stairwells.

(8)Under other sources of contamination.

(b)If a mechanical clothes washer or dryer is provided, it shall be located so that the washer or dryer is protected from contamination and located only where there is no exposed food, clean equipment, utensils, and linens, and unwrapped single-use articles.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114163.

(a)Except as specified in subdivision (b), all permanent food facilities that wash, rinse, soak, thaw, or similarly prepare foods shall be provided with a food preparation sink.

(1)The food preparation sink shall have a minimum dimension of 18 inches by 18 inches in length and width and 12 inches in depth with an integral drainboard or adjacent table at least 18 inches by 18 inches in length and width.

(2)The food preparation sink shall be located in the food preparation area, provided exclusively for food

preparation, and accessible at all times.

(3)The sink shall be equipped with an adequate supply of hot and cold running water through a mixing valve.

(b)(1)Food facilities that were approved for operation without a food preparation sink prior to January 1, 2007, need not provide a food preparation sink unless the food facility makes a menu change or changes their method of operation.

(2)The enforcement officer may approve other methods where the installation of a food preparation sink would not be readily feasible.

(Amended by Stats. 2009, Ch. 571, Sec. 45. (SB 241) Effective October 11, 2009.)

114165.

Dollies, pallets, racks, and skids used to store and transport large quantities of prepackaged foods received from a supplier in a cased or overwrapped lot shall be designed to be moved by hand or by conveniently available hand trucks or forklifts.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114167.

Beverage tubing and cold-plate beverage cooling devices shall not be installed in contact with stored ice intended to be used for food or beverages. This section shall not apply to cold plates that are constructed integrally with an ice storage bin.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114169.

(a)Equipment that is fixed because it is not easily movable shall be installed so that it is:

(1)Spaced to allow access for cleaning along the sides, behind, and above the equipment.

(2)Spaced from adjoining equipment, walls, and ceilings a distance of not more than one millimeter or one thirty-second inch.

(3)Sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

(b)Except as specified in subdivisions (c) and (d), floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a six-inch clearance between the floor and the equipment.

(c)Notwithstanding subdivision (b), this section shall not apply to display shelving units, display refrigeration units, and display freezer units located in the consumer shopping areas of a food facility if the floor under the units is maintained clean.

(d)Table-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being sealed to the table or elevated on legs that provide at least a four-inch clearance between the table and the equipment.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114171.

Liquid waste drain lines shall not pass through an ice machine or ice storage bin.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114172.

All pressurized cylinders shall be securely fastened to a rigid structure.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=6.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 6. Equipment, Utensils, and Linens [114130 - 114185.5]__

(Chapter 6 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 4. Maintenance and Operation [114175 - 114182]__

(Article 4 added by Stats. 2006, Ch. 23, Sec. 2.)

114175.

Equipment and utensils shall be kept clean, fully operative, and in good repair.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114177.

Surfaces such as cutting blocks and boards that are subject to scratching and scoring shall be resurfaced if they can no longer be effectively cleaned and sanitized, or discarded if they are not capable of being resurfaced.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114178.

(a)Except as specified in subdivision (d), cleaned equipment and utensils, laundered linens, and single-use articles shall be stored in a clean, dry location where they are not exposed to splash, dust, or other contamination, and at least six inches above the floor.

(b)Clean equipment and utensils shall be stored as specified in subdivision (a) and shall be stored covered or inverted in a self-draining position that allows air drying.

(c)Single-use articles shall be stored as specified under subdivision (a) and shall be kept in the original protective package or stored by using other means that afford protection from contamination until used.

(d)Items that are kept in closed packages may be stored less than six inches above the floor on dollies, pallets, racks, and skids that are designed as to be easily movable.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114179.

(a)Except as specified in subdivision (b), cleaned and sanitized equipment, utensils, laundered linens, and single-use articles shall not be stored in any of the following locations:

(1)In locker rooms.

(2)In toilet rooms.

(3)In refuse rooms.

(4)In mechanical rooms.

(5)Under sewer lines that are not shielded to intercept potential drips.

(6)Under leaking water lines including leaking automatic fire sprinkler heads or under lines on which water has condensed.

(7)Under open stairwells.

(8)Under other sources of contamination.

(b)Laundered linens and single-use articles that are packaged or in a storage compartment may be stored in a locker room.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114180.

(a)A reservoir that is used to supply water to a device such as a produce fogger shall be maintained in accordance with manufacturersspecifications and cleaned in accordance with manufacturersspecifications or according to the procedures specified in subdivision (b), whichever is more stringent.

(b)Cleaning procedures shall include at least the following steps and shall be conducted at least once a week:

(1)Draining and complete disassembly of the water and aerosol contact parts.

(2)Brush-cleaning the reservoir, aerosol tubing, and discharge nozzles with a suitable detergent solution.

(3)Flushing the complete system with water to remove the detergent solution and particulate accumulation.

(4)Rinsing by immersing, spraying, or swabbing the reservoir, aerosol tubing, and discharge nozzles with an approved sanitizer as specified in Section 114099.6.

(c)No fogging devices installed after the effective date of this part shall use a reservoir for holding water for fogging, but shall employ water under pressure for fogging or misting of foods.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114182.

Electrical power shall be supplied at all times to operate the approved exhaust, lighting, electric water heaters and refrigeration units, and any other accessories and appliances that may be installed in a food facility.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=6.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 6. Equipment, Utensils, and Linens [114130 - 114185.5]__

(Chapter 6 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 5. Linens [114185 - 114185.5]__

(Article 5 added by Stats. 2006, Ch. 23, Sec. 2.)

114185.

Except for linen used in fabric implements, linen shall not be used in contact with food unless they are used to line a container for the service of foods and the linens are replaced each time the container is refilled for a new consumer and laundered prior to reuse.

(Amended by Stats. 2009, Ch. 571, Sec. 46. (SB 241) Effective October 11, 2009.)

114185.1.

(a)Wiping cloths that are in use for cleaning food spills shall not be used for any other purpose.

(b)Cloths used for wiping food spills shall be dry and used for cleaning food spills from tableware and carry-out containers or used only once, or if used repeatedly, held in a sanitizing solution of an approved concentration as specified in Section 114099.6.

(c)Dry or wet cloths that are used with raw foods of animal origin shall be kept separate from cloths used for other purposes, and wet cloths used with raw foods of animal origin shall be kept in a separate sanitizing solution.

(d)Wet wiping cloths used with a freshly made sanitizing solution and dry wiping cloths shall be free of food debris and visible soil.

(e)Working containers of sanitizing solutions for storage of in-use wiping cloths shall be used in a manner to prevent contamination of food, equipment, utensils, linens, or single-use articles.

(Amended by Stats. 2007, Ch. 96, Sec. 39. Effective July 20, 2007.)

114185.2.

Clean linens shall be free of food residues and other soiling matter.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114185.3.

(a)Linens that do not come in direct contact with food shall be laundered when they become wet, sticky, or visibly soiled.

(b)Cloth gloves shall be laundered before being used with a different type of raw food of animal origin such as beef, lamb, pork, fish and poultry.

(c)Cloth napkins shall be laundered between each use.

(d)Wet wiping cloths shall be laundered daily.

(e)Dry wiping cloths shall be laundered as necessary to prevent contamination of food and clean serving utensils.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114185.4.

(a)Adequate and suitable space shall be provided for the storage of clean linens.

(b)Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-use articles.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114185.5.

(a)Laundry facilities on the premises of a food facility shall be used only for the washing and drying of items used in the operation of the establishment.

(b)If work clothes or linens are laundered on the premises, a mechanical clothes washer and dryer shall be provided and used.

(c)If wiping cloths are laundered on the premises, they shall be laundered in a mechanical clothes washer and dryer or in a warewashing sink that is cleaned and sanitized before and after each time it is used to wash wiping cloths or wash produce or thaw food.

(Amended by Stats. 2009, Ch. 571, Sec. 47. (SB 241) Effective October 11, 2009.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=7.&chapter=7.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=7.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 7. Water, Plumbing, and Waste [114189 - 114245.7]__

(Chapter 7 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 1. Water [114189 - 114195]__

(Article 1 added by Stats. 2006, Ch. 23, Sec. 2.)

114189.

The enforcement agency may monitor and enforce the potable drinking water standards in the California Safe Drinking Water Act (Chapter 4 commencing with Section 116275) for purposes of enforcing this part and compliance with any requirements with regard to potable water, as defined in Section 113869.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114189.1.

Chemicals used as boiler water additives shall meet the requirements specified in 21 C.F.R. 173.310.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114190.

All plumbing and plumbing fixtures shall be installed in compliance with applicable local plumbing ordinances, shall be maintained so as to prevent any contamination, and shall be kept clean, fully operative, and in good repair.

_(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec.

3 of Ch. 23.)_

114192.

(a)Except as provided in subdivision (d), an adequate, protected, pressurized, potable supply of hot water and cold water shall be provided. Hot water shall be supplied at a minimum temperature of at least 120ÂºF measured from the faucet, unless otherwise specified in this part. The water supply shall be from a water system approved by the health officer or the local enforcement agency.

(b)Any hose used for conveying potable water shall be constructed of nontoxic materials, shall be used for no other purpose, and shall be clearly labeled as to its use. The hose shall be stored and used so as to be kept free of contamination.

(c)The potable water supply shall be protected with a backflow or back siphonage protection device when required by applicable plumbing codes. Exposed piping of a nonpotable water system shall be identified so that it is readily distinguishable from piping that carries potable water.

(d)A food facility may provide only warm water if the water supply is used only for handwashing, as required in Section 113953.

(Amended by Stats. 2007, Ch. 96, Sec. 40. Effective July 20, 2007.)

114192.1.

(a)Water under pressure shall be permanently plumbed to all fixtures, equipment, and nonfood equipment that are required to use water, except for water supplied to nonpermanent food facilities.

(b)Water under pressure shall be provided at a sufficient level as specified by the Uniform Plumbing Code and manufacturersspecifications for equipment and fixtures in the food facility.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114193.

(a)All steam tables, ice machines and bins, food preparation sinks, warewashing sinks, display cases, walk-in refrigeration units, and other similar equipment that discharge liquid waste shall be drained by means of indirect waste pipes, and all wastes drained by them shall discharge through an airgap into a floor sink or other approved type of receptor.

(b)Drainage from reach-in refrigeration units shall be conducted in a sanitary manner to a floor sink or other approved device by an indirect connection or to a properly installed and functioning evaporator.

(c)Indirect waste receptors shall be located to be readily accessible for inspection and cleaning.

(d)Warewashing machines may be connected directly to the sewer immediately downstream from a floor

drain, or they may be drained through an approved indirect connection.

(e)Warewashing sinks in use on January 1, 1996, that are directly plumbed may be continued in use. This section does not require warewashing sinks to be indirectly plumbed when the local building official determines that the sink should be directly plumbed.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114193.1.

An air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than one inch.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114195.

(a)The water source and system shall be of sufficient capacity to meet the peak water demands of the food facility.

(b)Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food facility.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=7.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 7. Water, Plumbing, and Waste [114189 - 114245.7]__

(Chapter 7 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 2. Liquid Waste [114197 - 114201]__

(Article 2 added by Stats. 2006, Ch. 23, Sec. 2.)

114197.

Liquid waste shall be disposed of through the approved plumbing system and shall discharge into the public sewerage or into an approved private sewage disposal system.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114199.

Equipment compartments that are subject to accumulation of moisture due to conditions such as condensation, food or beverage drip, or water from melting ice, shall be sloped to an outlet that allows for complete draining.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114201.

(a)If provided, a grease trap or grease interceptor shall not be located in a food or utensil handling area unless specifically approved by the enforcement agency.

(b)Grease traps and grease interceptors shall be easily accessible for servicing.

(c)Notwithstanding subdivision (a), those food facilities approved with a grease trap or grease interceptor that are in operation before the effective date of this part are not required to comply with this section.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.

&title=&part=7.&chapter=7.&article=3.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=7.&article=3.)

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 7. Water, Plumbing, and Waste [114189 - 114245.7]__

(Chapter 7 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 3. Mobile Water and Wastewater Tanks [114205 - 114242]__

(Article 3 added by Stats. 2006, Ch. 23, Sec. 2.)

114205.

(a)Nonpermanent food facilities that handle nonprepackaged food shall be equipped with potable water and wastewater tanks, unless approved temporary water and wastewater connections are provided.

(b)Permanent food facilities shall be in compliance with Sections 114190 to 114201, inclusive.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114207.

Materials that are used in the construction of potable water and wastewater tanks and appurtenances shall be safe, durable, corrosion-resistant, nonabsorbent, and finished to have a smooth, easily cleanable surface.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114209.

Potable water tanks and wastewater tanks shall be sloped to an outlet that ensures complete drainage of the tank and designed and constructed so as to be easily and completely drained.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114211.

(a)The water system shall be designed and constructed using materials that enable water to be introduced without contamination.

(b)All tanks, line couplings, valves, and all other plumbing shall be designed, installed, maintained, and constructed of materials that will not contaminate the water supply, food, utensils, or equipment.

(c)All waste lines shall be connected to wastewater tanks with watertight seals.

(d)Any connection to a wastewater tank shall preclude the possibility of contaminating any food, food-contact surface, or utensil.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114213.

(a)Any potable water or wastewater tank mounted within a mobile food facility or mobile support unit shall have an air vent overflow provided in a manner that will prevent potential flooding of the interior of the facility.

(b)If provided, a water tank vent shall terminate in a downward direction and shall be covered with 16 mesh per square inch screen or equivalent when the vent is in a protected area or a protective filter when the vent is in an area that is not protected from windblown dirt and debris.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114215.

Hoses used in conjunction with nonpermanent food facilities shall meet all of the following requirements:

(a)A hose used for conveying potable water from a water tank shall be:

(1)Safe.

(2)Durable, corrosion-resistant, and nonabsorbent.

(3)Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

(4)Finished with a smooth interior surface.

(5)Protected from contamination at all times.

(6)Clearly and durably identified as to its use if not permanently attached.

(b)Liquid waste lines shall not be the same color as hoses used for potable water.

(c)Hoses used on a mobile food facility or a mobile support unit and potable water tank connectors shall have matching connecting devices. Devices for external cleaning shall not be used for potable water purposes on the mobile food facility. Hoses and faucets equipped with quick connect and disconnect devices for these purposes shall be deemed to meet the requirements of this subdivision. Exterior hose-connection valves shall be attached to mobile food facilities or mobile support units and shall be located above the ground with an approved water connection.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114217.

(a)A potable water tank of sufficient capacity to furnish an adequate quantity of potable water for food preparation, warewashing, and handwashing purposes shall be provided for nonpermanent food facilities.

(b)At least five gallons of water shall be provided exclusively for handwashing for each nonpermanent food facility. Any water need for other purposes shall be in addition to the five gallons for handwashing.

(c)Except as specified in subdivision (d), at least 25 gallons of water shall be provided for food preparation and warewashing.

(d)At least 15 gallons of water shall be provided for nonpermanent food facilities that conduct limited food preparation.

(e)The water delivery system shall deliver at least one gallon per minute to each sink basin.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114219.

A potable water tank shall be enclosed from the filling inlet to the discharge outlet and emptied to ensure complete drainage of the tank.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114221.

(a)Water tanks shall be designed with an access port for inspection and cleaning. The access port shall be in the top of the tank and flanged upward at least one-half inch and equipped with a port cover assembly that is provided with a gasket and a device for securing the cover in place and flanged to overlap the opening and sloped to drain.

(b)Notwithstanding subdivision (a), water tanks that are not accessible for inspection may comply with this section by submitting written operational procedures for the cleaning and sanitizing of the potable water tank. The enforcement agency shall review and approve the procedures prior to implementation and an approved copy shall be kept on the mobile food facility during hours of operation.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114223.

A fitting with V□ type threads on a water tank inlet or outlet shall be allowed only when a hose is permanently attached.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114225.

(a)Potable water tanks shall be installed in a manner that will allow water to be filled with an easily accessible inlet.

(b)A potable water tanksinlet and outlet shall be positioned so that they are protected from contaminants such as waste discharge, dust, oil, or grease.

(c)Nonpermanent food facilities shall be provided with a connection of a size and type that will prevent its use for any other service and shall be constructed so that backflow and other contamination of the water supply is prevented.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114227.

A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and potable water system when compressed air is used to pressurize the water tank system.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114229.

If not in use, a potable water tank and hose inlet and outlet fitting shall be protected using a cap and keeper chain, quick disconnect, closed cabinet, closed storage tube, or other approved protective cover or device.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114231.

A nonpermanent food facilityspotable water tank inlet shall be three-fourths inch in inner diameter or less and provided with a hose connection of a size or type that will prevent its use for any other service.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114233.

A water tank, pump, and hoses shall be flushed and sanitized before being placed in service after construction, repair, modification, and periods of nonuse.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114235.

A person shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114238.

A water tank, pump, and hoses used for conveying potable water shall not be used for any other purpose.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114239.

(a)Potable water tanks may be constructed in a manner that will allow for a potable water tank to be

removed from within the nonpermanent food facility compartments for refilling or replacing.

(b)Refilling of a potable water tank shall be conducted through an approved and sanitary method, such as at the commissary.

(c)Storage of any prefilled water tank, or empty and clean water tanks, or both, shall be within the nonpermanent food facility or in an approved manner that will protect against contamination.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114240.

(a)Wastewater tanks shall be of a capacity commensurate with the level of food handling activity.

(b)Wastewater tanks shall have a minimum capacity that is 50 percent greater than the potable water tanks. In no case shall the wastewater capacity be less than 7.5 gallons. Where potable water for the preparation of a food or beverage is supplied, an additional wastewater tank capacity equal to at least 15 percent of the water supply shall be provided.

(c)Additional wastewater tank capacity may be required where wastewater production is likely to exceed tank capacity.

(d)Where ice is utilized in the storage, display, or service of food or beverages, an additional minimum wastewater holding tank shall be provided with a capacity equal to one-third of the volume of the ice cabinet to accommodate the drainage of ice melt.

(e)Wastewater tanks on nonpermanent food facilities shall be equipped with a shut-off valve.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114241.

(a)Wastewater tanks may be constructed in a manner that will allow the wastewater tank to be removed from within the approved nonpermanent food facility compartments for replacing.

(b)Retail food operations shall cease during removal and replacement of tanks.

(c)Sewage and other liquid wastes shall be removed from a nonpermanent food facility at an approved waste servicing area or by an approved sewage transport vehicle in such a way that a public health hazard or nuisance is not created.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114242.

Wastewater tanks shall be thoroughly flushed and drained in a sanitary manner during the servicing operation.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=7.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 7. Water, Plumbing, and Waste [114189 - 114245.7]__

(Chapter 7 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 4. Refuse [114244 - 114245.7]__

(Article 4 added by Stats. 2006, Ch. 23, Sec. 2.)

114244.

(a)Each food facility shall be provided with any facilities and equipment necessary to store or dispose of all waste material.

(b)Waste receptacles shall be provided for use by consumers.

(c)A receptacle shall be provided in each area of the food facility or premises where refuse is generated or

commonly discarded, or where recyclables or returnables are placed.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114245.

(a)An area designated for refuse, recyclables, returnables, and a redeeming machine for recyclables or returnables shall be located so that it is separate from food, equipment, utensils, linens, and single-service and single-use articles and a public health hazard or nuisance is not created.

(b)Receptacles and waste handling units for refuse, recyclables, and returnables shall not be located so as to create a public health hazard or nuisance or interfere with the cleaning of adjacent space.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114245.1.

(a)All refuse, recyclables, and returnables shall be kept in nonabsorbent, durable, cleanable, leakproof, and rodentproof containers and shall be contained so as to minimize odor and insect development by covering with close-fitting lids or placement in a disposable bag that is impervious to moisture and then sealed.

(b)Refuse containers inside a food facility need not be covered during periods of operation.

(c)All refuse shall be removed and disposed of in a sanitary manner as frequently as may be necessary to prevent the creation of a nuisance.

(d)Storage areas, enclosures, and receptacles for refuse, recyclables, and returnables shall be maintained in good repair.

(e)Refuse, recyclables, and returnables shall be removed from the premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

(Amended by Stats. 2007, Ch. 96, Sec. 41. Effective July 20, 2007.)

114245.2.

Cardboard or other packaging material that does not contain food residues and that is awaiting regularly scheduled delivery to a recycling or disposal site may be stored outside without being in a covered receptacle if it is stored so that it does not create a rodent harborage problem.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114245.3.

If located within the food facility, a storage area for refuse, recyclables, and returnables shall meet the requirements for floors, walls, ceilings, and vermin exclusion as specified in this part.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114245.4.

If provided, an outdoor storage area or enclosure used for refuse, recyclables, and returnables shall be constructed of nonabsorbent material such as concrete or asphalt and shall be easily cleanable, durable, and sloped to drain.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114245.5.

Receptacles and waste handling units for refuse and recyclables shall be installed so that accumulation of debris and insect and rodent attraction and harborage are minimized and effective cleaning is facilitated around and, if the unit is not installed flush with the base pad, under the unit.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114245.6.

(a)Receptacles and waste handling units for refuse, recyclables, and returnables shall be thoroughly cleaned in a way that does not contaminate food, equipment, utensils, linens, or single-service and single-use articles, and wastewater shall be disposed of as specified under Section 114241.

(b)Soiled receptacles and waste handling units for refuse, recyclables, and returnables shall be cleaned at a frequency necessary to prevent them from developing a buildup of soil or becoming attractants for insects and rodents.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114245.7.

(a)Except as specified in subdivision (b), suitable cleaning implements and supplies such as high pressure pumps, hot water, steam, and detergent shall be provided as necessary for effective cleaning of receptacles and waste handling units for refuse, recyclables, and returnables.

(b)If approved, off-premises-based cleaning services may be used if on-premises cleaning implements and supplies are not provided.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=7.&chapter=8.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=8.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 8. Physical Facilities [114250 - 114259.5]__

(Chapter 8 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 1. Toilet Facilities [114250 - 114250.1]__

(Article 1 added by Stats. 2006, Ch. 23, Sec. 2.)

114250.

Clean toilet rooms in good repair shall be provided and conveniently located and accessible for use by employees during all hours of operation. The number of toilet facilities required shall be in accordance with applicable local building and plumbing ordinances. Toilet tissue shall be provided in a permanently installed dispenser at each toilet.

(Amended by Stats. 2009, Ch. 571, Sec. 49. (SB 241) Effective October 11, 2009.)

114250.1.

(a)Food facilities located within amusement parks, stadiums, arenas, food courts, fairgrounds, and similar premises shall not be required to provide toilet facilities for employee use within each food facility if approved toilet facilities are located within 200 feet in travel distance of each food facility and are readily available for use by employees. Food facilities subject to this section shall be provided with approved handwashing facilities for employee use.

(b)Notwithstanding subdivision (a), food facilities approved prior to the effective date of this part with toilet facilities within 300 feet are not required to meet the 200 foot requirement.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=8.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 8. Physical Facilities [114250 - 114259.5]__

(Chapter 8 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 2. Lighting [114252 - 114252.1]__

(Article 2 added by Stats. 2006, Ch. 23, Sec. 2.)

114252.

In every room and area in which any food is prepared, manufactured, processed, or prepackaged, or in which equipment or utensils are cleaned, sufficient natural or artificial lighting shall be provided to produce the following light intensity, while the area is in use:

(a)At least 10 foot candles for the following:

(1)At a distance of 30 inches above the floor, in walk-in refrigeration units and dry food storage areas.

(2)At a working surface on which alcoholic beverages are prepared or where utensils used in the preparation or service of alcoholic beverages are cleaned.

(3)Inside equipment, such as reach-in or under-the-counter refrigerators.

(b)At least 20 foot candles for the following:

(1)At a surface where food is provided for consumer self-service or where fresh produce or prepackaged foods are sold or offered for consumption.

(2)In server stations where food is prepared.

(3)At a distance of 30 inches above the floor in areas used for handwashing, warewashing, and equipment and utensil storage, and in toilet rooms.

(4)In all areas and rooms during periods of cleaning.

(c)Except in server stations where food is prepared, at least 50 foot candles at a surface where a food employee is working with food or working with utensils or equipment such as knives, slicers, grinders, or saws where employee safety is a factor.

(Amended by Stats. 2009, Ch. 571, Sec. 50. (SB 241) Effective October 11, 2009.)

114252.1.

(a)Except as specified in subdivision (b), light bulbs shall be shielded, coated, or otherwise shatter-resistant in areas where there is nonprepackaged ready-to-eat food, clean equipment, utensils, and linens, or unwrapped single-use articles.

(b)Shielded, coated, or otherwise shatter-resistant bulbs need not be used in areas used only for storing prepackaged food in unopened packages, if the integrity of the packages cannot be affected by broken glass falling onto them and the packages are capable of being cleaned of debris from broken bulbs before the packages are opened.

(c)Infrared and other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb so that only the face of the bulb is exposed, or by using approved coated shatter resistant bulbs.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=8.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 8. Physical Facilities [114250 - 114259.5]__

(Chapter 8 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 3. Poisonous and Toxic Materials [114254 - 114254.3]__

(Article 3 added by Stats. 2006, Ch. 23, Sec. 2.)

114254.

Only those insecticides, rodenticides, and other pesticides that are necessary and specifically approved for use in a food facility may be used. The use shall be in accordance with the manufacturersinstructions.

(Amended (as added by Stats. 2006, Ch. 23, Sec. 2) by Stats. 2007, Ch. 96, Sec. 42. Effective July 20, 2007.)

114254.1.

(a)Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturerslabel.

(b)Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114254.2.

(a)Except as specified in subdivision (b), poisonous or toxic materials shall be stored or displayed so they can not contaminate food, equipment, utensils, linens, and single-use articles by separating the poisonous or toxic materials by spacing or partitioning and locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-use articles.

(b)Equipment and utensil cleaners and sanitizers may be stored in warewashing areas for availability and convenience if the materials are stored to prevent contamination of food, equipment, utensils, linens, and single-use articles.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114254.3.

A container previously used to store poisonous or toxic materials shall not be used to store, transport, or dispense food, utensils, or single-use articles.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=8.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 8. Physical Facilities [114250 - 114259.5]__

(Chapter 8 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 4. Employee Storage Areas [114256 - 114256.4]__

(Article 4 added by Stats. 2006, Ch. 23, Sec. 2.)

114256.

(a)Areas designated for employees to eat and drink shall be located so that food, equipment, linens, and single-use articles are protected from contamination.

(b)Lockers or other suitable facilities shall be located in a designated room or area where contamination of food, equipment, utensils, linens, and single-use articles cannot occur.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114256.1.

(a)Lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other possessions.

(b)Dressing rooms or dressing areas shall be provided and used by employees if the employees regularly change their clothes in the facility.

(c) Restricted food service facilities and nonpermanent food facilities shall not be required to comply with subdivision (a), but no person shall store clothing or personal effects in any area used for the storage and preparation of food.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114256.2.

Medicines that are in a food facility for the employees™ use shall be labeled and stored so as to prevent the contamination of food, equipment, utensils, linens, and single-use articles. This section does not apply to medicines that are stored or displayed for retail sale.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114256.4.

First aid supplies that are in a food facility for the employees™ use shall be labeled with a legible manufacturerslabel and stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, linens, and single-use articles.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=8.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 8. Physical Facilities [114250 - 114259.5]__

(Chapter 8 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 5. Premises and Facilities [114257 - 114257.1]__

(Article 5 added by Stats. 2006, Ch. 23, Sec. 2.)

114257.

All premises of a food facility shall be kept clean fully operative, and in good repair.

(Amended by Stats. 2007, Ch. 96, Sec. 43. Effective July 20, 2007.)

114257.1.

The premises of a food facility shall be free of litter and items that are unnecessary to the operation or maintenance of the facility, such as equipment that is nonfunctional or no longer used.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=8.&article=6.

114259.

A food facility shall at all times be constructed, equipped, maintained, and operated as to prevent the entrance and harborage of animals, birds, and vermin, including, but not limited to, rodents and insects.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114259.3.

(a)Insect control devices that are used to electrocute or stun flying insects shall be designed to retain the insect within the device.

(b)Insect control devices shall be installed so that the devices are not located over a food or utensil handling area and dead insects and insect fragments are prevented from being impelled onto or falling on nonprepackaged food, clean equipment, utensils, linens, and unwrapped single-use articles.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114259.5.

(a)Except as specified in this section, live animals may not be allowed in a food facility.

(b)Live animals may be allowed in any of the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result:

(1)Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems.

(2)Animals intended for consumption if the live animals are kept separate from all food and utensil handling areas, are held in sanitary conditions, are slaughtered in a separate room designed solely for that purpose and separated from other food and utensil handling areas, and maintained in an area that has ventilation separate from food and utensil handling areas.

(3)Dogs under the control of a uniformed law enforcement officer or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while those employees are acting within the course and scope of their employment as private patrol persons.

(4)In areas that are not used for food preparation and that are usually open for consumers, such as dining and sales areas, service animals that are controlled by a disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal.

(5)Pets in the common dining areas of restricted food service facilities at times other than during meals if all of the following conditions are satisfied:

(A)Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas.

(B)Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present.

(C)Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.

(6)In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly restricted, such as in a variety store that sells pets or a tourist park that displays animals.

(7)If kept at least 20 feet (6 meters) away from any mobile food facility, temporary food facility, or certified farmers™ market.

(c)Those persons and operators described in paragraphs (3) and (4) of subdivision (b) are liable for any damage done to the premises or facilities by the dog.

(d)Pet dogs under the control of a person in an outdoor dining area if all of the following conditions are satisfied:

(1)The owner of the food facility elects to allow pet dogs in its outdoor dining area.

(2)A separate outdoor entrance is present where pet dogs enter without going through the food establishment to reach the outdoor dining area and pet dogs are not allowed on chairs, benches, seats, or other fixtures.

(3)The outdoor dining area is not used for food or drink preparation or the storage of utensils. A food employee may refill a beverage glass in the outdoor dining area from a pitcher or other container.

(4)Food and water provided to pet dogs shall only be in single-use disposable containers.

(5)Food employees are prohibited from having direct contact with pet dogs while on duty. A food employee who does have that prohibited direct contact shall wash his or her hands as required by Section 113953.3.

(6)The outdoor dining area is maintained clean. Surfaces that have been contaminated by dog excrement or other bodily fluids shall be cleaned and sanitized.

(7)The pet dog is on a leash or confined in a pet carrier and is under the control of the pet dog owner.

(8)The food facility owner ensures compliance with local ordinances related to sidewalks, public nuisance, and sanitation.

(9)Other control measures approved by the enforcement agency.

(e)Live or dead fish bait may be stored if contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result.

(Amended by Stats. 2014, Ch. 234, Sec. 2. (AB 1965) Effective January 1, 2015.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=9.&article=

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 9. Permanent Food Facilities [114265 - 114289.5]__

(Chapter 9 added by Stats. 2006, Ch. 23, Sec. 2.)

114265.

All permanent food facilities shall meet the applicable requirements in Chapters 1 to 8, inclusive, and Chapter 13, unless specifically exempted from any of these provisions.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=9.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 9. Permanent Food Facilities [114265 - 114289.5]__

(Chapter 9 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 1. Floors, Walls, and Ceilings [114266 - 114272]__

(Article 1 added by Stats. 2006, Ch. 23, Sec. 2.)

114266.

(a)Each permanent food facility shall be fully enclosed in a building consisting of permanent floors, walls, and an overhead structure that meet the minimum standards as prescribed by this part. Food facilities that are not fully enclosed on all sides and that are in operation on January 1, 1985, shall not be required to meet the requirements of this section until the facility is remodeled or has a significant menu change or significant change in its method of operation.

(b)Notwithstanding subdivision (a), this section does not require the enclosure of dining areas or any other operation approved for outdoor food service.

(c)Notwithstanding subdivision (a), a produce stand that was in operation prior to January 1, 2007, shall have no more than one side open to the outside air during business hours.

(Amended by Stats. 2015, Ch. 615, Sec. 8. (AB 226) Effective January 1, 2016.)

114268.

(a)Except in sales areas and as otherwise specified in subdivision (d), the floor surfaces in all areas in which food is prepared, prepackaged, or stored, where any utensil is washed, where refuse or garbage is stored, where janitorial facilities are located in all toilet and handwashing areas, except with respect to areas relating to guestroom accommodations and the private accommodations of owners and operators in restricted food service facilities, shall be smooth and of durable construction and nonabsorbent material that is easily cleanable.

(b)Floor surfaces shall be coved at the juncture of the floor and wall with a 3/8 inch minimum radius coving and shall extend up the wall at least 4 inches, except in areas where food is stored only in unopened bottles, cans, cartons, sacks, or other original shipping containers.

(c) Public or private schools constructed or remodeled after the effective date of this part shall comply with subdivision (b). Public and private schools constructed before the effective date of this part need not comply with subdivision (b), provided that the existing floor surfaces are maintained in good repair and in a sanitary condition.

(d)Except for dining and serving areas, the use of sawdust, wood shavings, peanut hulls, or similar materials is prohibited.

(e)This section shall not prohibit the use of approved dust-arresting floor sweeping and cleaning compounds during floor cleaning operations or the use of antislip floor finishes or materials in areas where necessary for safety reasons.

(Amended by Stats. 2013, Ch. 556, Sec. 14. (AB 1252) Effective January 1, 2014.)

114268.1.

(a)Except as specified in subdivision (b), only dustless methods of cleaning such as wet cleaning, vacuum cleaning, mopping with treated dust mops, or sweeping using a broom and dust-arresting compounds shall be used in food facilities.

(b)Spills or drippage on floors that occur between normal floor cleaning times may be cleaned without the use of dust-arresting compounds and, in the case of liquid spills or drippage, with the use of a small amount of absorbent compound such as sawdust or diatomaceous earth applied immediately before spot cleaning.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114269.

(a)Upon new construction or extensive remodeling, floor drains shall be installed in floors that are water-flushed for cleaning and in areas where pressure spray methods for cleaning equipment are used. Floor surfaces in areas pursuant to this subdivision shall be sloped 1:50 to the floor drains.

(b)Upon new construction or extensive remodeling, floor sinks or equivalent devices shall be installed to receive discharges of water or other liquid waste from equipment.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114271.

(a)Except as provided in subdivision (b), the walls and ceilings of all rooms shall be of a durable, smooth, nonabsorbent, and easily cleanable surface.

(b)This section shall not apply to any of the following areas:

(1)Walls and ceilings of bar areas in which alcoholic beverages are sold or served directly to the consumers, except wall areas adjacent to bar sinks and areas where food is prepared.

(2)Areas where food is stored only in unopened bottles, cans, cartons, sacks, or other original shipping containers.

(3)Dining and sales areas.

(4)Offices.

(5)Restrooms that are used exclusively by the consumers, except that the walls and ceilings in the restrooms shall be of a nonabsorbent and washable surface.

(6)Dressing rooms, dressing areas, or locker areas.

(c)Acoustical paneling may be utilized if it is installed not less than six feet above the floor. The paneling shall meet the other requirements of this section.

(d)Conduits of all types shall be installed within walls as practicable. When otherwise installed, they shall be mounted or enclosed so as to facilitate cleaning.

(e)Attachments to walls and ceilings, such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments, shall be easily cleanable.

(Amended by Stats. 2013, Ch. 556, Sec. 15. (AB 1252) Effective January 1, 2014.)

114272.

Mats and duckboards shall be designed to be removable and easily cleanable.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=9.&article=2.

114276.

(a)A permanent food facility shall provide clean toilet facilities in good repair for use by employees.

(b)(1)A permanent food facility shall provide clean toilet facilities in good repair for consumers, guests, or invitees when there is onsite consumption of foods or when the food facility was constructed after July 1, 1984, and has more than 20,000 square feet of floor space.

(2)Notwithstanding Section 113984.1, toilet facilities that are provided for use by consumers, guests, or invitees shall be in a location where consumers, guests, and invitees do not pass through food preparation, food storage, or utensil washing areas to reach the toilet facilities.

(3)For purposes of this section, a building subject to paragraph (1) that has a food facility with more than 20,000 square feet of floor space shall provide at least one separate toilet facility for men and one separate toilet facility for women.

(4)For purposes of this section, the gas pump area of a service station that is maintained in conjunction with a food facility shall not be considered as property used in connection with the food facility or be considered in determining the square footage of floor space of the food facility.

(c)(1)Toilet rooms shall be separated by well-fitted, self-closing doors that prevent the passage of flies, dust, or odors.

(2)Toilet room doors shall be kept closed except during cleaning and maintenance operations.

(d)Handwashing facilities, in good repair, shall be provided as specified in Sections 113953 and 113953.3.

(e)A city, county, or city and county may enact ordinances that are more restrictive than this section.

(f)(1)Except as provided in paragraph (1) of subdivision (b), a food facility that was constructed before January 1, 2004, that has been in continuous operation since January 1, 2004, and that provides space for the consumption of food on the premises shall either provide clean toilet facilities in good repair for consumers, guests, or invitees on property used in connection with, or in, the food facility or prominently post a sign within the food facility in a public area stating that toilet facilities are not provided.

(2)The first violation of paragraph (1) shall result in a warning. Subsequent violations shall constitute an infraction punishable by a fine of not more than two hundred fifty dollars ($250).

(3)The requirements of this section for toilet facilities that are accessible to consumers, guests, or invitees on the property may be satisfied by permitting access by those persons to the toilet and handwashing facilities that are required by this part.

(Amended by Stats. 2015, Ch. 164, Sec. 3. (AB 143) Effective January 1, 2016.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=9.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 9. Permanent Food Facilities [114265 - 114289.5]__

(Chapter 9 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 3. Janitorial Facilities [114279 - 114282]__

(Article 3 added by Stats. 2006, Ch. 23, Sec. 2.)

114279.

(a)At least one curbed cleaning facility or janitorial sink equipped with hot and cold water and a drain shall be provided and conveniently located for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water and similar liquid waste.

(b)Restricted food service facilities shall be exempt from subdivision (a) if hot water is available for janitorial purposes and wastewater from janitorial activities is disposed of through an approved sewage disposal system.

(Amended by Stats. 2009, Ch. 571, Sec. 51. (SB 241) Effective October 11, 2009.)

114281.

A room, area, or cabinet separated from any food preparation or storage area, or warewashing or storage area shall be provided for the storage of cleaning equipment and supplies.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114282.

After use, mops shall be placed in a position that allows them to air-dry without soiling walls, equipment, or supplies.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=9.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 9. Permanent Food Facilities [114265 - 114289.5]__

(Chapter 9 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 4. Premises [114285 - 114286]__

(Article 4 added by Stats. 2006, Ch. 23, Sec. 2.)

114285.

(a)Except as specified in subdivision (b), a private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters shall not be used for conducting food facility operations.

(b)(1)Nonperishable, prepackaged food may be given away, sold, or handled from a private home. No food that has exceeded the labeled shelf life date recommended by the manufacturer shall be deemed to be nonperishable food.

(2)For purposes of this subdivision, nonperishable food means a food that is not a potentially hazardous food, and that does not show signs of spoiling, becoming rancid, or developing objectionable odors during storage at ambient temperatures.

(c)Restricted food service facilities are exempt from subdivision (a) provided that no sleeping accommodations shall be allowed in any area where food is prepared or stored.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114286.

(a)No sleeping accommodations shall be maintained or kept in any room where food is prepared, stored, or sold.

(b)Living or sleeping quarters located on the premises of a food facility shall be separated from rooms and areas used for food facility operations by complete partitioning. Except for restricted food service facilities, no door or other opening shall be permitted in the partition that separates the food facility from the living or

sleeping quarters.

(Amended by Stats. 2009, Ch. 571, Sec. 52. (SB 241) Effective October 11, 2009.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=9.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 9. Permanent Food Facilities [114265 - 114289.5]__

(Chapter 9 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 5. Prepackaged Nonpotentially Hazardous Foods [114289 - 114289.5]__

(Article 5 added by Stats. 2010, Ch. 682, Sec. 1.)

114289.

(a)Notwithstanding any law to the contrary, a permanent food facility that has less than 300 square feet of display area and that sells only prepackaged food that is not potentially hazardous food shall be exempt from the requirements of this part except as set forth in subdivision (c).

(b)Notwithstanding any law to the contrary, a premises set aside for beer or wine tasting, as that term is defined in Section 23356.1 or 23357.3 of the Business and Professions Code, that complies with Section 118375, for the purposes of wine or beer tasting, regardless of whether there is a charge for the wine or beer tasting, if no other beverage, except for bottles of wine or beer and prepackaged nonpotentially hazardous

beverages, is offered for sale or for onsite consumption, and crackers, pretzels, or prepackaged food that is not potentially hazardous food is offered for sale or for onsite consumption shall be subject to the requirements set forth in paragraph (1) of subdivision (c). These facilities shall not have a food display area greater than 25 square feet.

(c)(1)A facility or premises with a food display area of 25 square feet or less shall comply with all of the following:

(A)Sections 113980, 114047, 114049, 114390, 114393, 114395, 114397, and 114399.

(B)Chapter 1 (commencing with Section 113700).

(C)Chapter 2 (commencing with Section 113728).

(2)A permanent food facility with a food display area greater than 25 square feet, but less than 300 square feet, shall comply with all of the following:

(A)Sections 113980, 114047, 114049, 114250, 114266, 114381, 114387, 114390, 114393, 114395, 114397, 114399, 114405, 114407, 114409, 114411, and 114413.

(B)Chapter 1 (commencing with Section 113700).

(C)Chapter 2 (commencing with Section 113728).

(Amended (as amended by Stats. 2014, Ch. 927, Sec. 2) by Stats. 2015, Ch. 164, Sec. 4. (AB 143) Effective January 1, 2016.)

114289.5.

The enforcement agency may recover the costs of investigation and enforcement of this article.

(Added by Stats. 2010, Ch. 682, Sec. 1. (AB 2432) Effective January 1, 2011.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=10.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 10. Mobile Food Facilities [114294 - 114327]__

(Chapter 10 added by Stats. 2006, Ch. 23, Sec. 2.)

114294.

(a)All mobile food facilities and mobile support units shall meet the applicable requirements in Chapter 1 (commencing with Section 113700) to Chapter 8 (commencing with Section 114250), inclusive, and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of these provisions, as provided in this chapter.

(b)The enforcement agency shall initially approve all mobile food facilities and mobile support units as complying with the provisions of this chapter and may require reapproval if deemed necessary.

(c)Each mobile food facility that is either a special purpose commercial modular and coach, as defined by Section 18012.5, or a commercial modular coach, as defined by Section 18001.8, shall be certified by the Department of Housing and Community Development, consistent with Chapter 4 (commencing with Section 18025) of Part 2 of Division 13 and regulations promulgated pursuant to that chapter. The enforcement agency shall approve all equipment installation prior to operation.

(Amended by Stats. 2018, Ch. 493, Sec. 8. (AB 2524) Effective January 1, 2019.)

114295.

(a)Except as specified in subdivision (b), all mobile food facilities shall operate in conjunction with a commissary, mobile support unit, or other facility approved by the enforcement agency.

(b)This section does not apply to mobile food facilities that operate at community events as defined in Section 113755 and that remain in a fixed position during food preparation and its hours of operation, if potable water and liquid waste disposal facilities are available to mobile food facilities requiring potable water.

(c)Mobile food facilities shall be stored at or within a commissary or other location approved by the enforcement agency in order to have protection from unsanitary conditions.

(d)Mobile support units shall be operated from and stored at a designated commissary and shall be subject to permitting and plan review.

(e)Notwithstanding any other provisions of this section, a mobile food facility that is engaged in food preparation, other than limited food preparation, as defined in Section 113818, shall not operate in conjunction with a mobile support unit.

(Amended by Stats. 2013, Ch. 556, Sec. 17. (AB 1252) Effective January 1, 2014.)

114297.

(a)Mobile food facilities shall be cleaned and serviced at least once daily during an operating day.

(b)Except as specified in subdivision (c), all mobile food facilities shall report to the commissary or other approved facility on a daily basis.

(c)Mobile food facilities that are serviced by a mobile support unit and that do not report to a commissary on a daily basis shall be stored in a manner that protects the mobile food facility from contamination. All food shall be stored at the commissary or other approved facility at the end of the operating day.

(d)Mobile support units shall report to a commissary or other approved facility for cleaning, servicing, and storage at least daily.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114299.

(a)Except as specified in subdivision (c), the business name or name of the operator, city, state, ZIP Code, and name of the permitholder, if different from the name of the food facility, shall be legible, clearly visible to consumers, and permanently affixed on the consumer side of the mobile food facility and on a mobile support unit.

(b)The business name shall be in letters at least 3 inches high. Letters and numbers for the city, state, ZIP Code, and permitholder name, if different from the business name, shall not be less than one inch high. The color of each letter and number shall contrast with its background.

(c)Notwithstanding subdivision (a), motorized mobile food facilities and mobile support units shall have the required identification on two sides.

(Amended by Stats. 2016, Ch. 195, Sec. 15. (SB 1067) Effective January 1, 2017.)

114301.

(a)Except to the extent that an alternative construction standard is explicitly prescribed by this section, construction standards for mobile food facilities that are subject to Part 2 (commencing with Section 18000) of Division 13 shall be governed by that part.

(b)Mobile food facility equipment, including, but not limited to, cooking equipment, the interior of cabinet units, and compartments, shall be designed and made of materials that result in smooth, readily accessible, and easily cleanable surfaces.

(1)Unfinished wooden surfaces are prohibited.

(2)Construction joints and seams shall be tightly fitted and sealed so as to be easily cleanable. Silicone sealant or equivalent waterproof compounds shall be acceptable, provided that the gap is smaller than one-quarter inch and applied smooth so as to prevent the entrance of liquid waste or vermin.

(3)Except as specified in Section 114314, nonportable equipment shall be an integral part of the primary unit.

(c)Mobile food facilities that handle potentially hazardous foods, except for prepackaged frozen ready-to-eat foods, whole fish, and whole aquatic invertebrates, shall be equipped with refrigeration units as defined in Section 113885.

(d)All new and replacement gas-fired appliances shall meet applicable ANSI standards. All new and replacement electrical appliances shall meet applicable Underwriters Laboratory standards. However, for units subject to Part 2 (commencing with Section 18000) of Division 13, these appliances shall comply with standards prescribed by Sections 18028, 18029.3, and 18029.5.

(e)Space around pipes, conduits, or hoses that extend through cabinets, floors, or outer walls shall be sealed. The closure shall be smooth and easily cleanable.

(f)Equipment in which spillage is likely to occur shall have a drip tray fitted so that spillage drains into a waste tank.

(g)All equipment shall be installed so as to be easily cleanable, prevent vermin harborage, and provide adequate access for service and maintenance.

(1)Equipment shall be spaced apart or sealed together for easy cleaning. There shall be a minimum of four inches of unobstructed space provided for sanitary maintenance beneath counter mounted equipment or between the sides of adjacent equipment.

(2)Portable equipment or machinery need not comply with the minimum leg height requirement.

(3)Threads, nuts, or rivets shall not be exposed where they interfere with cleaning. Threads, nuts, or rivets that interfere with cleaning shall be sealed or capped.

(4)All floor mounted equipment shall be sealed to the floor to prevent moisture from getting under the equipment, or it shall be raised at least six inches off the floor by means of an easily cleanable leg and foot.

(h)Floors, walls, and ceilings of all enclosed food preparation areas shall be constructed so that the surfaces are impervious, smooth, and easily cleanable. Floor surfaces shall provide employee safety from slipping. The juncture of the floor and wall shall be coved with a 3/8 inch minimum radius coving, with the floor surface extending up the wall at least four inches.

(i)Notwithstanding Section 114143, ground or floor surfaces where cooking processes are conducted from a grill, barbecue, or other unenclosed cooking unit on a mobile food facility shall be impervious, smooth, easily cleanable, and shall provide employee safety from slipping. Ground or floor surfaces in compliance with this section shall extend a minimum of five feet on all open sides of where cooking processes are conducted.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114303.

(a)Employee entrance doors to food preparation areas shall be self-closing and kept closed when not in use.

(b)The mobile food facility, and all equipment and utensils shall be protected from potential contamination, and kept clean, in good repair, and free of vermin.

(c)During transportation, storage, and operation of a mobile food facility, food, food-contact surfaces, and utensils shall be protected from contamination.

(d)The permitholder of an unenclosed mobile food facility handling nonprepackaged food shall develop and follow written operational procedures for food handling and the cleaning and sanitizing of food-contact surfaces and utensils. The enforcement agency shall review and approve the procedures prior to implementation and an approved copy shall be kept on the mobile food facility during periods of operation.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114305.

(a)During operation, no food intended for retail shall be conveyed, held, stored, displayed, or served from any place other than a mobile food facility, except for the restocking of product in a manner approved by the enforcement agency.

(b)Food preparation counter space shall be provided commensurate with the food operation, adjacent to all cooking equipment.

(c) Except as specified in subdivision (d), food products remaining after each daysoperation shall be stored in an approved commissary or other approved facility.

(d)Potentially hazardous foods held at or above 135ÂºF on a mobile food facility or mobile support unit shall be destroyed at the end of the operating day.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114306.

(a)A single operating site mobile food facility is restricted to produce, prepackaged food, and limited food preparation.

(b)Notwithstanding Section 113984, a mobile food facility operating within a fully enclosed structure shall not be required to provide a secondary food compartment over food preparation areas.

(c)A single operating site mobile food facility that is required to provide warewashing and handwashing facilities shall provide a warewashing sink and handwashing sink per site or operation. A warewashing and handwashing sink contained in a facility to which this subdivision applies shall be conveniently located so as to be accessible during all hours of operation. Additional handwashing sinks may be required pursuant to paragraph (1) of subdivision (b) of Section 113953.

(d)Notwithstanding Section 114095, a warewashing sink may be shared by not more than four mobile food facilities operating as a single operating site mobile food facility that is required to provide a warewashing sink, if the sink is conveniently located so as to be accessible during all hours of operation.

(e)For purposes of permitting and enforcement, the permitholder of each single operating site mobile food facility location shall be the same.

(Added by Stats. 2009, Ch. 571, Sec. 54. (SB 241) Effective October 11, 2009.)

114307.

Mobile food facilities that operate at community events and that remain fixed during food preparation and its hours of operation may:

(a)Include a staffed counter that serves hot and cold beverages and ice that are not potentially hazardous food and that are dispensed from approved bulk dispensing units.

(b)Store supplies and food that are not potentially hazardous in unopened containers adjacent to the mobile food facility or in a nearby temporary storage unit. Unopened container means a factory sealed container that has not been previously opened and that is suitably constructed to be resistant to contamination from moisture, dust, insects, and rodents.

(c)Operate an open-air barbecue adjacent to the mobile food facility if approved by the enforcement agency.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114309.

(a)Mobile food facilities and mobile support units shall be exempt from the requirements of Sections 114250, 114256.1, and 114279. A local enforcement agency may exempt a push cart operating outdoors, other than a special purpose commercial modular and coach, as defined by Section 18012.5, or a commercial modular coach, as defined by Section 18001.8, that conducts only limited food preparation from Section 114149.1.

(b)This chapter does not require any person to replace or modify an existing mobile food facility approved for operation prior to adoption of this part, so long as the facility is operated in accordance with the conditions of approval. Plans and specifications may be required by the enforcement agency if it determines that they are necessary to assure compliance with this part.

(c)Mobile food facilities equipped with a one-compartment sink or two-compartment sink that was approved for operation prior to adoption of this part need not provide a three-compartment sink.

(Amended by Stats. 2021, Ch. 155, Sec. 7. (AB 831) Effective January 1, 2022.)

114311.

Mobile food facilities not under a valid permit as of January 1, 1997, from which nonprepackaged food is sold shall provide handwashing facilities. The handwashing facilities shall be separate from the warewashing sink.

(a)The handwashing sink shall have a minimum dimension of nine inches by nine inches in length and width and five inches in depth and be easily accessible by food employees.

(b)The handwashing facility shall be separated from the warewashing sink by a metal splashguard with a height of at least six inches that extends from the back edge of the drainboard to the front edge of the drainboard, the corners of the barrier to be rounded. No splashguard is required if the distance between the handwashing sink and the warewashing sink drainboards is 24 inches or more.

(c)This section shall not apply to mobile food facilities handling only whole produce or the bulk dispensing of nonpotentially hazardous beverages.

(Amended by Stats. 2009, Ch. 571, Sec. 55. (SB 241) Effective October 11, 2009.)

114313.

(a)Except as specified in subdivisions (b) and (c), a mobile food facility where nonprepackaged food is cooked, blended, or otherwise prepared shall provide a warewashing sink with at least three compartments with two integral metal drainboards.

(1)The dimensions of each compartment shall be large enough to accommodate the cleaning of the largest utensil and either of the following:

(A)At least 12 inches wide, 12 inches long, and 10 inches deep.

(B)At least 10 inches wide, 14 inches long, and 10 inches deep.

(2)Each drainboard shall be at least the size of one of the sink compartments. The drainboards shall be installed with at least one-eighth inch per foot slope toward the sink compartment, and fabricated with a minimum of one-half inch lip or rim to prevent the draining liquid from spilling onto the floor.

(3)The sink shall be equipped with a mixing faucet and shall be provided with a swivel spigot capable of servicing all sink compartments.

(b)If all utensils and equipment of a mobile food facility are washed and sanitized on a daily basis at the approved commissary or other approved food facility, and the mobile food facility provides and maintains an adequate supply of spare preparation and serving utensils in the mobile food facility as needed to replace

those that become soiled or contaminated, then the mobile food facility shall not be required to provide a warewashing sink to only handle any of the following:

(1)Nonpotentially hazardous foods that do not require preparation other than heating, baking, popping, portioning, bulk dispensing, assembly, or shaving of ice.

(2)Steamed or boiled hot dogs.

(3)Tamales in the original, inedible wrapper.

(c)An unenclosed mobile food facility that prepares potentially hazardous beverages for immediate service in response to an individual consumer order shall do one of the following:

(1)Provide a three-compartment sink described in subdivision (a).

(2)Provide at least one two-compartment sink that complies with subdivision (e) of Section 114099.3.

(3)Provide a one-compartment sink with at least one integral metal drainboard, an adequate supply of spare preparation and serving utensils to replace those that become soiled or contaminated, and warewashing facilities that comply with subdivision (a) in reasonable proximity to, and readily accessible for use by, food employees at all times.

(Amended by Stats. 2009, Ch. 571, Sec. 56. (SB 241) Effective October 11, 2009.)

114314.

(a)Handwashing sinks and warewashing sinks for unenclosed mobile food facilities shall be an integral part of the primary unit or on an approved auxiliary conveyance that is used in conjunction with the mobile food facility.

(b)Warewashing sinks for unenclosed mobile food facilities shall be equipped with overhead protection made of wood, canvas, or other materials that protect the sinks from bird and insect droppings, dust, precipitation, and other contaminants.

(Amended by Stats. 2009, Ch. 571, Sec. 57. (SB 241) Effective October 11, 2009.)

114315.

(a)A food facility shall be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility, or as otherwise approved by the enforcement agency, to ensure that restroom facilities are available to facility employees whenever the mobile food facility is stopped to conduct business for more than a one-hour period.

(b)This section does not limit the authority of a local governing body to adopt, by ordinance or resolution, additional requirements for the public safety, including reasonable time, place, and manner restrictions pursuant to its authority under subdivision (b) of Section 22455 of the Vehicle Code.

(Amended by Stats. 2008, Ch. 139, Sec. 2. Effective January 1, 2009.)

114317.

The exterior of a mobile food facility and the surrounding area, as relating to the operation of food service, shall be maintained in a sanitary condition.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114319.

(a)Spare tires, related automotive equipment, or special tools relating to the mechanical operation of the mobile food facility shall not be stored in the food preparation or food storage areas.

(b)A separate cabinet or drawer shall be installed for the storage of insecticides or other poisonous substances in accordance with Section 114254, if these substances are used. All poisonous chemicals shall be kept in this cabinet or drawer in their original containers and in a manner that offers no contamination hazard to food or utensils.

(c)During periods of inoperation, food and utensils shall be stored in one of the following methods:

(1)Within approved food storage facilities at the commissary or other approved facility.

(2)In food compartments approved by the enforcement agency where the food is protected at all times from contamination, exposure to the elements, ingress of rodents and other vermin, and temperature abuse.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114321.

Mobile food facilities that are occupied during normal business operations shall have a clear, unobstructed height over the aisleway portion of the unit of at least 74 inches from floor to ceiling, and a minimum of 30 inches of unobstructed horizontal aisle space. This section shall not apply to vehicles under permit prior to January 1, 1996.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114322.

Compressor units that are not an integral part of food equipment, auxiliary engines, generators, and similar

equipment shall be installed in an area that is completely separated from food preparation and food storage and that is accessible from outside the unit for proper cleaning and maintenance.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114323.

(a)A first-aid kit shall be provided and located in a convenient area in an enclosed case.

(b)Mobile food facilities that operate at more than one location in a calendar day shall be equipped to meet all of the following requirements:

(1)All utensils in a mobile food facility shall be stored so as to prevent their being thrown about in the event of a sudden stop, collision, or overturn. A safety knife holder shall be provided to avoid loose storage of knives in cabinets, boxes, or slots along counter aisles. Knife holders shall be designed to be easily cleanable and be manufactured of materials approved by the enforcement agency.

(2)Coffee urns, deep fat fryers, steam tables, and similar equipment shall be equipped with positive closing lids that are fitted with a secure latch mechanism that will prevent excessive spillage of hot liquids into the interior of a mobile food facility in the event of a sudden stop, collision, or overturn. As an alternative to this requirement, a coffee urn may be installed in a compartment that will prevent excessive spillage of coffee in the interior of the unit.

(3)Metal protective devices shall be installed on the glass liquid level sight gauges on all coffee urns.

(c)Light bulbs and tubes shall be covered with a completely enclosed plastic safety shield or its equivalent, and installed so as to not constitute a hazard to personnel or food.

(d)All liquefied petroleum equipment shall be installed to meet applicable fire authority standards, and this installation shall be approved by the fire authority. However, for units subject to Part 2 (commencing with Section 18000) of Division 13, this equipment and its installation shall comply with standards prescribed by Sections 18028 and 18029.5.

(e)A properly charged and maintained minimum 10 BC-rated fire extinguisher to combat grease fires shall be properly mounted and readily accessible on the interior of any mobile food facility that is equipped with heating elements or cooking equipment.

(f)(1)Except for units subject to Part 2 (commencing with Section 18000) of Division 13, a second means of exit shall be provided in the side opposite the main exit door, or in the roof, or the rear of the unit, with an unobstructed passage of at least 24 inches by 36 inches. The interior latching mechanism shall be operable by hand without special tools or key. The exit shall be labeled Safety Exit in contrasting colors with letters at least one inch high.

(2)For units subject to Part 2 (commencing with Section 18000) of Division 13, the size, latching, and labeling of the second means of exit shall comply with standards prescribed by Sections 18028 and 18029.5.

(g)All gas-fired appliances shall be properly insulated in a manner that will prevent excessive heat buildup and injury.

(Amended by Stats. 2007, Ch. 96, Sec. 51. Effective July 20, 2007.)

114325.

(a)Except on a mobile food facility that only utilizes the water for handwashing purposes, a water heater or an instantaneous heater capable of heating water to a minimum of 120ÂºF, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine. On a mobile food facility that only utilizes the water for handwashing purposes, a minimum one-half gallon-capacity water heater or an instantaneous water heater capable of heating water to a minimum of 100Â°F, interconnected with a potable water supply, shall be provided and shall operate independently of the vehicle engine.

(b)A water heater with a minimum capacity of four gallons shall be provided for mobile food facilities that have a warewashing sink.

(c)A mobile food facility equipped with a three-gallon-capacity water heater that is in compliance with this section on January 1, 2014, is in compliance with this section after that date.

(Amended by Stats. 2013, Ch. 556, Sec. 19. (AB 1252) Effective January 1, 2014.)

114326.

All commissaries and other approved facilities servicing mobile support units, mobile food facilities, and vending machines shall meet the applicable requirements in this part and any of the following to accommodate all operations necessary to support mobile support units, mobile food facilities, and vending machines:

(a)Adequate facilities shall be provided for the sanitary disposal of liquid waste from the mobile food facility or mobile support unit being serviced.

(b)Adequate facilities shall be provided for the handling and disposal of garbage and refuse originating from a mobile food facility or mobile support unit.

(c)Potable water shall be available for filling the water tanks of each mobile food facility and mobile support unit that requires potable water. Faucets and other potable water sources shall be constructed, located, and maintained so as to minimize the possibility of contaminating the water being loaded.

(d)Hot and cold water, under pressure, shall be available for cleaning mobile food facilities and mobile support units.

(e)Adequate facilities shall be provided for the storage of food, utensils, and other supplies.

(f)Notwithstanding Section 113984, commissaries that service mobile food facilities that conduct limited food preparation shall provide a food preparation area.

(g)Servicing areas at commissaries shall be provided with overhead protection, except that areas used only for the loading of water or the discharge of sewage and other liquid waste through the use of a closed system of hoses need not be provided with overhead protection.

(h)Servicing areas used for cleaning shall be sloped and drained to an approved wastewater system.

(i)Adequate electrical outlets shall be provided for mobile food facilities and mobile support units that require electrical service.

(Amended by Stats. 2007, Ch. 96, Sec. 53. Effective July 20, 2007.)

114327.

(a)Mobile support units shall be subject to plan review and be approved by the enforcement agency. Requirements shall be based on proposed method of operation and number of mobile food facilities serviced.

(b)Mobile support units shall meet all applicable requirements of this part and the following:

(1)Interior floor, sides, and top shall be free of cracks, seams, or linings where vermin may harbor, and shall be constructed of a smooth, washable, impervious material capable of withstanding frequent cleaning with approved sanitizing agents.

(2)Be constructed and operated so that no liquid wastes can drain onto any street, sidewalk, or premises.

(3)If used to transport potentially hazardous food, approved equipment to maintain food at the required temperatures shall be provided.

(4)Food, utensils, and supplies shall be protected from contamination.

(5)A separate storage area shall be provided for all poisonous substances, detergents, bleaches, cleaning compounds, and all other injurious or poisonous materials.

(c)Mobile support units shall not be approved for warewashing.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=10.1.&article=

114328.

(a)A catering operation shall meet the applicable requirements in Chapters 1 (commencing with Section 113700) to 8 (commencing with Section 114250), inclusive, and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of those provisions. For purposes of this chapter, a catering operation refers to a permanent food facility approved for offsite food service activities.

(b)A catering operation shall operate from a permitted food facility that is capable of supporting the proposed food service activity to be conducted, and the type of food that is to be prepared offsite or served.

(c)Prior to conducting catering operations, the catering operation shall submit to the enforcement agency written standard operating procedures that include all of the following information:

(1)The manner in which food will be transported to and from the permanent food facility and the offsite food service location or host facility and procedures to prevent contamination of the food.

(2)The type of food that is to be prepared or served, and the extent of limited food preparation, as defined in Section 113818, that is to be conducted at an offsite food service event.

(3)The manner in which potentially hazardous food will be maintained in accordance with Section 113996.

(4)Procedures, methods, and schedules for cleaning utensils, equipment, and structures, and for the disposal of refuse.

(5)The manner in which hands will be washed to ensure compliance with Section 113953.

(d)Food shall be transported in a vehicle that meets the requirements of Section 113982.

(e)A catering operation may conduct limited food preparation, as defined in Section 113818, at an offsite location when approved by the enforcement agency.

(f)All food, prior to offsite food service, shall be stored and prepared at the permanent food facility.

(g)While operating offsite, the catering operation shall provide the name of the facility, city, state, ZIP Code, and the name of the operator to any consumer or enforcement agency upon request.

(h)A catering operation shall maintain records for all offsite food service activities for 90 days after each event. The catering operation shall provide those records to the enforcement agency upon request and shall include all of the following information:

(1)Location, date, and time of offsite food service activity.

(2)Customer name and contact information, including address, email address, and phone number.

(3)Whether food was delivered to a customer or served to a guest at a catered function or host facility.

(4)Departure and arrival food temperature logs for transportation, and corrective action taken if the food arrived out of temperature.

(5)Complete menu of food provided.

(i)A catering operation shall ensure that it has access to potable water at any offsite function, or shall bring an adequate supply of potable water with it to that function.

(j)For offsite food service where a catering operation is serving the food, the person in charge on behalf of the catering operation shall ensure that basic food safety is maintained at all times, including, but not limited to, all of the following:

(1)Protecting the food from contamination during service.

(2)Providing overhead protection over all food handling areas.

(3)Providing utensils for individual use and eliminating the use of community dipping containers where consumers could dip a utensil or a food item they have already placed in their mouth.

(4)Preventing consumers™ used plates or utensils from returning to the self-service display.

(5)Replacing utensils that become contaminated with clean and sanitized utensils.

(6)Ensuring open or potentially hazardous foods not consumed or sold by the catering operation are discarded, unless the food was held at required temperatures and protected from contamination at all times.

(7)Discarding any food that has become contaminated or is suspected of becoming contaminated, or that is presumed unsafe because temperatures were not maintained as required by Section 113996.

(k)Utensils used to serve food shall meet all of the following conditions:

(1)Meet the requirements of Chapter 6 (commencing with Section 114130).

(2)Be stored in the food with the handle extended out of the food, on a clean surface, or in a clean container.

(3)Be replaced every four hours or sooner if observed to be mishandled by the guest, dropped, or otherwise contaminated during the serving process.

(l)Notwithstanding Section 113953, adequate handwashing facilities shall be provided at the offsite food service event.

(m)Approved toilet and handwashing facilities shall be available within 200 feet of the offsite food service operation or as approved by the enforcement agency.

(n)All garbage and refuse generated during offsite food service activities and cleanup operations shall be disposed of in a manner approved by the enforcement agency.

(o)All liquid waste shall be disposed of through the approved plumbing system in a manner approved by the enforcement agency.

(p)A catering operation shall not store any food, beverages, equipment, utensils, or food items in a private home when not conducting offsite catering activities.

(q)The enforcement agency may establish additional structural or operational requirements, or both, based on the proposed facility method of operation and as necessary to ensure compliance with the requirements of this chapter.

(Added by Stats. 2018, Ch. 493, Sec. 9. (AB 2524) Effective January 1, 2019.)

114328.1.

(a)A host facility shall meet the applicable requirements in Chapter 1 (commencing with Section 113700), Chapter 2 (commencing with Section 113728), all general food safety requirements described in Chapter 4 (commencing with Section 113980), Chapter 6 (commencing with Section 114130), and Sections 114049, 114250, 114266, 114381, 114387, 114390, 114393, 114395, 114397, 114399, 114405, 114407, 114409, 114411, and 114413.

(b)In addition to any permit required of a permanent food facility or a catering operation, a permit shall be obtained by the person responsible for operating the host facility.

(c)A permit application shall be submitted to the enforcement agency pursuant to Article 1 (commencing with Section 114380) of Chapter 13. The plan review process shall include all of the following:

(1)Submission of a site plan that indicates the location of the food service operation, handwashing sinks and restrooms, refuse containers, and waste water disposal facilities.

(2)Specifications of equipment that will be provided by the host facility to support the catering operation.

(3)Standard operating procedures that include all of the following information:

(A)Procedures, methods, and schedules for cleaning equipment and structures, and for the disposal of refuse.

(B)How potentially hazardous food will be maintained in accordance with Section 113996.

(4)A list of catering operations that will be supported by the host facility with proposed menus.

(5)The enforcement agency may establish additional structural or operational requirements, or both, based on the proposed facility method of operation to ensure the sanitary operation of a host facility.

(d)A host facility may support a catering operation for up to four hours in any one 12-hour period, unless otherwise approved by the enforcement agency.

(e)All food, soiled utensils, equipment, tableware, and linen shall be returned to the catering operation for cleaning, sanitizing, and storage.

(f)Approved toilet and handwashing facilities shall be available within 200 feet in travel distance of the food service operation.

(g)All garbage and refuse shall be stored and disposed of in a manner approved by the enforcement agency.

(Added by Stats. 2018, Ch. 493, Sec. 9. (AB 2524) Effective January 1, 2019.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=10.5.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 10.5. Nonprofit Charitable Temporary Food Facilities [114332 - 114332.7]__

(Chapter 10.5 heading added by Stats. 2009, Ch. 571, Sec. 59.)

114332.

This article governs sanitation requirements for nonprofit charitable temporary food facilities.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114332.1.

Nonprofit charitable temporary food facilities may operate up to four times annually. These four time periods shall not exceed 72 hours each.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114332.2.

(a)Except where all food and beverage is prepackaged, handwashing and warewashing facilities approved by the enforcement officer shall be provided for nonprofit charitable temporary food facilities. Each nonprofit charitable temporary food facility shall be equipped with a handwashing facility. Based on local environmental conditions, location, and similar factors, the local enforcement agency may, in lieu of warewashing facilities, allow a nonprofit charitable temporary food facility operating no more than four hours per day at a single event to provide an adequate supply of utensils and spare utensils when they have been properly washed and sanitized at an approved food facility and are stored and kept free of becoming soiled or contaminated.

(b)Facilities for the sanitary disposal of all liquid waste shall be subject to the approval of the enforcement officer.

(c)At least one toilet facility for each 15 employees shall be provided within 60 meters (200 feet) of each nonprofit charitable temporary food facility.

(d)Food contact surfaces shall be smooth, easily cleanable, and nonabsorbent.

(Amended by Stats. 2013, Ch. 556, Sec. 20. (AB 1252) Effective January 1, 2014.)

114332.3.

(a)No potentially hazardous food or beverage stored or prepared in a private home may be offered for sale, sold, or given away from a nonprofit charitable temporary food facility. Potentially hazardous food shall be prepared in a food establishment or on the premises of a nonprofit charitable temporary food facility.

(b)All food and beverages shall be protected at all times from unnecessary handling and shall be stored, displayed, and served so as to be protected from contamination.

(c)Potentially hazardous food and beverages shall be maintained at or below 7 degrees Celsius (45 degrees Fahrenheit) or at or above 57.2 degrees Celsius (135 degrees Fahrenheit) at all times.

(d)Ice used in beverages shall be protected from contamination and shall be maintained separate from ice used for refrigeration purposes.

(e)All food and food containers shall be stored off the floor on shelving or pallets located within the facility.

(f)Smoking a tobacco product is prohibited in nonprofit charitable temporary food facilities.

(g)(1)Except as provided in paragraph (2), live animals, birds, or fowl shall not be kept or allowed in nonprofit charitable temporary food facilities.

(2)Paragraph (1) does not prohibit the presence, in any room where food is served to the public, guests, or patrons, of a guide dog, signal dog, or service dog, as defined by Section 54.1 of the Civil Code, accompanied by a totally or partially blind person, deaf person, person whose hearing is impaired, or handicapped person, or dogs accompanied by persons licensed to train guide dogs for the blind pursuant to Chapter 9.5 (commencing with Section 7200) of Division 3 of the Business and Professions Code.

(3)Paragraph (1) does not apply to dogs under the control of uniformed law enforcement officers or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while these employees are acting within the course and scope of their employment as private patrol persons.

(4)The persons and operators described in paragraphs (2) and (3) are liable for any damage done to the premises or facilities by the dog.

(5)The dogs described in paragraphs (2) and (3) shall be excluded from food preparation and utensil wash

areas. Aquariums and aviaries shall be allowed if enclosed so as not to create a public health problem.

(h)All garbage shall be disposed of in a sanitary manner.

(i)Employees preparing or handling food shall wear clean clothing and shall keep their hands clean at all times.

(j)For purposes of this section, smoking has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.

(k)For purposes of this section, tobacco product means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 16. (SB 5 2x) Effective June 9, 2016.)

114332.4.

The enforcement officer may establish additional structural or operational requirements as necessary to ensure that food is of a safe and sanitary quality.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114332.5.

Open-air barbecue facilities may be operated adjacent to nonprofit charitable temporary food facilities, and shall be subject to the requirements of Article 9 (commencing with Section 114185).

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114332.7.

Nothing in this article shall prevent a local enforcement agency from performing inspections of, or requiring permits for, any nonprofit charitable temporary food facility to ensure compliance with food safety provisions contained in this chapter.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=10.6.&article=

114333.

(a)(1)Except as specified in subdivision (b), a limited service charitable feeding operation shall not provide food service unless it has registered with the local enforcement agency in a manner prescribed by that agency, including, but not limited to, payment of a fee not to exceed the reasonable costs of administering and enforcing this chapter if that fee is imposed by the agency.

(2)A limited service charitable feeding operation that is subject to registration shall submit to the local enforcement agency all of the following information:

(A)The name, physical address, Internet Web site, and telephone number of the nonprofit charitable organization conducting the limited service charitable feeding operation.

(B)The name and contact information of a site representative of the limited service charitable feeding operation.

(C)The operating days and hours of the limited service charitable feeding operation.

(b)(1)(A)A limited service charitable feeding operation that performs the function described in paragraph (1) of, and does not perform the functions described in paragraphs (2) to (4), inclusive, of, subdivision (a) of Section 113819, shall be exempt from the requirements described in subdivision (a) regardless of whether it operates in conjunction with a food bank as described in subparagraph (B).

(B)A limited service charitable feeding operation that performs the function described in paragraph (4) of, and does not perform the functions described in paragraphs (2) and (3) of, subdivision (a) of Section 113819, and that operates in conjunction with a food bank that has a valid operating permit issued by the local enforcement agency or the State Department of Public Health shall be exempt from the requirements described in subdivision (a).

(C)A limited service charitable feeding operation that performs the function described in paragraph (2) or (3) of subdivision (a) of Section 113819, or the function described in paragraph (4) of subdivision (a) of Section 113819 without operating in conjunction with a food bank as described in subparagraph (B), shall be subject to the requirements described in subdivision (a).

(2)(A)For purposes of subparagraph (B) of paragraph (1), the food bank shall ensure that the limited service charitable feeding operation is operating under a current agreement with the food bank and is compliant with the food banksbest management practices approved by the local enforcement agency.

(B)On at least an annual basis, or more frequently if requested by the local enforcement agency, the food bank shall submit to the local enforcement agency a current list of the limited service charitable feeding operations that operate in conjunction with that food bank.

(c)Notwithstanding any other law, a limited service charitable feeding operation shall be exempt from the requirements of this part, except as set forth in this chapter.

(d)A limited service charitable feeding operation shall comply with all of the following:

(1)Chapter 1 (commencing with Section 113700).

(2)Chapter 2 (commencing with Section 113728).

(3)Sections 113952, 113953.1, 113953.2, 113953.3, 113980, 113982, 113984, 113988, 113990, 113992, 113996, 113998, 114000, 114002, 114002.1, 114014, 114016, 114018, 114020, 114021, 114023, 114024, 114025, 114027, 114031, 114035, 114037, 114041, 114047, 114049, 114051, 114053, 114055, and 114079.

(4)Article 2 (commencing with Section 114390) and Article 3 (commencing with Section 114405) of Chapter 13. A registration issued pursuant to this chapter shall have the same meaning as provided in subdivision (b) of Section 113851.

(5)Best management practices approved by the local enforcement agency.

(6)Limitations on the duration of food service, as determined by the local enforcement agency based on the requirements set forth in paragraphs (1) to (5), inclusive.

(e)A limited service charitable feeding operation may prepare and distribute food from a nonresidential building or structure that meets minimum structural and operating requirements as determined by the local enforcement agency.

(f)A limited service charitable feeding operation may distribute food in an outdoor location, not in or adjacent to the registered location, in compliance with the approved best management practices and subject to approval by the local enforcement agency. Food service under this subdivision shall be limited to no more than four hours per day.

(Added by Stats. 2018, Ch. 489, Sec. 3. (AB 2178) Effective January 1, 2019.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=11.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 11. Temporary Food Facilities [114335 - 114363]__

(Chapter 11 added by Stats. 2006, Ch. 23, Sec. 2.)

114335.

(a)Temporary food facilities that operate at a swap meet are limited to only prepackaged nonpotentially hazardous food and whole uncut produce, and shall meet the applicable requirements in Chapter 1 (commencing with Section 113700) to Chapter 8 (commencing with Section 114250), inclusive, and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of these provisions.

(b)Temporary food facilities that operate at a community event shall meet the applicable requirements in Chapter 1 (commencing with Section 113700) to Chapter 8 (commencing with Section 114250), inclusive, and Chapter 13 (commencing with Section 114380), unless specifically exempted from any of these provisions.

(c)Food facility requirements shall be determined by the enforcement agency based on the food service activity to be conducted, the type of food that is to be prepared or served, the length of the event, and the extent of food preparation that is to be conducted at a community event within a temporary food facility.

(d)Notwithstanding subdivision (a), the enforcement agency may allow temporary food facilities at a swap meet, depending on the food service activity to be conducted, the type of food that is to be prepared or served, the duration of the swap meet, and the extent of food preparation that is to be conducted at the swap meet.

(Amended by Stats. 2018, Ch. 493, Sec. 10. (AB 2524) Effective January 1, 2019.)

114337.

The name of the facility, city, state, ZIP Code, and name of the operator shall be legible and clearly visible to patrons. The facility name shall be in letters at least three inches high, and shall be of a color contrasting with the surface on which it is posted. Letters and numbers for the city, state, and ZIP Code, may not be less than one inch in height.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114339.

(a)No home canned or home processed foods shall be permitted within a temporary food facility.

(b)Notwithstanding subdivision (a), nonpotentially hazardous beverages and baked goods may be offered for sale, sold, or given away by a nonprofit charitable organization or by an established club or organization that operates under the authorization of a school or educational facility for fundraising purposes at community events.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114341.

(a)Notwithstanding Section 113984, all food preparation at a community event shall be conducted within the temporary food facility or other approved food facility.

(b)Barbecues, grills or other equipment approved for outdoor cooking may be located adjacent to the temporary food facility if local building and fire codes prohibit cooking inside the temporary food facility.

(c)Grills and barbecues or other approved cooking equipment shall be separated from public access by using ropes or other approved methods to prevent contamination of the food and injury to the public.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114343.

(a)Except as otherwise provided in Section 113996, during operating hours of the temporary food facility, potentially hazardous food may be held at a temperature not to exceed 45Â°F for up to 12 hours in any 24-hour period.

(b)At the end of the operating day, potentially hazardous food that is held at 45Â°F shall be destroyed in a manner approved by the enforcement agency.

(c)At the end of the operating day, potentially hazardous food that is held at or above 135Â°F shall be destroyed in a manner approved by the enforcement officer.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114345.

Temporary food facilities may include a staffed counter that serves hot and cold beverages and ice that are not potentially hazardous food and that are dispensed from approved bulk dispensing units.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114347.

Temporary food facilities that handle nonprepackaged food shall provide floors constructed of concrete, asphalt, tight wood, or other similar cleanable material kept in good repair.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114349.

(a)Temporary food facilities shall be equipped with overhead protection for all food preparation, food storage, and warewashing areas. Overhead protection shall be made of wood, canvas, or other materials that protect the facility from precipitation, dust, bird and insect droppings, and other contaminants.

(b)Temporary food facilities that handle nonprepackaged food shall also protect food from contamination in one of the following ways:

(1)Enclosure of the food facility with 16 mesh per square inch screens.

(2)Limiting display and handling of nonprepackaged food in food compartments.

(3)Other alternative, effective means approved by the enforcement officer.

(c)Notwithstanding Section 113984, this section does not apply to temporary food facilities that are approved for limited food preparation if flying insects, vermin, birds, and other pests are absent due to the location of the facility or other limiting conditions.

(Amended by Stats. 2014, Ch. 907, Sec. 1. (AB 2539) Effective January 1, 2015.)

114351.

(a)Notwithstanding Section 114095, a warewashing sink may be shared by no more than four temporary food facilities that handle nonprepackaged food if the sink is centrally located and is adjacent to the sharing facilities.

(b)Notwithstanding subdivision (a), based on the number and types of utensils used, the local enforcement agency may allow up to eight temporary food facilities to share a warewashing sink when easily accessible and located within 100 feet of each temporary food facility.

(c)Based on local environmental conditions, location, and similar factors, the local enforcement agency may, in lieu of a warewashing sink, allow a temporary food facility operating no more than four hours per day at a single event to provide an adequate supply of utensils and spare utensils when they have been properly washed and sanitized at an approved food facility and are stored and kept free of becoming soiled or contaminated.

(Amended by Stats. 2013, Ch. 556, Sec. 22. (AB 1252) Effective January 1, 2014.)

114353.

(a)Except as provided in subdivision (b), a temporary food facility shall provide only single-use articles for use by the consumer.

(b)Notwithstanding subdivision (a), based on local environmental conditions, location, and similar factors, including the type and number of utensils, as defined in Section 113934, the volume and storage of potable water for warewashing, as defined in Section 113940, and waste water capacity, storage, and disposal, the local enforcement agency may allow a temporary food facility to use multiuse utensils that have been properly washed, rinsed, and sanitized pursuant to Chapter 5 (commencing with Section 114095), as applicable, at an approved food facility and are kept free of becoming soiled or contaminated.

(Amended by Stats. 2021, Ch. 155, Sec. 8. (AB 831) Effective January 1, 2022.)

114354.

(a)Food-related and utensil-related equipment used in conjunction with a temporary food facility shall be approved by the enforcement agency.

(b)Cold and hot holding equipment shall be provided to insure proper temperature control during transportation, storage, and operation of the temporary food facility.

(c)Equipment shall be located and installed to prevent food contamination.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114355.

Ice used for refrigeration purposes shall not be used for consumption in food or beverages.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114356.

(a)Notwithstanding Section 114047, during periods of operation, supplies and nonpotentially hazardous food, in unopened containers may be stored adjacent to the temporary food facility or in unopened containers in an approved nearby temporary storage unit. An unopened container means a factory sealed container that has not been previously opened and that is suitably constructed to be resistant to contamination from moisture, dust, insects, and rodents.

(b)During periods of inoperation, food shall be stored within a fully enclosed temporary food facility, within a permanent food facility or other facility approved by the enforcement agency, or in approved food compartments where the food is protected at all times from contamination, exposure to the elements, ingress of rodents and other vermin, and temperature abuse.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114358.

(a)Notwithstanding Section 113953, handwashing facilities for temporary food facilities that operate for three days or less may include a container capable of providing a continuous stream of water from an approved source that leaves both hands free to allow vigorous rubbing with soap and warm water for 10 to 15 seconds, inclusive.

(b)Temporary food facilities that handle only prepackaged food and comply with Section 113952 shall not be required to provide a handwashing facility, except as required in Section 114359.

(c)A catch basin shall be provided to collect wastewater, and the wastewater shall be properly disposed of according to Section 114197.

(d)Handwashing facilities shall be equipped with handwashing cleanser and single-use sanitary towels.

(e)A separate receptacle shall be available for towel waste.

(Amended by Stats. 2009, Ch. 571, Sec. 60. (SB 241) Effective October 11, 2009.)

114359.

(a)At least one toilet facility for each 15 employees shall be provided within 200 feet of each temporary food facility.

(b)Each toilet facility shall be provided with approved handwashing facilities.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114361.

Temporary food facilities that operate for more than one day shall be cleaned and serviced by methods approved by the enforcement agency.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114363.

Based upon local environmental conditions, location, and other similar factors, the enforcement officer may establish additional structural or operational requirements, or both, as necessary to ensure that foods are of a safe and sanitary quality.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=11.5.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 11.5. Cottage Food Operations [114365 - 114365.6]__

(Chapter 11.5 added by Stats. 2012, Ch. 415, Sec. 13.)

114365.

(a)(1)(A)A Class A cottage food operation shall not be open for business unless it is registered with the local enforcement agency and has submitted a completed, self-certification checklist approved by the local enforcement agency. The self-certification checklist shall verify that the cottage food operation conforms to this chapter, including the following requirements:

(i)No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.

(ii)No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of cottage food products.

(iii)Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.

(iv)All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of cottage food products shall be washed, rinsed, and sanitized before each use.

(v)All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.

(vi)Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.

(B)(i)The department shall post the requirements described in subparagraph (A) on its internet website.

(ii)The local enforcement agency shall issue a registration number to a Class A cottage food operation that meets the requirements of subparagraph (A).

(C)(i)Except as provided in clause (ii), a Class A cottage food operation shall not be subject to initial or routine inspections.

(ii)For purposes of determining compliance with this chapter, a representative of a local enforcement agency may access, for inspection purposes, the registered area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated this chapter.

(iii)Access under this subparagraph is limited to the registered area and solely for the purpose of enforcing or administering this chapter.

(iv)A local enforcement agency may seek recovery from a Class A cottage food operation of an amount that does not exceed the local enforcement agencysreasonable costs of inspecting the Class A cottage food operation for compliance with this chapter, if the Class A cottage food operation is found to be in violation of this chapter.

(D)A Class A cottage food operation shall be authorized to engage in the direct sales of cottage food products throughout the state.

(2)(A)A Class B cottage food operation shall not be open for business unless it obtains a permit from the local enforcement agency in a manner approved by the local enforcement agency to engage in the direct and indirect sale of cottage food products.

(B)(i)A Class B cottage food operation shall comply with the requirements described in clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (1) in addition to the other requirements of this chapter.

(ii)The local enforcement agency shall issue a permit number after an initial inspection has determined that the proposed Class B cottage food operation and its method of operation conform to this chapter.

(C)(i)Except as provided in clause (ii), a Class B cottage food operation shall not be subject to more than one inspection per year by the local enforcement agency.

(ii)For purposes of determining compliance with this chapter, a representative of a local enforcement agency, for inspection purposes, may access the permitted area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation, or that the cottage food operation has violated this chapter.

(iii)Access under this subparagraph is limited to the permitted area and solely for the purpose of enforcing or administering this chapter.

(D)A Class B cottage food operation shall be authorized to engage in the direct and indirect sales of cottage food products throughout the state.

(b)(1)A registration or permit, once issued, is nontransferable. A registration or permit shall be valid only for the person, location, type of food sales, and distribution activity specified by that registration or permit, and, unless suspended or revoked for cause, for the time period indicated.

(2)The registration or permit or an accurate copy thereof shall be retained by the operator onsite at the time of either direct or indirect cottage food sale.

(3)A registration or permit shall be renewed annually.

(4)A registration or permit from one county shall be sufficient for a cottage food operation to operate throughout the state.

(Amended by Stats. 2021, Ch. 178, Sec. 2. (AB 1144) Effective January 1, 2022.)

114365.2.

A cottage food operation that is registered or has a permit issued pursuant to Section 114365 shall be considered a restricted food service facility for purposes of, and subject to, Sections 113953.3, 114259.5, 114285, and 114286. A cottage food operation that is registered or has a permit also shall be subject to Sections 113967, 113973, 113980, 114259.5, 114405, 114407, 114409, 114411, and 114413, and to all of the following requirements:

(a)A person with a contagious illness shall refrain from work in the registered or permitted area of the cottage food operation.

(b)A person involved in the preparation or packaging of cottage food products shall keep their hands and exposed portions of their arms clean and shall wash their hands before any food preparation or packaging activity in a cottage food operation.

(c)Water used during the preparation of cottage food products shall meet the potable drinking water standards described in Section 113869, or in accordance with the local regulatory authority. A cottage food operation shall not be required to have an indirect sewer connection. Water used during the preparation of cottage food products includes all of the following:

(1)The washing, sanitizing, and drying of any equipment used in the preparation of a cottage food product.

(2)The washing, sanitizing, and drying of hands and arms.

(3)Water used as an ingredient.

(d)A person who prepares or packages cottage food products shall complete a food processor course approved by the department and posted on the departmentsinternet website to protect the public health

within three months of becoming registered and every three years during operation. The course shall not exceed four hours in length. The department shall work with the local enforcement agency to ensure that cottage food operators are properly notified of the location, date, and time of the classes offered.

(e)A cottage food operation shall properly label all cottage food products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.). Additionally, to the extent permitted by federal law, the label shall include, but is not limited to, all of the following:

(1)The words Made in a Home Kitchen or Repackaged in a Home Kitchen, as applicable, with a description of any purchased whole ready-to-eat product not used as an ingredient in 12-point type on the cottage food productsprimary display panel.

(2)The name commonly used for the food product or an adequately descriptive name.

(3)The name of the cottage food operation which produced the cottage food product.

(4)The registration or permit number of the Class A or Class B cottage food operation, respectively, which produced the cottage food product and the name of the county of the local enforcement agency that issued the permit or registration number.

(5)The ingredients of the cottage food product, in descending order of predominance by weight, if the product contains two or more ingredients.

(f)A cottage food operation that advertises to the public, including through an internet website, social media platform, newspaper, newsletter, or other public announcement, shall indicate the following on the advertisement:

(1)The county of approval.

(2)The permit or registration number.

(3)A statement that the food prepared is Made in a Home Kitchen or Repackaged in a Home Kitchen, as applicable.

(Amended by Stats. 2021, Ch. 155, Sec. 9. (AB 831) Effective January 1, 2022.)

114365.5.

(a)The department shall adopt and post on its Internet Web site a list of nonpotentially hazardous foods and their ethnic variations that are approved for sale by a cottage food operation. A cottage food product shall not be potentially hazardous food, as defined in Section 113871.

(b)This list of nonpotentially hazardous foods shall include, but not be limited to, all of the following:

(1)Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.

(2)Candy, such as brittle and toffee.

(3)Chocolate-covered nonperishable foods, such as nuts and dried fruit.

(4)Dried fruit.

(5)Dried pasta.

(6)Dry baking mixes.

(7)Fruit pies, fruit empanadas, and fruit tamales.

(8)Granola, cereals, and trail mixes.

(9)Herb blends and dried mole paste.

(10)Honey and sweet sorghum syrup.

(11)Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.

(12)Nut mixes and nut butters.

(13)Popcorn.

(14)Vinegar and mustard.

(15)Roasted coffee and dried tea.

(16)Waffle cones and pizelles.

(c)(1)The State Public Health Officer may add or delete food products to or from the list described in subdivision (b), which shall be known as the approved food products list. Notice of any change to the approved food products list shall be posted on the departmentscottage food program Internet Web site, to also be known as the program Internet Web site for purposes of this chapter. Any change to the approved food products list shall become effective 30 days after the notice is posted. The notice shall state the reason for the change, the authority for the change, and the nature of the change. The notice will provide an opportunity for written comment by indicating the address to which to submit the comment and the deadline by which the comment is required to be received by the department. The address to which the comment is to be submitted may be an electronic site. The notice shall allow at least 20 calendar days for comments to be submitted. The department shall consider all comments submitted before the due date. The department may withdraw the proposed change at any time by notification on the program Internet Web site or through notification by other electronic means. The approved food products list described in subdivision (b), and any updates to the list, shall not be subject to the administrative rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2)The State Public Health Officer shall not remove any items from the approved food products list unless the State Public Health Officer also posts information on the program Internet Web site explaining the basis upon which the removed food item has been determined to be potentially hazardous.

(Amended by Stats. 2013, Ch. 76, Sec. 122. (AB 383) Effective January 1, 2014.)

114365.6.

(a)The State Public Health Officer shall provide technical assistance, and develop, maintain, and deliver commodity-specific training related to the safe processing and packaging of cottage food products to local enforcement agencies.

(b)Local enforcement agencies may collect a surcharge fee in addition to any permit fees collected for Class B cottage food operations. The surcharge fee shall not exceed the reasonable costs that the department incurs through the administration of the training described in subdivision (a) to protect the public health. The surcharge fees collected shall be transmitted to the department in a manner established by the department to be deposited in the Food Safety Fund. The department shall use the surcharge fees only to develop and deliver the training described in subdivision (a) to local enforcement agency personnel on an ongoing basis.

(Added by Stats. 2012, Ch. 415, Sec. 13. (AB 1616) Effective January 1, 2013.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=11.6.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 11.6. Microenterprise Home Kitchen Operation [114367 - 114367.6]__

(Chapter 11.6 added by Stats. 2018, Ch. 470, Sec. 6.)

114367.

The governing body of a city, county, or city and county that is designated as the enforcement agency, as

defined in Section 113773, may authorize, by ordinance or resolution, within its jurisdiction the permitting of microenterprise home kitchen operations in accordance with this chapter. If a governing body of a city, county, or city and county authorizes the permitting of microenterprise home kitchen operations, the authorization shall apply to all areas within its jurisdiction, including being applicable to all cities within a county that authorizes microenterprise home kitchen operations, regardless of whether each city located within the jurisdiction of the county separately authorizes them.

(Repealed and added by Stats. 2019, Ch. 536, Sec. 3. (AB 377) Effective October 7, 2019.)

114367.1.

(a)A microenterprise home kitchen operation, as defined in Section 113825, shall be considered a restricted food service facility for purposes of, and subject to all applicable requirements of, Chapter 1 (commencing with Section 113700) to Chapter 9 (commencing with Section 114265), inclusive, and Chapter 13 (commencing with Section 114380), except as otherwise provided in this chapter.

(b)A microenterprise home kitchen operation shall be exempt from all of the following provisions:

(1)Handwashing facilities requirements, as required in Section 113953, provided that a handwashing sink is supplied with warm water and located in the toilet room and supplied, as specified in Section 113953.2.

(2)Any provision in this part relating to sinks, warewashing machines, and manual or machine sanitation, including, but not limited to, Sections 114099, 114099.2, 114099.4, 114101.1, 114101.2, 114103, 114107, 114123, 114125, 114163, and 114279, provided that all of the following conditions are met:

(A)Utensils and equipment are able to be properly cleaned and sanitized.

(B)The sink in a microenterprise home kitchen operation has hot and cold water and is fully operable.

(C)If a dishwasher is used, it shall be operated in accordance with the manufacturersspecifications.

(3)Prohibition on the presence of persons unnecessary to the food facility operation in the food preparation, food storage, or warewashing areas, as specified in Section 113945.1, provided that the permitholder takes steps to avoid any potential contamination to food, clean equipment, utensils, and unwrapped single-service and single-use articles and prevents a person suffering from symptoms associated with acute gastrointestinal illness or person known to be infected with a communicable disease that is transmissible through food to enter the food preparation area while food is being prepared as part of a microenterprise home kitchen operation.

(4)No smoking sign posting requirements, as specified in Section 113978.

(5)Limitations on employee consumption of food, drink, or tobacco outside of designated areas, as specified in Sections 113977 and 114256, provided that the permitholder takes steps to avoid any potential contamination to food, clean equipment, utensils, and unwrapped single-service and single-use articles and prevents a person suffering from symptoms associated with acute gastrointestinal illness or person known to be infected with a communicable disease that is transmissible through food to enter the food preparation area while food is being prepared as part of a microenterprise home kitchen operation.

(6)Limitations on consumer access to the food facility through food preparation areas, as specified in Section

113984.1, provided that the permitholder takes steps to avoid any potential contamination to food, clean equipment, utensils, and unwrapped single-service and single-use articles and prevents a person suffering from symptoms associated with acute gastrointestinal illness or person known to be infected with a communicable disease that is transmissible through food to enter the food preparation area while food is being prepared as part of a microenterprise home kitchen operation.

(7)Display guard, cover, and container requirements, as specified in Section 114060, provided that any food on display that is not protected from the direct line of a consumersmouth by an effective means is not served or sold to any subsequent consumer.

(8)Requirements to provide clean drinking cups and tableware for second portions and beverage refills, as specified in Section 114075.

(9)Requirements pertaining to the characteristics and certification of utensils and equipment, as specified in Sections 114130 and 114139, provided that utensils and equipment are designed to retain their characteristic qualities under normal use conditions.

(10)Requirements pertaining to the characteristics, construction, and multiuse of food-contact and nonfood-contact surfaces, as specified in Sections 114130.3 and 114130.4, provided that food contact surfaces are smooth, easily cleanable, and in good repair.

(11)Requirements pertaining to the characteristics, construction, and disassembly of clean in place (CIP) equipment, as specified in Section 114130.5.

(12)Limitations on the use of wood as a food contact surface and in connection with other equipment, as specified in Section 114132, provided that hard maple or equivalent wood is approved for use in direct contact with food during preparation.

(13)Any provision in this part relating to ventilation, including, but not limited to, Article 2 (commencing with Section 114149) of Chapter 6, provided that gases, odors, steam, heat, grease, vapors, and smoke are able to escape from the kitchen.

(14)Requirements that cold or hot holding equipment used for potentially hazardous food be equipped with integral or permanently affixed temperature measuring device or product mimicking sensors, as specified in subdivision (c) of Section 114157.

(15)Requirements pertaining to the installation of fixed, floor-mounted, and table-mounted equipment, as specified in Section 114169.

(16)Dedicated laundry facility requirements, as specified in Section 114185.5, provided that linens used in connection with the microenterprise home kitchen operation shall be laundered separately from the household and other laundry.

(17)Requirements pertaining to water, plumbing, drainage, and waste, as specified in Sections 114193, 114193.1, and 114245.7.

(18)Any requirement that a microenterprise home kitchen operation have more than one toilet facility or that access to the toilet facility not require passage through the food preparation, food storage, or utensil washing areas, including, but not limited to, the requirements specified in Sections 114250 and 114276.

(19)Light intensity, light source, and lightbulb requirements, as specified in Sections 114252 and 114252.1,

provided that food preparation areas are well lighted by natural or artificial light whenever food is being prepared.

(20)Requirements to provide and use lockers, storage facilities, and designated dressing areas, and that food facility premises be free of litter and items that are unnecessary to the operation, as specified in Sections 114256.1 and 114257.1, provided that personal effects and clothing not ordinarily found in a home kitchen are placed or stored away from food preparation areas and dressing takes place outside of the kitchen.

(21)Limitations on the presence and handling of animals, such as domestic, service, or patrol animals, as specified in Sections 114259.4 and 114259.5, provided that all animals are kept outside of the kitchen during food service and preparation.

(22)Requirements pertaining to floor, wall, and ceiling surfaces, as specified in Sections 114268, 114269, and 114271, provided that the floor, wall, and ceiling surfaces of the kitchen, storage, and toilet areas are smooth, of durable construction, and easily cleanable with no limitations on the use of wood, tile, and other nonfiber floor surfaces ordinarily used in residential settings.

(23)Any local evaluation or grading system for food facilities, as authorized by Section 113709.

(24)All prohibitions and limitations on the use of a kitchen in a private home as a food facility, including, but not limited to, prohibitions and limitations specified in Section 114285, provided that food is not prepared in designated sleeping quarters. Open kitchens adjacent to living and sleeping areas, kitchens in efficiency, studio, and loft-style residences, and kitchens without doors at all points of ingress and egress may be used in microenterprise home kitchen operations.

(25)Planning and permitting provisions of Sections 114380 and 114381.2.

(c)A microenterprise home kitchen operation may operate an open-air barbecue or outdoor wood-burning oven, pursuant to the requirements of Section 114143.

(d)The operator of a microenterprise home kitchen operation shall successfully pass an approved and accredited food safety certification examination, as specified in Section 113947.1.

(e)Any individual, other than the operator, who is involved in the preparation, storage, or service of food in a microenterprise home kitchen operation shall be subject to the food handler card requirements specified in Section 113948.

(f)A microenterprise home kitchen operation shall only offer for sale or sell food that was prepared during a food demonstration or preparation event to a consumer who was present at that food demonstration or preparation event.

(Amended by Stats. 2019, Ch. 536, Sec. 4. (AB 377) Effective October 7, 2019.)

114367.2.

(a)A microenterprise home kitchen operation shall not be open for business unless it has obtained a permit issued from the enforcement agency.

(b)The department shall post on its internet website the requirements for the permitting of a microenterprise

home kitchen operation, pursuant to this chapter and any ordinance, resolution, or rules adopted by any city, county, or city and county, that has authorized the permitting of microenterprise home kitchen operations, which shall be written at a high school level.

(c)The applicant shall submit to the enforcement agency written standard operating procedures that include all of the following information:

(1)All food types or products that will be handled.

(2)The proposed procedures and methods of food preparation and handling.

(3)Procedures, methods, and schedules for cleaning utensils, equipment, and for the disposal of refuse.

(4)How food will be maintained at the required holding temperatures, as specified in Section 113996, pending pickup by consumer or during delivery.

(5)Days and times that the home kitchen may potentially be utilized as a microenterprise home kitchen operation. The stated days and times are not binding on the permitholder and shall be used for information purposes only.

(d)(1)The enforcement agency shall issue a permit after an initial inspection has determined that the proposed microenterprise home kitchen operation and its method of operation comply with the requirements of this chapter.

(2)An enforcement agency shall not require a microenterprise home kitchen operation to comply with food safety requirements that are different from, or in addition to, the requirements of this chapter.

(e)For purposes of permitting, the permitted area includes the home kitchen, onsite consumer eating area, food storage, utensils and equipment, toilet room, janitorial or cleaning facilities, and refuse storage area. Food operations shall not be conducted outside of the permitted areas.

(f)An enforcement agency may require a microenterprise home kitchen operation to renew its permit annually.

(g)A permit, once issued, is nontransferable. A permit shall be valid only for the person and location specified by that permit, and, unless suspended or revoked for cause, for the time period indicated.

(h)The permit, or an accurate copy thereof, shall be retained by the operator onsite and displayed at all times the microenterprise home kitchen operation is in operation.

(i)An enforcement agency may collect a fee for the issuance of a permit pursuant to this chapter in an amount that does not exceed the reasonable administrative costs by the enforcement agency in issuing the permit.

(Amended by Stats. 2019, Ch. 536, Sec. 5. (AB 377) Effective October 7, 2019.)

114367.3.

(a)Notwithstanding any other law, a microenterprise home kitchen operation shall only be subject to the

three following types of inspections by the enforcement agency:

(1)A routine inspection for the purpose of allowing the enforcement agency to observe the permitholder engage in the usual activities of a microenterprise home kitchen operation, including, but not limited to, active food preparation. The enforcement agency shall provide notice to a permitholder before a routine inspection and shall conduct the routine inspection at a mutually agreeable date and time. A microenterprise home kitchen operation shall not be subject to more than one routine inspection within 12 months. This paragraph shall not be deemed to require the enforcement agency to conduct a routine inspection.

(2)An investigation inspection for the purpose of allowing the enforcement agency to perform an inspection when the enforcement agency has just cause that adulterated or otherwise unsafe food has been produced or served by the microenterprise home kitchen operation or that the permitholder has otherwise violated this part. One or more consumer complaints may constitute just cause for an investigation inspection. The enforcement agency shall provide notice to a permitholder before an investigation inspection and shall conduct the investigation inspection at a mutually agreeable date and time.

(3)An emergency inspection for the purpose of allowing the enforcement agency to perform a limited inspection when the enforcement agency has just cause that the microenterprise home kitchen operation poses a serious hazard or immediate threat to public health. To the extent that notice of an emergency inspection is reasonable under the circumstances, the enforcement agency shall provide notice to a permitholder before an emergency inspection. The scope of emergency inspection shall be limited in duration and scope to address the facts giving just cause that the microenterprise home kitchen operation poses a serious hazard or immediate threat to public health.

(b)The enforcement agency shall only inspect the permitted area of the microenterprise home kitchen operation for the purpose of enforcing or administering this part.

(c)The enforcement agency may seek recovery from a microenterprise home kitchen operation of an amount that does not exceed the enforcement agencysreasonable costs of inspecting the microenterprise home kitchen operation for compliance with this part if the microenterprise home kitchen operation is found to be in violation of this part.

(Repealed and added by Stats. 2019, Ch. 536, Sec. 7. (AB 377) Effective October 7, 2019.)

114367.4.

(a)(1)A city, county, or city and county shall not prohibit the operation of, require a permit to operate, require a rezone of the property for, or levy any fees on, or impose any other restriction on, a microenterprise home kitchen operation in any residential dwelling for zoning purposes. A microenterprise home kitchen operation shall be a permitted use of residential property in any residential dwelling for zoning purposes if the microenterprise home kitchen operation complies with both of the following criteria:

(A)Abstain from posting signage or other outdoor displays advertising the microenterprise home kitchen operation.

(B)Be in compliance with applicable local noise ordinances.

(2)This subdivision does not supersede or otherwise limit the investigative and enforcement authority of the city, county, or city and county with respect to violations of its nuisance ordinances.

(b)The use of a residence for the purposes of a microenterprise home kitchen operation shall not constitute a change of occupancy for purposes of the State Housing Law (Part 1.5 (commencing with Section 17910) of Division 13), or for purposes of local building and fire codes.

(c)A microenterprise home kitchen operation shall be considered a residence for the purposes of the State Uniform Building Standards Code and local building and fire codes.

(Amended by Stats. 2019, Ch. 497, Sec. 170. (AB 991) Effective January 1, 2020.)

114367.5.

(a)A person delivering food on behalf of a microenterprise home kitchen operation with a permit issued pursuant to Section 114367.2 shall be an employee of the microenterprise home kitchen operation or a family member or household member of the permitholder.

(b)(1)Except as provided in paragraph (2), food produced in a microenterprise home kitchen operation shall not be delivered by a third-party delivery service.

(2)(A)Food produced in a microenterprise home kitchen operation may be delivered by a third-party delivery service to an individual who has a physical or mental condition that is a disability which limits the individualsability to access the food without the assistance of a third-party delivery service.

(B)A microenterprise home kitchen operation or an internet food service intermediary that offers or facilitates food delivery pursuant to subparagraph (A) shall do all of the following:

(i)Record and maintain a record of the number and dates of food deliveries made pursuant to subparagraph (A). A microenterprise home kitchen operation shall make the record available to an enforcement agency pursuant to any inspection authorized pursuant to Section 114367.3. An internet food service intermediary shall make the record available to an enforcement agency upon request.

(ii)Clearly and conspicuously post on its internet website or mobile application alongside any mention of third-party delivery options a notice that a third-party delivery service is prohibited from delivering food except to an individual who has a physical or mental condition that is a disability which limits the individualsability to access the food without the assistance of a third-party delivery service.

(C)Food delivery by a third-party delivery service pursuant to subparagraph (A) does not apply to dine-in meals sold for consumption on the premises of a microenterprise home kitchen or to cooking classes or demonstrations.

(Amended by Stats. 2019, Ch. 536, Sec. 8. (AB 377) Effective October 7, 2019.)

114367.6.

(a)An internet food service intermediary that lists or promotes a microenterprise home kitchen operation on its internet website or mobile application shall meet all of the following requirements:

(1)Be registered with the department. A registration, once issued, is nontransferable. A registration shall be valid only for the person and type of business specified by that registration, and unless suspended or revoked for cause by the department.

(2)Prior to the listing or publication of a microenterprise home kitchen operationsoffer of food for sale, clearly and conspicuously post on its internet website or mobile application the requirements for the permitting of a microenterprise home kitchen specified in this chapter, which shall be written at the high school level and be provided by the department.

(3)Clearly and conspicuously post on its internet website or mobile application the fees associated with using its platform and fees associated with third-party delivery service pursuant to paragraph (2) of subdivision (b) of Section 114367.5 in a manner that allows both the consumer and the microenterprise home kitchen operation to see and understand the amount being charged for the services provided by the internet food service intermediary. The internet food service intermediary shall notify the microenterprise home kitchen operation of any changes to these fees exceeding a 2-percent increase in writing and no later than one month before the changes take effect.

(4)Clearly and conspicuously post on its internet website or mobile application whether or not it has liability insurance that would cover any incidence arising from the sale or consumption of food listed or promoted on its internet website or mobile application.

(5)Provide a dedicated field on its platform for a microenterprise home kitchen operation to post the permit number and the name of the enforcement agency that issued the permit.

(6)Clearly and conspicuously post on its internet website or mobile application how a consumer can contact the internet food service intermediary through its internet website or mobile application if the consumer has a food safety or hygiene complaint and a link to the departmentsinternet website that contains information for how to file a complaint with the enforcement agency.

(7)Submit the name and permit number of a microenterprise home kitchen operation to the enforcement agency that issued the permit to the microenterprise home kitchen operation if the internet food service intermediary receives, through its internet website or mobile application, three or more unrelated individual food safety or hygiene complaints in a calendar year from consumers that have made a purchase through its internet website or mobile application. The internet food service intermediary shall submit this information to the enforcement agency within two weeks of the third complaint received.

(8)If it is notified by the enforcement agency of significant food safety related complaints from a verified consumer that has made a purchase through its internet website or mobile application, submit to the enforcement agency the name and permit number of the microenterprise home kitchen operation where the food was purchased, and a list of consumers who purchased food on the same day from that microenterprise home kitchen operation through its internet website or mobile application.

(9)Prior to the listing or publication of a microenterprise home kitchen operationsoffer of food for sale, obtain consent from the microenterprise home kitchen operation to make the disclosures to government entities required pursuant to this section.

(10)Shall not permit the use of the word catering or any variation of that word in a listing or publication of a microenterprise home kitchen operationsoffer of food for sale.

(11)Shall not use, or knowingly facilitate the use of, a third-party delivery service for food produced by the microenterprise home kitchen operation, except as authorized pursuant to paragraph (2) of subdivision (b) of

Section 114367.5.

(b)For purposes of this chapter, an internet food service intermediary means an entity that provides a platform on its internet website or mobile application through which a microenterprise home kitchen operation may choose to offer food for sale and from which the internet food service intermediary derives revenues, including, but not limited to, revenues from advertising and fees for services offered to a microenterprise home kitchen operation. Services offered by an internet food service intermediary to a microenterprise home kitchen operation may include, but are not limited to, allowing a microenterprise home kitchen operation to advertise its food for sale and providing a means for potential consumers to arrange payment for the food, whether the consumer pays directly to the microenterprise home kitchen operation or to the internet food service intermediary. Merely publishing an advertisement for the microenterprise home kitchen operation or food cooked therein does not make the publisher an internet food service intermediary.

(c)(1)A microenterprise home kitchen operation that advertises to the public, including, but not limited to, advertising by website, internet, social media platform, newspaper, newsletter, or other public announcement, shall include all of the following within the advertisement:

(A)Name of the enforcement agency that issued the permit.

(B)Permit number.

(C)Statement that the food prepared is Made in a Home Kitchen in a clear and conspicuous font and location within a written advertisement and an audible and comprehensible manner in a verbal advertisement.

(2)A microenterprise home kitchen operation shall not use the word catering or any variation of that word in an advertisement relating to the microenterprise home kitchen operationsoffer of food for sale.

(Amended by Stats. 2019, Ch. 536, Sec. 9. (AB 377) Effective October 7, 2019.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=11.7.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 11.7. Compact Mobile Food Operation [114368 - 114368.8]__

(Chapter 11.7 added by Stats. 2022, Ch. 489, Sec. 4.)

114368.

A compact mobile food operation, as defined in subdivision (c) of Section 113831, shall meet the applicable requirements of Chapter 10 (commencing with Section 114294), except as provided in this chapter.

(Added by Stats. 2022, Ch. 489, Sec. 4. (SB 972) Effective January 1, 2023.)

114368.1.

(a)Any compact mobile food operation with 25 square feet or less of display area from which only prepackaged nonpotentially hazardous food and whole uncooked produce is sold is exempt from the requirements of this part, except that the facility shall comply with all of the following:

(1)Sections 113980, 114047, 114049, 114390, 114393, 114397, and 114399.

(2)Chapter 1 (commencing with Section 113700).

(3)Chapter 2 (commencing with Section 113728).

(b)(1)A local enforcement agency may inspect a compact mobile food operation that is exempt, as specified in subdivision (a), during the facilityshours of operation and other reasonable times on the basis of a consumer complaint or just cause.

(2)For the purposes of determining compliance with this chapter, a compact mobile food operation that is not exempt as specified in subdivision (a) is subject to permitting and routine inspections or inspections on the basis of a consumer complaint or just cause.

(c)The local enforcement agency may recover the costs of investigation and enforcement of this section, subject to any limitations in this part on fines issuable to compact mobile food operations.

(Added by Stats. 2022, Ch. 489, Sec. 4. (SB 972) Effective January 1, 2023.)

114368.2.

(a)Compact mobile food operations shall conduct only limited food preparation, as defined in Section 113818. Notwithstanding any other provision of this part, a compact mobile food operation, as defined in

subdivision (c) of Section 113831, may display or sell food outdoors, if all of the following conditions are satisfied:

(1)Overhead protection are provided above all food display areas.

(2)Food items from the outdoor display are stored consistent with this chapter at all times other than during business hours.

(3)Outdoor displays comply with Section 113980 and have been approved by the enforcement agency if the compact mobile food operation is required to obtain a permit.

(b)A compact mobile food operation shall not sell food other than nonpotentially hazardous prepackaged food or whole produce, or conduct any food preparation, unless it meets the applicable operational requirements of this chapter, including applicable requirements for integral equipment, handwashing, and restroom access.

(c)Equipment that is required to be integral to a compact mobile food operation shall either be permanently attached to the primary unit or securely fastened to the primary unit by means that would prevent unintentional removal. Equipment may be considered integral despite being portable or otherwise removable for cleaning, maintenance, or as part of its regular function.

(d)A compact mobile food operation operating from an individual shall not conduct any food preparation or sell foods other than nonpotentially hazardous prepackaged food or whole produce.

(Added by Stats. 2022, Ch. 489, Sec. 4. (SB 972) Effective January 1, 2023.)

114368.3

(a)(1)A permitted cottage food operation or microenterprise home kitchen operation may serve as a commissary or mobile support unit for up to two compact mobile food operations if the cottage food operation or microenterprise home kitchen operation permit includes an endorsement from the local enforcement agency that the cottage food operation or microenterprise home kitchen operation is capable of supporting the preparation and storage of the food being sold from the compact mobile food operation and the storage and cleaning of the compact mobile food operation.

(2)Transactions at a compact mobile food operation operated by a cottage food operator shall constitute direct sales for the purposes of paragraph (4) of subdivision (b) of Section 113758.

(3)Transactions at up to two compact mobile food operations operated by a cottage food operator shall not count toward the annual gross sales restrictions in Section 113758 applicable to cottage food operations if the governing body has authorized this action.

(4)Nonpotentially hazardous foods prepared in a cottage food operation may be served from a compact mobile food operation.

(5)Food prepared in a microenterprise home kitchen operation may be served from a compact mobile food operation operated by the microenterprise home kitchen operation permitholder.

(6)The meal and gross annual sales limitations in paragraphs (7) and (8) of subdivision (a) of Section 113825

do not apply to the sale of nonpotentially hazardous food or produce for up to two compact mobile food operations operated by the microenterprise home kitchen operation if the governing body has authorized this action.

(7)With the authorization of the governing body and if the enforcement agency determines that the operation does not pose a public health hazard, a permitted microenterprise home kitchen operation may serve as a commissary for up to two compact mobile food operations. The meal and gross annual sales limitations in paragraphs (7) and (8) of subdivision (a) of Section 113825 apply unless the governing body sets a higher meal and income limitation.

(8)The governing body of a local jurisdiction that permits microenterprise home kitchen operations pursuant to Section 114367, may set the meal and income limitations in paragraphs (7) and (8) of subdivision (a) of Section 113825 at a higher level than provided in those paragraphs for microenterprise home kitchen operations that operate in conjunction with a compact mobile food operation. Notwithstanding this subdivision, the levels in effect, by statute or ordinance, as of January 1, 2023, shall remain in effect until changed by the local jurisdiction.

(b)(1)Existing permanent food facilities may be permitted to support the operations and storage of compact mobile food operations pursuant to the requirements of this section.

(2)Notwithstanding any other provision of this part, upon an evaluation verifying that a permanent food facility satisfies subdivisions (a) to (f), inclusive, of Section 114326, an enforcement agency shall approve the use of a permitted permanent food facility to satisfy the requirements of Section 114295 for a compact mobile food operation.

(3)Notwithstanding any other provision of this part, upon an evaluation verifying that the compact mobile food operation will be stored in a manner that protects the compact mobile food operation from contamination, an enforcement agency shall approve the storage of a compact mobile food operation in a permitted permanent food facility.

(4)Except when a determination is made by the enforcement agency that any nonconforming structural conditions pose a public health hazard, the enforcement agency may approve a facility to support operations of a compact mobile food operation.

(5)Plan submission shall not be required for an existing permanent food facility to support the operations of a compact mobile food operation when a determination is made by the local enforcement agency that the current operation and structural facilities of the permanent food facility can successfully provide the necessary functions of a commissary for a compact mobile food operation.

(6)An approved permanent food facility that will be used for cooling of food for a compact mobile food operation shall be approved by the enforcement agency for cooling.

(c)(1)Unless prohibited by local ordinance, an enforcement agency may allow the use of a private home for the storage of a compact mobile food operation if it determines, after an evaluation, that storage in the private home would not pose a public health hazard and that the compact mobile food operation will be stored in a manner that protects the compact mobile food operation from contamination.

(2)No more than two compact mobile food operations may be stored in a private home unless the enforcement agency finds that storage of more than two compact mobile food operations in a private home would not pose a public health hazard.

(3)The storage area within the home shall be designated and clearly identified upon approval and shall not be relocated without the review and approval of the local enforcement agency.

(4)Prepackaged nonpotentially hazardous food, whole fruits, and whole vegetables may be stored in the home prior to sale or preparation of that food in a compact mobile food operation.

(5)Food prepared in a private home shall not be used or offered for sale on a compact mobile food operation, unless it is a permitted cottage food operation or microenterprise home kitchen operation pursuant to subdivision (a). Violation of this paragraph may result in suspension or revocation of the permit to operate the compact mobile food operation.

(6)For purposes of determining compliance with this subdivision, a local enforcement agency may access, for inspection purposes, a private home where a compact mobile food operation is stored only if the representative has, on the basis of a consumer complaint, reason to suspect that the home is being used for food preparation, food storage, or unauthorized storage of utensils or other food facility equipment in violation of this subdivision.

(d)At the end of the operating day, potentially hazardous food that is prepared on or served from a compact mobile food operation shall be destroyed in a manner approved by the enforcement agency.

(e)For the purposes of this chapter, an endorsement by the local enforcement agency shall be a documented and recorded approval of compliance with applicable sections. An endorsement may include an inspection or evaluation, but shall not require a registration or permit.

(f)The enforcement agency may collect a fee for any permit, endorsement, inspection, or evaluation issued or conducted pursuant to this chapter in an amount that does not exceed the reasonable administrative costs of the enforcement agency.

(Added by Stats. 2022, Ch. 489, Sec. 4. (SB 972) Effective January 1, 2023.)

114368.4.

(a)Except as provided in subdivision (b), a compact mobile food operation that is approved for limited food preparation that prepares raw meat, raw poultry, or raw fish is subject to warewashing and handwashing facility requirements as outlined in Chapter 10 (commencing with Section 114294).

(b)(1)A compact mobile food operation may satisfy the requirements of Sections 114313 and 114314 by demonstrating access to a permitted auxiliary conveyance containing the necessary handwashing and warewashing sinks when operating at a site-specific location. The auxiliary conveyance may be operated by the same or a different permitholder. An enforcement agency may permit an auxiliary conveyance to serve multiple compact mobile food operations operating in close proximity to the auxiliary conveyance, as determined by the enforcement agency.

(2)If an auxiliary conveyance is not operated by the permitholder of the compact mobile food operation, the operator of the auxiliary conveyance shall obtain a permit from the enforcement agency to operate the auxiliary conveyance and service compact mobile food operations.

(3)The permit application for an auxiliary conveyance not operated by a compact mobile food operation shall include a site plan and shall be submitted to the enforcement agency at least two weeks prior to the

operation of any food facility in conjunction with the auxiliary conveyance.

(4)The site plan for an auxiliary conveyance not operated by a compact mobile food operator shall show the proposed location and storage of the auxiliary conveyance, the proposed locations of any food facilities that will utilize the auxiliary conveyance, restrooms, refuse containers, potable water supply faucets, waste water disposal facilities, and all shared warewashing and handwashing facilities.

(c)A compact mobile food operation that is approved for limited food preparation that does not prepare raw meat, raw poultry, or raw fish shall do one of the following:

(1)Provide a three-compartment sink as described in subdivision (a) of Section 114313.

(2)Provide at least one two-compartment sink that complies with subdivision (e) of Section 114099.3.

(3)Provide a one-compartment sink with at least one integral metal drainboard, an adequate supply of spare preparation and serving utensils to replace those that become soiled or contaminated, and warewashing facilities that comply with subdivision (a) of Section 114313 in reasonable proximity to, and readily accessible for use by, food employees at all times.

(4)Maintain an adequate supply of spare preparation and serving utensils on the compact mobile food operation to ensure that utensils used for potentially hazardous foods are replaced with clean and sanitized utensils every four hours or as needed to replace those that become soiled or contaminated. A compact mobile food operation that complies with this paragraph is not required to provide a warewashing sink.

(d)A compact mobile food operation that is approved for limited food preparation that does not prepare raw meat, raw poultry, or raw fish shall provide an integral handwashing sink with at least five gallons of potable water to operate with a potable water tank with a capacity of at least five gallons for handwashing.

(e)An enforcement agency may permit a compact mobile food operation to operate with an integral water tank smaller than specified under subdivision (c) or (d) of Section 114217 if the enforcement agency finds that the compact mobile food operation is operating in an area and manner that would allow for replenishment of the water supply as needed during operations.

(f)A compact mobile food operation shall submit, to the enforcement agency, written operating procedures that include the process of filling potable water tanks if it will operate with a water tank with a capacity of less than five gallons specified in subdivisions (c) and (d) of Section 114217.

(g)A compact mobile food operation that does not prepare raw meat, raw poultry, or raw fish is exempt from any provision of this part requiring it be equipped with a water heater or otherwise be supplied with warm water.

(Added by Stats. 2022, Ch. 489, Sec. 4. (SB 972) Effective January 1, 2023.)

114368.5.

(a)Upon receipt of complete, easily readable plans drawn to scale, and specifications satisfactory to the enforcement agency, an enforcement agency may preapprove a standard plan for a standardized or mass-produced individual unit intended to serve as a compact mobile food operation.

(b)A person proposing to operate a compact mobile food operation who has acquired an individual unit for which the construction of the compact mobile food operation has been built to approved plans shall not be required to submit plans for the individual unit, but instead shall be subject to a final inspection of the compact mobile food operation to ensure that the individual unit and proposed method of operation conform to the standard plans preapproved pursuant to subdivision (a). The permit application for a compact mobile food operation utilizing a preapproved individual unit shall include a certification that the applicant has not substantially altered the individual units from the plans preapproved pursuant to subdivision (a). The enforcement agency may collect a fee in the final inspection in an amount that does not exceed the reasonable administrative costs to the enforcement agency.

(c)The repair of equipment or integral fixtures on a compact mobile food operation or the replacement of equipment and fixtures on a compact mobile food operation with substantially similar equipment or fixtures is not a remodel, and the repair or replacement of equipment or fixtures does not require the submission of plans to an enforcement agency.

(d)A local governing body may waive or reduce a fee for the permit, registration, or related services for an applicant seeking approval of a compact mobile food operation or related operations.

(e)All new and replacement food-related and utensil-related equipment for a compact mobile food operation shall be certified or classified for sanitation by an American National Standards Institute accredited certification program, or a certification program accredited by another accreditation body recognized by the enforcement agency as providing substantially similar food safety and operational standards. In the absence of an applicable certified sanitation standard, food-related and utensil-related equipment shall be evaluated for approval by the enforcement agency.

(f)All new and replacement electrical appliances for a compact mobile food operation shall meet applicable Underwriters Laboratories standards for electrical equipment as determined by an American National Standards Institute accredited certification program or a certification program accredited by another accreditation body recognized by the enforcement agency as providing substantially similar food safety and operational standards.

(Added by Stats. 2022, Ch. 489, Sec. 4. (SB 972) Effective January 1, 2023.)

114368.6.

A compact mobile food operation is exempt from Section 113947.1 if the operator and any individual who is involved in the preparation, storage, or service of food for the compact mobile food operation has obtained a food handler card that meets the requirements of Section 113948.

(Added by Stats. 2022, Ch. 489, Sec. 4. (SB 972) Effective January 1, 2023.)

114368.7.

A compact mobile food operation is exempt from the requirements of Section 114315 if the compact mobile food operation operates with multiple employees or operators and the compact mobile food operation may remain operable by a single individual so that employees or operators may alternate use of a restroom.

(Added by Stats. 2022, Ch. 489, Sec. 4. (SB 972) Effective January 1, 2023.)

114368.8.

(a)Notwithstanding subdivision (a) of Section 114395, a violation of this part by an operator or employee of a compact mobile food operation is punishable only by an administrative fine.

(b)A violation of any provision of this part or regulation adopted pursuant to this part by an operator or employee of a compact mobile food operation or a sidewalk vendor shall not be punishable as an infraction or misdemeanor, and an operator or employee of a compact mobile food operation or a sidewalk vendor alleged to have violated any of those provisions is not subject to arrest except when independent grounds for that arrest exist under law.

(c)Except as provided in paragraph (d), each offense by an operator or employee of a compact mobile food operation or a sidewalk vendor may only be punished by a fine consistent with the following:

(1)A notice of violation detailing the violation, including the applicable provision of this part or regulation adopted pursuant to this part.

(2)An administrative fine not exceeding one hundred dollars ($100) for a second violation within one year of the first violation.

(3)An administrative fine not exceeding two hundred dollars ($200) for a third violation within one year of the first violation.

(4)An administrative fine not exceeding five hundred dollars ($500) for each additional violation within one year of the first violation.

(d)If a compact mobile food operation is required to obtain a permit from the enforcement agency, operating without a permit may be punishable by a fine not to exceed three times the cost of the permit in lieu of the administrative fines referenced in subdivision (c). An enforcement agency shall not issue any fines in excess of the amounts allowable pursuant to subdivision (c) prior to January 1, 2024.

(e)(1)When assessing an administrative fine for a first-time offense, pursuant to this section, the hearing officer shall take into consideration the personsability to pay the fine. The enforcement agency shall provide the person with notice of their right to request an ability-to-pay determination and shall make available instructions or other materials for requesting an ability-to-pay determination. The person may request an ability-to-pay determination at adjudication or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

(2)If the person meets the criteria described in subdivision (a) or (b) of Section 68632 of the Government Code, the enforcement agency shall accept, in full satisfaction, 20 percent of the administrative fine imposed pursuant to this section.

(3)The enforcement agency may waive the administrative fine or may offer an alternative disposition.

(Added by Stats. 2022, Ch. 489, Sec. 4. (SB 972) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=12.&article=

114371.

Certified farmers™ markets shall meet all of the following requirements:

(a)All food shall be stored at least six inches off the floor or ground or under any other conditions that are approved. Tents, canopies, or other overhead coverings are not required for fresh whole produce sales displays or storage, except when specifically required pursuant to this chapter. Flavored nuts and dried fruits that are being sold on a bulk or nonprepackaged basis shall be displayed and dispensed by the producer from covered containers. All processed food products being sold shall be in compliance with Section 113735 and the applicable provisions of Section 110460, 114365, or 114365.2.

(b)Food preparation is prohibited at certified farmers™ markets with the exception of food samples. Trimming whole produce for sale shall not be considered food preparation. Distribution of food samples may occur provided that the following sanitary conditions exist:

(1)Samples shall be kept in clean, nonabsorbent, and covered containers intended by the manufacturer for use with foods. Any cutting or distribution of samples shall only occur under a tent, canopy, or other overhead covering.

(2)All food samples shall be distributed by the producer in a manner that is sanitary and in which each sample is distributed without the possibility of a consumer touching the remaining samples.

(3)Clean, disposable plastic gloves shall be used when cutting food samples.

(4)Fresh, whole produce intended for sampling shall be washed or cleaned in another manner of any soil or other material by potable water in order that it is wholesome and safe for consumption.

(5)Notwithstanding Section 114205, available potable water may be required for handwashing and sanitizing; the need determined and manner approved by the enforcement agency.

(6)Potentially hazardous food samples shall be maintained at or below 45 degrees Fahrenheit and shall be disposed of within two hours after cutting. A certified farmers™ market or an enforcement officer may cause immediate removal and disposal, or confiscate and destroy, any potentially hazardous food samples found not in compliance with this paragraph.

(7)Wastewater shall be disposed of in a facility connected to the public sewer system or in a manner approved by the enforcement agency.

(8)Utensils and cutting surfaces shall be smooth, nonabsorbent, and easily cleanable, or single-use articles shall be utilized. If the producer uses only single-use articles or maintains an adequate supply of clean replacement articles readily available at the site at the time of use, warewashing facilities shall not be required.

(c)Approved toilet and handwashing facilities shall be available within 200 feet travel distance of the

premises of the certified farmers™ market or as approved by the enforcement officer.

(d)No live animals, birds, or fowl shall be kept or allowed, and no individual shall bring a live animal, bird, or fowl, within 20 feet of any area where food is stored or held for sale within a certified farmers™ market. This subdivision does not apply to guide dogs, signal dogs, or service dogs when used in accordance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and as provided in Section 36.104 of Title 28 of the Code of Federal Regulations. All guide dogs, signal dogs, and service dogs shall be used and properly identified in accordance with Section 54.1 and subdivision (b) of Section 54.2 of the Civil Code, and Sections 30850, 30851, and 30852 of the Food and Agricultural Code.

(e)All garbage and refuse shall be stored and disposed of in a manner approved by the enforcement officer.

(f)Smoking of cigarettes, cigars, pipe tobacco, and other tobacco products shall not be permitted within 25 feet of the common commerce area comprised of sales personnel and shopping customers of the certified farmers™ market.

(g)Notwithstanding Chapter 10 (commencing with Section 114294) vendors selling food adjacent to, and under the jurisdiction and management of, a certified farmers™ market may store, display, and sell from a table or display fixture apart from the mobile facility in a manner approved by the enforcement agency.

(h)Temporary food facilities may be operated at a separate community event adjacent to, and in conjunction with, certified farmers™ markets. The organization in control of the community event at which these temporary food facilities operate shall comply with Section 114381.1.

(i)All harvested, cut, wrapped, or otherwise processed meat, poultry, and fish products shall be from approved sources as set forth in Section 113735, and shall be properly labeled or have documentation present at the point of sale that demonstrates compliance with this requirement. All harvested, cut, wrapped, or otherwise processed meat, poultry, and fish products offered for sale shall be transported, stored, displayed, and maintained at a temperature of 41 degrees Fahrenheit or colder. The temperature holding capabilities of the storage containers used shall be sufficient to maintain safe product temperatures. Storage containers for meat, poultry, and fish products shall be insulated and have interior surfaces that are smooth, nonabsorbent, and easily cleanable. All meat, poultry, and fish products shall be stored in a manner that reduces the risk of cross-contamination.

(j)For purposes of this section, smoking has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.

(k)For purposes of this section, tobacco product means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 17. (SB 5 2x) Effective June 9, 2016.)

114373.

Raw shell eggs may be stored and displayed without refrigeration if all of the following conditions are met:

(a)The eggs were produced by poultry owned by the seller and collected on the sellersproperty.

(b)The eggs are not placed in direct sunlight during storage or display.

(c)Retail egg containers are prominently labeled refrigerate after purchase or the seller posts a conspicuous sign advising consumers that the eggs are to be refrigerated as soon as practical after purchase.

(d)Retail egg containers are conspicuously identified as to the date of the pack.

(e)The eggs have been cleaned and sanitized.

(f)The eggs are not checked, cracked, or broken.

(g)Any eggs that are stored and displayed at temperatures of 90ÂºF or below and that are unsold after four days from the date of pack shall be stored and displayed at an ambient temperature of 45ÂºF or below, diverted to pasteurization, or destroyed in a manner approved by the enforcement agency.

(h)Any eggs that are stored and displayed at temperatures above 90ÂºF that are unsold after four days from the date of pack shall be diverted to pasteurization or destroyed in a manner approved by the enforcement agency.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=12.5.&article=

114375.

Farm stands shall be in conformity with the definition and provisions of Section 113778.2 and meet all of the following requirements:

(a)Food preparation is prohibited at farm stands with the exception of food samples which may only occur if conducted in accordance with paragraphs (1) to (8), inclusive, of subdivision (b) of Section 114371.

(b)Approved toilet and handwashing facilities consistent with Article 4 (commencing with Section 113310) of Chapter 11 of Part 6 shall be available for use by farm stand operators or their employees when food sampling is conducted pursuant to subdivision (a).

(c)Food sales from farm stands shall be limited to the following:

(1)Whole produce and shell eggs as described in paragraph (6) of subdivision (c) of Section 113789.

(2)Nonpotentially hazardous prepackaged food products from an approved source that were grown or produced in close proximity to the farm stand and in a manner consistent with the intent of Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code.

(3)Any nonpotentially hazardous prepackaged food products, including bottled water and soft drinks, from an approved source that has not been grown or produced in close proximity to the farm stand shall be limited to a 50-square-foot storage and sales area.

(d)No live animals, birds, or fowl shall be kept or allowed within 20 feet of any area where food is stored or held for sale. This subdivision does not apply to guide dogs, signal dogs, or service dogs when used in the manner specified in Section 54.1 of the Civil Code.

(e)All garbage and refuse shall be stored and disposed of in an appropriate manner.

(f)All prepackaged processed food products shall meet the applicable requirements provided in Section 113980 and be stored in an approved vermin proof area or container when the farm stand facility is closed.

(Added by Stats. 2008, Ch. 447, Sec. 11. Effective January 1, 2009.)

114376.

(a)A community food producer may sell or provide whole uncut fruits or vegetables, or unrefrigerated shell eggs, directly to the public, to a permitted food facility, or a cottage food operation if the community food producer meets all of the following requirements:

(1)Agricultural products shall be grown or produced in compliance with subdivision (b) of Section 113735.

(2)Agricultural products that are packaged shall have the package labeled with the name and address of the community food producer.

(3)Conspicuous signage shall be provided in lieu of a product label if the agricultural product is being sold by the community food producer on the site of production. The signage shall include, but not be limited to, the name and address of the community food producer.

(4)Best management practices, as described by the Department of Food and Agriculture, regarding small farm food safety guidelines on, but not limited to, safe production, processing, and handling of both nonpotentially hazardous and potentially hazardous foods.

(5)Egg production shall be limited to 15 dozen eggs per month.

(b)(1)A gleaner may sell or provide whole uncut fruits or vegetables, or unrefrigerated shell eggs, produced by a community food producer directly to the public without registration if the gleaner meets all of the requirements specified in subdivisions (a) and (d).

(2)A gleaner may donate whole uncut fruits or vegetables, or unrefrigerated shell eggs, produced by a community food producer to a food bank or food kitchen without registration if it meets both of the following requirements:

(A)Best management practices, as described by the Department of Food and Agriculture, regarding small farm food safety guidelines on handling of both nonpotentially hazardous and potentially hazardous foods.

(B)Record retention requirements specified in subdivision (d).

(c)Unless otherwise authorized by a local ordinance adopted by a local jurisdiction, a local city or county health enforcement office shall not require a community food producer to register with the city or county or meet requirements in addition to those required in subdivisions (a) and (d) if the community food producer

meets any of the following conditions:

(1)Agricultural products are sold at the outlet or location, including, but not limited to, premises, controlled by the community food producer pursuant to paragraph (6) of subdivision (c) of Section 113789.

(2)Agricultural products are donated to a food bank or food kitchen that provides food at no cost to consumers.

(3)Agricultural products are sold in a food facility permitted by a federal, state, or local health agency.

(d)A community food producer or gleaner that sells or provides whole uncut fruits or vegetables, or unrefrigerated shell eggs, directly to the public pursuant to this section shall retain records related to the sale or provision of the food for 30 days, which shall include the type of food sold and the date of sale.

(e)A food bank or food kitchen that receives whole uncut fruits or vegetables, or unrefrigerated shell eggs, donated by a community food producer or gleaner pursuant to this section shall retain records related to the donation of the food for 30 days, which shall include the type of food received, the date of receipt, and the name and contact information of the community food producer or gleaner that donated the food.

(Amended by Stats. 2015, Ch. 616, Sec. 2. (AB 234) Effective January 1, 2016.)

114376.5.

(a)An enforcement officer, as defined in Section 113774, may enter into and inspect the operations of a community food producer or gleaner in response to a food safety recall or food safety complaint. The enforcement officer may recover reasonable costs associated with an inspection from the community food producer or gleaner.

(b)(1)An enforcement officer may issue a community food producer or gleaner a cease and desist order for violations of Section 114376, upon which the community food producer or gleaner shall be prohibited from further sales until the operations of the community food producer or gleaner have been reinspected and cleared by the enforcement officersagency.

(2)At any time within 15 calendar days after issuance of the cease and desist order, the community food producer or gleaner may request in writing a hearing before a hearing officer to show cause why the prohibition of further sales is not warranted. The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. A failure to request a hearing within 15 calendar days shall be deemed a waiver of the right to a hearing.

(c)Violations of Section 114376 shall be subject to the penalties specified in Section 114395.

(Added by Stats. 2014, Ch. 580, Sec. 7. (AB 1990) Effective January 1, 2015.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=12.7.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 12.7. FishermensMarkets [114378 - 114378.3]__

(Chapter 12.7 added by Stats. 2015, Ch. 615, Sec. 9.)

114378.

A fishermensmarket shall meet the applicable requirements of Chapter 1 (commencing with Section 113700), Chapter 2 (commencing with Section 113728), Chapter 3 (commencing with Section 113945), Chapter 4 (commencing with Section 113980), Chapter 5 (commencing with Section 114095), Chapter 6 (commencing with Section 114130), Chapter 7 (commencing with Section 114189), Chapter 8 (commencing with Section 114250), and Chapter 13 (commencing with Section 114380), unless exempted as provided in this chapter.

(Added by Stats. 2015, Ch. 615, Sec. 9. (AB 226) Effective January 1, 2016.)

114378.1.

(a)Fish sold in a fishermensmarket shall be raw and may be displayed whole, eviscerated, or packaged by an onsite permitted temporary food facility or permitted food facility. A fisherman selling fish in a fishermensmarket shall only sell raw edible aquatic plants or fish that the fisherman caught legally, or that was caught by one or two other licensed commercial fishermen. If a fisherman sells fish caught by another licensed commercial fisherman, the fisherman shall provide a copy of that other fishermanscommercial license and contact information upon the request of the enforcement agency.

(b)A fishermensmarket may provide a separate service that fillets, cuts, or packages fish for customers who purchase direct sales of fish within the fishermensmarket as a temporary food facility, mobile food facility, fishermensmarket booth, or other facility approved by the enforcement agency. A separate health permit is required and applicable requirements for that category of permit shall be met.

(c)Fish parts from the daysoperations may be used for bait by a licensed commercial fisherman or registered aquaculturist.

(d)Ice used for refrigeration purposes shall not be used for consumption in food or beverages.

(e)Notwithstanding subdivision (b) and Section 113818, raw fish may be eviscerated at a fishermensmarket.

(Amended by Stats. 2021, Ch. 155, Sec. 10. (AB 831) Effective January 1, 2022.)

114378.2.

A fishermensmarket shall meet all of the following requirements:

(a) Each fishermensmarket food booth shall post the name of the fisherman, vessel or farm, and acceptable market name of fish sold so they are legible and clearly visible to patrons.

(b)Notwithstanding Section 113953, handwashing facilities for a fishermensmarket food both that operates for three consecutive days or less may include a container capable of providing a continuous stream of water from an approved source that leaves both hands free to allow vigorous rubbing with soap and warm water for 10 to 15 seconds, inclusive. A catch basin shall be provided to collect wastewater, and the wastewater shall be properly disposed of according to Section 114197.

(c)Handwashing facilities shall be equipped with handwashing cleanser and single-use sanitary towels. A separate receptacle shall be available for towel waste.

(d)Notwithstanding Section 114205, potable water shall be available for handwashing and sanitizing as approved by the enforcement agency.

(e)Approved toilet and handwashing facilities shall be available within 200 feet of the premises of a fishermensmarket or as approved by the enforcement agency.

(f)All garbage and refuse shall be stored and disposed of in a manner approved by the enforcement agency.

(g)Wastewater shall be disposed of in a facility connected to the public sewer system or in a manner approved by the enforcement agency.

(h)Floors shall be constructed of concrete, asphalt, tight wood, or other similar cleanable material kept in good repair.

(i)Overhead protection shall be provided over the evisceration process, food storage, food display, and warewashing areas. Overhead protection shall be made of wood, canvas, or other materials that protect the facility from precipitation, dust, bird and insect droppings, and other contaminants.

(j)Notwithstanding Section 114095, approved warewashing facilities may be shared if the sink is centrally located and is adjacent to the sharing facilities. The enforcement agency may also approve use of warewashing facilities within a permanent facility if it is located within 200 feet of the premises of the fishermensmarket or as approved by the enforcement agency.

(k)Food-related and utensil-related equipment shall be located and installed to prevent food contamination.

(l)During periods of inoperation, food, food equipment, and utensils shall be stored within a fully enclosed facility approved by the enforcement agency, or in approved food compartments where the food, food equipment, and utensils are protected at all times from contamination, exposure to the elements, ingress of rodents or other vermin, and temperature abuse.

(Added by Stats. 2015, Ch. 615, Sec. 9. (AB 226) Effective January 1, 2016.)

114378.3.

(a)A permit application and site plan shall be submitted to the enforcement agency at least two weeks prior to the operation of a fishermensmarket. Only California-licensed commercial fishermen or an entity representing two or more California-licensed commercial fishermen or California-licensed commercial fishermen and California-registered aquaculturists may act as the responsible person and sole permitholder for a fishermensmarket. The site plan shall include all of the following:

(1)A map with proposed locations of the fishermensmarket food booths, boundaries of the fishermensmarket, restrooms, refuse containers, potable water supply faucets, wastewater disposal facilities, and all shared warewashing and handwashing facilities as applicable.

(2)Details of the materials and methods used to construct the food booths.

(3)Foods that will be handled and dispensed.

(4)Procedures for food handling, food temperature control, refuse management, cleaning and sanitizing utensils and equipment, and cleaning structures and premises.

(5)Procedures for transporting food to and from the fishermensmarket and actions taken to prevent contamination.

(6)List of names of licensed commercial fishermen or registered aquaculturists, copies of their licenses or registrations, and a document authorizing the organizer to act as the responsible person and permitholder on their behalf.

(b)A fishermensmarket may operate adjacent to, or in conjunction with, a food facility or a community event. In those situations, the fishermensmarket is only subject to the limitations and requirements of a fishermensmarket. The other food facilities remain subject to the limitations and requirements, including separate permit requirements, that are applicable to the type of facility being operated.

(Added by Stats. 2015, Ch. 615, Sec. 9. (AB 226) Effective January 1, 2016.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=12.8.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 12.8. ChildrensMeals [114379 - 114379.60]__

(Chapter 12.8 added by Stats. 2018, Ch. 608, Sec. 2.)

114379.

The purpose of this chapter is to support childrenshealth by setting nutritional standards for a restaurantschildrensmeals.

(Added by Stats. 2018, Ch. 608, Sec. 2. (SB 1192) Effective January 1, 2019.)

114379.10.

For purposes of this chapter, the following terms have the following meanings:

(a)Childrensmeal means a combination of food items and a beverage, or a single food item and a beverage, sold together at a single price, primarily intended for consumption by a child.

(b)Default beverage means the beverage automatically included or offered as part of a childrensmeal, absent a specific request by the purchaser of the childrensmeal for an alternative beverage.

(c)Restaurant means a retail food establishment that prepares, serves, and vends food directly to the consumer.

(Added by Stats. 2018, Ch. 608, Sec. 2. (SB 1192) Effective January 1, 2019.)

114379.20.

(a)A restaurant that sells a childrensmeal shall make the default beverage offered with the childrensmeal one of the following:

(1)Water, sparkling water, or flavored water, with no added natural or artificial sweeteners.

(2)Unflavored milk.

(3)A nondairy milk alternative that contains no more than 130 calories per container or serving. For purposes of this paragraph, nondairy milk alternative means a non-dairy fluid milk substitute that meets the standards for the National School Lunch Program as set forth in Section 210.10 of Title 7 of the Code of Federal Regulations.

(b)The beverage listed or displayed on a restaurant menu or advertisement for a childrensmeal shall be one of the default beverages listed in subdivision (a).

(Added by Stats. 2018, Ch. 608, Sec. 2. (SB 1192) Effective January 1, 2019.)

114379.30.

This chapter does not prohibit a restaurantsability to sell, or a customersability to purchase, an alternative beverage instead of the default beverage offered with the childrensmeal, if requested by the purchaser of the childrensmeal.

(Added by Stats. 2018, Ch. 608, Sec. 2. (SB 1192) Effective January 1, 2019.)

114379.40.

The local enforcement agency, as set forth in Section 113713, shall implement, administer, and enforce this chapter. The department may issue rules and regulations as necessary to carry out the purposes of this chapter.

(Added by Stats. 2018, Ch. 608, Sec. 2. (SB 1192) Effective January 1, 2019.)

114379.50.

A violation of this chapter is, notwithstanding Section 114395, an infraction, provided, however, that the first violation shall result in a notice of violation. A second violation within a five-year period from the notice of violation shall be punishable by a fine of not more than two hundred fifty dollars ($250). For a third or subsequent violation within a five-year period, the fine shall be not more than five hundred dollars ($500). A restaurant shall not be found to have committed a violation under this chapter more than once during an inspection visit.

(Added by Stats. 2018, Ch. 608, Sec. 2. (SB 1192) Effective January 1, 2019.)

114379.60.

This chapter shall be construed so as not to conflict with any federal or state law, rule, or regulation. This chapter does not authorize a local agency to impose any duty or obligation in conflict with a limitation on a local authority established by a federal or state law. If a court or agency of competent jurisdiction holds that a federal or state law, rule, or regulation invalidates any clause, sentence, paragraph, or section of this chapter or the application thereof to any person or circumstances, it is the intent of the Legislature that the court or agency sever the clause, sentence, paragraph, or section so that the remainder of this chapter remains in effect.

(Added by Stats. 2018, Ch. 608, Sec. 2. (SB 1192) Effective January 1, 2019.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=7.&chapter=13.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=13.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 13. Compliance and Enforcement [114380 - 114437]__

(Chapter 13 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 1. Plan Review and Permits [114380 - 114387]__

(Article 1 added by Stats. 2006, Ch. 23, Sec. 2.)

114380.

(a)A person proposing to build or remodel a food facility shall submit complete, easily readable plans drawn to scale, and specifications to the enforcement agency for review, and shall receive plan approval before starting any new construction or remodeling of a facility for use as a retail food facility.

(b)Plans and specifications may also be required by the enforcement agency if the agency determines that they are necessary to ensure compliance with the requirements of this part, including, but not limited to, a menu change or change in the facilitysmethod of operation.

(c)(1)All new school food facilities or school food facilities that undergo modernization or remodeling shall comply with all structural requirements of this part. Upon submission of plans by a public school authority, the Division of the State Architect and the local enforcement agency shall review and approve all new and remodeled school facilities for compliance with all applicable requirements.

(2)Notwithstanding subdivision (a), the Office of Statewide Health Planning and Development (OSHPD) shall maintain its primary jurisdiction over licensed skilled nursing facilities, and when new construction, modernization, or remodeling must be undertaken to repair existing systems or to keep up the course of normal or routine maintenance, the facility shall complete a building application and plan check process as required by OSHPD. Approval of the plans by OSHPD shall be deemed compliance with the plan approval process required by the local county enforcement agency described in this section.

(3)Except when a determination is made by the enforcement agency that the nonconforming structural conditions pose a public health hazard, existing public and private school cafeterias, limited service charitable feeding operation facilities, and licensed health care facilities shall be deemed to be in compliance with this part pending replacement or renovation.

(d)Except when a determination is made by the enforcement agency that the nonconforming structural conditions pose a public health hazard, existing food facilities that were in compliance with the law in effect on June 30, 2007, shall be deemed to be in compliance with the law pending replacement or renovation. If a determination is made by the enforcement agency that a structural condition poses a public health hazard, the food facility shall remedy the deficiency to the satisfaction of the enforcement agency.

(e)The plans shall be approved or rejected within 20 working days after receipt by the enforcement agency and the applicant shall be notified of the decision. Unless the plans are approved or rejected within 20 working days, they shall be deemed approved. The building department shall not issue a building permit for a food facility until after it has received plan approval by the enforcement agency. This section does not require that plans or specifications be prepared by someone other than the applicant.

(Amended by Stats. 2021, Ch. 155, Sec. 11. (AB 831) Effective January 1, 2022.)

114381.

(a)A food facility shall not be open for business without a valid permit.

(b)A permit shall be issued by the enforcement agency when investigation has determined that the proposed facility and its method of operation meets the specifications of the approved plans or conforms to the requirements of this part.

(c)A permit, once issued, is nontransferable. A permit shall be valid only for the person, location, type of food sales, or distribution activity and, unless suspended or revoked for cause, for the time period indicated.

(d)Any fee for the permit or registration or related services, including, but not limited to, the expenses of inspecting and impounding any utensil suspected of releasing lead or cadmium in violation of Section 108860 as authorized by Section 114393, review of HACCP plans, and alternative means of compliance shall be determined by the local governing body. Fees shall be sufficient to cover the actual expenses of administering and enforcing this part. The moneys collected as fees shall only be expended for the purpose of administering and enforcing this part.

(e)A permit shall be posted in a conspicuous place in the food facility or in the office of a vending machine business.

(f)Any person requesting the enforcement agency to undertake activity pursuant to Sections 114149.1 and 114419.3 shall pay the enforcement agencycosts incurred in undertaking the activity. The enforcement agencysservices shall be assessed at the current hourly cost recovery rate.

(Amended by Stats. 2009, Ch. 571, Sec. 63. (SB 241) Effective October 11, 2009.)

114381.1.

In addition to the permit issued to each food facility participating in a community event or swap meet, a permit shall be obtained by the person or organization responsible for facilities that are shared by two or more food facilities.

(a)The permit application and site plan shall be submitted to the enforcement agency at least two weeks prior to operation of any food facility.

(b)The site plan shall show the proposed locations of the food facilities, restrooms, refuse containers, potable water supply faucets, waste water disposal facilities, and all shared warewashing and handwashing facilities.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114381.2.

A permit application shall be submitted to the enforcement agency by each temporary food facility operator

that includes all of the following:

(a)A site plan that indicates the proposed layout of equipment, food preparation tables, food storage, warewashing, and handwashing facilities.

(b)Details of the materials and methods used to construct the temporary food facility.

(c)All food products that will be handled and dispensed.

(d)The proposed procedures and methods of food preparation and handling.

(e)Procedures, methods, and schedules for cleaning utensils, equipment, and structures, and for the disposal of refuse.

(f)How food will be transported to and from a permanent food facility or other approved food facility and the temporary food facility, and steps taken to prevent contamination of foods.

(g)How potentially hazardous foods will be maintained at or below 41Â°F or at or above 135Â°F.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114387.

Any person who operates a food facility shall obtain all necessary permits to conduct business, including, but not limited to, a permit issued by the enforcement agency. In addition to the penalties under Article 2 (commencing with Section 114390), violators who operate without the necessary permits shall be subject to closure of the food facility and a penalty not to exceed three times the cost of the permit.

(Amended by Stats. 2009, Ch. 571, Sec. 64. (SB 241) Effective October 11, 2009.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=13.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 13. Compliance and Enforcement [114380 - 114437]__

(Chapter 13 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 2. Enforcement [114390 - 114399]__

(Article 2 added by Stats. 2006, Ch. 23, Sec. 2.)

114390.

(a)Enforcement officers shall enforce this part and all regulations adopted pursuant to this part.

(b)(1)For purposes of enforcement, any authorized enforcement officer may, during the facilityshours of operation and other reasonable times, enter, inspect, issue citations to, and secure any sample, photographs, or other evidence from a food facility, cottage food operation, or any facility suspected of being a food facility or cottage food operation, or a vehicle transporting food to or from a retail food facility, when the vehicle is stationary at an agricultural inspection station, a border crossing, or at any food facility under the jurisdiction of the enforcement agency, or upon the request of an incident commander.

(2)If a food facility is operating under an HACCP plan, the enforcement officer may, for the purpose of determining compliance with the plan, secure as evidence any documents, or copies of documents, relating to the facilitysadherence to the HACCP plan. Inspection may, for the purpose of determining compliance with this part, include any record, file, paper, process, HACCP plan, invoice, or receipt bearing on whether food, equipment, or utensils are in violation of this part.

(3)The enforcement officer may, for the purpose of determining compliance with the gross annual sales requirements for operating a microenterprise home kitchen operation or a cottage food operation, require those operations to provide copies of documents related to determining gross annual sales.

(c)Notwithstanding subdivision (a), an employee may refuse entry to an enforcement officer who is unable to present official identification showing the enforcement officerspicture and enforcement agency name. In the absence of the identification card, a business card showing the enforcement agencysname plus a picture identification card such as a driverslicense shall meet this requirement.

(d)It is a violation of this part for any person to refuse to permit entry or inspection, the taking of samples or other evidence, access to copy any record as authorized by this part, to conceal any samples or evidence, withhold evidence concerning them, or interfere with the performance of the duties of an enforcement officer, including making verbal or physical threats or sexual or discriminatory harassment.

(e)A written report of the inspection shall be made, and a copy shall be supplied or mailed to the owner, manager, or operator of the food facility.

(Amended by Stats. 2018, Ch. 470, Sec. 7. (AB 626) Effective January 1, 2019.)

114393.

(a)Based upon inspection findings or other evidence, an enforcement officer may impound food, equipment, or utensils that are found to be, or suspected of being, unsanitary or in such disrepair that food, equipment, or utensils may become contaminated or adulterated, and inspect, impound, or inspect and impound any utensil that is suspected of releasing lead or cadmium in violation of Section 108860. The enforcement officer may attach a tag to the food, equipment, or utensils that shall be removed only by the enforcement officer following verification that the condition has been corrected.

(b)No food, equipment, or utensils impounded pursuant to subdivision (a) shall be used unless the impoundment has been released.

(c)Within 30 days, the enforcement agency that has impounded the food, equipment, or utensils pursuant to subdivision (a) shall commence proceedings to release the impounded materials or to seek administrative or legal remedy for its disposition.

(Amended by Stats. 2007, Ch. 96, Sec. 57. Effective July 20, 2007.)

114395.

Except as otherwise provided in this part, any person who violates any provision of this part or regulation adopted pursuant to this part is guilty of a misdemeanor. Each offense shall be punished by a fine of not less than twenty-five dollars ($25) or more than one thousand dollars ($1,000) or by imprisonment in the county jail for a term not exceeding six months, or by both fine and imprisonment.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114397.

The owner, manager, or operator of any food facility is responsible for any violation by an employee of any provision of this part or any regulation adopted pursuant to this part. Each day the violation occurs shall be a separate and distinct offense.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114399.

A violation of any provision of this part or regulation adopted pursuant to this part relating to facilities held in common or shared by more than one food facility shall be deemed a violation for which the owner,

manager, or operator of each food facility is responsible.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=13.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 13. Compliance and Enforcement [114380 - 114437]__

(Chapter 13 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 3. Permit Suspension or Revocation [114405 - 114413]__

(Article 3 added by Stats. 2006, Ch. 23, Sec. 2.)

114405.

(a)A permit may be suspended or revoked by a local enforcement officer for a violation of this part. Any food facility or cottage food operation for which the permit has been suspended shall close and remain closed until the permit has been reinstated. Any food facility or cottage food operation for which the permit has been revoked shall close and remain closed until a new permit has been issued.

(b)Whenever a local enforcement officer finds that a food facility or cottage food operation is not in compliance with the requirements of this part, a written notice to comply shall be issued to the permitholder. If the permitholder fails to comply, the local enforcement officer shall issue to the permitholder a notice

setting forth the acts or omissions with which the permitholder is charged, and informing him or her of a right to a hearing, if requested, to show cause why the permit should not be suspended or revoked. A written request for a hearing shall be made by the permitholder within 15 calendar days after receipt of the notice. A failure to request a hearing within 15 calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing. When circumstances warrant, the hearing officer may order a hearing at any reasonable time within this 15-day period to expedite the permit suspension or revocation process.

(c)The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. Upon written request of the permitholder, the hearing officer may postpone any hearing date, if circumstances warrant the action.

(Amended by Stats. 2012, Ch. 415, Sec. 15. (AB 1616) Effective January 1, 2013.)

114407.

The hearing officer shall issue a written notice of decision to the permitholder within five working days following the hearing. In the event of a suspension or revocation, the notice shall specify the acts or omissions with which the permitholder is charged, and shall state the terms of the suspension or that the permit has been revoked.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114409.

(a)If any imminent health hazard is found, unless the hazard is immediately corrected, an enforcement officer may temporarily suspend the permit and order the food facility or cottage food operation immediately closed.

(b)Whenever a permit is suspended as the result of an imminent health hazard, the enforcement officer shall issue to the permitholder a notice setting forth the acts or omissions with which the permitholder is charged, specifying the pertinent code section, and informing the permitholder of the right to a hearing.

(c)At any time within 15 calendar days after service of a notice pursuant to subdivision (b), the permitholder may request in writing a hearing before a hearing officer to show cause why the permit suspension is not warranted. The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. A failure to request a hearing within 15 calendar days shall be deemed a waiver of the right to a hearing.

(Amended by Stats. 2012, Ch. 415, Sec. 16. (AB 1616) Effective January 1, 2013.)

114411.

The enforcement agency may, after providing opportunity for a hearing, modify, suspend, or revoke a permit for serious or repeated violations of any requirement of this part or for interference in the performance of the duty of the enforcement officer.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114413.

A permit may be reinstated or a new permit issued if the enforcement agency determines that the conditions that prompted the suspension or revocation no longer exist.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=13.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 13. Compliance and Enforcement [114380 - 114437]__

(Chapter 13 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 4. Variance [114417 - 114417.7]__

(Article 4 added by Stats. 2006, Ch. 23, Sec. 2.)

114417.

The department may issue a variance for only the provisions set forth in Section 113936, if in the opinion of

the department, the alternative practice or procedure is equivalent to the respective requirements of this part and the alternative practice or procedure does not result in a health hazard.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114417.1.

(a)Within 180 days after the effective date of this part, the department shall develop the form of application that an applicant for a variance must submit. The department may amend the form as it deems appropriate. The application shall contain, at a minimum, the following information:

(1)A detailed description of the requested variance, including citation to the relevant subdivisions specified in Section 113936.

(2)An analysis of the science-based rationale upon which the proposed alternate practice or procedure is based, to include, if and as appropriate, microbial challenge and process validation studies demonstrating how potential health hazards dealt with in those subdivisions that are relevant to the requested variance will be addressed.

(3)A description of the specific procedures, processes, monitoring steps, and other relevant protocols that will be implemented pursuant to the variance to address potential health hazards dealt with in those subdivisions specified in Section 113936 that are relevant to the requested variance.

(4)An HACCP plan, if required pursuant to Section 114419, that includes all applicable information relevant to the requested variance.

(b)An application for a variance shall be submitted to the department, and must be accompanied at the time of submission by the fees specified in subdivision (c).

(c)Each application for a variance shall be accompanied at the time of submission by payment of fees sufficient to pay the necessary costs of the department as specified in Section 113717. Any overpayment by the applicant in excess of the recovery rate and other costs incurred shall be repaid to the applicant within 30 calendar days after final action is taken by the department on the application.

(Amended by Stats. 2007, Ch. 96, Sec. 58. Effective July 20, 2007.)

114417.2.

(a)Upon receipt of an application for a variance, the department shall determine whether the application is substantially complete and in compliance with Section 114417.1. Within 45 calendar days after submission of a complete application that complies with Section 114417.1, the department shall determine whether the alternate practice or procedure described in the application is satisfactory and at least the equivalent of the requirements of this part relating to preventing a health hazard.

(b)In the event that the department grants the variance, it shall issue to the applicant a variance letter that shall include, but not be limited to, the information specified in Section 114417.3.

(c)The department shall transmit a copy of its variance letter to all local enforcement agencies.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114417.3.

Each variance letter shall include, have attached to it, or reference each of the following:

(a)The information specified in Section 114417.1. That information may be presented verbatim, in summary form, or by means of attachment.

(b)Detailed findings by the department as to the nature and extent of the potential hazards, if any, that might be implicated with respect to the requirements specified in this part, and the manner in which the alternate practice or procedure specified in the variance will address those hazards.

(c)The specifics of any operating restrictions or requirements upon which the granting of the variance is conditioned.

(d)If appropriate, the particular events, locations, and operations for which the variance is granted.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114417.4.

A variance letter shall be valid solely with respect to those food facilities, events, locations, and operations expressly set forth and only on the specific terms and conditions upon which the variance is granted. A variance granted by the department shall be binding on every local enforcement agency.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114417.5.

The permitholder shall retain a copy of the variance letter on file at the food facility at all times and shall make it available for inspection by the enforcement officer.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114417.6.

If the department grants a variance, or if an HACCP plan is required pursuant to Section 114419, the permitholder shall do both of the following:

(a)Comply with the HACCP plan and procedures that are submitted as specified in Sections 114419.1 and

114419.2 and approved as a condition for the granting of the variance.

(b)Maintain and provide to the enforcement agency, upon request, records specified under a HACCP plan, or otherwise pursuant to the variance letter, that demonstrate that the following are routinely employed:

(1)Procedures for monitoring critical control points.

(2)Monitoring of the critical control points.

(3)Verification of the effectiveness of an operation or process.

(4)Necessary corrective actions if there is a failure at a critical control point.

(Amended by Stats. 2007, Ch. 96, Sec. 59. Effective July 20, 2007.)

114417.7.

(a)The department may suspend or revoke a variance if either of the following occurs:

(1)The department determines that the variance poses a hazard due to changes in scientific knowledge or the nature and extent of any hazard that might result.

(2)There is a finding that the food facility is not complying with specific terms and conditions pursuant to which the variance was granted.

(b)The department may suspend or revoke a variance upon the grounds specified in this section only after giving the permitholder written notice of the proposed suspension or revocation, which shall include the specific reasons why the variance is proposed to be suspended or revoked. The permitholder shall be given an opportunity to be heard, in person, in writing, or through a representative, at least 24 hours before the variance can be suspended or revoked.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=13.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 13. Compliance and Enforcement [114380 - 114437]__

(Chapter 13 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 5. HACCP Exemptions [114419 - 114423]__

(Article 5 added by Stats. 2006, Ch. 23, Sec. 2.)

114419.

(a)Food facilities may engage in any of the following activities only pursuant to an HACCP plan as specified in Section 114419.1:

(1)Smoking food as a method of food preservation rather than as a method of flavor enhancement.

(2)Curing food.

(3)Using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement, or to render a food so that it is not potentially hazardous.

(4)Operating a molluscan shellfish life support system display tank used to store and display shellfish that are offered for human consumption.

(5)Custom processing animals that are for personal use as food and not for sale or service in a food facility.

(6)Preparing food by another method that is determined by the enforcement agency to require an HACCP plan.

(b)Food facilities may engage in the following only pursuant to an HACCP plan that has been approved by the department:

(1)Using acidification or water activity to prevent the growth of Clostridium botulinum.

(2)Packaging potentially hazardous food using a reduced-oxygen packaging method as specified in Section 114057.1, except if the food facility uses a reduced-oxygen packaging method to package hazardous food that always complies with the following standards with respect to packaging the hazardous food:

(A)The food is labeled with the production time and date.

(B)The food is held at 41 degrees Fahrenheit or lower during refrigerated storage.

(C)The food is removed from its package in the food facility within 48 hours after packaging.

(Amended by Stats. 2016, Ch. 195, Sec. 16. (SB 1067) Effective January 1, 2017.)

114419.1.

For a food facility that is required under Section 114419 to have an HACCP plan, the plan and specifications shall indicate all of the following:

(a)A flow diagram of the specific food for which the HACCP plan is requested, identifying critical control points and providing information on the following:

(1)Ingredients, materials, and equipment used in the preparation of that food.

(2)Formulations or recipes that delineate methods and procedural control measures that address the food safety concerns involved.

(b)A food employee and supervisory training plan that addresses the food safety issues of concern.

(c)A statement of standard operating procedures for the plan under consideration including clearly identifying the following:

(1)Each critical control point.

(2)The critical limits for each critical control point.

(3)The method and frequency for monitoring and controlling each critical control point by the food employee designated by the person in charge.

(4)The method and frequency for the person in charge to routinely verify that the food employee is following standard operating procedures and monitoring critical control points.

(5)Action to be taken by the person in charge if the critical limits for each critical control point are not met.

(6)Records to be maintained by the person in charge to demonstrate that the HACCP plan is properly operated and managed.

(d)Additional scientific data or other information, as required by the department, supporting the determination that food safety is not compromised by the proposal.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114419.2.

(a)Applicable HACCP training shall be provided and documented for food employees who work in the preparation of food for which an HACCP plan has been implemented. Training given to food employees shall be documented as to date, trainer, and subject.

(b)Verification of critical limits specified in an HACCP plan shall be conducted by a laboratory approved by the department prior to implementation of the HACCP plan. Documentation of laboratory verification shall be maintained with the HACCP plan for the duration of its implementation.

(c)No verification of the effectiveness of a critical limit shall be required if the critical limits used in the HACCP plan do not differ from the critical limits set forth in this part.

(d)The person operating a food facility pursuant to a HACCP plan shall designate at least one person to be responsible for verification of the HACCP plan. Training for the designated person shall include the seven principles of HACCP and the contents of the HACCP plan as described in Section 114419.1. HACCP training records of the designated person shall be retained for the duration of employment, or a period of not less than two years, whichever is greater.

(e)Critical limit monitoring equipment shall be suitable for its intended purpose and shall be calibrated as specified by its manufacturer. The food facility shall maintain all calibration records for a period not less than two years.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114419.3.

(a)Except as specified in Section 114419, nothing in this section shall be deemed to require the enforcement agency to review or approve an HACCP plan.

(b)The enforcement agency shall collect fees sufficient only to cover the costs for review, inspections, and any laboratory samples taken.

(c)An HACCP plan may be disapproved if it does not comply with HACCP principles.

(d)The enforcement agency may suspend or revoke its approval of an HACCP plan without prior notice if the agency finds any of the following:

(1)The plan poses a public health risk due to changes in scientific knowledge or the hazards present.

(2)The food facility does not have the ability to follow its HACCP plan.

(3)The food facility does not consistently follow its HACCP plan.

(e)Within 30 days of written notice of suspension or revocation of approval, the food facility may request a hearing to present information as to why the HACCP plan suspension or revocation should not have taken place or to submit HACCP plan changes.

(f)The hearing shall be held within 15 working days of the receipt of a request for a hearing. Upon written request of the permitholder, the hearing officer may postpone any hearing date, if circumstances warrant that action.

(g)The hearing officer shall issue a written notice of decision within five working days following the hearing. If the decision is to suspend or revoke approval, the reason for suspension or revocation shall be included in the written decision.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114421.

(a)Each food facility that identifies a trade secret shall provide in writing to the enforcement agency the information they consider to be a trade secret.

(b)The enforcement agency shall treat as confidential, to the extent allowed by law, information that meets the criteria specified in law for a trade secret and is contained on inspection report forms and in the plans and specifications submitted as specified under Section 114419.1.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114423.

A microbial challenge study may be submitted to the enforcement agency for review for purposes of verifying that a food does not constitute a potentially hazardous food.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=13.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 13. Compliance and Enforcement [114380 - 114437]__

(Chapter 13 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 6. Exemptions [114425 - 114429.5]__

(Article 6 added by Stats. 2006, Ch. 23, Sec. 2.)

114425.

Raw duck that otherwise would be readily perishable shall be exempt from Section 113996 for a period not to exceed two hours, if the duck will subsequently be cooked at or above a temperature of 350Â°F for at least 60 minutes.

(a)Whole Chinese-style roast duck shall be exempt from Section 113996 for a period not to exceed four hours after the duck is prepared, if the methods used to prepare the food inhibit the growth of microorganisms that can cause food infections or food intoxications. Nothing in this section shall be construed to supersede any provisions of this part, except the provisions specified in this section.

(b)For the purposes of this section, Chinese-style roast duck shall include, but not be limited to, Chinese-style barbecue duck, dry hung duck, and Peking duck. Chinese-style roast duck means duck which is prepared as follows:

(1)The abdominal cavity is cleaned.

(2)The duck is marinated.

(3)The cavity is closed prior to cooking.

(4)The duck is roasted at a temperature of 350Â°F or more for at least 60 minutes.

(Repealed and added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114427.

The Mercado La Paloma, located at 3655 South Grand Avenue in Los Angeles, operated by Esperanza Community Housing Corporation, which is a public market open only on one side that meets the following criteria, shall be exempt from Section 114266:

(a)All facilities inside the Mercado La Paloma have overhead protection that extends over all food items.

(b)All facilities inside the Mercado La Paloma are enclosed on at least two sides.

(c)All facilities inside the Mercado La Paloma are under the constant and complete control of the operator.

(d)During periods of inoperation, food, utensils, and related items shall be stored so as to be adequately protected at all times from contamination, exposure to the elements, ingress of vermin, and temperature abuse.

(e)During all hours of operation, air curtains shall be in operation over all unclosed door openings to the outside to exclude flying pests.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114429.

(a)Notwithstanding Sections 113996 and 114343 and if permitted by federal law, a food facility may sell Korean rice cakes that have been at room temperature for no more than 24 hours.

(b)At the end of the operating day, Korean rice cakes that have been at room temperature for no more than 24 hours shall be destroyed in a manner approved by the enforcement agency.

(c)For purposes of this section, a Korean rice cake is defined as a confection that contains rice powder, salt, sugar, various edible seeds, oil, dried beans, nuts, dried fruits, and dried pumpkin. The ingredient shall not include any animal fats or any other products derived from animals.

(d)All manufacturers of Korean rice cakes shall place a label on the Korean rice cake as prescribed by Section 111223.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

114429.3.

(a)Notwithstanding Sections 113996 and 114343 and if permitted by federal law, a food facility may sell Vietnamese rice cakes that have been at no more than 70 degrees Fahrenheit for no more than 24 hours.

(b)Vietnamese rice cakes that have been at no more than 70 degrees Fahrenheit but have been stored for more than 24 hours shall be destroyed in a manner approved by the enforcement agency.

(c)All Vietnamese rice cakes shall bear a label meeting the requirements of Section 111223.

(Added by Stats. 2016, Ch. 193, Sec. 4. (SB 969) Effective January 1, 2017.)

114429.5.

(a)Notwithstanding Sections 113996 and 114343, and if permitted by federal law, a food facility may sell

Asian rice-based noodles that have been kept at room temperature for no more than four hours.

(b)Asian rice-based noodles that have been kept at room temperature shall be consumed or cooked within four hours of the date and time labeled on the product. Asian rice-based noodles that have been kept at room temperature shall be segregated for destruction from other Asian rice-based noodles in a manner approved by the local enforcement agency after four hours of the date and time labeled on the product.

(c)At the end of the operating day, Asian rice-based noodles that have been kept at room temperature for more than four hours shall be destroyed in a manner approved by the local enforcement agency.

(d)(1)For purposes of this section, an Asian rice-based noodle means a rice-based pasta that contains rice powder, water, wheat starch, vegetable cooking oil, and optional ingredients to modify the pH or water activity, or to provide a preservative effect. The ingredients shall not include any animal fats or any other products derived from animals. An Asian rice-based noodle is prepared by using a traditional method that includes cooking by steaming at not less than 130 degrees Fahrenheit, for not less than four minutes.

(2)If the Asian rice-based noodles maintain a pH of not more than 4.6, as measured at a temperature of 76 degrees Fahrenheit, a water activity of 0.85 or below, or have been determined by the department to be a nonpotentially hazardous food based on formulation and supporting laboratory documentation submitted to the department by the manufacturer, the restrictions provided in subdivisions (a) to (c), inclusive, shall not apply to the Asian rice-based noodles.

(Amended by Stats. 2012, Ch. 658, Sec. 3. (SB 1465) Effective January 1, 2013.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=13.&article=7.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 13. Compliance and Enforcement [114380 - 114437]__

(Chapter 13 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 7. Food Facility Food Donations [114432 - 114435]__

(Article 7 added by Stats. 2006, Ch. 23, Sec. 2.)

114432.

(a)A person, gleaner, or food facility may donate food to a food bank or to any other nonprofit charitable organization for distribution to persons free of charge. Food facilities may donate food directly to end recipients for consumption.

(b)For purposes of this section, person has the same meaning as defined in Section 1714.25 of the Civil Code.

(c)For purposes of this section gleaner has the same meaning as defined in Section 1714.25 of the Civil Code.

(Amended by Stats. 2017, Ch. 619, Sec. 6. (AB 1219) Effective January 1, 2018.)

114433.

A person, gleaner, or food facility that donates food as permitted by Section 114432 shall not be subject to civil or criminal liability or penalty for violation of any laws, regulations, or ordinances regulating the labeling or packaging of the donated product or, with respect to any other laws, regulations, or ordinances, for a violation occurring after the time of the donation. The donation of nonperishable food that is fit for human consumption but that has exceeded the labeled shelf life date recommended by the manufacturer is protected under the California Good Samaritan Food Donation Act. The donation of perishable food that is fit for human consumption but that has exceeded the labeled shelf life date recommended by the manufacturer is protected under the California Good Samaritan Food Donation Act if the person that distributes the food to the end recipient makes a good faith evaluation that the food to be donated is wholesome.

(Amended by Stats. 2017, Ch. 619, Sec. 7. (AB 1219) Effective January 1, 2018.)

114434.

The immunities provided in Section 114433 and by Section 1714.25 of the Civil Code, the California Good Samaritan Food Donation Act, are in addition to any other immunities provided by law, including those provided by Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code.

(Amended by Stats. 2017, Ch. 619, Sec. 8. (AB 1219) Effective January 1, 2018.)

114435.

In implementing this article, enforcement officers shall promote the recovery of food fit for human consumption during their normal, routine inspections. Promotion shall include, but not be limited to, newsletters, bulletins, and handouts that inform retail food facility operators about the protections from civil and criminal liability when donating food.

(Added by Stats. 2017, Ch. 619, Sec. 9. (AB 1219) Effective January 1, 2018.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=13.&article=8.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 7. CALIFORNIA RETAIL FOOD CODE [113700 - 114437]__

(Part 7 repealed and added by Stats. 2006, Ch. 23, Sec. 2.)

__CHAPTER 13. Compliance and Enforcement [114380 - 114437]__

(Chapter 13 added by Stats. 2006, Ch. 23, Sec. 2.)

__ARTICLE 8. Child Day Care Facilities, Community Care Facilities, and Residential Care Facilities for the Elderly [114437- 114437.]__

(Article 8 added by Stats. 2006, Ch. 23, Sec. 2.)

114437.

If and when a specific appropriation is made available, the State Department of Social Services shall develop new regulations regarding food preparation provisions for child day care facilities, community care facilities, and residential care facilities for the elderly that would carry out the intent of this part to ensure the health and safety of individuals and that would not adversely affect those facilities that are safely operated. In developing proposed food preparation provisions for child day care facilities, the State Department of Social Services shall consult with the department and the State Department of Education.

(Added by Stats. 2006, Ch. 23, Sec. 2. Effective January 1, 2007. Operative July 1, 2007, by Sec. 3 of Ch. 23.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=8.&chapter=&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=8.&chapter=1.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=8.&chapter=2.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=8.&chapter=3.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.

&title=&part=8.&chapter=3.&article=)

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=9.&chapter=&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=9.&chapter=1.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=9.&chapter=2.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=9.&chapter=3.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=9.&chapter=4.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=4.&article=1.

114650.

(a)As used in this chapter, the following definitions shall apply:

(1)Agency or office means the Office of Emergency Services.

(2)Department means the State Department of Public Health.

(3)Disburse or disbursement means a payment in advance from the Nuclear Planning Assessment Special Account, as specified in paragraph (5) of subdivision (b) of Section 8610.5 of the Government Code.

(4)Emergency planning zone means a zone identified in state and local government emergency plans where immediate decisions for effective public protective action from radiation may be necessary.

(5)Exercise means an event that tests emergency plans and organizations and that the Federal Emergency Management Agency evaluates pursuant to Part 350 (commencing with Section 350.1) of Subchapter E of Chapter I of Title 44 of the Code of Federal Regulations.

(6)Ingestion pathway phase means the period beginning after any release of radioactive material from a nuclear powerplant accident when the plume emergency phase has ceased, and reliable environmental measurements are available for making decisions on additional protective actions to protect the food chain. The main concern is to prevent exposure from ingestion of contaminated water or food, such as milk, fresh vegetables, or aquatic foodstuffs.

(7)Ingestion pathway zone means the 50-mile radius around each of the statesnuclear powerplants in which protective actions may be required to protect the food chain in the event of an emergency.

(8)Interjurisdictional Planning Committee means the planning committee, comprised of representatives of the Counties of Orange and San Diego, the Cities of Dana Point, San Clemente, and San Juan Capistrano, the Camp Pendleton Marine Corps Base, the State Department of Parks and Recreation, and the Southern California Edison Company, established as a mechanism for coordinating integrated preparedness and response in the event of an emergency at the San Onofre Nuclear Generating Station.

(9)Local government means a city or county that provides emergency response for a nuclear powerplant emergency.

(10)Local jurisdiction means an entity that provides emergency response for a nuclear powerplant emergency in accordance with the plans of a local government.

(11)Plume emergency phase means the period beginning at the onset of an emergency at a nuclear powerplant when immediate decisions for public protective actions are needed.

(12)Recovery phase means the period when actions designed to reduce radiation levels in the environment to acceptable levels for unrestricted use are commenced, and ending when all recovery actions have been completed.

(13)Site means the location of a nuclear powerplant and its surrounding emergency planning zone.

(Amended by Stats. 2013, Ch. 352, Sec. 386. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

114655.

(a)The Legislature hereby finds and declares as follows:

(1)Existing law requires the development and maintenance of a nuclear powerplant emergency response program by state and local governments based on federal and state criteria.

(2)The office, in consultation with the department and the counties, has investigated the consequences of a serious nuclear powerplant accident and has established plume emergency phase and ingestion pathway phase planning zones for each site. These zones imply mutually supportive emergency planning and preparedness arrangements by all levels of government.

(3)An integrated emergency planning program is necessary for the benefit of the citizens within the planning zones.

(b)Nothing in this chapter limits the activities of any government in carrying out its general responsibilities pertaining to the public health and the safety aspects of emergency response.

(Amended by Stats. 2013, Ch. 352, Sec. 387. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=4.&article=2.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=104.&title=&part=9.&chapter=4.&article=2.)

114660.

(a)The office is responsible for the coordination and integration of all emergency planning programs and response plans under this chapter. If there is a nuclear powerplant accident, the office shall coordinate information and resources to support local governments in a joint state and local government decisionmaking process.

(b)The office shall perform all of the following duties and functions:

(1)Coordinate the activities of all state agencies relating to preparation and implementation of the State Nuclear Power Plant Emergency Response Plan. The office shall be the focal point for coordinating nuclear powerplant emergency preparedness activities with local governments, other state agencies, federal agencies, and other organizations.

(2)Exercise explicit ultimate authority for allocating funds from the Nuclear Planning Assessment Special Account to local governments.

(3)Coordinate and participate in exercises of the statesnuclear emergency response plan with each site during its federally evaluated exercise.

(4)Ensure that state personnel are adequately trained to respond in the event of an actual emergency. The exercises shall include the department and other relevant state agencies.

(5)In consultation with the department, review protective action recommendations developed by the utilities and local government representatives.

(6)Coordinate planning guidance to state agencies and local governments.

(7)Ensure the development and maintenance of the State Nuclear Power Plant Emergency Response Plan and procedures necessary to carry out those responsibilities and review and approve state agency plans in draft prior to publication.

(8)Exercise discretionary authority regarding the formation of interagency agreements with state agencies having local emergency responsibilities, to ensure state agencies have updated emergency plans and trained emergency response personnel to respond during the plume emergency phase.

(9)Conduct a study similar to that described in Section 8610.3 of the Government Code, for any nuclear powerplant with a generating capacity of 50 megawatts or more that is proposed for licensing in this state.

(Amended by Stats. 2013, Ch. 352, Sec. 389. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=4.&article=3.

114662.

(a) The department shall provide technical support for plume emergency phase response. During the ingestion pathway and recovery phases, the department shall have the lead technical role and shall participate in a joint state and local government protective action decisionmaking process. The department shall prepare the ingestion pathway and recovery plan, and shall provide guidelines for local government ingestion pathway and recovery plans.

(b) The department shall maintain plans for communicating public health information during the ingestion pathway and recovery phases. The department shall also maintain a radiological advisory team, and shall maintain a list of medical facilities capable of caring for radiological casualties.

(c) The department shall perform all of the following duties and functions:

(1) Act as the responsible entity for ensuring that ingestion pathway and recovery plans are maintained and ready to be implemented, including necessary training and exercises, in coordination with affected counties and the office.

(2) Establish protective action guidelines for ingestion pathway and recovery operations with reference to the recommendations of the federal Environmental Protection Agency.

(3) Coordinate development and maintenance by counties of, and review any information database of food, water, and animal resources for, the 50-mile ingestion pathway zone around the San Onofre and Diablo Canyon nuclear powerplants.

(4) Establish measurement standards and procedures to assess radioactivity in exposure pathways, including, but not limited to, food, water, and animals, which are compatible with the federal Environmental Protection Agencysstandards and procedures.

(5) Support local government nuclear emergency planning, training, exercises, and response in coordination with the office.

(6) Maintain plans for coordinating the dissemination of public health information during the recovery phase of a nuclear powerplant emergency.

(7) Define and maintain a radiological advisory team, which shall not make decisions within the jurisdiction of emergency planning and response organizations. The guidelines for the team shall include, but not be limited to, all of the following requirements:

(A) The team shall include individuals with expertise in medicine, radiation biology, radiation casualty management, emergency preparedness and disaster response, public health, and government responsibilities.

(B) The team shall be available to advise the department on its nuclear powerplant emergency planning and response.

(C) The team may provide advice and counsel regarding radiation protection safety issues.

(8) Maintain guidelines for the designation for medical facilities that would be capable of managing and caring for casualties caused by a nuclear radiation accident.

(9) Develop and maintain a list of medical facilities that meet the statewide guidelines.

(Added by Stats. 1998, Ch. 543, Sec. 5. Effective January 1, 1999.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=4.&article=4.

__ARTICLE 4. Responsibilities of Local Government [114677- 114677.]__

(Article 4 repealed and added by Stats. 1998, Ch. 543, Sec. 5.)

114677.

(a) Local governments shall develop and maintain radiological emergency preparedness and response plans to safeguard the public in the emergency planning zone around a nuclear powerplant.

(b) The responsibilities of local government within an emergency planning zone include, but are not limited to, all of the following:

(1) Preemergency preparedness, including developing, maintaining, and enhancing radiological emergency response plans and procedures; maintaining emergency management organizations and operations and field response organizations; making training available to local government organizations in conjunction with utilities; providing public information and education in conjunction with utilities ; maintaining essential communications systems; and implementing other preemergency preparedness measures, as required in accordance with federal requirements and state plans and procedures.

(2) Managing plume emergency phase response actions; providing available resources for emergency response; notifying emergency workers and the public; providing emergency public information; making protective action decisions and taking protective action response, to provide public health support in conjunction with the utility and state; providing radiologic exposure control; procuring additional resources, and taking other actions needed for emergency response.

(3) Participating in a joint state and local government decisionmaking process during ingestion pathway phases and recovery phases; coordinating implementation of protective action decisions with state and federal governments; continuing emergency public information in conjunction with state and federal organizations; and providing support for security of evacuated areas.

(c) At the San Onofre Nuclear Generating Station, the Interjurisdictional Planning Committee shall identify a discussion leader to facilitate local government protective action decisions during the plume emergency phase of a nuclear powerplant emergency.

(d) A local government within an emergency planning zone may request services from a jurisdiction outside the emergency planning zone that are necessary to support an evacuated emergency planning zone population. Services requested by a local government within the emergency planning zone may include, but are not limited to, public information, congregate care, traffic management, radiological monitoring or decontamination of evacuees, and interjurisdictional coordination.

(Repealed and added by Stats. 1998, Ch. 543, Sec. 5. Effective January 1, 1999.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=4.&article=5.

__ARTICLE 5. Responsibilities of Entities Providing Utilities [114680- 114680.]__

(Article 5 repealed and added by Stats. 1998, Ch. 543, Sec. 5.)

114680.

Entities providing utilities shall perform all of the following duties and functions:

(a) Any public or private utility that operates a nuclear powerplant in the state shall have a response organization that can be integrated with federal, state, and local government emergency response resources during a radiological accident.

(b) Nuclear facility operators shall develop and maintain radiological emergency preparedness and response plans in coordination with state and local government.

(c) Nuclear utilities have the primary responsibility for planning and implementing emergency measures within facility boundaries and shall do all of the following:

(1) Perform accident assessments.

(2) Prepare public protective action recommendations for decisionmakers during the plume emergency phase.

(3) Provide information to the appropriate state and local government in support of their independent assessment of offsite radiological conditions relevant to protective action decisions during the plume emergency phase.

(4) Coordinate with state and local governments in maintaining nuclear powerplant public education information.

(5) Support state and local government in nuclear powerplant planning, training, drills and exercises, and emergency preparedness efforts.

(Repealed and added by Stats. 1998, Ch. 543, Sec. 5. Effective January 1, 1999.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=4.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. The Radiation Protection Act of 1999 [114650 - 114685]__

(Chapter 4 repealed and added by Stats. 1998, Ch. 543, Sec. 5.)

__ARTICLE 6. Responsibilities of Other Agencies [114685- 114685.]__

(Article 6 repealed and added by Stats. 1998, Ch. 543, Sec. 5.)

114685.

(a) The Department of Transportation shall include within its criteria for funding, repair, and construction projects, the need for adequate emergency evacuation routes.

(b) State and local law enforcement agencies shall ensure all of the following:

(1) Traffic flow plans for areas outside the emergency planning zones shall adequately reflect the possible evacuation of residents outside those zones.

(2) Traffic flow plans shall take into consideration that some evacuation routes may be impassible under certain weather conditions and shall have plans for designating alternative routes.

(3) Officers who may be needed to respond during a nuclear powerplant emergency shall receive the necessary training, including refresher courses at least once each year.

(c) Local jurisdictions within an emergency planning zone shall coordinate nuclear powerplant emergency response plans and procedures with local governments and shall participate in training, drills, and exercises as needed.

(Repealed and added by Stats. 1998, Ch. 543, Sec. 5. Effective January 1, 1999.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=9.&chapter=5.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=5.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Containment of Radioactive Materials [114705 - 114835]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Control of Radioactive Contamination of the Environment [114705 - 114780]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

114705.

The Legislature finds and declares that radioactive contamination of the environment may subject the people of the State of California to unnecessary exposure to ionizing radiation unless it is properly controlled. It is therefore declared to be the policy of this state that the department initiate and administer necessary programs of surveillance and control of those activities that could lead to the introduction of radioactive materials into the environment.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114710.

As used in this article the following terms have the meanings described in this section.

(a) Department means the State Department of Health Services.

(b) Environment means all places outside the control of the person responsible for the radioactive materials.

(c) Field tracer study is any project, experiment, or study that includes provision for deliberate introduction of radioactive material into the environment for experimental or test purposes.

(d) Person includes any association of persons, copartnership or corporation.

(e) Radiation, or ionizing radiation, means gamma rays and X-rays; alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(f) Radioactive material means any material or combination of materials that spontaneously emits ionizing radiation.

(g) Radioactive waste means any radioactive material that is discarded as nonusable.

(h) Significant or significantly, as applied to radioactive contamination, means concentrations or amounts of radioactive material as are likely to expose persons to ionizing radiation equal to or greater than the guide levels published by the Federal Radiation Council.

(i) Radiological monitoring means the measurement of the amounts and kinds of radioactive materials in the environment.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114715.

No person shall bury, throw away, or in any manner dispose of radioactive wastes within the state except in a manner and at locations as will result in no significant radioactive contamination of the environment.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114720.

The department may, by written order, prohibit the disposal of radioactive wastes by any person when, upon investigation, it has determined that the disposal violates Section 114715.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114725.

The department may, by written order, prohibit the storage, packaging, transporting, or loading of radioactive wastes if there is a reasonable likelihood that the activities will result in significant radioactive contamination of the environment.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114730.

The person to whom an order has been issued pursuant to Section 114720 or 114725 may appeal the order of the department to any court of competent jurisdiction.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114735.

The department may bring an action in a court of competent jurisdiction to enjoin the storage, packaging, transporting, loading, or disposal of radioactive wastes in violation of any written order issued by the department pursuant to Section 114720 or 114725. The court may, if it appears necessary, enjoin any person from using radioactive material who thereby produces radioactive waste that the court finds is being disposed of in violation of this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114740.

The department shall maintain surveillance over the storage, packaging, transporting, and loading of radioactive material within this state regardless of the materialsultimate destination. In carrying out its duties under this section, the department may enter into an agreement with the Division of Occupational Safety and Health and other state and local agencies to conduct any appropriate inspection and enforcement activities. Any agreement with state and local agencies shall not duplicate work to be done pursuant to agreement with the Division of Occupational Safety and Health, nor shall work done by the Division of Occupational Safety and Health duplicate work agreed to be done by other state and local agencies. Licensees of the Nuclear Regulatory Commission and the facilities of the Department of Energy and the Department of Defense are exempt from this section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114745.

No person shall operate a nuclear reactor, nuclear fuel reprocessing plant, or other installation, as defined by the department, that could, as a result of routine operations, accident, or negligence, significantly contaminate the environment with radioactive material, without first instituting and maintaining an adequate program of radiological monitoring. The proposed program shall be submitted to the department for review and acceptance as to its adequacy.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114750.

No person shall conduct any field tracer study unless detailed plans of the study have been approved by the department. In reviewing proposed field tracer studies, the department shall consider at least the following elements:

(a) That there is shown to be a substantial public interest in the information intended to be obtained by the study.

(b) That the study will be performed by persons or agencies competent to handle and use the radioactive material safely and with due regard for potential effects on public health.

(c) That the study is planned so as to impose the least possible exposure to ionizing radiation consistent with achieving the studysdesired objectives.

(d) That there is no likelihood that any person will be exposed to ionizing radiation in excess of guide levels published by the Federal Radiation Council. The department may, as a condition to its approval of a field tracer study, require a representative of the department to be present during the study.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114755.

The department shall monitor radioactive materials in the environment, including radioactive materials in media such as air, milk, food, and water in locations and with a frequency as the department may deem necessary to determine radiation exposure to the people of the state from the materials.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114760.

The department shall, at least once per month, make public to news media the results of its monitoring of radioactive materials.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114765.

Any regulations relating to radioactive material cargo, including, but not limited to, packing, marking, loading, handling, and transportation, shall be reviewed and made compatible with the federal regulations adopted pursuant to the federal Department of Transportation Docket No. HM-164, Notice No. 80-1, within 60 days of the date the federal regulations become effective.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114775.

The department, utilizing available funds and in cooperation with the Department of Fish and Game and the Joint Committee on Fisheries and Aquaculture, shall do all of the following:

(a) Cooperate with any federal agency that conducts monitoring of marine life or ocean waters, or both, at the sites of radioactive waste dumping off the California coast to determine the effects of the dumping.

(b) Purchase and test samples of seafood taken in the vicinity of the Farallon Islands radioactive waste dump site to determine whether the seafood contains radioactivity beyond natural and artificial background levels.

(c) Make annual reports to the Legislature on the implementation of this section, including any recommendations for legislation it deems necessary to protect the health of Californians.

(d) Take emergency action pursuant to the general authority contained in the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875)) to prohibit the commercial sale of seafood for human consumption if, in the judgment of the director, samples analyzed pursuant to subdivision (b), are found to contain radioactivity that poses a threat to human health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114780.

(a) The Legislature finds and declares that the dumping of radioactive waste, including the scuttling of radioactive nuclear submarines, into the Pacific Ocean, could adversely affect the California coastal zone.

(b) The California Coastal Commission, in cooperation when appropriate with the department, the Department of Justice, the Department of Fish and Game, and the Joint Committee on Fisheries and Aquaculture, shall use any means available to the commission, pursuant to law, to prevent any dumping of radioactive waste in the Pacific Ocean by any public or private entity, unless the commission finds that the dumping would be consistent with the goals and policies of Division 20 (commencing with Section 30000) of the Public Resources Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=5.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Containment of Radioactive Materials [114705 - 114835]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Radiation Monitoring Devices for Nuclear Power Plants [114785 - 114810]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

114785.

Each privately owned and publicly owned public utility operating a nuclear powerplant with a generating capacity of 50 megawatts or more shall establish a system of offsite radiation monitoring devices as specified by the Nuclear Regulatory Commission pursuant to Regulatory Guide 1.97 or related standards. The utility shall consult with the department and the appropriate county emergency services agency regarding the type, number, and locations of the radiation monitoring devices. The consultation with the department and the appropriate county emergency services agency shall be completed prior to submitting a plan to the Nuclear Regulatory Commission regarding the radiation monitoring devices.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114790.

The information transmitted to the radiation monitoring displays in the technical support center or emergency operating facility of a nuclear powerplant shall be simultaneously transmitted to the Office of Emergency Services State Warning Center.

(Amended by Stats. 2013, Ch. 352, Sec. 390. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

114795.

The funds expended by privately owned utilities complying with this article shall be allowed for ratemaking purposes by the Public Utilities Commission. Publicly owned utilities shall include funds expended complying with this article in their rates.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114800.

In no event shall a plant operator be required to spend more than one million dollars ($1,000,000) in capital outlay for a nuclear powerplant site in complying with this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114805.

Nothing in this article shall require powerplant modifications or the conduct of operations that may be in conflict with conditions of the license to operate issued by the Nuclear Regulatory Commission or with other

activities authorized by the Nuclear Regulatory Commission, or that may be in conflict with regulations of the Environmental Protection Agency.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114810.

Failure to comply with this article shall not constitute the basis for an action in a court of law or in an administrative proceeding to enjoin or prevent the operation or start-up of a nuclear facility.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=5.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Containment of Radioactive Materials [114705 - 114835]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Transportation of Radioactive Materials [114815 - 114835]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

114815.

For the purposes of this article the term radioactive materials shall include any material or combination of materials that spontaneously emits ionizing radiation.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114820.

(a)The department, with the assistance of the Office of Emergency Services, the State Energy Resources Conservation and Development Commission, and the Department of the California Highway Patrol shall, with respect to any fissile radioactive material coming within the definition of fissile class II, fissile class III, large quantity radioactive materials, or low-level radioactive waste provided by the regulations of the United States Department of Transportation (49 C.F.R. 173.389), do all of the following:

(1)Study the adequacy of current packaging requirements for radioactive materials.

(2)Study the effectiveness of special routing and timing of radioactive materials shipments for the protection of the public health.

(3)Study the advantages of establishing a tracking system for shipments of most hazardous radioactive materials.

(b)The department, with the assistance of the Office of Emergency Services, the State Energy Resources Conservation and Development Commission, and the Department of the California Highway Patrol, shall extend the nuclear emergency response plan to include radioactive materials in transit and provide training for law enforcement officers in dealing with those threats.

(c)Subject to Section 114765, the department, in cooperation with the Department of the California Highway Patrol, shall adopt, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable regulations that, in the judgment of the department, promote the safe transportation of radioactive materials. The regulations shall (1) prescribe the use of signs designating radioactive material cargo; shall designate, in accordance with the results of the studies done pursuant to subdivision (a), the manner in which the shipper shall give notice of the shipment to appropriate authorities; (2) prescribe the packing, marking, loading, and handling of radioactive materials, and the precautions necessary to determine whether the material when offered is in proper condition to transport, but shall not include the equipment and operation of the carrier vehicle; and (3) be reviewed and amended, as required, pursuant to Section 114765. The regulations shall be compatible with those established by the federal agency or agencies required or permitted by federal law to establish the regulations.

(d)Subject to Section 114765, the Department of the California Highway Patrol, after consulting with the department, shall adopt regulations specifying the time at which shipments may occur and the routes that are to be used in the transportation of cargoes of hazardous radioactive materials, as those materials are defined in regulations of the department.

(Amended by Stats. 2013, Ch. 352, Sec. 391. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

114825.

Regulations adopted by the department pursuant to Section 114820 may be enforced, within their respective jurisdictions, by any authorized representatives of the department, the Division of Industrial Safety of the Department of Industrial Relations, the Public Utilities Commission, the health department of any city or county, the Department of the California Highway Patrol, or any traffic officer as defined by Section 625 of the Vehicle Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114830.

It is the legislative intention in enacting this article that the regulations adopted by the department pursuant to this article shall apply uniformly throughout the state, and no state agency, city, county, or other political subdivision of this state, including a chartered city or county, shall adopt or enforce any ordinance or regulation that is inconsistent with the regulations adopted by the department pursuant to this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114835.

A violation of any regulation adopted by the department pursuant to Section 114820 is a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=9.&chapter=6.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=6.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Radiologic Technology [114840 - 114896]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Declaration of Policy [114840 - 114845]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

114840.

The Legislature finds and declares that the public health interest requires that the people of this state be protected from excessive and improper exposure to ionizing radiation. It is the purpose of this chapter to establish standards of education, training, and experience for persons who use X-rays on human beings and to prescribe means for assuring that these standards are met.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114845.

The Legislature finds and declares that the public health interest requires that increased steps be taken to ensure the accuracy of mammograms, including increased inspections and calibration of equipment, competency requirements for radiologic technologists, accreditation of mammography facilities, and the use of computers to read mammograms.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.

&title=&part=9.&chapter=6.&article=2.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=6.&article=2.)

114850.

For the purposes of the Radiologic Technology Act (Section 27) and this chapter:

(a)Department means the State Department of Public Health.

(b)Committee means the Radiologic Technology Certification Committee.

(c)Radiologic technology means the application of x-rays on human beings for diagnostic or therapeutic purposes.

(d)Radiologic technologist means any person, other than a licentiate of the healing arts, making application of x-ray to human beings for diagnostic, mammographic, or therapeutic purposes pursuant to subdivision (b) of Section 114870.

(e)Limited permit means a permit issued pursuant to subdivision (c) of Section 114870 or Section 114871 to persons to conduct radiologic technology limited to the performance of certain procedures or the application of x-rays to specific areas of the human body, except for a mammogram.

(f)Approved school for radiologic technologists means a school or approved educational program that the department has determined provides a course of instruction in radiologic technology that is adequate to meet the purposes of the Radiologic Technology Act (Section 27).

(g)Supervision means responsibility for, and control of, quality, radiation safety, and technical aspects of all x-ray examinations and procedures.

(h)(1)Licentiate of the healing arts means a person licensed under the provisions of the Medical Practice Act, the provisions of the initiative act entitled An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent herewith, approved by electors November 7, 1922, as amended, or the Osteopathic Act.

(2)For purposes of Section 114872, a licentiate of the healing arts means a person licensed under the Physician Assistant Practice Act (Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code) who practices under the supervision of a qualified physician and surgeon pursuant to the act and pursuant to Division 13.8 of Title 16 of the California Code of Regulations.

(i)Certified supervisor or operator means a licentiate of the healing arts who has been certified under subdivision (e) or (f) of Section 114870 or 107111 to supervise the operation of x-ray machines or to operate x-ray machines, or both.

(j)Student of radiologic technology means a person who has started and is in good standing in a course of instruction that, if completed, would permit the person to be certified a radiologic technologist or granted a limited permit upon satisfactory completion of any examination required by the department. Student of radiologic technology does not include any person who is a student in a school of medicine, chiropractic, podiatry, dentistry, dental radiography, or dental hygiene.

(k)Mammogram means an x-ray image of the human breast.

(l)Mammography means the procedure for creating a mammogram.

(Amended by Stats. 2023, Ch. 42, Sec. 47. (AB 118) Effective July 10, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=6.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Radiologic Technology [114840 - 114896]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Radiologic Technology Certification [114855 - 114865]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

114855.

The department shall appoint a certification committee to assist, advise, and make recommendations for the establishment of regulations necessary to insure the proper administration and enforcement of this chapter, and for those purposes to serve as consultants to the department. The appointments shall be made from lists of at least three nominees for each position submitted by appropriate professional associations and societies designated by the Director of Health Services, and provisions shall be made for orderly rotation of

membership.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114860.

The committee shall consist of the director or his or her designate, who shall serve as chairperson ex officio, but who shall not vote, and the following 11 members who are residents of the state:

(a) Six physicians and surgeons licensed to practice medicine in this state, three of whom shall be certified in radiology by the American Board of Radiology. At least one of the radiologists shall be representative of the hospital practice of radiology.

(b) Two persons with at least five years™ experience in the practice of radiologic technology. At least one of these persons shall be representative of the hospital practice of radiologic technology. Except for the appointment of these two persons to the first committee, every person thereafter appointed to the committee under this subdivision shall be certified as a radiologic technologist.

(c) One radiological physicist, qualified in the use of physics in the practice of medicine.

(d) One podiatrist licensed to practice podiatry in this state.

(e) One chiropractic practitioner licensed to practice chiropractic in this state.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114865.

Members of the committee shall serve without compensation but shall receive their actual and necessary expenses incurred in the performance of the duties of their office.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=6.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Radiologic Technology [114840 - 114896]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Committee Administration and Regulations [114870 - 114896]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

114870.

The department shall do all of the following:

(a)Upon recommendation of the committee, adopt regulations as may be necessary to accomplish the purposes of this chapter.

(b)(1)Provide for certification of radiologic technologists, without limitation as to procedures or areas of application, except as provided in Section 106980. Separate certificates shall be provided for diagnostic radiologic technology, for mammographic radiologic technology, and for therapeutic radiologic technology. If a person has received accreditation to perform mammography from a private accreditation organization, the department shall consider this accreditation when deciding to issue a mammographic radiologic technology certificate.

(2)Provide, upon recommendation of the committee, that a radiologic technologist who operates digital radiography equipment devote a portion of his or her continuing education credit hours to continuing education in digital radiologic technology.

(c)(1)(A)Provide, as may be deemed appropriate, for granting limited permits to persons to conduct radiologic technology limited to the performance of certain procedures or the application of X-rays to specific areas of the human body, except for mammography, prescribe minimum standards of training and experience for these persons, and prescribe procedures for examining applicants for limited permits. The minimum standards shall include a requirement that persons granted limited permits under this subdivision shall meet those fundamental requirements in basic radiological health training and knowledge similar to those required for persons certified under subdivision (b) as the department determines are reasonably necessary for the protection of the health and safety of the public.

(B)Provide that an applicant for approval as a limited permit X-ray technician in the categories of chest

radiography, extremities radiography, gastrointestinal radiography, genitourinary radiography, leg-podiatric radiography, skull radiography, and torso-skeletal radiography, as these categories are defined in Section 30443 of Title 17 of the California Code of Regulations, shall have at least 50 hours of education in radiological protection and safety. The department may allocate these hours as it deems appropriate.

(2)Provide that a limited permit X-ray technician in the categories of chest radiography, extremities radiography, gastrointestinal radiography, genitourinary radiography, leg-podiatric radiography, skull radiography, and torso-skeletal radiography, as these categories are defined in Section 30443 of Title 17 of the California Code of Regulations, may perform digital radiography within their respective scopes of practice after completion of 20 hours or more of instruction in digital radiologic technology approved by the department. This requirement shall not be construed to preclude limited permit X-ray technicians in the categories of dental laboratory radiography and X-ray bone densitometry from performing digital radiography upon meeting the educational requirements determined by the department.

(3)Provide, upon recommendation of the committee, that a limited permit X-ray technician who has completed the initial instruction described in paragraph (2) devote a portion of his or her required continuing education credit hours to additional continuing instruction in digital radiologic technology.

(d)Provide for the approval of schools for radiologic technologists. Schools for radiologic technologists shall include 20 hours of approved instruction in digital radiography. The department may exempt a school from this requirement as it deems appropriate.

(e)Provide, upon recommendation of the committee, for certification of licentiates of the healing arts to supervise the operation of X-ray machines or to operate X-ray machines, or both, prescribe minimum standards of training and experience for these licentiates of the healing arts, and prescribe procedures for examining applicants for certification. This certification may limit the use of X-rays to certain X-ray procedures and the application of X-rays to specific areas of the human body.

(f)(1)Provide for certification of any physician and surgeon to operate, and supervise the operation of, a bone densitometer, if that physician and surgeon provides the department a certificate that evidences training in the use of a bone densitometer by a representative of a bone densitometer machine manufacturer, or through any radiologic technology school. The certification shall be valid for the particular bone densitometer the physician and surgeon was trained to use, and for any other bone densitometer that meets all of the criteria specified in subparagraphs (A) to (C), inclusive, if the physician and surgeon has completed training, as specified in subparagraph (A) of paragraph (2), for the use of that bone densitometer. The physician and surgeon shall, upon request of the department, provide evidence of training, pursuant to subparagraph (A) of paragraph (2), for the use of any bone densitometer used by the physician and surgeon. The activity covered by the certificate shall be limited to the use of an X-ray bone densitometer to which all of the following is applicable:

(A)The bone densitometer does not require user intervention for calibration.

(B)The bone densitometer does not provide an image for diagnosis.

(C)The bone densitometer is used only to estimate bone density of the heel, wrist, or finger of the patient.

(2)The certificate shall be accompanied by a copy of the curriculum covered by the manufacturersrepresentative or radiologic technology school. The curriculum shall include, at a minimum, instruction in all of the following areas:

(A)Procedures for operation of the bone densitometer by the physician and surgeon, and for the supervision

of the operation of the bone densitometer by other persons, including procedures for quality assurance of the bone densitometer.

(B)Proper radiation protection of the operator, the patient, and third parties in proximity to the bone densitometer.

(C)Provisions of Article 5 (commencing with Section 106955) of Chapter 4 of Part 1 of Division 104.

(D)Provisions of Chapter 6 (commencing with Section 114840) of Part 9 of Division 104.

(E)Provisions of Group 1 (commencing with Section 30100) of Subchapter 4 of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations.

(F)Provisions of Group 1.5 (commencing with Section 30108) of Subchapter 4 of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations.

(G)Provisions of Article 1 (commencing with Section 30252) of Group 3 of Subchapter 4 of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations.

(H)Provisions of Article 2 (commencing with Section 30254) of Group 3 of Subchapter 4 of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations.

(I)Provisions of Article 3 (commencing with Section 30275) of Group 3 of Subchapter 4 of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations.

(J)Provisions of Article 4 (commencing with Section 30305) of Group 3 of Subchapter 4 of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations.

(K)Provisions of Subchapter 4.5 (commencing with Section 30400) of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations.

(3)(A)Notwithstanding any other provision of law, this subdivision shall constitute all the requirements that must be met by a physician and surgeon in order to operate, and supervise the operation of, a bone densitometer. The department may adopt regulations consistent with this section in order to administer the certification requirements.

(B)No person may be supervised by a physician and surgeon in the use of a bone densitometer unless that person possesses the necessary license or permit required by the department.

(C)Nothing in this subdivision shall affect the requirements imposed by the committee or the department for the registration of a bone densitometer machine, or for the inspection of facilities in which any bone densitometer machine is operated.

(D)This subdivision shall not apply to a licentiate of the healing arts who is certified pursuant to subdivision (e) or pursuant to Section 107111.

(E)The department shall charge a fee for a certificate issued pursuant to this subdivision to the extent necessary to administer certification. The fee shall be in an amount sufficient to cover the departmentscosts of implementing this subdivision and shall not exceed the fee for certification to operate or supervise the operation of an X-ray machine pursuant to subdivision (e). The fees collected pursuant to this subparagraph shall be deposited into the Radiation Control Fund established pursuant to Section 114980.

(g)Upon recommendation of the committee, exempt from certification requirements those licentiates of the healing arts who have successfully completed formal courses in schools certified by the department and who have successfully passed a roentgenology technology and radiation protection examination approved by the department and administered by the board that issued his or her license.

(h)(1)No later than July 1, 2019, the department shall require an applicant to provide either the individual taxpayer identification number or social security number for purposes of applying for or the renewal of a certificate, license, or permit issued under this section or regulations promulgated pursuant thereto.

(2)The individual taxpayer identification or the social security number shall serve to establish the identification of persons affected by state tax laws and for purposes of establishing compliance with subsection (a) of Section 666 of Title 42 of the United States Code, Section 60.15 of Title 45 of the Code of Federal Regulations, Section 17520 of the Family Code, and Section 11105 of the Penal Code, and to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.

(3)The department shall not do either of the following:

(A)Require an applicant to disclose citizenship status or immigration status for purposes of the application or renewal of a certificate, license, or permit issued under this section or regulations promulgated pursuant thereto.

(B)Deny certification to an otherwise qualified and eligible applicant based solely on his or her citizenship status or immigration status.

(4)If the department utilizes a national examination to issue a certificate, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the individual taxpayer identification number or social security number, any deputy, agent, clerk, officer, or employee of the department may release an individualstaxpayer identification number or social security number to an examination or certifying entity, only for the purpose of verification of certification or examination status.

(Amended by Stats. 2018, Ch. 838, Sec. 14. (SB 695) Effective January 1, 2019.)

114871.

(a)In addition to the limited permits authorized to be issued pursuant to Section 114870, the department may issue to a person a limited permit in podiatric radiography, authorizing radiography of only the foot, ankle, tibia, and fibula, if the following conditions are met:

(1)The person has completed a course in radiation safety and radiologic technology approved by the department pursuant to subdivision (b), that is provided by a licensed doctor of podiatric medicine who holds a current and valid radiography supervisor and operator permit issued by the department pursuant to subdivision (e) of Section 114870, and that complies with all of the following:

(A)The course shall include instruction in radiation protection and safety, principles of radiographic exposure, quality control, image processing, anatomy and physiology, digital radiography, positioning, and the performance of at least 50 x-ray procedures under supervision.

(B)The course shall require a minimum of 60 hours of education, which may be online.

(C)The person in the course described in this subdivision is deemed to be within the exception specified in subdivision (b) of Section 106975, provided the person is operating x-ray machines under supervision of a licensed doctor of podiatric medicine who holds a current and valid radiography supervisor and operator permit issued by the department pursuant to subdivision (e) of Section 114870.

(D)The training may not exceed one year for any one student. There shall not be, at any one time, more than one student per licensed doctor of podiatric medicine who holds a current and valid radiography supervisor and operator permit.

(2)The person has satisfied the eligibility requirements defined in Section 30444 of Title 17 of the California Code of Regulations, or its successor, including passing department-approved examinations in radiation protection and safety, and podiatric radiologic technology.

(b)An applicant for providing the course described in paragraph (1) of subdivision (a) shall submit an application, including any required application fees, for approval in accordance with the departmentsregulations adopted pursuant to subdivision (d) of Section 114870. The applicant is subject to Section 107055.

(c)A permit in podiatric radiography authorizes the holder to operate podiatric x-ray equipment in accordance with the departmentsregulations adopted pursuant to the Radiologic Technology Act (Section 27) in a podiatric office only while under the supervision of a certified supervisor and operator who is a licensed doctor of podiatric medicine. For purposes of this section, podiatric office means the physical location of the podiatristsplace of private practice, or, if the approved podiatrist is part of a podiatric medical group, that groupsphysical place of private practice. Podiatric office does not include an office of a medical group that includes a podiatrist, an office within a hospital of a podiatrist who provides services to the hospital patients, or a mobile office.

(d)This section does not increase the scope of practice of a doctor of podiatric medicine or authorize the holder of the permit to perform x-rays beyond the foot, ankle, tibia, and fibula.

(e)The department shall adopt initial regulations implementing this section by July 1, 2023. The regulations shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that the department shall post the proposed regulations on its internet website for public comment for 30 days. The comments received shall be considered by the department and the final adopted regulations shall be filed with the Office of Administrative Law for publication in the California Code of Regulations.

(Added by Stats. 2022, Ch. 580, Sec. 4. (AB 1704) Effective January 1, 2023.)

114872.

(a)The department shall issue a licentiate fluoroscopy permit to a qualified licentiate of the healing arts, as defined in paragraph (2) of subdivision (h) of Section 114850. Notwithstanding any other provision of law, the department shall accept applications for a fluoroscopy permit from a licensed physician assistant who meets the requirements of this section.

(b)A physician and surgeon may delegate to a licensed physician assistant procedures using fluoroscopy. In order to supervise a physician assistant in performing the functions authorized by the Radiologic Technology

Act (Section 27), a physician and surgeon shall either hold, or be exempt from holding, a licentiate fluoroscopy permit required to perform the functions being supervised.

(c)A physician assistant to whom a physician and surgeon has delegated the use of fluoroscopy shall demonstrate successful completion of 40 hours of total coursework, including fluoroscopy radiation safety and protection, recognized by the department. Documentation of completed coursework shall be kept on file at the practice site and available to the department upon request.

(d)Nothing in this section shall be construed to remove the need for a physician assistant to pass a department-approved examination in fluoroscopy radiation safety and protection pursuant to Article 1 (commencing with Section 30460) of Group 5 of Subchapter 4.5 of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations.

(e)A licensed physician assistant who is issued a fluoroscopy permit pursuant to the requirements of this section shall, in the two years preceding the expiration date of the permit, earn 10 approved continuing education credits. The department shall accept continuing education credits approved by the Physician Assistant Committee.

(f)Nothing in this section shall be construed to authorize a physician assistant to perform any other procedures utilizing ionizing radiation except those authorized by holding a licentiate fluoroscopy permit.

(g)Nothing in this section shall be construed to remove the need for a physician assistant to be subject to the permit requirements approved by the department pursuant to Subchapter 4.5 (commencing with Section 30400) of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations.

(h)The department may charge applicants under this section a fee in an amount sufficient, but not greater than the amount required, to cover the departmentscosts of implementing this section. The fees collected pursuant to this subdivision shall be deposited into the Radiation Control Fund established pursuant to Section 114980.

(Added by Stats. 2009, Ch. 434, Sec. 3. (AB 356) Effective January 1, 2010.)

114875.

The department may, upon application, on a form prescribed and supplied by the department, by a licentiate of the healing arts, approve the licentiate to give on-the-job training, based on instructional standards prescribed by the department, to a student of radiologic technology if the following requirements are complied with:

(a) The training is restricted to applicants for limited permits in one category or an approved combination of categories.

(b) The training is given by a certified supervisor or operator.

(c) The didactic instruction and clinical experience are equivalent to that required of approved schools for radiologic technology limited permits and shall be outlined by the department in a manual or syllabus.

(d) On-the-job training may not exceed one year for any one student.

(e) There shall not be at any one time more than one student per licentiate.

(f) Records, subject to department inspection, shall be kept of hours of didactic training given the student and the number and kind of clinical procedures performed by the student. If the licentiate does not choose to give both clinical and didactic on-the-job training, as prescribed by the department, that portion not given by the licentiate shall be taken in a school approved by the department pursuant to Section 114870.

The department may establish and collect fees in an amount sufficient to defray the cost incurred by the department in administering the program of on-the-job training authorized by this section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114880.

Any regulations adopted by the department pursuant to subdivision (a) of Section 114870 shall be adopted only after consultation with and approval of the committee. Approval of those regulations shall be made by six affirmative votes of those present at an official meeting of the committee.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114885.

The department shall, upon individual application, grant special permits to persons, excepting those persons from specific provisions of this chapter or of the regulations issued thereunder, if the department finds to its satisfaction that there is substantial evidence that the people in the locality of this state, in which the exemption is sought, would be denied adequate medical care because of unavailability of certified or certifiable radiologic technologists. Those special permits shall be granted for limited periods of time to be prescribed by the department in accordance with the purposes of this chapter, and the permits may be renewed.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114896.

The department shall keep certificate holders and permitholders apprised of significant changes in the practice of radiologic technology and changes in regulation of the practice of radiologic technology through a biannual report. The report shall be furnished to certified radiological technologists and limited permitholders and may be furnished to appropriate licentiates of the healing arts.

(Added by renumbering Section 107120 by Stats. 1997, Ch. 97, Sec. 4. Effective July 21, 1997.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=9.&chapter=7.&article=]

(https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=9.&chapter=7.&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=7.&article=1.

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Atomic Energy Development [114900 - 114955]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Short Title [114900- 114900.]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

114900.

This chapter may be cited and shall be known as the California Atomic Energy Development Law.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=7.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Atomic Energy Development [114900 - 114955]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Declaration of Policy [114905 - 114908]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

114905.

The Legislature finds and declares that the peacetime uses of atomic energy and radiation can be instrumental in improving the health, welfare and economic productivity of the people of the State of California if properly utilized, and may be hazardous to the health and safety of the public if carelessly or excessively employed. It is therefore declared to be the policy of the state to:

(a) Encourage the constructive development of industries producing or utilizing atomic energy and radiation and to eliminate unnecessary exposure of the public to ionizing radiation.

(b) Have state agencies retain their traditional jurisdictions wherever possible.

(c) Have various departments and agencies of the state that are concerned with atomic energy and radiation and its various applications develop programs designed to protect the people of the state from unnecessary exposure to radiation.

(d) Assure the coordination of the programs of the state agencies and the laws, regulations incident thereto and to insure the coordination of these activities with the development and regulatory activities of local agencies, other states and the government of the United States, including the Atomic Energy Commission.

(e) Keep the public, labor, industry, and all other legitimate interests as completely informed as possible on all matters relating to peacetime atomic energy and radiation development and control in this state.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114907.

Atomic energy means all forms of energy released in the course of nuclear transformation.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114908.

As used in this chapter, secretary means the Secretary of the Resources Agency.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=7.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Atomic Energy Development [114900 - 114955]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Coordination of Atomic Energy Development [114910 - 114955]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

114910.

The secretary shall perform the liaison function between the state and the federal government, including the United States Atomic Energy Commission, and between this state and other states in matters pertaining to atomic energy development.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114915.

The secretary shall coordinate the programs, and regulations of the several departments and agencies of the state and the cities and counties relating to atomic energy development, and shall so far as may be practicable coordinate the studies conducted and the recommendations and proposals made in this state on these subjects with like activities in other states and by the federal government and with the policies and regulations of the United States Atomic Energy Commission.

The departments and agencies of the state which are concerned with atomic energy development, and the cities and counties, shall keep the secretary currently informed as to their activities and programs relating to atomic energy development.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114920.

No rule or regulation applying to atomic energy development, or amendment thereto or repeal thereof, that any state agency may propose to adopt, unless it is an emergency regulation, shall be noticed under Section 11346.4 of the Government Code prior to 30 days after it has been submitted to the secretary for comments, recommendations, or suggestions as he or she may deem necessary or desirable with respect thereto, unless the secretary in writing waives all or a portion of the 30-day period.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114925.

Whenever the secretary determines that an existing or proposed regulation is inconsistent with any regulation of another agency of the state, he or she may, after consultation with the agencies involved, find that the proposed regulation is inconsistent with a regulation of the other agency and shall issue an order to that effect, in which event the proposed rule or regulation shall not become effective. The secretary may, in the alternative, upon a similar determination, direct the appropriate agency to amend or repeal the existing regulation to achieve consistency with the proposed regulation.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114930.

The secretary may, when he or she deems necessary or appropriate, recommend to any state department or other state agency the adoption, amendment, or repeal of regulations relating to atomic energy development.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114935.

The secretary shall keep the Governor and the various interested state departments and agencies and the cities and counties informed of private and public activities affecting the peacetime uses of atomic energy.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114940.

The secretary shall disseminate to the public factual data and information and interpretations thereof concerning atomic energy development and the uses of radiation in the state with the view to providing a reliable source of accurate information relating to the benefits and hazards of such development and uses. Data and information relating to hazards of radiation shall be developed and disseminated in cooperation with the State Department of Health, as provided for in paragraph (3) of subdivision (e) of Section 115000.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114945.

The secretary may consult with and seek the advice of technically qualified persons within and without the state to advise on matters relating to atomic energy, particularly with regard to regulations relating to atomic energy development usage.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114950.

The department shall keep current information on the permits or licenses issued by the United States Atomic Energy Commission in the state and, along with current information on the radiation sources licensed or registered under the provisions of Section 115060, shall transmit the information upon request to any state department or agency or member of the public.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114955.

Nothing contained in this chapter shall impair the authority or jurisdiction of the State Water Resources Control Board or any of the regional water quality control boards in this state to regulate the discharge of waste for the protection of the quality of waters of this state.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=9.&chapter=8.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. General [114960 - 114985]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

114960.

This chapter shall be known, and may be cited, as the Radiation Control Law.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114965.

It is the policy of the State of California, in furtherance of its responsibility to protect the public health and safety, to institute and maintain a regulatory program for sources of ionizing radiation so as to provide for: (a) compatibility with the standards and regulatory programs of the federal government, (b) an integrated effective system of regulation within the State, and (c) a system consonant insofar as possible with those of other states.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114970.

It is the purpose of this chapter to effectuate the policies set forth in Section 114965 by providing for programs to:

(a) Effectively regulate sources of ionizing radiation for the protection of the occupational and public health and safety.

(b) Promote an orderly regulatory pattern within the State, among the states, and between the federal

government and the State, and facilitate intergovernmental co-operation with respect to use and regulation of sources of ionizing radiation to the end that duplication of regulation may be minimized.

(c) Establish procedures for assumption and performance of certain regulatory responsibilities with respect to byproduct, source, and special nuclear materials.

(d) Permit maximum utilization of sources of ionizing radiation consistent with the health and safety of the public.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114975.

Rules and regulations adopted under this chapter shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and Sections 25733 and 114920 of this code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114980.

The Radiation Control Fund is hereby created as a special fund in the State Treasury. All moneys, including fees, penalties, interest earned, and fines, collected under Sections 107100, 107160, 114872, 115045, 115065, and 115080, Article 5.5 (commencing with Section 107115) of Chapter 4 of Part 1, and the regulations adopted pursuant to those sections, shall be deposited in the Radiation Control Fund to cover the costs related to the enforcement of this chapter, including, but not limited to, implementation of Section 114872, Section 115000, Article 6 (commencing with Section 107150) of Chapter 4 of Part 1, and the Radiologic Technology Act (Section 27), and Article 5.5 (commencing with Section 107115) of Chapter 4 of Part 1, and shall be available for expenditure by the department only upon appropriation by the Legislature. In addition to any moneys collected by, or on behalf of, the department for deposit in the Radiation Control Fund, all interest earned by the Radiation Control Fund shall be deposited in the Radiation Control Fund.

(Amended by Stats. 2009, Ch. 434, Sec. 4. (AB 356) Effective January 1, 2010.)

114985.

As used in this chapter:

(a) Secretary means the Secretary of the Resources Agency.

(b) Ionizing radiation means gamma rays and X-rays; alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(c) Person means any individual, corporation, partnership, limited liability company, firm, association, trust,

estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Nuclear Regulatory Commission, the United States Department of Energy, or any successor thereto, and other than federal government agencies licensed by the United States Nuclear Regulatory Commission, under prime contract to the United States Department of Energy, or any successor thereto.

(d) Byproduct material means any radioactive material, except special nuclear material, yielded in, or made radioactive by exposure to the radiation incident to, the process of producing or utilizing special nuclear material.

(e) Source material means (1) uranium, thorium, or any other material which the department declares by rule to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such; or (2) ores containing one or more of the foregoing materials, in such concentration as the department declares by rule to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material in such concentration to be source material.

(f) Special nuclear material means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the department declares by rule to be special nuclear material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(g) General license means a license, pursuant to regulations promulgated by the department, effective without the filing of an application, to transfer, acquire, own, possess or use quantities of, or devices or equipment utilizing, byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.

(h) Specific license means a license, issued after application, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing, byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.

(i) Registration means the reporting of possession of a source of radiation and the furnishing of information with respect thereto, in accordance with subdivision (b) of Section 115060.

(j) Department means the State Department of Health Services.

(k) Director means the State Director of Health Services.

(l) Federal research and development activity means any activity of the Secretary of Energy conducted at any research facility owned or operated by the United States Department of Energy.

(m) Low-level waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or the byproduct material defined in Section 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec. 2014 (e)(2)). For purposes of this subdivision, the following definitions shall apply:

(1) High-level radioactive waste means either of the following:

(A) The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from this liquid waste that contains

fission products in sufficient concentrations.

(B) Other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing law, determines by rule requires permanent isolation.

(2) Spent nuclear fuel means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(3) Transuranic waste means any waste containing more than 100 nanocuries of alpha emitting transuranic nuclides with half-life greater than five years per gram of waste material.

(n) Mammogram means an X-ray image of the human breast.

(o) Mammography means the procedure for creating a mammogram.

(p) Mammography quality assurance means the detection of a change in X-ray and ancillary equipment that adversely affects the quality of films and the glandular radiation dose, and the correction of this change.

(q) Mammogram certification means a certification, issued by the department after registration, that the equipment dedicated to or used for mammography meets the standards prescribed pursuant to this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Control Agency [114990 - 115055]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

114990.

The department is designated as the agency responsible for the issuance of licenses. In carrying out its duties under this section, the department may enter into an agreement with the Division of Occupational Safety and Health and other state and local agencies to conduct technical evaluations of license applications prior to issuance of licenses. The agreements shall also include provisions for conducting inspections in accordance with Section 115095.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

114995.

The authority of the department to issue licenses pursuant to Section 114990 is not affected by any requirements to conduct studies or planning efforts specified in Section 115005.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115000.

The department shall, for the protection of public health and safety do all of the following:

(a) Develop programs for evaluation of hazards associated with use of sources of ionizing radiation.

(b) Develop programs, with due regard for compatibility with federal programs, for licensing and regulation of byproduct, source, and special nuclear materials, and other radioactive materials.

(c) Except as provided in Section 18930, adopt regulations relating to control of other sources of ionizing radiation.

(d) Issue any regulations that may be necessary in connection with proceedings under Article 4 (commencing with Section 115060).

(e) Collect and disseminate information relating to control of sources of ionizing radiation, including all of the following:

(1) Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, and revocations.

(2) Maintenance of a file of all regulations relating to regulation of sources of ionizing radiation, pending or adopted, and proceedings thereon.

(3) Disseminate information regarding the evaluation of hazards associated with the use of sources of ionizing radiation.

Nothing in this chapter shall be construed as precluding the Division of Occupational Safety and Health from adopting and enforcing regulations relating to matters within its jurisdiction consistent with, in furtherance of, and designed to implement this chapter and the regulations adopted thereunder.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115000.1.

(a)For the purposes of this section, the following terms have the following meanings:

(1)Generate means to produce or cause the production of, or to engage in an activity that otherwise results in the creation or increase in the volume of, low-level radioactive waste.

(2)(A)Generator means any person who, by the personsown actions, or by the actions of the personsagent, employee, or independent contractor, generates low-level radioactive waste in the state.

(B)For purposes of this section, a person who provides for or arranges for the collection, transportation, treatment, storage, or disposal of low-level radioactive waste generated by others is a generator only to the extent that the personsown actions, or the actions of the personsagent, employee, or independent contractor, generate low-level radioactive waste.

(3)Person means an individual, partnership, corporation, or other legal entity, including any state, interstate, federal, or municipal governmental entity.

(4)Waste means material that is not in use and is no longer useful.

(5)Generator category includes, but is not limited to, any of the following:

(A)Nuclear powerplants.

(B)Reactor vendors or designers.

(C)Government.

(D)Medicine.

(E)Academia.

(F)Aerospace.

(G)Military.

(H)Research.

(I)Industrial gauges.

(J)Manufacturing.

(6)Low-level radioactive waste or LLRW has the same meaning as defined in Article 2 of the Southwestern Low-Level Radioactive Waste Disposal Compact, as set forth in Section 115255.

(7)Class means the class of low-level radioactive waste. Class A, class B, and class C waste are those classes defined in Section 61.55 of Title 10 of the Code of Federal Regulations.

(8)Licensed LLRW disposal facility means any of the three disposal facilities located at Barnwell, South Carolina; Clive, Utah; or Richland, Washington, that exist on January 1, 2003.

(b)The department shall, for the protection of public health and safety maintain a file of each manifest from each generator of LLRW that is sent to a disposal facility or to a facility subject to the Southwestern Low-level Radioactive Waste Disposal Compact, as set forth in Article 17 (commencing with Section 115250).

(c)The department shall, for the protection of public health and safety, maintain a file of all LLRW transferred for disposal to a licensed LLRW disposal facility during the reporting period, either directly or through a broker or agent, that shall meet all of the following conditions:

(1)Specify the category of generator, class, quantity by activity, and volume of LLRW, including an estimate of the peak and average quantities in storage, along with the identity of the generator, and the chemical and physical characteristics of that waste, including its half-life, properties, or constituents, and radionuclides present at, or above, the minimum labeling requirements, with their respective concentrations and amounts of radioactivity.

(2)Be updated annually, at minimum, to ensure an accurate and timely depiction of radioactive waste in the state.

(3)Include all of the following information in the file:

(A)The total volume, volume by class, and activity by radionuclide and class.

(B)The types and specifications of individual containers used and the number of each type transferred for disposal.

(C)The maximum surface radiation exposure level on any single container of LLRW transferred, the number of disposal containers that exceed 200 mR/hour, and the volume, class, and activity by radionuclide.

(D)The identification of each licensed LLRW disposal facility to which LLRW was transferred, either directly or through a broker or agent, and the volume and activity by class of LLRW transferred by each broker to each licensed LLRW disposal facility.

(E)The identification of all brokers or agents to which LLRW was transferred and the volume and activity by class of the generatorsLLRW transferred by each broker or agent to each licensed LLRW disposal facility.

(F)The weight of source material by its type. For purposes of this paragraph, type includes, but is not limited to, natural uranium, depleted uranium, or thorium.

(G)The total number of grams of special nuclear material by radionuclide, and the maximum number of grams of special nuclear material in any single shipment by radionuclide.

(H)As complete a description as practicable of the principal chemical and physical form of the LLRW by volume and radionuclide, including the identification of any known hazardous properties, other than its radioactive property.

(I)For solidified or sorbed liquids, the nature of the liquid, the solidifying or sorbing agent used, and the final volume.

(J)For LLRW containing more than 0.1 percent by weight chelating agents, the identification of the chelating agent, the volume and weight of the LLRW and the weight percentage of the chelating agent.

(K)For LLRW that was treated, either by the generator or its agent or independent contractor, in preparation for transfer to a licensed LLRW disposal facility described in paragraph (8) of subdivision (a) for the purpose of reducing its volume or activity by any method including reduction by storage for decay, or for the purpose of changing its physical or chemical characteristics in a manner other than by solidification or sorption of liquids, the file shall include a description of the treatment process.

(L)The volume, volume by class, and activity by radionuclide and class of that LLRW, if any, that the generator is holding at the end of the annual reporting period because the generator knows or has reason to believe that LLRW will not be accepted for disposal at any of the licensed LLRW disposal facilities. The file shall include a description of this LLRW.

(d)The department shall maintain a file on each generatorsLLRW stored, including specific radionuclides, total volume, volume by class, total activity, and activity by radionuclide and class of LLRW stored for decay and stored for later transfer, including the periods of time for both types of storage.

(e)(1)The department shall prepare an annual report, including a set of tables summarizing data collected from the activities and maintenance of files specified in subdivisions (c) and (d) to the department. These annual data tables shall contain information that summarizes and categorizes, by category, and if applicable, subcategory, of generator and location by county and identity of generator, the nature, characteristics and the total volume, volume by class, total activity and activity by radionuclide and class of LLRW generated, disposed of, treated, transferred, stored for later transfer, and stored for decay during each calendar year.

(2)The department shall note, in the set of tables prepared pursuant to paragraph (1), any generator for which data are lacking.

(f)The department shall make the information described in subdivisions (c) and (d) available to the public in a format that aggregates the information by county. The department shall not make public the identity and location of any site where LLRW is stored or used. The department may combine information from multiple counties if necessary to protect public security. Notwithstanding any other provision of law, the department shall not make the report prepared pursuant to subdivision (e) available to the public, and the report is not subject to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(g)The department may make the information described in subdivisions (c) and (d) available upon request to any Member of the Legislature. No Member of the Legislature may disclose the identity or location of any site where LLRW is stored or used to any member of the general public.

(h)To meet the requirements of this section, each generator shall submit to the department the information

included in Forms 540, 541, and 542, and any successor forms, of the Nuclear Regulatory Commission, for each LLRW shipment. In addition, for purposes of subparagraph (L) of paragraph (4) of subdivision (c) and subdivision (d), each generator shall annually complete and submit to the department the information included on Forms 540, 541, and 542, and any successor forms, of the Nuclear Regulatory Commission that describe the LLRW stored and shipped by the generator.

(Amended by Stats. 2021, Ch. 615, Sec. 279. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

115005.

In addition to the requirements imposed by Section 115000, the department shall develop an overall plan, in consultation with other state, regional, and federal agencies, for the management, treatment, and disposal of low-level radioactive waste generated within California. The plan shall contain, at a minimum, all of the following elements:

(a)Specific contingency plans to address the needs of the state for the short-term storage of low-level radioactive waste in the event of a precipitous closure of existing out-of-state commercial waste disposal facilities and to evaluate feasible alternatives for meeting the statesneeds. This element of the plan shall include, but is not limited to, all of the following factors:

(1)The amount and kinds of low-level radioactive waste generated by California licensees and current disposal locations.

(2)The size and nature of an interim storage facility required to meet Californiasinterim low-level radioactive waste disposal needs.

(3)The cost of developing and operating an interim storage site by the department or contracting organizations.

(4)Criteria for the siting of an interim storage site, including, but not limited to, all of the following:

(A)Proximity to population.

(B)Geologic stability.

(C)Proximity to ground or surface water.

(D)Availability of transportation.

(E)General public health and economic considerations.

This element of the plan shall be completed and submitted to the appropriate committees of each house of the Legislature on or before December 31, 1982.

(b)A classification scheme for the separation of low-level waste that will facilitate the management, treatment, storage, and ultimate disposal of the waste. This classification scheme shall consider the matters as possible de minimis radiation levels for specific radionuclides, the quantity and specific activity of the material, its persistence, toxicity, chemical form, reactivity, and the principal radionuclides present. The

classification scheme shall also include the specifications necessary to determine which classes of waste may or may not be accepted for storage in an interim storage facility established pursuant to Section 115045, that may or may not be held by the licensee for decay to specified residual radioactivity levels and that require long-term isolation from the environment, as the case may be, for the protection of the public health and safety. The department may require as a condition of licensure the submission of information necessary to determine the total amount of waste produced in each class of the classification scheme. The department may, by regulation, adopt the classification scheme establishing which wastes may or may not be accepted at an interim storage facility or at a treatment or disposal facility.

This element of the plan shall be completed and submitted to the appropriate committees of each house of the Legislature on or before December 31, 1982.

(c)Siting criteria for potential land burial disposal sites and treatment facilities within the state. In establishing these criteria, the department shall consider the following factors, including, but not limited to:

(1)The present and projected future uses of land, water, and natural resources.

(2)The proximity of the site to major population centers.

(3)The presence of active earthquake faults.

(4)Geologic and other natural barriers that protect against surface or groundwater contamination.

(5)The effectiveness of engineered barriers, waste treatment, and waste packaging in ensuring isolation of the waste from the environment.

(6)Transportation of radioactive materials as it relates to public health and safety.

(7)The relative economic impact of location and operation of treatment or disposal facilities.

This element of the plan shall be completed and submitted to the appropriate committees of each house of the Legislature on or before December 31, 1982.

(d)A plan of action to minimize the environmental, occupational, and public health impact of low-level radioactive waste and to protect the public health and safety by encouraging a reduction in the amount and toxicity of waste produced. This activity shall include conducting or having studies conducted that evaluate the technical and economic feasibility of (1) reducing the volume, reactivity, and chemical and radioactive hazard of the waste, (2) cleaning contaminated, nonactivated metals and other materials to permit their recycle and reuse, and (3) substituting nonradioactive or short-lived radioactive materials for those radionuclides that require long-term isolation from the environment. The results of these studies, along with the departmental recommendations for their implementation, shall be reported by the department to the appropriate committees of the Legislature on or before December 31, 1983.

(e)Within six months after September 28, 1983, the Governor shall direct the appropriate state agency or agencies, as determined by the Governor, to conduct and complete a study that identifies those regions of the state within which it is likely the criteria developed pursuant to subdivision (c) could be met. The state agency or agencies, so directed, may also request, when appropriate, the assistance of state or federal agencies or private organizations.

(Amended by Stats. 2004, Ch. 183, Sec. 228. Effective January 1, 2005.)

115010.

(a) The department shall not grant any license to receive radioactive material from other persons for disposal on land unless all of the following requirements are satisfied:

(1) The land on which the radioactive wastes are to be buried is owned by the federal or state government.

(2) The department determines that the site is consistent with the public health and safety.

(3) The applicant for the license will comply with the emergency regulations adopted by the department pursuant to subdivision (b).

(b) Not later than six months after September 28, 1983, the department shall adopt emergency regulations for the licensing of those persons engaged in the disposal of low-level radioactive waste and for implementing this section and Sections 115015, 115020, and 115030.

The emergency regulations shall be consistent with the federal regulations found in Sections 301 through 311, inclusive, of Part 20 of Title 10 and in Part 61 of Title 10 of the Code of Federal Regulations (Federal Register, Vol. 47, No. 28, page 57446, December 27, 1982) and shall be adopted solely for the purposes of clarifying and rendering specific, for application in California, these federal regulations and implementing this section and Sections 115015, 115020, and 115030.

(c) The emergency regulations specified in subdivision (b) shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department pursuant to this subdivision shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the department.

(d) The department may, by emergency regulation adopted in accordance with subdivision (c), establish and collect a fee for the issuance or renewal of a license specified in subdivision (a).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115010.5.

The department shall, by regulation, establish and collect a fee for the issuance or renewal of a license to dispose of low-level radioactive waste pursuant to this chapter. The fees collected shall be sufficient to cover the statescost in reviewing the application, issuing or renewing the license, and inspecting and conducting oversight of the licensee.

(Added by Stats. 2002, Ch. 513, Sec. 3. Effective January 1, 2003.)

115015.

The department may limit the number of licenses issued pursuant to Sections 114990, 115010, and 115020 authorizing the receipt of radioactive material from other persons for disposal on land.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115020.

(a) All applicants filing a statement of capabilities and notice of intention to file an application for a license to receive radioactive materials from other persons for disposal on land shall file the statement and notice within three months after the department adopts the emergency regulations specified in subdivision (b) of Section 115010. Within 45 days after the termination of that three-month filing period, the department shall evaluate the statements of capabilities and notices of intent. The director shall determine, within that 45-day period, whether the department has received one or more statements and notices that are likely to result in the filing of an application for a license satisfying the requirements of Section 115010.

(b) If the director determines, within the 45-day period specified in subdivision (a), that the department has received one or more statements of capabilities and notices of intent which are likely to result in the filing of an application for a license, the department shall, within the 45-day period, select one of the applicants who filed the statement of capabilities and notice of intent to file a license application as a license designee.

(c) The department shall adopt emergency regulations establishing procedures for the review and evaluation of the statements of capabilities and notices of intent, as specified in subdivision (a), and for the selection of a license designee, as specified in subdivision (b). These emergency regulations shall be adopted by the department in accordance with subdivision (c) of Section 115010 and shall include procedures for soliciting, evaluating, ranking, and designating license designees and for selecting alternative license designees based upon the ranking.

(d) The department may solicit additional statements of capabilities and notices of intent if a license designee withdraws or becomes ineligible for licensing, or if a license is issued and is then suspended, revoked, or terminated.

(e) The department may, by emergency regulations adopted in accordance with subdivision (c) of Section 115010, establish and collect a fee for filing a statement of capabilities and notice of intent.

(f) The department may require that a person selected as a license designee pursuant to this section post a bond of up to one million dollars ($1,000,000) to guarantee that the person will carry out the activities connected with completing the license application and obtaining the license. The department shall, by emergency regulation adopted in accordance with subdivision (c) of Section 115010, establish standards for the forfeiture of the bond.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115025.

(a) If, within 45 days after the termination of the three-month filing period specified in subdivision (a) of

Section 115020, the director determines that the department has not received a statement of capabilities and a notice of intent to file an application for a license to receive radioactive materials from other persons for disposal on land that is likely to result in the filing of an application that satisfies the requirements of Section 115010, the director shall notify the Secretary of the Resources Agency.

(b) Within one year after receiving the notification specified in subdivision (a), the Secretary of the Resources Agency shall file with the department an application for a license to receive radioactive materials from other persons for disposal on land at a site within a region identified pursuant to subdivision (e) of Section 115005 and that is owned, operated, or both, by the state.

(c) (1) Upon the request of the Resources Agency, the Director of Finance may provide a loan from the General Fund to the Resources Agency for the purposes of implementing this section. The Resources Agency shall repay any loans made pursuant to this section pursuant to the terms and conditions prescribed by the Department of Finance, including interest at the rate set by the Pooled Money Investment Board pursuant to Section 16314 of the Government Code.

(2) The Director of Finance shall not provide more than two million dollars ($2,000,000) pursuant to this subdivision during the 1983"84 fiscal year. The amount for loans in the 1984"85 fiscal year, and subsequent fiscal years, shall be specified annually in the Budget Act and the total of all loans made pursuant to this subdivision shall not exceed fifteen million dollars ($15,000,000).

(d) If a radioactive materials disposal site that is owned, operated, or both, by the state is established pursuant to this section, the Secretary of the Resources Agency shall establish a schedule of fees to be charged each person who disposes of radioactive materials at the site. The schedule of fees shall be set at an amount sufficient to reimburse the state for any costs incurred in developing, constructing, and operating the site.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115030.

The department may require that all schedules of fees charged for the disposal of radioactive material by a person owning or operating a site licensed pursuant to Section 115010 are to be submitted to the department prior to their implementation. The department may determine, following a public hearing and based upon written findings, if the fees to be charged are reasonable and may require the owner or operator to modify the fee schedule if so determined by the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115035.

In addition to the fees authorized to be levied pursuant to Section 115065, the department may, by regulation, set fees to be paid for the disposal in the state of low-level radioactive waste, set in an amount sufficient to pay the costs of the regulatory activities specified in paragraphs (2) and (3) of subdivision (E) of Article 4 of the Southwestern Low-Level Radioactive Waste Disposal Compact, as specified in Section 115255.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115040.

(a)The license designee shall file periodic financial reports with the department as directed by the department. These reports shall provide detailed information on past and projected expenditures for development and operation of the low-level radioactive waste disposal site according to programmatic function, including, but not limited to, all of the following:

(1)Program management.

(2)Candidate sites selection.

(3)Site characterization.

(4)Environmental.

(5)Public and agency involvement.

(6)Licensing and permitting.

(7)Site development.

(8)Land acquisition.

(9)Financing.

(10)Operations.

(b)The license designee shall file reports with the department, as directed by the department, that identify, quantify, and explain major causes of actual and projected cost overruns and cost underruns with regard to the cost projections provided in the statement of capabilities and notice of intent.

(c)The Legislature finds and declares that the purpose of this section is to identify minimum financial reporting requirements for the costs of developing and operating the stateslow-level radioactive waste disposal facility. This section does not limit the authority of the department to require the license designee to furnish any additional information that the department determines to be necessary to fulfill its duties under this chapter, including Section 115030.

(Amended by Stats. 2006, Ch. 538, Sec. 432. Effective January 1, 2007.)

115045.

(a) The department is authorized, pursuant to subdivision (d), to establish and operate, or contract for the establishment and contract for operation, of one or more low-level radioactive waste interim storage facilities for the exclusive use of persons located in California who are licensed by the department or the United States Nuclear Regulatory Commission.

(b) In addition to the fees authorized to be levied pursuant to Section 115065, the department is authorized to set and collect fees, by regulation, to be paid by generators in California of low-level radioactive waste in an amount sufficient to support the development and operation of the facilities including the surveillance and repair of damaged packages, maintenance of the facilities, decontamination, decommissioning, and postclosure maintenance of these facilities, recordkeeping systems, and other activities as the department finds necessary to ensure the safe operation of such a facility. In no event shall any fee be set in an amount that exceeds the amount reasonably necessary to implement this section. The department is also authorized to require the operators or the users of the facilities to post bonds or possess adequate insurance as may be reasonably necessary to protect the state against such liabilities as storage and ultimate disposal costs for abandoned waste and against claims arising out of accidents or failures of the storage facility.

(c) All users of any facility operated pursuant to this section must all meet state and federal orders, requirements, or regulations for handling and management of low-level radioactive waste including those prescribed pursuant to subdivision (b) of Section 115005.

(d) No low-level radioactive waste interim storage facility may be established pursuant to subdivision (a) until all of the following occurs:

(1) The department has fulfilled the requirements of subdivisions (a) and (b) of Section 115005 and has submitted its findings to the Legislature.

(2) The establishment of the interim storage facility is consistent with the elements of the low-level radioactive waste disposal plan specified in subdivisions (a) and (b) of Section 115005.

(3) The department files a notice with the Legislature, while in session, 60 days before establishing the facility.

(e) In addition to any other grounds authorizing the department, or any person with whom it contracts, to cease the operation of a low-level radioactive waste interim storage facility, any such facility shall cease accepting low-level radioactive waste for interim storage (1) no later than five years after the date it commences operating or (2) if the director determines that an alternate disposal site is available to California licensees in the western region of the United States, whichever event occurs first.

(f) Within seven years of commencing operation of any interim storage facility all wastes stored at the facility shall be transferred to a permanent land burial disposal site or permanently disposed of by some other treatment or means of disposal and the facility shall be closed and thereafter, to the extent necessary, as determined by the department, decontaminated and decommissioned.

(g) This section shall remain in effect for a period of eight years from the date of the establishment of a low-level radioactive waste interim storage facility pursuant to this section, and as of that date is repealed. The director shall report the date the facility is established to the appropriate committees of each house of the Legislature and the Legislative Counsel Bureau.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996. Repealed as of date prescribed by its own provisions.)

115050.

The Governor shall negotiate and enter into interstate agreements, interstate compacts, or agreements with compacts, for the purpose of establishing access to, or maintaining access to, land disposal facilities for low-

level radioactive waste generated in California. The terms of the agreement or compact may include, but are not limited to, a provision that the other parties to the agreement or compact will have reciprocal access to California permanent disposal facilities, when operational.

The Governor shall report to the Legislature on the status of these negotiations within four months after September 28, 1983, and every four months thereafter, until an agreement or compact is entered into or the negotiations are terminated.

Any agreement or compact that proposes membership for California in a compact made pursuant to the Low-Level Radioactive Waste Policy Act (42 U.S.C. Secs. 2021b to 2021d, inclusive) or any interstate agreement or agreement with a compact that includes a provision that the other parties to the agreement will have reciprocal access to California permanent disposal facilities, when operational, shall be submitted to the Legislature for ratification by statute.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115055.

The director shall appoint, in consultation with the Chairperson of the Senate Committee on Rules and the Speaker of the Assembly, an advisory committee to advise the department regarding methods for minimizing the environmental impact of low-level wastes, criteria for siting low-level waste treatment and burial facilities, alternatives to land burial of low-level waste, and waste classification schemes.

The committee shall include representatives from the field of medicine, and from research, industrial, environmental, and public health organizations, who have demonstrated expertise and experience with radioactive materials, waste management, the health effects of exposure to low-level waste, or the environmental impact associated with the storage of low-level waste. The director shall appoint to the advisory committee the director of environmental health of the county where a low-level waste disposal facility is sited.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Licensing and Regulation of Sources of Ionizing Radiation [115060 - 115093]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

115060.

(a) The department shall provide by rule or regulation for general or specific licensing of persons to receive, possess, or transfer radioactive materials, or devices or equipment utilizing these materials. That rule or regulation shall provide for amendment, suspension, or revocation of licenses.

(b) The department may require registration and inspection of sources of ionizing radiation other than those that require a specific license, and compliance with specific safety standards to be adopted by the department.

(c) The department may exempt certain sources of ionizing radiation or kinds of uses or users from the licensing or registration requirements set forth in this section when the department makes a finding that the exemption of these sources of ionizing radiation or kinds of uses or users will not constitute a significant risk to the health and safety of the public.

(d) Regulations adopted pursuant to this chapter may provide for recognition of other state or federal licenses as the department may deem desirable, subject to registration requirements as the department may prescribe.

(e) The department shall adopt registration and certification regulations for mammography equipment. These regulations shall include, but not be limited to, all of the following requirements:

(1) An X-ray machine used for mammography shall be specifically designed for mammography and inspected by the department, or deemed satisfactory by the department based upon evidence of certification by the American College of Radiology mammography accreditation program, or an accreditation program that the department deems equivalent before it is certified.

(2) That all persons who have a certificate for mammography equipment follow a quality assurance program to be adopted by the department to ensure the protection of the public health and safety.

(3) That quality assurance tests, as determined by the department, are performed on all mammography

equipment located in a mobile van or unit after each relocation of the mobile van or unit to a different location for the purpose of providing mammography. This equipment shall be recalibrated if images are not of diagnostic quality as determined by the department. A written record of the location of mobile vans or units with dates and times shall be maintained and available for inspection by the department.

(4) On or after July 15, 1993, all mammography equipment shall be registered with and certified by the department. If this mammography equipment is certified by a private accreditation organization, the department shall take into consideration evidence of this private certification when deciding to issue a mammogram certification.

(5) All licenses, permits, and certificates issued by the department pursuant to this chapter and the Radiologic Technology Act (Section 27) relating to the use of mammography equipment shall be publicly posted pursuant to this section and regulations adopted by the department.

(f) To further ensure the quality of mammograms, the department shall require all mammogram facilities, other than mobile units or vans, to operate quickly and efficiently so as to ensure that the facilities are able to develop mammograms of diagnostic quality prior to when the patient leaves the facility.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115060.5.

(a)Except as provided in subdivisions (b) and (c), the department shall exempt a bomb squad of a city, city and county, county, special district, or the State of California, including the University of California, from the requirements of Section 30336.1 of Title 17 of the California Code of Regulations if all of the following requirements are met:

(1)All operators of ionizing sources of radiation are explosive ordnance disposal technicians certified as bomb technicians by the United States Federal Bureau of Investigation or a successor federal agency responsible for training and certifying bomb technicians. Nothing in this paragraph shall be construed to authorize the use, possession, or transfer of radioactive material.

(2)(A)A radiation safety officer, who is certified as a bomb technician by the United States Federal Bureau of Investigation or a successor federal agency responsible for training and certifying bomb technicians, is designated by the employing jurisdiction.

(B)Except as provided in subparagraph (C), the radiation safety officer is exempt from the requirements of Section 30336.7 of Title 17 of the California Code of Regulations.

(C)The radiation safety officer shall comply with subdivision (b) of Section 30336.7 of Title 17 of the California Code of Regulations.

(3)The bomb squad has written operating procedures that apply to the kinds of radiation machines used by the bomb squad and are followed by applicable personnel.

(4)Radiation machines maintained and operated by the bomb squad meet the requirements specified in the American National Standard N537-1976 Radiological Safety Standards for the Design of Radiographic and Fluoroscopic Industrial X-Ray Equipment published as NBS Handbook 123, issued August 1977, or subsequent standards that the department determines to be applicable.

(5)The jurisdiction provides annual refresher training to all operators at intervals not to exceed 12 months. The training shall address or provide, at a minimum, the results of departmentsinspections, information on new procedures or equipment, accidents or errors that have been observed and steps to prevent recurrence, and an opportunity for individuals to ask radiation safety related questions.

(b)The radiation surveys and radiation survey instruments referenced in subdivisions (f), (g), and (i) of Section 30336.1 of Title 17 of the California Code of Regulations shall not be required when the United States Federal Bureau of Investigation standard operating procedure of clearing an evacuation distance of at least 300 feet in all directions from the X-ray source is used.

(c)Boundaries need not be posted or protected as high radiation areas as required in subdivisions (h), (j), and (l) of Section 30336.1 of Title 17 of the California Code of Regulations when other law enforcement officers are maintaining the United States Federal Bureau of Investigation standard evacuation boundary.

(d)The department shall evaluate compliance with this section during its inspection of the bomb squad.

(e)The department may revoke or rescind the exemption provided pursuant to this section if a jurisdiction fails to comply with this section.

(Added by Stats. 2017, Ch. 128, Sec. 1. (AB 911) Effective January 1, 2018.)

115061.

(a)In order to better protect the public and radiation workers from unnecessary exposure to radiation and to reduce the occurrence of misdiagnosis, the Radiologic Health Branch within the State Department of Health Services shall adopt regulations that require personnel and facilities using radiation-producing equipment for medical and dental purposes to maintain and implement medical and dental quality assurance standards that protect the public health and safety by reducing unnecessary exposure to ionizing radiation while ensuring that images are of diagnostic quality. The standards shall require quality assurance tests to be performed on all radiation-producing equipment used for medical and dental purposes.

(b)The Radiologic Health Branch shall adopt the regulations described in subdivision (a) and provide the regulations to the health committees of the Assembly and the Senate on or before January 1, 2008.

(c)For purposes of this section, medical and dental quality assurance means the detection of a change in X-ray and ancillary equipment that adversely affects the quality of films or images and the radiation dose to the patients, and the correction of this change.

(Amended by Stats. 2006, Ch. 538, Sec. 433. Effective January 1, 2007.)

115065.

(a)Notwithstanding Section 6103 of the Government Code, the department shall provide by regulation a schedule of the fees that shall be paid by the following persons:

(1)Persons possessing radioactive materials under licenses issued by the department or under other state or

federal licenses for the use of these radioactive materials, when these persons use these radioactive materials in the state in accordance with the regulations adopted pursuant to subdivision (d) of Section 115060.

(2)Persons generally licensed for the use of devices and equipment utilizing radioactive materials that are designed and manufactured for the purpose of detecting, measuring, gauging, or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere, if the devices are manufactured pursuant to a specific license authorizing distribution to general licensees.

(b)The revenues derived from the fees shall be used, together with other funds made available therefor, for the purpose of the issuance of licenses or the inspection and regulation of the licensees.

(c)The department may adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to establish and adjust fees for radioactive materials licenses in an amount to produce estimated revenues equal to at least 95 percent of the departmentscosts in carrying out these licensing requirements, if the new fees were to remain in effect throughout the fiscal year for which the fee is established or adjusted.

(d)A local agency participating in a negotiated agreement pursuant to Section 114990 shall be fully reimbursed for direct and indirect costs based upon activities governed by Section 115070. With respect to these agreements, any salaries, benefits, and other indirect costs shall not exceed comparable costs of the department.

(e)The fees for licenses for radioactive materials and of devices and equipment utilizing those materials shall be adjusted annually pursuant to Section 100425.

(f)The department shall establish fees for followup inspections related to the failure to correct violations of this chapter or regulations adopted pursuant to this chapter. The fees established by the department may be charged for each inspection visit.

(Amended by Stats. 2006, Ch. 74, Sec. 36. Effective July 12, 2006.)

115070.

The frequency of inspections of radioactive materials shall be based on priorities established by the United States Nuclear Regulatory Commission.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115075.

In addition to the annual adjustment of the fees authorized by this chapter pursuant to Section 100425, on or before January 1, 1991, the director may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, to establish and adjust these fees, and for purposes of that chapter, including Section 11349.6 of the Government Code, an adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115080.

(a)Notwithstanding Section 6103 of the Government Code, the department shall provide by regulation a ranking of priority for inspection, as determined by the degree of potentially damaging exposure of persons by ionizing radiation and the requirements of Section 115085, and a schedule of fees, based upon that priority ranking, that shall be paid by persons possessing sources of ionizing radiation that are subject to registration in accordance with subdivisions (b) and (e) of Section 115060, and regulations adopted pursuant thereto. The revenues derived from the fees shall be used, together with other funds made available therefor, for the purpose of carrying out any inspections of the sources of ionizing radiation required by this chapter or regulations adopted pursuant thereto. The fees shall, together with any other funds made available to the department, be sufficient to cover the costs of administering this chapter, and shall be set in amounts intended to cover the costs of administering this chapter for each priority source of ionizing radiation. Revenues generated by the fees shall not offset any general funds appropriated for the support of the radiologic programs authorized pursuant to this chapter, and the Radiologic Technology Act (Section 27), and Chapter 7.6 (commencing with Section 114960). Persons who pay fees shall not be required to pay, directly or indirectly, for the share of the costs of administering this chapter of those persons for whom fees are waived. The department shall take into consideration any contract payment from the Health Care Financing Administration for performance of inspections for Medicare certification and shall reduce this fee accordingly.

(b)A local agency participating in a negotiated agreement pursuant to Section 114990 shall be fully reimbursed for direct and indirect costs based upon activities governed by Section 115085. With respect to these agreements, any salaries, benefits, and other indirect costs shall not exceed comparable costs of the department. Any changes in the frequency of inspections or the level of reimbursement to local agencies made by this section or Section 115085 during the 1985“86 Regular Session shall not affect ongoing contracts.

(c)The fees paid by persons possessing sources of ionizing radiation shall be adjusted annually pursuant to Section 100425.

(d)The department shall establish two different registration fees for mammography equipment pursuant to this section based upon whether the equipment is accredited by an independent accrediting agency recognized under the federal Mammography Quality Standards Act (42 U.S.C. Sec. 263b).

(e)The department shall establish fees for followup inspections related to the failure to correct violations of this chapter or regulations adopted pursuant to this chapter. The fees established by the department may be charged for each inspection visit.

(Amended by Stats. 2006, Ch. 74, Sec. 37. Effective July 12, 2006.)

115085.

The average inspection frequency for ionizing radiation machines shall be once each year for mammography X-ray units, once every three years for high-priority sources of ionizing radiation, and once every four and

one-quarter years for medium-priority sources. Sources of ionizing radiation used in dentistry shall be screened for defects by mail or other offsite methodology not less frequently than once every five years, with physical inspection of the 50 percent, determined by the department to be most in need of inspection, to average at least once every six years.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115090.

In making the determination of whether to grant, deny, amend, revoke, suspend, or restrict a certification, registration, or license, the department may consider those aspects of a personsbackground that, in its judgment, bear materially on that personsability to fulfill her or his obligations, including but not limited to technical competency and her or his current or prior record in areas involving ionizing radiation.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115091.

The department shall require a licensee or an applicant for a license pursuant to Section 115060 to receive, possess, or transfer radioactive materials, or devices or equipment utilizing radioactive materials, to provide a financial surety to ensure performance of its obligations under this chapter. The department shall establish, by regulation, the amount and type of financial surety that is required to be provided in order to provide for maximum protection of the public health and safety and the environment. The financial surety shall be in the form of surety bonds, deposits of government securities, escrow accounts, lines of credit, trust funds, credit insurance, or any other equivalent financial surety arrangement acceptable to the department. The department shall adopt the regulations in accordance with, but not limited to, the following criteria:

(a) Consideration of the need for, and scope of, any decontamination, decommissioning, reclamation, or disposal activities required to protect the public health and safety and the environment.

(b) Estimates of the costs of the required decontamination, decommissioning, reclamation, or disposal.

(c) The costs of long-term maintenance and surveillance, if required.

(d) Consideration of the appropriateness of specific requirements imposed in the financial assurance regulations adopted by the Nuclear Regulatory Commission, including, but not limited to, the minimum levels of financial assurance required to be provided by different categories of facilities, and the categories of facilities which are exempted from the requirement to provide a financial surety.

(Added by Stats. 1996, Ch. 1023, Sec. 337. Effective September 29, 1996.)

115092.

(a) The department shall deposit all money received from a financial surety provided pursuant to Section 115091 in the Financial Surety Account, which is hereby created in the Radiation Control Fund.

(b) Notwithstanding Section 13340 of the Government Code, the money in the Financial Surety Account is hereby continuously appropriated to the department for expenditure only for the decontamination, decommissioning, reclamation, and disposal of radioactive materials, and for long-term maintenance and surveillance for the protection of the public health and safety and the environment, in accordance with subdivision (e), with regard to the facility or operations of the licensee who provided the financial surety.

(c) The department may not expend the money in the Financial Surety Account for normal operating expenses of the department.

(d) The department shall, by regulation, establish a procedure whereby a licensee may be refunded the amount of the financial surety provided by the licensee in excess of any amounts expended by the department and any amounts that are required to be retained to cover the costs of long-term maintenance and surveillance pursuant to subdivision (b), with regard to that licenseesfacility or operations. The regulations shall specify that the refund may be received only after the department has determined that the licensee has fully satisfied all of its obligations under its license, and all other obligations which the regulations require to be satisfied before the licensee may receive a refund.

(e) If the department finds that a radioactive materials licensee is unable to, or is unwilling to, conduct any decontamination, decommissioning, reclamation, disposal, or long-term maintenance and surveillance that may be necessary, the department shall issue an order directing any action and corrective measures it finds necessary to protect the public health and safety and the environment. The department may undertake, or contract for the undertaking of, any actions or corrective measures which the licensee fails to satisfactorily complete, and may expend the amount of the financial surety provided by the licensee to pay the costs of those actions and corrective measures.

(Added by Stats. 1996, Ch. 1023, Sec. 338. Effective September 29, 1996.)

115093.

(a) The department shall require, as a condition of issuing a license to receive, possess, or transfer radioactive materials, or devices or equipment utilizing radioactive materials, that the licensee take corrective action with regard to all contamination that results from the handling, use, storage, or transportation of radioactive materials at the licenseesfacility regardless of when the contamination commenced at the facility.

(b) Any corrective action required pursuant to this section shall require that corrective action be taken beyond the facility boundary if necessary to protect human health and safety or the environment, unless the licensee demonstrates to the satisfaction of the department that, despite the licenseesbest efforts, the licensee is unable to obtain the necessary permission to undertake the corrective action.

(c) When corrective action cannot be completed prior to issuance of the license, the license shall contain schedules of compliance for corrective action and assurances of financial responsibility for completing the corrective action.

(Added by Stats. 1996, Ch. 1023, Sec. 339. Effective September 29, 1996.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.

&title=&part=9.&chapter=8.&article=5.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=5.)

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 5. Inspection [115095 - 115102]__

(Article 5 added by Stats. 1995, Ch. 415, Sec. 6.)

115095.

Any officer, employee, or agent of the department or of any state or local agency with which an agreement has been made pursuant to Section 114990 shall have the power to enter at all reasonable times upon any private or public property within the jurisdiction of the agency for the purpose of determining whether or not there is compliance with or violation of this chapter, building standards published in the State Building Standards Code relating to buildings in which there are sources of ionizing radiation, or of the regulations adopted pursuant to this chapter, and the owner, occupant, or person in charge of the property shall permit that entry and inspection. Entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115100.

(a) The person responsible for registering mammographic X-ray equipment shall be responsible for assuring that the mammographic X-ray equipment under his or her jurisdiction has been inspected and that mammography quality assurance tests are performed by a medical physicist, health physicist, or other individual with qualifications similar to those approved by the department and prescribed in the May 1990 version of the Rules of Good Practice for Supervision and Operation of Mammographic X-Ray Equipment, as approved by the Radiologic Technology Certification Committee.

(b) If the department adopts regulations on or after January 1, 1993, that provide similar or stronger protection of a patientshealth and safety than the Rules of Good Practice for Supervision and Operation of Mammographic X-Ray Equipment, as determined by the department, then those rules shall no longer apply to this section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115102.

(a)A facility that operates a mammogram machine shall post notices of serious violations in an area that is visible to patients. For purposes of this section, serious violation means a Level 1 deviation, identified by an inspector, from federal Mammography Quality Standards Act of 1992 (42 U.S.C. Sec. 263b) standards, in effect as of December 31, 2009, that may seriously compromise the quality of mammography services that are offered by the facility.

(b)The facility shall post the notice pursuant to this section within two working days after receipt of the documents from the department. These documents shall remain posted for a minimum of five working days or until action correcting the violation has been completed, whichever is later.

(Added by Stats. 2009, Ch. 169, Sec. 1. (SB 148) Effective January 1, 2010.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 6. Records [115105 - 115115]__

(Article 6 added by Stats. 1995, Ch. 415, Sec. 6.)

115105.

The department shall require each person who acquires, possesses or uses a source of ionizing radiation to maintain records relating to its receipt, storage, transfer or disposal, and other records as the department may require, subject to exemptions as may be provided by regulations.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115110.

The department shall require each person who possesses or uses a source of ionizing radiation to maintain appropriate records showing the radiation exposure of all individuals for whom personnel monitoring is required by regulations of the department. Copies of these records and those required to be kept in accordance with Section 115105 shall be submitted to the department upon request.

The department shall adopt reasonable regulations, compatible with those of the United States Atomic Energy Commission, pertaining to reports of exposure of personnel. The regulations shall require that reports of excessive exposure be made to the individual exposed and to the department, and shall make provision for periodic and terminal reports to individuals for whom personnel monitoring is required. Section 6411 of the Labor Code shall not be construed as exempting any person from making any report required by this section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115111.

(a)Commencing July 1, 2012, subject to subdivision (e), a person that uses a computed tomography (CT) X-ray system for human use shall record the dose of radiation on every diagnostic CT study produced during a CT examination in the patientsrecord, as defined in Section 123105. CT studies used for therapeutic radiation treatment planning or delivery or for calculating attenuation coefficients for nuclear medication studies shall not be required to record the dose.

(b)The facility conducting the study may send electronically each CT study and protocol page that lists the technical factors and dose of radiation to the electronic picture archiving and communications system.

(c)(1)Until July 1, 2013, the displayed dose shall be verified annually by a medical physicist for the facilitysstandard adult brain, adult abdomen, and pediatric brain protocols, to ensure the displayed doses are within 20 percent of the true measured dose measured in accordance with subdivision (f).

(2)A facility that has a CT X-ray system that is accredited by an organization that is approved by the federal Centers for Medicare and Medicaid Services, an accrediting agency approved by the Medical Board of California, or the State Department of Public Health may elect not to perform the verification described in paragraph (1).

(d)Subject to subdivision (e), the interpretive report of a diagnostic CT study shall include the dose of radiation by either recording the dose within the patientsreport or attaching the protocol page that includes the dose of radiation to the report.

(e)The requirements of this section shall be limited to CT systems capable of calculating and displaying the dose.

(f)For the purposes of this section, dose of radiation shall be defined as one of the following:

(1)The computed tomography index volume (CTDI vol) and dose length product (DLP), as defined by the International Electrotechnical Commission (IEC) and recognized by the federal Food and Drug Administration (FDA).

(2)The dose unit as recommended by the American Association of Physicists in Medicine.

(g)For purposes of this section, CT X-ray system means the same as provided in Section 892.1750 of Title 21 of the Code of Federal Regulations.

(Amended by Stats. 2012, Ch. 106, Sec. 1. (AB 510) Effective July 13, 2012.)

115112.

(a)Except as provided in subdivision (b), commencing July 1, 2013, CT X-ray systems shall be accredited by an accrediting organization that is approved by the federal Centers for Medicare and Medicaid Services, an accrediting organization approved by the Medical Board of California, or the State Department of Public Health. A facility that is subject to accreditation may elect to have the CT X-ray system accredited pursuant to a single accreditation survey that includes the CT service by the accrediting organization.

(b)A CT X-ray system shall not be subject to accreditation if any of the following apply:

(1)The system is used for therapeutic radiation treatment planning or delivery.

(2)The system is used for calculating attenuation coefficients for nuclear medicine studies.

(3)The system is dedicated for image guidance for interventional radiologic procedures.

(Amended by Stats. 2012, Ch. 106, Sec. 2. (AB 510) Effective July 13, 2012.)

115113.

(a)Except for an event that results from patient movement or interference, a facility shall report to the department an event in which the administration of radiation results in any of the following:

(1)Repeating of a CT examination, unless otherwise ordered by a physician or a radiologist, if one of the following dose values is exceeded:

(A)0.05 Sv (5 rem) effective dose.

(B)0.5 Sv (50 rem) to an organ or tissue.

(C)0.5 Sv (50 rem) shallow dose to the skin.

(2)A CT X-ray examination for any individual for whom a physician did not provide approval for the examination if one of the following dose values is exceeded:

(A)0.05 Sv (5 rem) effective dose.

(B)0.5 Sv (50 rem) to an organ or tissue.

(C)0.5 Sv (50 rem) shallow dose to the skin.

(3)A CT X-ray for an examination that does not include the area of the body that was intended to be imaged by the ordering physician or radiologist if one of the following dose values is exceeded:

(A)0.05 Sv (5 rem) effective dose.

(B)0.5 Sv (50 rem) to an organ or tissue.

(C)0.5 Sv (50 rem) shallow dose to the skin.

(4)CT or therapeutic exposure that results in unanticipated permanent functional damage to an organ or a physiological system, hair loss, or erythema, as determined by a qualified physician.

(5)A CT or therapeutic dose to an embryo or fetus that is greater than 50 mSv (5 rem) dose, that is a result of radiation to a known pregnant individual unless the dose to the embryo or fetus was specifically approved, in advance, by a qualified physician.

(6)Therapeutic ionizing irradiation of the wrong individual or the wrong treatment site, excluding the area of the body that was intended to be irradiated.

(7)The total dose from therapeutic ionizing radiation delivered differs from the prescribed dose by 20 percent or more. A report shall not be required pursuant to this paragraph in any instance if the dose administered exceeds 20 percent of the amount prescribed in a situation if the radiation was utilized for palliative care for the specific patient. The radiation oncologist shall notify the referring physician that the dose was exceeded.

(b)The facility shall, no later than five business days after the discovery of a therapeutic event described in paragraphs (3) to (7), inclusive, of subdivision (a) and no later than 10 business days after discovery of an event described in paragraphs (1) to (4), inclusive, of subdivision (a), provide notification of the event to the department and the referring physician of the person subject to the event and shall, no later than 15 business days after discovery of an event described in subdivision (a), provide written notification to the person who is subject to the event.

(c)This section shall become inoperative on the effective date of the act that added this subdivision, and shall remain inoperative until July 1, 2012.

(Amended by Stats. 2012, Ch. 106, Sec. 3. (AB 510) Effective July 13, 2012. Note: Subd. (c) was added by Stats. 2011, Ch. 139, and made this section inoperative from August 1, 2011, until July 1, 2012.)

115115.

The person responsible for registering mammographic X-ray equipment or a certified supervisor, as defined in subdivision (i) of Section 114850, shall establish and maintain a Mammography Quality Assurance Program that includes:

(a) A Mammography Quality Assurance Manual for the identification of mammography quality assurance tests performed, test frequency, test equipment used, maintenance and calibration of test equipment, and the qualifications of individuals who perform the tests in order to ensure compliance with the May 1990 version of Rules of Good Practice for Supervision and Operation of Mammographic X-Ray Equipment or the regulations of the department.

(b) A Mammography X-Ray Equipment and Facility Accreditation Certificate issued by the department that shall be posted on each X-ray machine specifically dedicated for the purpose of mammography.

(Amended by Stats. 1997, Ch. 97, Sec. 5. Effective July 21, 1997.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=7.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 7. Federal-State Agreements [115120 - 115125]__

(Article 7 added by Stats. 1995, Ch. 415, Sec. 6.)

115120.

The Governor, on behalf of this state, may enter into agreements with the federal government providing for discontinuance of certain of the federal governmentsresponsibilities with respect to sources of ionizing radiation and the assumption thereof by this state. The agreements shall become effective only when ratified by law.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115125.

Any person who, on the effective date of an agreement under Section 115120, possesses a license issued by the federal government shall be deemed to possess the same pursuant to a license issued under this chapter. The license shall expire either 90 days after receipt from the department of a notice of expiration of the license, or on the date of expiration specified in the federal license, whichever is the earlier.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=8.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 8. Inspection Agreements and Training Programs [115130 - 115140]__

(Article 8 added by Stats. 1995, Ch. 415, Sec. 6.)

115130.

The department, on behalf of this state, may enter into an agreement or agreements with the federal government, other states, or interstate agencies, whereby this state will perform on a co-operative basis with the federal government, other states, or interstate agencies, inspections or other functions relating to control of sources of ionizing radiation.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115135.

The department and any other appropriate state agency may institute training programs for the purpose of qualifying personnel to carry out this chapter, and may make those personnel available for participation in any program or programs of the federal government, other states, or interstate agencies in furtherance of the purposes of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115140.

Ordinances, resolutions or regulations, now or hereafter in effect, of the governing body of a city or county relating to radioactive materials or other sources of radiation shall not be superseded by this chapter,

provided that the ordinances or regulations are and continue to be consistent with the provisions of this chapter, amendments thereto, and regulations thereunder. No city or county shall require the payment of a fee in connection with the activities governed by Section 115065 when a fee is required by rules or regulations adopted pursuant to that section, and no city or county shall require the payment of a fee in connection with the activities governed by Section 115080 when a fee is required by rules or regulations adopted pursuant to that section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=10.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 10. Administrative Procedure [115145 - 115155]__

(Article 10 added by Stats. 1995, Ch. 415, Sec. 6.)

115145.

(a) In any proceeding under this chapter for granting or amending any license, or for determining compliance with, or granting exceptions from, regulations adopted in accordance with this chapter, the department shall afford an opportunity for a hearing on the record upon the request of any person whose

interest may be affected by the proceeding, and shall admit that person as a party to the proceeding.

(b) Proceedings for the suspension or revocation of licenses under this chapter shall be conducted pursuant to Section 100171.

(c) The adoption, repeal, or amendment of regulations pursuant to this chapter shall be accomplished in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 1997, Ch. 220, Sec. 31. Effective August 4, 1997.)

115150.

Whenever the department finds that an emergency exists requiring immediate action to protect the public health and safety, the department may, without notice or hearing, issue a regulation or order reciting the existence of the emergency and requiring that action be taken as is deemed necessary to meet the emergency. Notwithstanding any provision of this chapter, the regulation or order shall be effective immediately. Any person to whom the regulation or order is directed shall comply therewith immediately, but on application to the department shall be afforded a hearing within 15 days. On the basis of the hearing, the emergency regulation or order shall be continued, modified, or revoked within 30 days after the hearing.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115155.

Any final order entered in any proceeding under Sections 115145 and 115150 shall be subject to judicial review in the manner prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=11.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 11. Injunction Proceedings [115160- 115160.]__

(Article 11 added by Stats. 1995, Ch. 415, Sec. 6.)

115160.

Whenever, in the judgment of the department, any person has engaged in or is about to engage in any acts or practices that constitute or will constitute a violation of any provision of this chapter, or any rule, regulation or order issued thereunder, and at the request of the department, the Attorney General may make application to the superior court for an order enjoining the acts or practices, or for an order directing compliance, and upon a showing by the department that the person has engaged in or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=12.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 12. Uses [115165 - 115170]__

(Article 12 added by Stats. 1995, Ch. 415, Sec. 6.)

115165.

It shall be unlawful for any person to use, manufacture, produce, knowingly transport, transfer, receive, acquire, own, or possess, any source of ionizing radiation unless licensed by or registered with the department in accordance with this chapter and regulations issued thereunder.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115170.

It is unlawful for any person to manufacture, construct, produce, transfer, acquire, use, or possess any of the materials or facilities for which a permit or license is required under the provisions of the Atomic Energy Act of 1954 (Public Law 85-256) unless he or she shall have first obtained a permit or license. Violation of this section is a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=13.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 13. Impounding of Materials [115175 - 115210]__

(Article 13 added by Stats. 1995, Ch. 415, Sec. 6.)

115175.

The department shall have the authority in the event of an emergency to impound or order the impounding of sources of ionizing radiation in the possession of any person who is not equipped to observe or fails to observe this chapter or any rules or regulations issued thereunder.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115180.

The term decontamination, as used in this chapter, means the reduction of the level of contamination from radioactive material to the level that the department determines is reasonably necessary to eliminate the hazard to public health that is caused by the contamination of any object, building, structure, or premises. Any order by the department pursuant to Section 115185 shall prescribe the level to which the contamination is required to be reduced in order to eliminate the hazard to the public health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115185.

If the department determines that any object, building, structure, or premises is contaminated by radioactive material and constitutes a hazard to the public health, it shall order the person who has control of the object, building, structure, or premises to cease to use or occupy and to exercise due caution to prevent others from

using or occupying the object, building, structure, or premises, except to the extent necessary to accomplish the decontamination, or to the extent necessary to accomplish the disposal of the object, building, or structure as radioactive waste. The normal use or occupancy of the object, building, structure, or premises may not be resumed until decontamination has been accomplished and a release obtained from the department.

If the person who has control of the object, building, structure, or premises fails to comply with the departmentsorder to decontaminate, the department may impound or seize the object, building, structure, or premises. The department after impounding or seizure of an object, building, structure, or premises, may decontaminate the object, building, structure, or premises.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115190.

If the department determines that the object, building, structure, or premises does not warrant decontamination because of its low value, it shall so notify in writing the person who had control of the object, building, structure, or premises. The person so notified may decontaminate the object, building, structure, or premises, but if he or she fails to do so within 15 days after the notice, the department may cause the object, building, structure, or premises to be disposed of as radioactive waste.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115195.

If the department causes the object, building, structure or premises to be decontaminated, the department shall, upon the completion of the decontamination, return the impounded article or seized building, structure, or premises to the person who had control of the article, building, structure, or premises prior to the impounding or seizure. The person who has control of the object, building, structure, or premises and was responsible for its contamination shall pay the department for the reasonable and necessary costs incurred by the department in seizing and decontaminating or in seizing and disposing of the object, building, structure, or premises.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115200.

If the contamination of the object, building, structure, or premises resulted from the negligence of another person, then the department may require that person to pay all reasonable and necessary costs incurred by the department in seizing and decontaminating or disposing of the object, building, structure, or premises and may maintain any action necessary to recover those costs.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115205.

(a) A lien in favor of the people of California shall be imposed upon any object, building, structure, or premises for the reasonable amount of expenses and costs incurred by the department in carrying out the provisions of Section 115185, 115190, 115195, or 115200 if the owner of the property or of any interest therein is the person responsible for the contamination, and to the extent of the interest of that person. Notice of lien or notice of intent to impose a lien shall be posted by the department upon any object, building, structure, or premises impounded or seized by the department and notice of lien or notice of intent to impose a lien shall be filed with the county recorder of the county in which they are located.

The lien shall not become effective until the notice of lien, particularly identifying the property, the interest subject to the lien and the name of the owner of record of the property, and the amount of the lien, is recorded in the office of the county recorder in the county where the property is located. Upon the recordation, the lien shall have the same force, effect and priority as if it had been a judgment lien imposed upon real property that was not exempt from execution, except that it shall attach only to the property described in the notice and impounded or seized by the department, and shall continue for 10 years from the time of the recording of the notice unless sooner released or otherwise discharged.

(b) The department may at any time release all or any portion of the property subject to a lien imposed pursuant to subdivision (a) from the lien or subordinate the lien to other liens and encumbrances if it determines that the amount owed is sufficiently secured by a lien on other property or that the release or subordination of the lien will not jeopardize the collection of the amount owed. A certificate by the department to the effect that any property has been released from the lien or that the lien has been subordinated to other liens and encumbrances shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115210.

(a) The city attorney of the city or the district attorney of the county in which any violations of this chapter occur, occurred, or will occur, or the Attorney General, at the request of the department, may institute on behalf of the people of California any civil action necessary to carry out this chapter, including, but not restricted to, the enforcement of liens, the obtaining of injunctions, or the imposition of civil penalties.

(b) If the civil penalties are awarded and the action is brought by a city attorney or district attorney, the penalty shall be paid directly to the city or county. If no penalty is awarded or paid, or both, the state shall have no obligation to make any payment to the city or county.

If the civil penalty is awarded and the action is brought by the Attorney General, the penalty shall be deposited in the General Fund.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=14.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=14.)

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 14. Penalties [115215 - 115220]__

(Article 14 added by Stats. 1995, Ch. 415, Sec. 6.)

115215.

(a)Any person who violates this chapter, or rules, regulations, or orders in effect adopted pursuant to this chapter, is guilty of a misdemeanor and shall, upon conviction, be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in a county jail for a period not to exceed 180 days, or by both the fine and imprisonment.

(b)Any person who knowingly disposes or causes the disposal of any radioactive material regulated by this chapter, or who reasonably should have known that the person was disposing or causing the disposal of the material, at a facility within the state that does not have a license for disposal issued by the department pursuant to this chapter, or at any point in the state that is not authorized according to this chapter, or by any other local, state, or federal agency having authority over radioactive materials, and is in violation of this chapter, or any regulation or order adopted pursuant to this chapter, is guilty of a public offense, and upon conviction, may be punished as follows:

(1)If the disposal is found to have caused a substantial danger to the public health or safety, the person may be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 24, or 36 months, except as otherwise provided in

paragraph (2). The court may also impose, upon a person convicted of violating this subdivision, a fine of not more than one hundred thousand dollars ($100,000) for each day of violation, except as otherwise provided in paragraph (2).

(2)If the act that violated this subdivision caused great bodily injury or caused a substantial probability that death could result, the person convicted may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, five, or seven years and may be fined not more than two hundred fifty thousand dollars ($250,000) for each day of violation.

(c)Any person who knowingly transports or causes the transportation of any radioactive material regulated by this chapter, or who reasonably should have known that the person was causing the transportation of the material, to a facility in the state that does not have a license from the department issued pursuant to this chapter, to any point in the state that is not authorized by this chapter, or to any point in the state that is not authorized by any other local, state, or federal agency having authority over radioactive materials, and is in violation of this chapter, or any regulation or order adopted pursuant to this chapter, is guilty of a public offense and, upon conviction, may be punished as follows:

(1)If the transportation is found to have caused a substantial danger to the public health or safety, the person may be punished by imprisonment in the county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 24, or 36 months, except as otherwise provided in paragraph (2). The court may also impose, upon a person convicted of violating this subdivision, a fine of not more than one hundred thousand dollars ($100,000) for each day of violation, except as provided by paragraph (2).

(2)If the transportation that violated this subdivision caused great bodily injury or caused a substantial probability that death could result, the person convicted may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, five, or seven years and may be fined not more than two hundred fifty thousand dollars ($250,000) for each day of violation.

(d)Notwithstanding any other provision of this chapter, radioactive materials used in medical treatment or result from medical treatment, that are disposed, stored, handled, or transported in a manner authorized pursuant to this chapter, are exempt from subdivisions (b) and (c).

(e)Notwithstanding subdivision (a), any person who violates any provision of this chapter relating to mammography or regulations adopted pursuant to those provisions is guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not to exceed five thousand dollars ($5,000), per day of offense, or by imprisonment in the county jail not to exceed 180 days, or both the fine and imprisonment.

(Amended (as amended by Stats. 2011, Ch. 15) by Stats. 2011, Ch. 39, Sec. 4. (AB 117) Effective June 30, 2011. Operative October 1, 2011, pursuant to Secs. 68 and 69 of Ch. 39.)

115220.

(a) Any person who intentionally or through gross negligence violates any provision of this chapter, or any rule or regulation adopted pursuant thereto, or who fails or refuses to comply with a cease and desist order or other order of the department issued thereunder, and that action causes a substantial danger to the health of others, shall be liable to the department for a civil penalty not to exceed five thousand dollars ($5,000) per day, per offense.

(b) The remedies under this section are in addition to, and do not supersede or limit, any and all other remedies, civil or criminal.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=15.

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 15. Effective Date of Licensing Provisions [115225- 115225.]__

(Article 15 added by Stats. 1995, Ch. 415, Sec. 6.)

115225.

Subdivision (a) of Section 115060 and other provisions of this chapter relating to licensing and the enforcement thereof shall become effective only upon execution of an agreement pursuant to Section 115120. Section 115080 shall become operative on July 1, 1962.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=16.

115235.

The provisions of said agreement are as follows:

ArticleI

Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

A.Byproduct materials;

B.Source materials; and

C.Special nuclear materials in quantities not sufficient to form a critical mass.

ArticleII

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A.The construction and operation of any production or utilization facility;

B.The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C.The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D.The disposal of other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

ArticleIII

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of the product except pursuant to a license or an exemption from licensing issued by the Commission.

ArticleIV

This Agreement shall not affect the authority of the Commission under Subsection 161‰b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

ArticleV

The State will use its best efforts to maintain continuing compatibility between its program and the program of the Commission for the regulation of like materials. To this end the State will use its best efforts to keep the Commission informed of proposed changes in its regulations, and licensing, inspection, and enforcement policies and criteria, and of proposed requirements for the design and distribution of products containing source, byproduct, or special nuclear material, and to obtain the comments and assistance of the Commission thereon.

ArticleVI

The Commission will use its best efforts to keep the State informed of proposed changes in its regulations, and licensing, inspection, and enforcement policies and criteria and to obtain the comments and assistance of the State thereon.

ArticleVII

The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

ArticleVIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

ArticleIX

This Agreement, upon ratification by law of the State, shall become effective on the ninety-first day after the adjournment of the First Extraordinary Session of the 1962 California Legislature or on September 1, 1962, whichever is later, and shall remain in effect unless, and until such time as it is terminated pursuant to Article VIII.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=17.

115255.

The provisions of the Southwestern Low-Level Radioactive Waste Disposal Compact are as follows:

Article 1.Compact Policy and Formation

The party states hereby find and declare all of the following:

(A)The United States Congress, by enacting the Low-Level Radioactive Waste Policy Act, Public Law 96-573, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Sec. 2021b to 2021j, incl.), has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

(B)It is the purpose of this compact to provide the means for such a cooperative effort between or among party states to protect the citizens of the states and the states™ environments.

(C)It is the policy of party states to this compact to encourage the reduction of the volume of low-level radioactive waste requiring disposal within the compact region.

(D)It is the policy of the party states that the protection of the health and safety of their citizens and the most ecological and economical management of low-level radioactive wastes can be accomplished through cooperation of the states by minimizing the amount of handling and transportation required to dispose of these wastes and by providing facilities that serve the compact region.

(E)Each party state, if an agreement state pursuant to Section 2021 of Title 42 of the United States Code, or the Nuclear Regulatory Commission if not an agreement state, is responsible for the primary regulation of radioactive materials within its jurisdiction.

Article 2.Definitions

As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

(A)Commission means the Southwestern Low-Level Radioactive Waste Commission established in Article 3 of this compact.

(B)Compact region or region means the combined geographical area within the boundaries of the party states.

(C)Disposal means the permanent isolation of low-level radioactive waste pursuant to requirements established by the Nuclear Regulatory Commission and the Environmental Protection Agency under applicable laws, or by a party state if that state hosts a disposal facility.

(D)Generate, when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

(E)Generator means a person whose activity, excluding the management of low-level radioactive waste, results in the production of low-level radioactive waste.

(F)Host county means a county, or other similar political subdivision of a party state, in which a regional disposal facility is located or being developed.

(G)Host state means a party state in which a regional disposal facility is located or being developed. The

State of California is the host state under this compact for the first 30 years from the date the California regional disposal facility commences operations.

(H)Institutional control period means that period of time in which the facility license is transferred to the disposal site owner in compliance with the appropriate regulations for long-term observation and maintenance following the postclosure period.

(I)Low-level radioactive waste means regulated radioactive material that meets all of the following requirements:

(1)The waste is not high-level radioactive waste, spent nuclear fuel, or byproduct material (as defined in Section 11e(2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec. 2014(e)(2))).

(2)The waste is not uranium mining or mill tailings.

(3)The waste is not any waste for which the federal government is responsible pursuant to subdivision (b) of Section 3 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Sec. 2021c(b)).

(4)The waste is not an alpha emitting transuranic nuclide with a half-life greater than five years and with a concentration greater than 100 nanocuries per gram, or Plutonium-241 with a concentration greater than 3,500 nanocuries per gram, or Curium-242 with a concentration greater than 20,000 nanocuries per gram.

(J)Management means collection, consolidation, storage, packaging, or treatment.

(K)Major generator state means a party state that generates 10 percent of the total amount of low-level radioactive waste produced within the compact region and disposed of at the regional disposal facility.

If no party state other than California generates at least 10 percent of the total amount, major generator state means the party state which is second to California in the amount of waste produced within the compact region and disposed of at the regional disposal facility.

(L)Operator means a person who operates a regional disposal facility.

(M)Party state means any state that has become a party in accordance with Article 7 of this compact.

(N)Person means an individual, corporation, partnership, or other legal entity, whether public or private.

(O)Postclosure period means that period of time after completion of closure of a disposal facility during which the licensee shall observe, monitor, and carry out necessary maintenance and repairs at the disposal facility to assure that the disposal facility will remain stable and will not need ongoing active maintenance. This period ends with the beginning of the institutional control period.

(P)Regional disposal facility means a nonfederal low-level radioactive waste disposal facility established and operated under this compact.

(Q)Site closure and stabilization means the activities of the disposal facility operator taken at the end of the disposal facilitysoperating life to assure the continued protection of the public from any residual radioactivity or other potential hazards present at the disposal facility.

(R)Transporter means a person who transports low-level radioactive waste.

(S)Uranium mine and mill tailings means waste resulting from mining and processing of ores containing uranium.

Article 3.The Commission

(A)There is hereby established the Southwestern Low-Level Radioactive Waste Commission.

(1)The commission shall consist of one voting member from each party state to be appointed by the Governor, confirmed by the Senate of that party state, and to serve at the pleasure of the Governor of each party state, and one voting member from the host county. The appointing authority of each party state shall notify the commission in writing of the identity of the member and of any alternates. An alternate may act in the membersabsence.

(2)The host state shall also appoint that number of additional voting members of the commission that is necessary for the host statesmembers to compose at least 51 percent of the membership on the commission. The host statesadditional members shall be appointed by the host state Governor and confirmed by the host state Senate.

If there is more than one host state, only the state in which is located the regional disposal facility actively accepting low-level radioactive waste pursuant to this compact may appoint these additional members.

(3)If the host county has not been selected at the time the commission is appointed, the Governor of the host state shall appoint an interim local government member, who shall be an elected representative of a local government. After a host county is selected, the interim local government member shall resign and the Governor shall appoint the host county member pursuant to paragraph (4).

(4)The Governor shall appoint the host county member from a list of at least seven candidates compiled by the board of supervisors of the host county.

(5)In recommending and appointing the host county member pursuant to paragraph (4), the board of supervisors and the Governor shall give first consideration to recommending and appointing the member of the board of supervisors in whose district the regional disposal facility is located or being developed. If the board of supervisors of the host county does not provide a list to the Governor of at least seven candidates from which to choose, the Governor shall appoint a resident of the host county as the host county member.

(6)The host county member is subject to confirmation by the Senate of that party state and shall serve at the pleasure of the Governor of the host state.

(B)The commission is a legal entity separate and distinct from the party states and shall be so liable for its actions. Members of the commission shall not be personally liable for actions taken in their official capacity. The liabilities of the commission shall not be deemed liabilities of the party states.

(C)The commission shall conduct its business affairs pursuant to the laws of the host state and disputes arising out of commission action shall be governed by the laws of the host state. The commission shall be located in the capital city of the host state in which the regional disposal facility is located.

(D)The commissionsrecords shall be subject to the host statespublic records law, and the meetings of the commission shall be open and public in accordance with the host statesopen meeting law.

(E)The commission members are public officials of the appointing state and shall be subject to the conflict of interest laws, as well as any other law, of the appointing state. The commission members shall be

compensated according to the appointing stateslaw.

(F)Each commission member is entitled to one vote. A majority of the commission constitutes a quorum. Unless otherwise provided in this compact, a majority of the total number of votes on the commission is necessary for the commission to take any action.

(G)The commission has all of the following duties and authority:

(1)The commission shall do, pursuant to the authority granted by this compact, whatever is reasonably necessary to ensure that low-level radioactive wastes are safely disposed of and managed within the region.

(2)The commission shall meet at least once a year and otherwise as business requires.

(3)The commission shall establish a compact surcharge to be imposed upon party state generators. The surcharge shall be based upon the cubic feet of low-level radioactive waste and the radioactivity of the low-level radioactive waste and shall be collected by the operator of the disposal facility.

The host state shall set, and the commission shall impose, the surcharge after congressional approval of the compact. The amount of the surcharge shall be sufficient to establish and maintain at a reasonable level funds for all of the following purposes:

(a)The activities of the commission and commission staff.

(b)At the discretion of the host state, a third-party liability fund to provide compensation for injury to persons or property during the operational, closure, stabilization, and postclosure and institutional control periods of the regional disposal facility. This subparagraph does not limit the responsibility or liability of the operator, who shall comply with any federal or host state statutes or regulations regarding third-party liability claims.

(c)A local government reimbursement fund, for the purpose of reimbursing the local government entity or entities hosting the regional disposal facility for any costs or increased burdens on the local governmental entity for services, including, but not limited to, general fund expenses, the improvement and maintenance of roads and bridges, fire protection, law enforcement, monitoring by local health officials, and emergency preparation and response related to the hosting of the regional disposal facility.

(4)The surcharges imposed by the commission for purposes of subparagraphs (b) and (c) of paragraph (3) and surcharges pursuant to paragraph (3) of subdivision (E) of Article 4 shall be transmitted on a monthly basis to the host state for distribution to the proper accounts.

(5)The commission shall establish a fiscal year that conforms to the fiscal years of the party states to the extent possible.

(6)The commission shall keep an accurate account of all receipts and disbursements. An annual audit of the books of the commission shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the commission.

(7)The commission shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the subsequent fiscal year.

(8)The commission may accept any grants, equipment, supplies, materials, or services, conditional or otherwise, from the federal or state government. The nature, amount and condition, if any, of any donation,

grant, or other resources accepted pursuant to this paragraph and the identity of the donor or grantor shall be detailed in the annual report of the commission.

However, the host state shall receive, for the uses specified in subparagraph (E) of paragraph (2) of subsection (d) of Section 2021e of Title 42 of the United States Code, any payments paid from the special escrow account for which the Secretary of Energy is trustee pursuant to subparagraph (A) of paragraph (2) of subsection (d) of Section 2021 (e) of Title 42 of the United States Code.

(9)The commission shall submit communications to the governors and to the presiding officers of the legislatures of the party states regarding the activities of the commission, including an annual report to be submitted on or before January 15 of each year. The commission shall include in the annual report a review of, and recommendations for, low-level radioactive waste disposal methods which are alternative technologies to the shallow land burial of low-level radioactive waste.

(10)The commission shall assemble and make available to the party states, and to the public, information concerning low-level radioactive waste management needs, technologies, and problems.

(11)The commission shall keep a current inventory of all generators within the region, based upon information provided by the party states.

(12)The commission shall keep a current inventory of all regional disposal facilities, including information on the size, capacity, location, specific low-level radioactive wastes capable of being managed, and the projected useful life of each regional disposal facility.

(13)The commission may establish advisory committees for the purpose of advising the commission on the disposal and management of low-level radioactive waste.

(14)The commission may enter into contracts to carry out its duties and authority, subject to projected resources. No contract made by the commission shall bind a party state.

(15)The commission shall prepare contingency plans, with the cooperation and approval of the host state, for the disposal and management of low-level radioactive waste in the event that any regional disposal facility should be closed.

(16)The commission may sue and be sued and, when authorized by a majority vote of the members, may seek to intervene in an administrative or judicial proceeding related to this compact.

(17)The commission shall be managed by an appropriate staff, including an executive director. Notwithstanding any other provision of law, the commission may hire or retain, or both, legal counsel.

(18)The commission may, subject to applicable federal and state laws, recommend to the appropriate host state authority suitable land and rail transportation routes for low-level radioactive waste carriers.

(19)The commission may enter into an agreement to import low-level radioactive waste into the region only if both of the following requirements are met:

(a)The commission approves the importation agreement by a two-thirds vote of the commission.

(b)The commission and the host state assess the affected regional disposal facilities™ capability to handle imported low-level radioactive wastes and any relevant environmental or economic factors, as defined by the host statesappropriate regulatory authorities.

(20)The commission may, upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level radioactive wastes to a low-level radioactive waste disposal facility located outside the region. The commission may approve the petition only by a two-thirds vote of the commission. The permission to export low-level radioactive wastes shall be effective for that period of time and for the amount of low-level radioactive waste, and subject to any other term or condition, which may be determined by the commission.

(21)The commission may approve, only by a two-thirds vote of the commission, the exportation outside the region of material, which otherwise meets the criteria of low-level radioactive waste, if the sole purpose of the exportation is to process the material for recycling.

(22)The commission shall, not later than 10 years before the closure of the initial or subsequent regional disposal facility, prepare a plan for the establishment of the next regional disposal facility.

Article 4.Rights, Responsibilities, and Obligations of Party States

(A)There shall be regional disposal facilities sufficient to dispose of the low-level radioactive waste generated within the region.

(B)Low-level radioactive waste generated within the region shall be disposed of at regional disposal facilities and each party state shall have access to any regional disposal facility without discrimination.

(C)(1)Upon the effective date of this compact, the State of California shall serve as the host state and shall comply with the requirements of subdivision (E) for at least 30 years from the date the regional disposal facility begins to accept low-level radioactive waste for disposal. The extension of the obligation and duration shall be at the option of the State of California.

If the State of California does not extend this obligation, the party state, other than the State of California, which is the largest major generator state shall then serve as the host state for the second regional disposal facility.

The obligation of a host state which hosts the second regional disposal facility shall also run for 30 years from the date the second regional disposal facility begins operations.

(2)The host state may close its regional disposal facility when necessary for public health or safety.

(D)The party states of this compact cannot be members of another regional low-level radioactive waste compact entered into pursuant to the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. Secs. 2021b to 2021j, incl.).

(E)A host state shall do all of the following:

(1)Cause a regional disposal facility to be developed on a timely basis.

(2)Ensure by law, consistent with any applicable federal laws, the protection and preservation of public health and safety in the siting, design, development, licensing, regulation, operation, closure, decommissioning, and long-term care of the regional disposal facilities within the state.

(3)Ensure that charges for disposal of low-level radioactive waste at the regional disposal facility are reasonably sufficient to do all of the following:

(a)Ensure the safe disposal of low-level radioactive waste and long-term care of the regional disposal facility.

(b)Pay for the cost of inspection, enforcement, and surveillance activities at the regional disposal facility.

(c)Assure that charges are assessed without discrimination as to the party state of origin.

(4)Submit an annual report to the commission on the status of the regional disposal facility including projections of the facilitysanticipated future capacity.

(5)The host state and the operator shall notify the commission immediately upon the occurrence of any event which could cause a possible temporary or permanent closure of a regional disposal facility.

(F)Each party state is subject to the following duties and authority:

(1)To the extent authorized by federal law, each party state shall develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and destined for a regional disposal facility to conform to packaging and transportation requirements and regulations. These procedures shall include, but are not limited to, all of the following requirements:

(a)Periodic inspections of packaging and shipping practices.

(b)Periodic inspections of low-level radioactive waste containers while in the custody of transporters.

(c)Appropriate enforcement actions with respect to violations.

(2)A party state may impose a surcharge on the low-level radioactive waste generators within the state to pay for activities required by paragraph (1).

(3)To the extent authorized by federal law, each party state shall, after receiving notification from a host state that a person in a party state has violated packaging, shipping, or transportation requirements or regulations, take appropriate actions to ensure that these violations do not continue. Appropriate actions may include, but are not limited to, requiring that a bond be posted by the violator to pay the cost of repackaging at the regional disposal facility and prohibit future shipments to the regional disposal facility.

(4)Each party state shall maintain a registry of all generators within the state that may have low-level radioactive waste to be disposed of at a regional disposal facility, including, but not limited to, the amount of low-level radioactive waste and the class of low-level radioactive waste generated by each generator.

(5)Each party state shall encourage generators within its borders to minimize the volume of low-level radioactive waste requiring disposal.

(6)Each party state may rely on the good faith performance of the other party states to perform those acts which are required by this compact to provide regional disposal facilities, including the use of the regional disposal facilities in a manner consistent with this compact.

(7)Each party state shall provide the commission with any data and information necessary for the implementation of the commissionsresponsibilities, including taking those actions necessary to obtain this data or information.

(8)Each party state shall agree that only low-level radioactive waste generated within the jurisdiction of the

party states shall be disposed of in the regional disposal facility, except as provided in paragraph (19) of subdivision (G) of Article 3.

(9)Each party state shall agree that if there is any injury to persons on property resulting from the operation of a regional disposal facility, the damages resulting from the injury may be paid from the third-party liability fund pursuant to subparagraph (b) of paragraph (3) of subdivision (G) of Article 3, only to the extent that the damages exceed the limits of liability insurance carried by the operator. No party state, by joining this compact, assumes any liability resulting from the siting, operation, maintenance, long-term care, or other activity relating to a regional facility, and no party state shall be liable for any harm or damage resulting from a regional facility not located within the state.

Article 5.Approval of Regional Facilities

A regional disposal facility shall be approved by the host state in accordance with its laws. This compact does not confer any authority on the commission regarding the siting, design, development, licensure, or other regulation, or the operation, closure, decommissioning, or long-term care of, any regional disposal facility within a party state.

Article 6.Prohibited Acts and Penalties

(A)No person shall dispose of low-level radioactive waste within the region unless the disposal is at a regional disposal facility, except as otherwise provided in paragraphs (20) and (21) of subdivision (G) of Article 3.

(B)No person shall dispose of or manage any low-level radioactive waste within the region unless the low-level radioactive waste was generated within the region, except as provided in paragraphs (19), (20), and (21) of subdivision (G) of Article 3.

(C)Violations of this section shall be reported to the appropriate law enforcement agency within the party statesjurisdiction.

(D)Violations of this section may result in prohibiting the violator from disposing of low-level radioactive waste in the regional disposal facility, as determined by the commission or the host state.

Article 7.Eligibility, Entry into Effect, Congressional Consent, Withdrawal, Exclusion

(A)The States of Arizona, North Dakota, South Dakota, and California are eligible to become parties to this compact. Any other state may be made eligible by a majority vote of the commission and ratification by the legislatures of all of the party states by statute, and upon compliance with those terms and conditions for eligibility which the host state may establish. The host state may establish all terms and conditions for the entry of any state, other than the states named in this subparagraph, as a member of this compact.

(B)Upon compliance with the other provisions of this compact, an eligible state may become a party state by legislative enactment of this compact or by executive order of the governor of the state adopting this compact. A state becoming a party state by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened after the executive order is issued, unless before the adjournment the legislature enacts this compact.

(C)A party state, other than the host state, may withdraw from the compact by repealing the enactment of this compact, but this withdrawal shall not become effective until two years after the effective date of the repealing legislation. If a party state which is a major generator of low-level radioactive waste voluntarily

withdraws from the compact pursuant to this subdivision, that state shall make arrangements for the disposal of the other party states™ low-level radioactive waste for a time period equal to the period of time it was a member of this compact.

If the host state withdraws from the compact, the withdrawal shall not become effective until five years after the effective date of the repealing legislation.

(D)A party state may be excluded from this compact by a two-thirds vote of the commission members, acting in a meeting, if the state to be excluded has failed to carry out any obligations required by compact.

(E)This compact shall take effect upon the enactment by statute by the legislatures of the State of California and at least one other eligible state and upon the consent of Congress and shall remain in effect until otherwise provided by federal law. This compact is subject to review by Congress and the withdrawal of the consent of Congress every five years after its effective date, pursuant to federal law.

Article 8.Construction and Severability

(A)The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party state shall not be infringed unnecessarily.

(B)This compact does not affect any judicial proceeding pending on the effective date of this compact.

(C)If any provision of this compact or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the compact that can be given effect without the invalid provision or application, and to this end the provisions of this compact are severable.

(D)Nothing in this compact diminishes or otherwise impairs the jurisdiction, authority, or discretion of either of the following:

(1)The Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2011 et seq.).

(2)An agreement state under Section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2021).

(E)Nothing in this compact confers any new authority on the states or commission to do any of the following:

(1)Regulate the packaging or transportation of low-level radioactive waste in a manner inconsistent with the regulations of the Nuclear Regulatory Commission or the United States Department of Transportation.

(2)Regulate health, safety, or environmental hazards from source, byproduct, or special nuclear material.

(3)Inspect the activities of licensees of the agreement states or of the Nuclear Regulatory Commission.

(Amended by Stats. 2006, Ch. 538, Sec. 434. Effective January 1, 2007.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=18.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=18.)

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 18. Radionuclide Air Contaminants [115271 - 115271.4]__

(Article 18 added by Stats. 1996, Ch. 752, Sec. 1.)

115271.

(a) For purposes of this article, the following terms have the following meaning:

(1) Federal act means the Clean Air Act (42 U.S.C.A. Sec. 7401 et seq.) as amended by the Clean Air Act Amendments of 1990 (P.L. 101-549), and as the Clean Air Act may be further amended.

(2) Person means, notwithstanding subdivision (c) of Section 114985, any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, and any other state or political subdivision or agency thereof, any legal successor, representative, agent, or agency of the foregoing, including, but not limited to, the United States Nuclear Regulatory Commission, the Department of Energy, or any successor thereto, and other federal agencies.

(b) Except as provided in subdivision (b) of Section 115271.4, the definitions set forth in Section 112 of the federal act (42 U.S.C.A. Sec. 7412) and Subpart A (commencing with Section 61.01) of Subchapter C of Chapter 1 of Title 40 of the Code of Federal Regulations shall apply to this article and to any regulations adopted pursuant to this article.

(Added by Stats. 1996, Ch. 752, Sec. 1. Effective January 1, 1997.)

115271.2.

The department may establish a program to enable the state to receive federal approval to implement and enforce emission standards for radionuclides pursuant to Section 112 of the federal act (42 U.S.C.A. Sec. 7412). The department may regulate federal facilities pursuant to this article only in accordance with the Clean Air Act, as specified in Section 7418 of Title 42 of the United States Code.

(Added by Stats. 1996, Ch. 752, Sec. 1. Effective January 1, 1997.)

115271.3.

If the state receives federal approval to implement and enforce emission standards for radionuclides pursuant to Section 115271.2, the department shall be responsible for the control of emissions of radionuclides into the air. However, nothing in this article shall be construed in any way to give the department any authority to regulate, or be construed to apply to, air emissions from nuclear powerplants that are licensed and regulated by the United States Nuclear Regulatory Commission.

(Added by renumbering Section 11527.3 by Stats. 1997, Ch. 17, Sec. 62. Effective January 1, 1998.)

115271.4.

(a) Except as provided in subdivision (b), the regulations found in Subpart H (commencing with Section 61.90) of, and in Subpart I (commencing with Section 61.100) of, Part 61 of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations and Appendixes B, D, and E of Part 61 (commencing with Section 61.01) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations and Appendix A of Part 60 (commencing with Section 60.01) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations shall be deemed to be the regulations of the department for purposes of the regulation of radionuclide air emissions. Except for Sections 61.93 and 61.103 of Title 40 of the Code of Federal Regulations, any reference to the Environmental Protection Agency, or any division thereof, in those regulations shall be deemed to be a reference to the department. The department may amend those regulations in whole or in part pursuant to subdivision (b) or (c).

(b) (1) The department shall evaluate any proposed amendment to the federal regulations specified in subdivision (b) of Section 115271 and in subdivision (a) of this section that becomes effective on or after January 1, 1997.

(2) The department shall publish a notice in the California Regulatory Notice Register indicating that the amendment has been adopted by the Environmental Protection Agency as a final rule. The notice shall include the citation to the Federal Register or the Code of Federal Regulations related to the amendment. The notice shall also include the departmentsdetermination regarding whether the amendment is more stringent, equivalent to, or less stringent than, current state law or regulation.

(3) If the department determines that the amended federal regulation would be equivalent to, or more stringent than, state law or regulation, the amended federal regulation shall be deemed to be a regulation of the department on the date that is 90 days from the effective date of the amendment of the federal regulation or the publication of the notice required by paragraph (2), whichever date is later.

(c) In addition to the adoption of federal regulations as department regulations pursuant to this article, the department may adopt any other regulation that it determines to be necessary to establish, implement, and enforce a program for the regulation of radionuclide air emissions, consistent with the federal act.

(d) The department may charge each owner or operator of a facility emitting radionuclides into the air, which is subject to Section 61.90 or 61.100 of Title 40 of the Code of Federal Regulations, an annual fee to pay the costs of implementing this article. The department shall deposit the fees in the Radiation Control Fund, for expenditure, upon appropriation by the Legislature, for the implementation of this article.

(Added by Stats. 1996, Ch. 752, Sec. 1. Effective January 1, 1997.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=8.&article=19.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Radiation Control Law [114960 - 115273]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 19. Radioactive Waste Reduction [115273- 115273.]__

(Article 19 added by Stats. 2002, Ch. 513, Sec. 6.)

115273.

In implementing this chapter, the department, consistent with other requirements imposed by this chapter to protect public health and safety, shall promote the reduction of low-level radioactive waste generated, both in volume and radioactivity, by encouraging waste reduction practices, including, but not limited to, all of the following:

(a) The minimization of waste produced by employing best practices to reduce the amount of contaminated materials;

(b) The substitution and use of nonradioactive materials or radioactive materials with shorter radioactive half-lives; and

(c) The compaction of low-level radioactive waste to reduce the volume of waste that must be transported and disposed of in the state.

(Added by Stats. 2002, Ch. 513, Sec. 6. Effective January 1, 2003.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=9.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9. RADIATION [114650 - 115342]__

(Part 9 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Nuclear Powerplant Radiation [115275 - 115295]__

(Chapter 9 added by Stats. 1995, Ch. 415, Sec. 6.)

115275.

It is the intent of the Legislature that in the event of a nuclear accident timely and effective communications between the operators of nuclear powerplants in California and those state and local officials charged with nuclear emergency response activities be assured.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115280.

(a)Each privately owned and publicly owned public utility operating a nuclear powerplant with a generating capacity of 50 megawatts or more shall install an automated alert system that will activate alarms in the California State Warning Center of the Office of Emergency Services in a manner to be determined by the office in consultation with the department and the appropriate county emergency services agency. This automated alert system shall duplicate the following alarms in the control rooms of each nuclear powerplant:

(1)Safety injection actuation (operation of the emergency core cooling system).

(2)High radiation alarm of the radioactive gas effluent stack monitor.

(b)The automated alert system shall be operative within 12 months of the effective date of this chapter.

(c)In no event shall the capital costs of complying with this section exceed two hundred thousand dollars ($200,000) per nuclear powerplant. The operator of each nuclear powerplant shall be responsible for any maintenance or recurring charges. The funds expended by privately owned utilities under this section shall be allowed for ratemaking purposes by the Public Utilities Commission. Publicly owned public utilities shall include funds expended under this section in their rates.

(d)The automated alert system shall be operational whenever corresponding alarms in the control rooms of each nuclear powerplant are required to be operational under the terms of the operating license issued by the Nuclear Regulatory Commission, except for periods of time required for maintenance, repair, calibration, or testing.

(e)Nothing in this section shall require plant modifications or the conduct of operations that may be in conflict with conditions of a license to operate issued by the Nuclear Regulatory Commission or other activities authorized by the Nuclear Regulatory Commission.

(f)The Office of Emergency Services shall make provision for immediate notification of appropriate local officials upon activation of the automated alert system pursuant to this section.

(Amended by Stats. 2013, Ch. 352, Sec. 392. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

115285.

Nothing in this chapter shall relieve nuclear powerplant operators of their responsibilities to notify local authorities as otherwise provided by law.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115290.

Failure to comply with any provision of this chapter shall not constitute the basis for an action in a court of law or administrative proceeding to enjoin or prevent the operation or start-up of a nuclear facility.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115295.

If the Humboldt Bay Nuclear Generating Station is not in operation on the effective date of this section, the local emergency plan for it shall not be required to meet the revised emergency response plan requirements of Section 8610.5 of the Government Code until the Nuclear Regulatory Commission determines that the powerplant meets Nuclear Regulatory Commission seismic safety criteria, or until the Nuclear Regulatory Commission issues an order rescinding the restrictions imposed on the Humboldt Bay Nuclear Generating Station in its order of May 21, 1976.

In the event that the Nuclear Regulatory Commission determines that the Humboldt Bay Nuclear Generating Station meets Nuclear Regulatory Commission seismic safety standards, or issues an order rescinding the restrictions in its order of May 21, 1976, a draft county emergency plan meeting the requirements of Section 8610.5 of the Government Code shall be submitted to the Office of Emergency Services for review within 180 days of the determination or rescission. Within 90 days after submission of the draft county emergency plan, approval of a final plan shall be completed by the Office of Emergency Services.

(Amended by Stats. 2013, Ch. 352, Sec. 393. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.&chapter=12.&article=

115340.

(a)The State Department of Health Care Services shall work with the KI working group, which is coordinated by the Office of Emergency Services, to establish and implement a program to oversee the distribution of potassium iodide (KI) tablets to all persons who reside, work, visit, or attend school within the state-designated emergency planning zone of an operational nuclear powerplant, in order to provide protection to members of the public in the event of an accident causing leakage of radioactive iodine, pursuant to the offer of the Nuclear Regulatory Commission to provide the state with a supply of KI tablets.

(b)In order to implement the program required by subdivision (a), the department, in consultation with local

health departments and local emergency management agencies, shall develop and implement a plan for both of the following:

(1)The prompt distribution of the tablets to persons at risk in the event of a nuclear emergency, in a manner to best protect the public health.

(2)The dissemination of instructions on the use of the tablets, including the possible need for medical consultation, if indicated.

(c)The department shall work with the KI working group described in subdivision (a) to develop and implement a plan and method for the efficient storage of KI tablets.

(d)The department, in consultation with the KI working group, shall evaluate areas in the state, other than those described in subdivision (a), in which leakage of radioactive iodine is possible, and evaluate the need to store quantities of KI tablets in those areas.

(e)No later than July 1, 2004, the department shall submit a plan to the Governor and the Legislature on the establishment and implementation of the program required pursuant to subdivisions (a) and (b), and on the development and implementation of the plan and method required in subdivision (c). No later than July 1, 2004, the department shall also submit to the Governor and the Legislature the evaluation required in subdivision (d).

(Amended by Stats. 2013, Ch. 352, Sec. 394. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

115342.

This chapter shall be implemented only to the extent that funds are appropriated for the purposes of this chapter in the annual Budget Act or another measure.

(Added by Stats. 2002, Ch. 852, Sec. 2. Effective January 1, 2003.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=9.5.&chapter=&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 9.5. ABANDONED EXCAVATIONS [115700 - 115720]__

(Part 9.5 added by Stats. 1996, Ch. 1023, Sec. 340.)

115700.

(a) Every person owning land in fee simple or in possession thereof under lease or contract of sale who knowingly permits the existence on the premises of any abandoned mining shaft, pit, well, septic tank, cesspool, or other abandoned excavation dangerous to persons legally on the premises, or to minors under the age of 12 years, who fails to cover, fill, or fence securely that dangerous abandoned excavation and keep it so protected, is guilty of a misdemeanor.

(b) Every person owning land in fee simple or in possession thereof under lease or contract of sale who knowingly permits the existence on the premises of any permanently inactive well, cathodic protection well, or monitoring well that constitutes a known or probable preferential pathway for the movement of pollutants, contaminants, or poor quality water, from above ground to below ground, or vertical movement of pollutants, contaminants, or poor quality water below ground, and that movement poses a threat to the quality of the waters of the state, shall be guilty of a misdemeanor.

(c) For purposes of this section, well includes any of the following:

(1) A monitoring well as defined by Section 13712 of the Water Code.

(2) A cathodic well as defined by Section 13711 of the Water Code.

(3) A water well as defined by Section 13710 of the Water Code.

(d) A permanently inactive well is a well that has not been used for a period of one year, unless the person owning land in fee simple or in possession thereof under lease or contract of sale demonstrates an intent for future use for water supply, groundwater recharge, drainage, or groundwater level control, heating or cooling, cathodic protection, groundwater monitoring, or related uses. A well owner shall provide evidence to the local health officer of an intent for future use of an inactive well by maintaining the well in a way that the following requirements are met:

(1) The well shall not allow impairment of the quality of water within the well and groundwater encountered by the well.

(2) The top of the well or well casing shall be provided with a cover, that is secured by a lock or by other means to prevent its removal without the use of equipment or tools, to prevent unauthorized access, to prevent a safety hazard to humans and animals, and to prevent illegal disposal of wastes in the well. The cover shall be watertight where the top of the well casing or other surface openings to the well are below ground level, as in a vault or below known levels of flooding. The cover shall be watertight if the well is inactive for more than five consecutive years. A pump motor, angle drive, or other surface feature of a well, when in compliance with the above provisions, shall suffice as a cover.

(3) The well shall be marked so as to be easily visible and located, and labeled so as to be easily identified as a well.

(4) The area surrounding the well shall be kept clear of brush, debris, and waste materials.

(e) At a minimum, permanently inactive wells shall be destroyed in accordance with standards developed by the Department of Water Resources pursuant to Section 13800 of the Water Code and adopted by the State Water Resources Control Board or local agencies in accordance with Section 13801 of the Water Code. Minimum standards recommended by the department and adopted by the state board or local agencies for the abandonment or destruction of groundwater monitoring wells or class 1 hazardous injection wells shall not be construed to limit, abridge, or supersede the powers or duties of the department, in accordance with Section 13801 of the Water Code.

(f) Nothing in this section is a limitation on the power of a city, county, or city and county to adopt and enforce additional penal provisions regarding the types of wells and other excavations described in subdivisions (a) and (b).

(Added by Stats. 1996, Ch. 1023, Sec. 340. Effective September 29, 1996.)

115705.

The board of supervisors may order securely covered, filled, or fenced abandoned mining excavations on unoccupied public lands in the county.

(Added by Stats. 1996, Ch. 1023, Sec. 340. Effective September 29, 1996.)

115710.

The board of supervisors shall order securely fenced, filled, or covered any abandoned mining shaft, pit, or other excavation on unoccupied land in the county whenever it appears to them, by proof submitted, that the excavation is dangerous or unsafe to man or beast. The cost of covering, filling, or fencing is a county charge.

(Added by Stats. 1996, Ch. 1023, Sec. 340. Effective September 29, 1996.)

115715.

Every person who maliciously removes or destroys any covering or fencing placed around, or removes any fill placed in, any shaft, pit, or other excavation, as provided in this part, is guilty of a misdemeanor.

(Added by Stats. 1996, Ch. 1023, Sec. 340. Effective September 29, 1996.)

115720.

This part is not applicable to any abandoned mining shaft, pit, well, septic tank, cesspool, or other

abandoned excavation that contains a surface area of more than one-half acre.

(Added by Stats. 1996, Ch. 1023, Sec. 340. Effective September 29, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=10.&chapter=&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=10.&chapter=1.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=10.&chapter=2.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=10.&chapter=3.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=10.&chapter=4.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=10.&chapter=4.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 10. RECREATIONAL SAFETY [115725 - 116095]__

(Part 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Safe Recreational Land Use [115725 - 115800]__

(Heading of Chapter 4 amended by Stats. 1996, Ch. 1023, Sec. 342.)

__ARTICLE 1. Playgrounds [115725 - 115735]__

(Article 1 repealed (in Sec. 1) and added by Stats. 2006, Ch. 470, Sec. 2.)

115725.

(a)All new playgrounds open to the public built by a public agency or any other entity shall conform to the playground-related standards set forth by the American Society for Testing and Materials and the playground-related guidelines set forth by the United States Consumer Product Safety Commission.

(b)Replacement of equipment or modification of components inside existing playgrounds shall conform to the playground-related standards set forth by the American Society for Testing and Materials and the playground-related guidelines set forth by the United States Consumer Product Safety Commission.

(c)All public agencies operating playgrounds and all other entities operating playgrounds open to the public shall have a playground safety inspector, certified by the National Playground Safety Institute, conduct an initial inspection for the purpose of aiding compliance with the requirements set forth in subdivision (a) or (b), as applicable. Any inspection report may serve as a reference when the upgrades are made, but is not intended for any other use.

(d)Playgrounds installed between January 1, 1994, and December 31, 1999, shall conform to the playground-related standards set forth by the American Society for Testing and Materials and the playground-related guidelines set forth by the United States Consumer Product Safety Commission not later than 15 years after the date those playgrounds were installed.

(e)For purposes of this section, all of the following shall apply:

(1)An entity operating a playground open to the public includes, but is not limited to, a church, subdivision, hotel, motel, resort, camp, office, hospital, shopping center, day care setting, and restaurant. An entity operating a playground open to the public shall not include a licensed childrensresidential facility, certified family home or resource family of a licensed foster family agency, resource family approved by a county, or licensed family child care home, which is regulated to meet child safety requirements enforced by the State Department of Social Services.

(2)Playground means an improved outdoor area designed, equipped, and set aside for childrensplay that is not intended for use as an athletic playing field or athletic court, and shall include any playground equipment, fall zones, surface materials, access ramps, and all areas within and including the designated enclosure and barriers.

(f)Operators of playgrounds in child care centers regulated by the California Department of Social Services (CDSS) pursuant to Title 22 of Division 12 of Chapter 1 of the California Code of Regulations and facilities operated for the developmentally disabled, shall comply with the requirements established in this section.

(g)(1)No state funding shall be available for the planning, development, or redevelopment of any playground, unless the playground, after completion of the state-funded project, will conform to the requirements of subdivision (a) or (b), as applicable. However, where state funds have been appropriated to, or allocated for, a playground project prior to the effective date of this section but the section becomes effective prior to the completion of the project, that funding shall be maintained, as long as the playground is altered to conform to the requirements of subdivision (a) or (b), as applicable, to the extent the alterations can be made without adding significantly to the project cost.

(2)After the date by which an entity is required to conform its playground to satisfy requirements of this section, no state funding shall be available for the operation, maintenance, or supervision of the playground unless the playground conforms to the applicable requirements of the section.

(Amended by Stats. 2017, Ch. 732, Sec. 40. (AB 404) Effective January 1, 2018.)

115730.

(a) The State Department of Social Services shall convene a working group to develop recommendations for minimum safety requirements for playgrounds at child care centers.

(b)The working group shall include, but not be limited to, child care center operators, including representatives of the Professional Association for Childhood Education, the California Child Care Health Program, the ChildrensAdvocacy Institute, the State Department of Public Health, and certified playground inspectors.

(c)The working group shall use the national guidelines published by the United States Consumer Product Safety Commission and those regulations adopted pursuant to this article as a reference in developing its recommendations. However, the State Department of Social Services shall determine minimum safety requirements that are protective of child health on playgrounds at child care centers.

(d)The working group shall submit its playground safety recommendations to the State Department of Social Services by September 1, 2001.

(e)The working group shall submit its recommendations to the Legislature by November 1, 2001.

(f)This section shall be construed as a continuation of former Section 115736.

(Amended (as added by Stats. 2006, Ch. 470) by Stats. 2007, Ch. 483, Sec. 27. Effective January 1, 2008.)

115735.

This article shall become operative on January 1, 2008.

(Repealed (in Sec. 1) and added by Stats. 2006, Ch. 470, Sec. 2. Effective January 1, 2007. Note: This section prescribes a delayed operative date for Article 1, commencing with Section 115725.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=10.&chapter=4.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 10. RECREATIONAL SAFETY [115725 - 116095]__

(Part 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Safe Recreational Land Use [115725 - 115800]__

(Heading of Chapter 4 amended by Stats. 1996, Ch. 1023, Sec. 342.)

__ARTICLE 2. Wooden Playground Equipment [115775 - 115800]__

(Heading of Article 2 renumbered from Article 3 by Stats. 1996, Ch. 1023, Sec. 344.)

115775.

(a) No state funds shall be used by any state agency, onsite employee child care center for state employees, city, county, city and county, district, superintendent of schools, school district, or community college district to purchase wooden playground or recreational equipment where there is a likelihood of contact by children and when the equipment has been treated with any of the following substances:

(1) Pentachlorophenol.

(2) Creosote.

(3) Arsenic, elemental arsenic, or arsenic copper combination, unless the wood is treated with a nontoxic and nonslippery sealer and the seller certifies that the wood is treated in accordance with commodity standard C-17 for playground equipment as adopted by the American Wood-Preservers Association.

(b) The state or any city, county, city and county, district, superintendent of schools, school district, community college district, or onsite employee child care center for state employees that receives education or parks and recreation funds from the state shall not use any portion of these funds for the maintenance or upkeep of any wooden structures treated with any of the substances that are prohibited from purchase pursuant to subdivision (a) and where there is a likelihood of contact by children, unless the state, city, county, city and county, superintendent of schools, school district, district, community college district, or onsite employee child care center for state employees treats the wooden structures with nontoxic and nonslippery sealers and reseals the treated structure in accordance with subdivision (c).

(c) The installer of any wooden playground or recreational equipment that will be available for public use and that has been treated with a substance listed in paragraph (3) of subdivision (a) shall seal the structures with a nontoxic and nonslippery sealant prior to, or at the time of, the installation of the equipment. After the equipment that is available for public use has been sealed pursuant to this subdivision, the owner of the equipment shall reseal the treated equipment every two years thereafter with a nontoxic and nonslippery

sealant.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115800.

(a)An operator of a skateboard park shall not permit a person to ride a skateboard or other wheeled recreational device in the park, unless that person is wearing a helmet, elbow pads, and knee pads.

(b)With respect to a facility, owned or operated by a local public agency, that is designed and maintained for the purpose of riding a recreational skateboard or other wheeled recreational device, and that is not supervised on a regular basis, the requirements of subdivision (a) may be satisfied by compliance with the following:

(1)Adoption by the local public agency of an ordinance requiring a person riding a skateboard or other wheeled recreational device at the facility to wear a helmet, elbow pads, and knee pads.

(2)The posting of signs at the facility affording reasonable notice that a person riding a skateboard or other wheeled recreational device in the facility must wear a helmet, elbow pads, and knee pads, and that a person failing to do so will be subject to citation pursuant to the ordinance required by paragraph (1).

(c)Local public agency for purposes of this section includes, but is not limited to, a city, county, or city and county.

(d)For purposes of this section, other wheeled recreational device means nonmotorized bicycles, scooters, inline skates, roller skates, or wheelchairs being used for recreational purposes.

(e)(1)Riding a skateboard or other wheeled recreational device, or any concurrent combination of these activities at a facility or park owned or operated by a public entity as a public skateboard park, as provided in paragraph (3), shall be deemed a hazardous recreational activity within the meaning of Section 831.7 of the Government Code if all of the following conditions are met:

(A)The person riding the skateboard or other wheeled recreational device is 12 years of age or older.

(B)The riding of the skateboard or other wheeled recreational device that caused the injury was stunt, trick, or luge riding.

(C)The skateboard park is on public property that complies with subdivision (a) or (b).

(2)In addition to subdivision (c) of Section 831.7 of the Government Code, this section does not limit the liability of a public entity with respect to any other duty imposed pursuant to existing law, including the duty to protect against dangerous conditions of public property pursuant to Chapter 2 (commencing with Section 830) of Part 2 of Division 3.6 of Title 1 of the Government Code. However, this section does not abrogate or limit any other legal rights, defenses, or immunities that may otherwise be available at law.

(3)(A)Except as provided in subparagraph (B), for public skateboard parks that were constructed on or before January 1, 1998, this subdivision shall apply to hazardous recreational activity injuries incurred on or after January 1, 1998, and before January 1, 2001. For public skateboard parks that are constructed after January 1, 1998, this subdivision shall apply to hazardous recreational activity injuries incurred on or after January 1,

1998. For purposes of this subdivision, a skateboard facility that is a movable facility shall be deemed constructed on the first date it is initially made available for use at a location by the local public agency.

(B)For public skateboard parks that were constructed after January 1, 1996, and before January 1, 1998, this subdivision shall apply to hazardous recreational activity injuries incurred on or after January 1, 2012.

(4)The appropriate local public agency shall maintain a record of all known or reported injuries incurred by a person riding a skateboard or other wheeled recreational device in a public skateboard park or facility. The local public agency shall also maintain a record of all claims, paid and not paid, including any lawsuits and their results, arising from those incidents that were filed against the public agency.

(5)(A)Except as provided in subparagraph (B), this subdivision shall not apply on or after January 1, 2001, to public skateboard parks that were constructed on or before January 1, 1998, but shall continue to apply to public skateboard parks that are constructed after January 1, 1998.

(B)On and after January 1, 2012, this subdivision shall apply to public skateboard parks that were constructed on or after January 1, 1996.

(6)For purposes of injuries that occur while operating one of the other wheeled recreational devices defined in subdivision (d) in a skateboard facility, this subdivision shall apply to any claim for injuries occurring on or after the effective date of the measure adding this paragraph.

(Amended by Stats. 2020, Ch. 236, Sec. 1. (SB 1003) Effective September 28, 2020.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=10.&chapter=5.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=10.&chapter=5.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 10. RECREATIONAL SAFETY [115725 - 116095]__

(Part 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Safe Recreational Water Use [115825 - 116090.7]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Recreational Use of Reservoirs [115825 - 115850]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

115825.

(a)It is hereby declared to be the policy of this state that multiple use should be made of all public water within the state, to the extent that multiple use is consistent with public health and public safety.

(b)Except as provided in this article, recreational uses shall not, with respect to a reservoir in which water is stored for domestic use, include recreation in which there is bodily contact with the water by any participant.

(Amended by Stats. 2004, Ch. 519, Sec. 1. Effective January 1, 2005.)

115830.

All water supply reservoirs of a public agency, whether heretofore or hereafter constructed, shall be open for recreational use by the people of this state, subject to the regulations of the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115835.

Unless the context otherwise requires, the following definitions shall control the construction of this article:

(a) Multiple use includes domestic, industrial, agricultural, and recreational uses.

(b) Public agency means the state or any city, other than a chartered city, county, public district, or other public institution.

(c) Reservoir does not include ditches, canals, or any similar type of water distributing facility.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115840.

(a) In San Diego County, recreational uses shall not, with respect to a reservoir in which water is stored for domestic use, include recreation in which there is bodily contact with the water by any participant, unless both of the following conditions are satisfied:

(1) The water subsequently receives complete water treatment, including coagulation, flocculation, sedimentation, filtration, and disinfection, before being used for domestic purposes.

(2) The reservoir is operated in compliance with regulations of the department, as provided in Section 115830.

(b) The recreational use may be subject to additional conditions and restrictions adopted by the entity operating the water supply reservoir, if the conditions and restrictions do not conflict with regulations of the department and are designed to further protect or enhance the public health and safety.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115840.5.

(a) In the Modesto Reservoir, recreational uses shall not include recreation in which any participant has bodily contact with the water, unless both of the following conditions are satisfied:

(1) The water subsequently receives complete water treatment, in compliance with all applicable department regulations, including coagulation, flocculation, sedimentation, filtration, and disinfection, before being used for domestic purposes. The disinfection shall include, but not be limited to, ozonation.

(2) The reservoir is operated in compliance with regulations of the department.

(b) The recreational use may be subject to additional conditions and restrictions adopted by the entity operating the water supply reservoir or required by the department, if those conditions and restrictions do not conflict with regulations of the department, and are required to further protect or enhance the public health and safety. The department shall, prior to requiring any additional conditions and restrictions, consult with the entity operating the water supply reservoir regarding the proposed conditions and restrictions at least 60 days prior to the effective date of those conditions or restrictions.

(c) The Modesto Irrigation District shall file, on or before January 1, 2002, with the Legislature, a report on the recreational uses at Modesto Reservoir and the water treatment program. The report shall include, but not be limited to, all of the following information:

(1) The estimated levels and types of recreational uses at the reservoir on a monthly basis.

(2) Levels of methyl tertiary butyl ether at various reservoir locations on a monthly basis.

(3) A summary of available monitoring in the Modesto Reservoir watershed for giardia and cryptosporidium.

(4) The sanitary survey of the watershed and water quality monitoring plan.

(5) An evaluation of recommendations relating to removal and inactivation of cryptosporidium and giardia as specified in the department water permit dated October 28, 1997.

(6) Annual reports provided to the department, as required pursuant to Sections I and IV of the department water permit dated October 28, 1997.

(7) An evaluation of the impact on source water quality due to recreational activities on the Modesto Reservoir, including any microbiological monitoring.

(8) A summary of any activities between the district and the county for operation of recreational uses and facilities in a manner that optimizes the water quality.

(9) The reservoir management plan and the operations plan.

(10) The annual water quality reports submitted to consumers each year.

(d) If there is a change in operation of the treatment facility or a change in the quantity of water to be treated at the treatment facility, the department may require the Modesto Irrigation District to file a report that includes, but is not limited to, the information required pursuant to subdivision (c), and the district shall demonstrate to the satisfaction of the department that water quality will not be adversely affected.

(Amended by Stats. 2003, Ch. 742, Sec. 3. Effective January 1, 2004.)

115841.

Recreational activity in which there is bodily contact with the water by any participant shall continue to be allowed in Nacimiento Reservoir in accordance with all of the following requirements :

(a) Any agency that removes water from the reservoir for domestic use shall comply with any, or at a minimum, one of the following with regard to the water removed:

(1) The water subsequently receives complete water treatment in compliance with all applicable department regulations, including coagulation, flocculation, sedimentation, filtration, and disinfection, before being used for domestic purposes.

(2) The water is discharged in a manner that allows percolation into a subsurface groundwater basin for subsequent extraction from only those groundwater wells that have been determined by the department not to be under the influence of surface water pursuant to Chapter 17 (commencing with Section 64650) of Division 4 of Title 22 of the California Code of Regulations and subsequently receives disinfection and complies with all applicable department regulations before being used for domestic purposes.

(3) The water is discharged in a manner that allows percolation into a subsurface groundwater basin for subsequent extraction from groundwater wells under the influence of surface water that receives treatment

pursuant to Chapter 17 (commencing with Section 64650) of Division 4 of Title 22 of the California Code of Regulations and complies with all applicable department regulations.

(b) The reservoir is operated in compliance with regulations of the department.

(c) The water stored for domestic purposes that may be excepted from the requirements of subdivision (b) of Section 115825 is removed from the reservoir by an agency for domestic purposes only in San Luis Obispo County and only in an amount for which that agency has a contractual right.

(Added by Stats. 1997, Ch. 524, Sec. 2. Effective January 1, 1998.)

115842.

(a)Recreational activity in which there is bodily contact with the water by any participant is allowed in the Sly Park Reservoir provided that all of the following conditions are satisfied:

(1)The water shall receive complete water treatment, including coagulation, flocculation, sedimentation, filtration, and disinfection; or alternative treatment that complies with all applicable department regulations and requirements. Such treatment shall, at a minimum, comply with all state laws and department regulations and all federal laws and regulations, including, but not limited to, the federal Environmental Protection Agency Long-Term 2 Enhanced Surface Water Treatment regulations. Nothing in this division shall limit the state or the department from imposing more stringent treatment standards than those required by federal law.

(2)The El Dorado Irrigation District conducts a monitoring program for E. coli, bacteria and giardia, and cryptosporidium organisms at various reservoir locations and at a frequency determined by the department.

(3)The reservoir is operated in compliance with regulations of the department.

(b)The recreational use of that reservoir shall be subject to additional conditions and restrictions adopted by the entity operating the water supply reservoir, or by the department, that are required to further protect or enhance the public health and safety and do not conflict with regulations of the department.

(c)The El Dorado Irrigation District shall file, on or before January 1, 2005, with the department, a report on the recreational uses at Sly Park Reservoir and the water treatment program for that reservoir. That report shall include, but is not limited to, providing all of the following information:

(1)The estimated levels and types of recreational uses at the reservoir on a monthly basis.

(2)A summary of available monitoring in Sly Park Reservoir watershed for giardia and cryptosporidium.

(3)The sanitary survey of the watershed and water quality monitoring plan.

(4)An evaluation, as prescribed by the department, to determine the impact on source water quality due to recreational activities on Sly Park Reservoir, including any microbiological monitoring.

(5)The reservoir management plan and the operations plan.

(6)The annual water reports submitted to the consumers each year.

(d)The department shall prescribe the degree of treatment including, but not limited to, treatment processes necessary to abate any increased hazards resulting from body contact recreation based on information provided in the report filed pursuant to subdivision (c).

(Amended by Stats. 2005, Ch. 252, Sec. 1. Effective September 22, 2005.)

115843.5.

(a)In the Canyon Lake Reservoir, recreational uses shall not include recreation in which any participant has bodily contact with the water, unless both of the following conditions are satisfied:

(1)The water subsequently receives complete water treatment, in compliance with all applicable department regulations, including coagulation, flocculation, sedimentation, filtration, and disinfection, before being used for domestic purposes. The disinfection shall include, but is not limited to, an advanced technology capable of inactivating organisms, including, but not limited to, viruses, cryptosporidium, and giardia, to levels that comply with department regulations. The treatment shall include, but need not be limited to, ozonation or ultra violet disinfection. The treatment shall, at a minimum, comply with all state laws and department regulations and all federal laws and regulations, including, but not limited to, the federal Environmental Protection Agency Long-Term 2 Enhanced Surface Water Treatment regulations. Nothing in this division shall limit the state or the department from imposing more stringent treatment standards than those required by federal law.

(2)The reservoir is operated in compliance with regulations of the department.

(b)The recreational use may be subject to additional conditions and restrictions adopted by the entity operating the water supply reservoir or required by the department, if those conditions and restrictions do not conflict with regulations of the department, and are required to further protect or enhance the public health and safety.

(c)The Elsinore Valley Municipal Water District shall, by January 1, 2007, file a report with the Legislature on the recreational uses at Canyon Lake Reservoir and the water treatment program. The report shall include, but not necessarily be limited to, all of the following information:

(1)Participation in watershedwide activities to improve water quality in the Canyon Lake Reservoir.

(2)Annual results of volatile organic compounds, general minerals, and nutrients testing results provided to the department.

(3)A summary of available monitoring in the Canyon Lake Reservoir provided to the department for giardia and cryptosporidium.

(4)The most current sanitary survey of the watershed and water quality monitoring plan.

(5)A summary of monthly reports provided to the department on intake water bacteria and water quality.

(6)A summary of monthly reports provided to the department on water usage in Canyon Lake Reservoir.

(7)An evaluation of the impact on source water quality due to recreational activities on the Canyon Lake

Reservoir, including any microbiological monitoring, and a summary of monthly reports provided to the department on treatment plant performance.

(8)A summary of activities between Elsinore Valley Municipal Water District and the Canyon Lake Property Owners Association for operation of recreational uses and facilities in a manner that optimizes the water quality.

(9)The reservoir management plan and the operations plan.

(10)The annual water quality reports submitted to consumers each year.

(d)If there is a change in operation of the treatment facility or a change in the quantity of water to be treated at the treatment facility, the department may require the Elsinore Valley Municipal Water District to file a report that includes, but is not limited to, the information required pursuant to subdivision (c), and the district shall demonstrate to the satisfaction of the department that water quality will not be adversely affected.

(Amended by Stats. 2007, Ch. 253, Sec. 2. Effective September 26, 2007.)

115843.6.

(a)In the Bear Lake Reservoir, recreational uses shall not include recreation in which any participant has bodily contact with the water, unless all of the following conditions are satisfied:

(1)The water subsequently receives complete water treatment, in compliance with all applicable board regulations, including oxidation, filtration, and disinfection, before being used for domestic purposes. The disinfection shall include, but is not limited to, the use of an advanced technology capable of inactivating organisms, including, but not limited to, viruses, cryptosporidium, and giardia, to levels that comply with board regulations. The treatment shall include, but need not be limited to, filtration with a micro or ultrafiltration system rated to 0.1 micron or less. The treatment shall, at a minimum, comply with all state laws and board regulations and all federal laws and regulations, including, but not limited to, the federal Environmental Protection Agency Long Term 2 Enhanced Surface Water Treatment Rule. Nothing in this division shall limit the state or the board in imposing more stringent treatment standards than those required by federal law.

(2)The Lake Alpine Water Company conducts a monitoring program for cryptosporidium, giardia, and total coliform bacteria, including E. coli and fecal coliform, at the reservoir intake and at posttreatment at a frequency determined by the board.

(3)The reservoir is operated in compliance with regulations of the board.

(b)The recreational use of Bear Lake Reservoir shall be subject to additional conditions and restrictions adopted by the entity operating the water supply reservoir, or required by the board, that are required to further protect or enhance the public health and safety and do not conflict with regulations of the board.

(c)The Lake Alpine Water Company shall file, on or before December 31, 2017, and biennially thereafter, with the Legislature in accordance with Section 9795 of the Government Code and the board, a report on the recreational uses at Bear Lake Reservoir and the water treatment program for that reservoir. That report shall include, but is not limited to, all of the following information:

(1)The estimated levels and types of recreational uses at the reservoir on a monthly basis.

(2)A summary of monitoring in the Bear Lake Reservoir watershed for cryptosporidium, giardia, and total coliform bacteria, including E. coli and fecal coliform.

(3)The most current sanitary survey of the watershed and water quality monitoring.

(4)As deemed necessary by the board, an evaluation of recommendations relating to inactivation and removal of cryptosporidium and giardia.

(5)Annual reports provided to the board as required by the water permit issued by the board.

(6)An evaluation of the impact on source water quality due to recreational activities on Bear Lake Reservoir, including any microbiological monitoring.

(7)A summary of activities for operation of recreational uses and facilities in a manner that optimizes the water quality.

(8)The reservoir management plan and the operations plan.

(9)The annual water reports submitted to the consumers each year.

(d)If there is a change in operation of the treatment facility or a change in the quantity of water to be treated at the treatment facility, the board may require the entity operating the water supply reservoir to file a report that includes, but is not limited to, the information required in subdivision (c), and the entity shall demonstrate to the satisfaction of the board that water quality will not be adversely affected.

(e)(1)The board shall, at the end of each recreational season, annually review monitoring and reporting data from the Bear Lake Reservoir to ensure full compliance with this section.

(2)If at any time the board finds a failure to comply with this section, the exemption granted pursuant to this section shall cease immediately, and a permit issued to the Lake Alpine Water Company pursuant to Chapter 4 (commencing with Section 116270) of Part 12 may be subject to suspension, amendment, or revocation pursuant to that chapter. A failure to comply with this section shall be deemed a violation of Chapter 4 (commencing with Section 116270) of Part 12 and shall be subject to any applicable fines, penalties, or other enforcement action provided under that chapter.

(f)As used in this section, board means the State Water Resources Control Board.

(Amended by Stats. 2021, Ch. 54, Sec. 1. (AB 440) Effective January 1, 2022.)

115845.

The public agency operating any water supply reservoir that is open for recreational use pursuant to this article may charge a use fee to cover the cost of policing the area around the reservoir, including the cost of providing the necessary sanitary facilities and other costs incidental to the recreational use of the reservoir.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115850.

This article does not apply to terminal reservoirs for the supply of domestic water.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=10.&chapter=5.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 10. RECREATIONAL SAFETY [115725 - 116095]__

(Part 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Safe Recreational Water Use [115825 - 116090.7]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Public Beaches [115875 - 115915]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

115875.

For the purposes of this article, the following terms have the following meanings:

(a)Public beach means any beach area used by the public for recreational purposes that is owned, operated,

or controlled by the state, any state agency, any local agency, or any private person in this state, and is located in the coastal zone, as defined in Section 30103 of the Public Resources Code, or within the jurisdiction of the San Francisco Bay Conservation and Development Commission, as set forth in Section 66610 of the Government Code.

(b)Board means the State Water Resources Control Board.

(c)Department means the State Department of Public Health.

(d)Health officer means the legally appointed local health officer or director of environmental health of the county or city having jurisdiction of the area in which a public saltwater beach is located.

(Amended by Stats. 2011, Ch. 592, Sec. 1. (SB 482) Effective January 1, 2012.)

115880.

(a)The department shall, by regulation and in consultation with the board, local health officers, and the public, establish, maintain, and amend as necessary, minimum standards for the sanitation of public beaches, including, but not limited to, the removal of refuse, as it determines are reasonably necessary for the protection of the public health and safety.

(b)Prior to final adoption or amendment by the department, the regulations and standards required by this section shall undergo an external comprehensive review process similar to the process set forth in Section 57004.

(c)The regulations shall, at a minimum, do all of the following:

(1)Require the testing of the waters adjacent to all public beaches for microbiological contaminants, including, but not limited to, total coliform, fecal coliform, and enterococci bacteria. The department may require the testing of waters adjacent to all public beaches for microbiological indicators other than those set forth in this paragraph, or a subset of those set forth in this paragraph, if the department affirmatively establishes, based on the best available scientific studies and the weight of the evidence, that the alternative indicators are as protective of the public health.

(2)Establish protective minimum standards for total coliform, fecal coliform, and enterococci bacteria, or for other microbiological indicators that the department determines are appropriate for testing pursuant to paragraph (1).

(3)Require that the waters adjacent to public beaches are tested for total coliform, fecal coliform, and enterococci bacteria, or for other microbiological indicators that the department determines are appropriate for testing pursuant to paragraph (1). Except as set forth in subdivision (e), testing shall be conducted on at least a weekly basis from April 1 to October 31, inclusive, of each year beginning in 2012, if both of the following apply:

(A)The beach is visited by more than 50,000 people annually.

(B)The beach is located on an area adjacent to a storm drain that flows in the summer.

(d)Notwithstanding subdivision (a), if a local health officer demonstrates or has demonstrated through side-

by-side testing over a beach season that the use of United States Environmental Protection Agency method 1609 or 1611, or any equivalent or improved rapid detection method published by the United States Environmental Protection Agency for use in beach water quality assessment or approved as an alternative test procedure pursuant to Part 136 of Title 40 of the Code of Federal Regulations, to determine the level of enterococci bacteria as a single indicator provides a reliable indication of overall microbiological contamination conditions at one or more beach locations within that health officersjurisdiction, the department may authorize the use of that testing method at those beach locations instead of other testing methods. In making that determination, the department shall take into account whether an alternative indicator or subset of indicators, with the associated test method, can provide results more quickly, thereby reducing the period of time the public is at risk while waiting for contamination to be confirmed.

(e)The monitoring frequency and locations established pursuant to this section and related regulations may be reduced or altered only after the testing required pursuant to paragraph (3) of subdivision (c) reveals levels of microbiological contaminants that do not exceed, for a period of two years, the minimum protective standards established pursuant to this section.

(f)The local health officer is responsible for testing the waters adjacent to, and coordinating the testing of, all public beaches within his or her jurisdiction.

(g)The local health officer may meet the testing requirements of this section by utilizing test results from other parties conducting microbiological contamination testing of the waters under his or her jurisdiction.

(h)This section does not require a wastewater treatment agency or other party conducting microbiological contamination testing of the waters under his or her jurisdiction, who provides those test results to a local health officer pursuant to this section, to use United States Environmental Protection Agency method 1609 or 1611, or any equivalent or improved rapid detection method published by the United States Environmental Protection Agency for use in beach water quality assessment or approved as an alternative test procedure pursuant to Part 136 of Title 40 of the Code of Federal Regulations, for total maximum daily load implementation, waste discharge requirements, or other monitoring programs required to be implemented pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(i)Any city or county may adopt standards for the sanitation of public beaches within its jurisdiction that are stricter than the standards adopted by the department pursuant to this section.

(Amended by Stats. 2015, Ch. 303, Sec. 342. (AB 731) Effective January 1, 2016.)

115881.

(a)Commencing January 1, 2012, the board shall be responsible for all of the following:

(1)Directing the monitoring required to be conducted by Section 115880.

(2)Establishing and reviewing monitoring protocols, site locations, and monitoring frequencies consistent with Section 115880.

(3)Identifying options for funding the monitoring needed to fulfill the requirements of Section 115880, including options for integrating and streamlining existing monitoring programs or requirements associated with waste discharge requirements, total maximum daily load implementation, or other monitoring programs. If a regional board or state board issues waste discharge requirements that require monitoring to

meet the requirements set forth in paragraph (1) of subdivision (c) of Section 115880, the monitoring shall only be required to the extent that the discharge has the potential to cause or contribute to exceedances of the standards established pursuant to paragraph (2) of subdivision (c) of Section 115880. Nothing in this section shall preclude any discharger from voluntarily participating in monitoring necessary to meet the requirements of Section 115880.

(b)The establishment and review of monitoring protocols, site locations, and monitoring frequencies by the board pursuant to this section shall be done in consultation with the department and local health officers, but shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c)Until June 30, 2016, not more than one million eight hundred thousand dollars ($1,800,000) of the funds collected annually pursuant to Section 13260 of the Water Code may be used, upon appropriation by the Legislature, as a funding source for the implementation of this article.

(d)Any duty imposed upon a local public officer or agency pursuant to this section and Section 115880 shall be mandatory only during a fiscal year in which the Legislature has appropriated sufficient funds, as determined by the board, in the annual Budget Act or otherwise for local agencies to cover the costs to those agencies associated with the performance of these duties. The board shall annually, within 15 days after enactment of the Budget Act, file a written statement with the Secretary of the Senate and with the Chief Clerk of the Assembly memorializing whether sufficient funds have been appropriated.

(Added by Stats. 2011, Ch. 592, Sec. 3. (SB 482) Effective January 1, 2012.)

115885.

(a)The health officer having jurisdiction over the area in which a public beach is created shall:

(1)Inspect the public beach to determine whether the standards established pursuant to Section 115880 are being complied with. If the health officer finds any violation of the standards, he or she may restrict the use of, or close, the public beach or portion thereof in which the violation occurs until the standard is complied with.

(2)Investigate any complaint of a violation of any standard established by the department pursuant to Section 115880. If the health officer finds any violation of the standards prescribed by the department, he or she may restrict the use of, or close, the public beach or portion thereof until the standard is complied with. If the person who made the complaint is not satisfied with the action taken by the health officer, he or she may report the violation to the department. The department shall investigate the reported violation, and, if it finds that the violation exists, it may restrict the use of or close the public beach or portion thereof until the standard violated is complied with.

(3)Whenever a beach is posted, closed, or otherwise restricted in accordance with Section 115915, inform the agency responsible for the operation and maintenance of the public beach within 24 hours of the posting, closure, or restriction.

(4)Establish a telephone hotline to inform the public of all beaches currently closed, posted, or otherwise restricted. The hotline shall be updated as needed in order to convey changes in public health risks.

(5)Report any violation of the standards established pursuant to Section 115880 to the district attorney, or if

the violation occurred in a city and, pursuant to Section 41803.5 of the Government Code, the city attorney is authorized to prosecute misdemeanors, to the city attorney.

(6)In the event of a known untreated sewage release, immediately test the waters adjacent to the public beach and to take action pursuant to regulations established under Sections 115880 and 115881.

(7)Notwithstanding any other provision of law, in the event of an untreated sewage release that is known to have reached recreational waters adjacent to a public beach, immediately close those waters until it has been determined by the local health officer that the waters are in compliance with the standards established pursuant to Section 115880.

(b)If the department is aware of an untreated sewage release that has reached recreational waters adjacent to a public beach, and that the local health officer has not taken action to close the beach, it may take action to close those waters until the waters are in compliance.

(c)Any duty imposed upon a local public officer or agency pursuant to this section shall be mandatory only during a fiscal year in which the Legislature has appropriated sufficient funds, as determined by the State Public Health Officer, in the annual Budget Act or otherwise for local agencies to cover the costs to those agencies associated with the performance of these duties. The State Public Health Officer shall annually, within 15 days after enactment of the Budget Act, file a written statement with the Secretary of the Senate and with the Chief Clerk of the Assembly memorializing whether sufficient funds have been appropriated.

(Amended by Stats. 2011, Ch. 592, Sec. 4. (SB 482) Effective January 1, 2012.)

115890.

Prior to restricting the use of or closing a public beach or portion thereof alleged to be in violation of standards, the health officer or the department as the case may be, shall give reasonable notice of the violation to the owner of, or person or agency in charge of, the beach.

(Amended by Stats. 2011, Ch. 592, Sec. 5. (SB 482) Effective January 1, 2012.)

115895.

Any private person who violates any regulation adopted by the department pursuant to Section 115880 is guilty of a misdemeanor.

(Amended by Stats. 2011, Ch. 592, Sec. 6. (SB 482) Effective January 1, 2012.)

115910.

(a)On or before the 15th day of each month, each health officer shall submit to the board a survey documenting all beach postings and closures resulting from implementation of Section 115915 that occurred during the preceding month. The survey shall, at a minimum, include the following information:

(1)Identification of the beaches in each county subject to testing conducted pursuant to Section 115885 and the amount and types of monitoring conducted at each beach.

(2)Identification of the geographic location, areal extent, and type of action taken for each incident of posting or closure conducted pursuant to Section 115915. Geographic location and areal extent shall be noted in sufficient detail to determine on a common map, or by latitude and longitude, the approximate boundaries of the affected beaches.

(3)Identification of the standards exceeded and the causes and sources of the pollution, if known. Exceeded standards shall be identified with sufficient particularity to determine which types of tests and biological indicators were used to determine that an exceeded standard exists. Causes of pollution shall be identified with sufficient particularity to determine what substances, in addition to any water carrying the substances, were responsible for the exceeded standard. Sources shall be identified with sufficient particularity to determine the most specific geographical origin of the pollution sources available to the health officer at the time of the posting or closure.

(b)Surveys conducted pursuant to subdivision (a) shall be in a specific format established by the board on or before February 1, 2001. The board shall make the format easily accessible to the health officer through means that will enable the health officer to most effectively carry out the requirements of this section and enable the board to develop consistent, statewide data concerning the effect and status of beach postings and closures in a particular calendar year.

(c)On or before the 30th day of each month, the board shall make available to the public the information provided by the health officers. Based upon the data provided pursuant to subdivision (a), the report shall, at a minimum, include the location and duration of each beach closure and the suspected sources of the contamination that caused the closure, if known.

(d)The board shall continuously post and update on its Web site, but at a minimum, annually on or before July 30, information documenting the beach posting and closure data provided to the board by the health officers including the location and duration of each beach closure and the suspected sources of the contamination that caused the closure, if known.

(Amended by Stats. 2004, Ch. 644, Sec. 26. Effective January 1, 2005.)

115915.

(a)Whenever any public beach fails to meet the bacteriological standards established pursuant to subdivision (b) of Section 115880, the health officer shall, at a minimum, post the public beach with conspicuous warning signs to inform the public of the nature of the problem and the possibility of risk to public health.

(b)A warning sign shall be visible from each legal primary public beach access point, as identified in the coastal access inventory prepared and updated pursuant to Section 30531 of the Public Resources Code, and any additional access points identified by the health officer.

(c)Any duty imposed upon a local public officer or agency pursuant to this section shall be mandatory only during a fiscal year in which the Legislature has appropriated sufficient funds, as determined by the State Public Health Officer, in the annual Budget Act or otherwise for local agencies to cover the costs to those agencies associated with the performance of these duties. The State Public Health Officer shall annually, within 15 days after enactment of the Budget Act, file a written statement with the Secretary of the Senate

and with the Chief Clerk of the Assembly memorializing whether sufficient funds have been appropriated.

(Amended by Stats. 2011, Ch. 592, Sec. 9. (SB 482) Effective January 1, 2012.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=10.&chapter=5.&article=2.1.

115917.

(a)(1)On or before July 1, 2022, the council shall direct a new or existing working group to study water recreation hazards at priority water-contact recreation sites.

(2)The working group shall be cochaired by representatives from the state board and the department.

(3)The working group shall include representation from other state agencies as deemed appropriate by the council.

(b)On or before July 1, 2023, the working group shall submit a report to the council that the council shall post on its internet website that shall include all of the following:

(1)A summary of existing, readily available data that identifies water-contact recreation sites.

(2)A summary of existing, readily available data for specific water-contact recreation sites that indicates the timing and types of uses that involve limited body or full body contact with the water and any demographic information about the users.

(3)Potential criteria for identifying priority water-contact recreation sites, with an emphasis on establishing equity-based criteria, including, but not limited to, the use by one or more overburdened communities.

(4)A discussion of potential water quality hazards at priority water-contact recreation sites.

(5)General recommendations for reducing water quality risks at priority water-contact recreation sites. The recommendations may include, but are not limited to, any of the following:

(A)A risk-based water quality monitoring program.

(B)A public water quality safety education campaign.

(C)Posting and notification of water quality hazards at identified water bodies.

(D)Standards or criteria needed to better protect the public from water quality hazards.

(c)On or before December 31, 2023, the council, in consultation with the department, local health officers, and the public, shall propose to the state board for consideration, based on the working group report described in subdivision (b), both of the following:

(1)A definition of a priority water-contact recreation site.

(2)Recommendations and requirements for the establishment of a priority water-contact recreation site monitoring program that shall include, but is not limited to, all of the following components:

(A)The number of monitoring samples necessary per priority water-contact recreation site.

(B)The frequency of monitoring.

(C)The annual or seasonal duration of monitoring.

(D)The microbiological standards, methods, and data sharing protocols to be used to support an effective monitoring program.

(d)In developing a proposed definition of a priority water-contact recreation site, the council shall consider various characteristics of a water body including, but not limited to, whether the water body is all of the following:

(1)A fresh or estuarine surface water, including water bodies with seasonal or tidal fluctuations.

(2)Used for organized recreational events with water contact.

(3)Used for commercial purposes with water contact.

(4)Accessed through a required fee area and used for water contact.

(5)Used by a high number of persons for water contact recreation.

(6)Designated by the state board or a regional board for water contact recreation (REC-1) beneficial use.

(7)Used by overburdened communities.

(8)Identified as having the potential for significant water quality hazards.

(e)For purposes of this section, the following definitions apply:

(1)Council means the California Water Quality Monitoring Council established pursuant to Section 13181 of the Water Code.

(2)Department means the State Department of Public Health.

(3)Inland water means all fresh and estuarine surface waters of the state.

(4)Overburdened community means a minority, low-income, tribal, or indigenous population or geographic location that potentially experiences disproportionate environmental harms and risks. The disproportionality can be as a result of greater vulnerability to environmental hazards, lack of opportunity for public participation, or other factors. Increased vulnerability may be attributable to an accumulation of negative or lack of positive environmental, health, economic, or social conditions within these populations or places. Overburdened community includes situations where multiple factors, including both environmental and socioeconomic stressors, may act cumulatively to affect health and the environment and contribute to persistent environmental health disparities.

(5)Regional board means a California regional water quality control board.

(6)State board means the State Water Resources Control Board.

(7)Water-contact recreation site means any inland water that is used, or is suitable for being used, recreationally in a manner that involves limited body or full body contact with the water.

(Amended by Stats. 2022, Ch. 28, Sec. 104. (SB 1380) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=10.&chapter=5.&article=2.5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 10. RECREATIONAL SAFETY [115725 - 116095]__

(Part 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Safe Recreational Water Use [115825 - 116090.7]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2.5. The Swimming Pool Safety Act [115920 - 115929]__

(Article 2.5 added by Stats. 1996, Ch. 925, Sec. 3.5.)

115920.

This act shall be known and may be cited as the Swimming Pool Safety Act.

(Added by Stats. 1996, Ch. 925, Sec. 3.5. Effective January 1, 1997.)

115921.

As used in this article the following terms have the following meanings:

(a)Swimming pool or pool means any structure intended for swimming or recreational bathing that contains water over 18 inches deep. Swimming pool includes in-ground and aboveground structures and includes, but is not limited to, hot tubs, spas, portable spas, and nonportable wading pools.

(b)Public swimming pool means a swimming pool operated for the use of the general public with or without charge, or for the use of the members and guests of a private club. Public swimming pool does not include a swimming pool located on the grounds of a private single-family home.

(c)Enclosure means a fence, wall, or other barrier that isolates a swimming pool from access to the home.

(d)Approved safety pool cover means a manually or power-operated safety pool cover that meets all of the performance standards of the American Society for Testing and Materials (ASTM), in compliance with standard F1346-91.

(e)Exit alarms means devices that make audible, continuous alarm sounds when any door or window, that permits access from the residence to the pool area that is without any intervening enclosure, is opened or is left ajar. Exit alarms may be battery operated or may be connected to the electrical wiring of the building.

(f)ANSI/APSP performance standard means a standard that is accredited by the American National Standards Institute (ANSI) and published by the Association of Pool and Spa Professionals (APSP).

(g)Suction outlet means a fitting or fixture typically located at the bottom or on the sides of a swimming pool that conducts water to a recirculating pump.

(Amended by Stats. 2012, Ch. 679, Sec. 1. (AB 2114) Effective January 1, 2013.)

115922.

(a)Except as provided in Section 115925, when a building permit is issued for the construction of a new swimming pool or spa or the remodeling of an existing swimming pool or spa at a private single-family home, the respective swimming pool or spa shall be equipped with at least two of the following seven drowning prevention safety features:

(1)An enclosure that meets the requirements of Section 115923 and isolates the swimming pool or spa from the private single-family home.

(2)Removable mesh fencing that meets American Society for Testing and Materials (ASTM) Specifications F2286 standards in conjunction with a gate that is self-closing and self-latching and can accommodate a key lockable device.

(3)An approved safety pool cover, as defined in subdivision (d) of Section 115921.

(4)Exit alarms on the private single-family homesdoors that provide direct access to the swimming pool or spa. The exit alarm may cause either an alarm noise or a verbal warning, such as a repeating notification that the door to the pool is open.

(5)A self-closing, self-latching device with a release mechanism placed no lower than 54 inches above the floor on the private single-family homesdoors providing direct access to the swimming pool or spa.

(6)An alarm that, when placed in a swimming pool or spa, will sound upon detection of accidental or unauthorized entrance into the water. The alarm shall meet and be independently certified to the ASTM Standard F2208 Standard Safety Specification for Residential Pool Alarms, which includes surface motion, pressure, sonar, laser, and infrared type alarms. A swimming protection alarm feature designed for individual use, including an alarm attached to a child that sounds when the child exceeds a certain distance or becomes submerged in water, is not a qualifying drowning prevention safety feature.

(7)Other means of protection, if the degree of protection afforded is equal to or greater than that afforded by any of the features set forth above and has been independently verified by an approved testing laboratory as meeting standards for those features established by the ASTM or the American Society of Mechanical Engineers (ASME).

(b)Before the issuance of a final approval for the completion of permitted construction or remodeling work, the local building code official shall inspect the drowning safety prevention features required by this section and, if no violations are found, shall give final approval.

(Amended by Stats. 2017, Ch. 670, Sec. 4. (SB 442) Effective January 1, 2018.)

115923.

An enclosure shall have all of the following characteristics:

(a) Any access gates through the enclosure open away from the swimming pool, and are self-closing with a self-latching device placed no lower than 60 inches above the ground.

(b) A minimum height of 60 inches.

(c) A maximum vertical clearance from the ground to the bottom of the enclosure of two inches.

(d) Gaps or voids, if any, do not allow passage of a sphere equal to or greater than four inches in diameter.

(e) An outside surface free of protrusions, cavities, or other physical characteristics that would serve as handholds or footholds that could enable a child below the age of five years to climb over.

(Added by Stats. 1996, Ch. 925, Sec. 3.5. Effective January 1, 1997.)

115924.

(a)Any person entering into an agreement to build a swimming pool or spa, or to engage in permitted work

on a pool or spa covered by this article, shall give the consumer notice of the requirements of this article.

(b)Pursuant to existing law, the Department of Health Services shall have available on the departmentsWeb site, commencing January 1, 2007, approved pool safety information available for consumers to download. Pool contractors are encouraged to share this information with consumers regarding the potential dangers a pool or spa poses to toddlers. Additionally, pool contractors may provide the consumer with swimming pool safety materials produced from organizations such as the United States Consumer Product Safety Commission, Drowning Prevention Foundation, California Coalition for ChildrensSafety & Health, Safe Kids Worldwide, Association of Pool and Spa Professionals, or the American Academy of Pediatrics.

(Amended by Stats. 2006, Ch. 478, Sec. 3. Effective January 1, 2007.)

115925.

The requirements of this article do not apply to any of the following:

(a)Public swimming pools.

(b)Hot tubs or spas with locking safety covers that comply with the American Society for Testing and Materials (ASTM F1346).

(c)An apartment complex, or any residential setting other than a single-family home.

(Amended by Stats. 2017, Ch. 670, Sec. 5. (SB 442) Effective January 1, 2018.)

115926.

This article does not apply to any facility regulated by the State Department of Social Services even if the facility is also used as the private residence of the operator. Pool safety in those facilities shall be regulated pursuant to regulations adopted therefor by the State Department of Social Services.

(Added by Stats. 1996, Ch. 925, Sec. 3.5. Effective January 1, 1997.)

115927.

Notwithstanding any other provision of law, this article shall not be subject to further modification or interpretation by any regulatory agency of the state, this authority being reserved exclusively to local jurisdictions, as provided for in paragraph (7) of subdivision (a) of Section 115922 and subdivision (c) of Section 115925.

(Amended by Stats. 2018, Ch. 957, Sec. 13. (SB 1078) Effective January 1, 2019.)

115928.

Whenever a building permit is issued for the construction of a new swimming pool or spa, the pool or spa shall meet all of the following requirements:

(a)(1)The suction outlets of the pool or spa for which the permit is issued shall be equipped to provide circulation throughout the pool or spa as prescribed in paragraphs (2) and (3).

(2)The swimming pool or spa shall either have at least two circulation suction outlets per pump that shall be hydraulically balanced and symmetrically plumbed through one or more T fittings, and that are separated by a distance of at least three feet in any dimension between the suction outlets, or be designed to use alternatives to suction outlets, including, but not limited to, skimmers or perimeter overflow systems to conduct water to the recirculation pump.

(3)The circulation system shall have the capacity to provide a complete turnover of pool water, as specified in Section 3124B of Chapter 31B of the California Building Standards Code (Title 24 of the California Code of Regulations).

(b)Suction outlets shall be covered with antientrapment grates, as specified in the ANSI/APSP-16 performance standard or successor standard designated by the federal Consumer Product Safety Commission, that cannot be removed except with the use of tools. Slots or openings in the grates or similar protective devices shall be of a shape, area, and arrangement that would prevent physical entrapment and would not pose any suction hazard to bathers.

(c)Any backup safety system that an owner of a new swimming pool or spa may choose to install in addition to the requirements set forth in subdivisions (a) and (b) shall meet the standards as published in the document, Guidelines for Entrapment Hazards: Making Pools and Spas Safer, Publication Number 363, March 2005, United States Consumer Product Safety Commission.

(Amended by Stats. 2012, Ch. 679, Sec. 2. (AB 2114) Effective January 1, 2013.)

115928.5.

Whenever a building permit is issued for the remodel or modification of an existing swimming pool, toddler pool, or spa, the permit shall require that the suction outlet or suction outlets of the existing swimming pool, toddler pool, or spa be upgraded so as to be equipped with antientrapment grates, as specified in the ANSI/APSP-16 performance standard or a successor standard designated by the federal Consumer Product Safety Commission.

(Amended by Stats. 2012, Ch. 679, Sec. 3. (AB 2114) Effective January 1, 2013.)

115929.

(a) The Legislature encourages a private entity, in consultation with the Epidemiology and Prevention for Injury Control Branch of the department, to produce an informative brochure or booklet, for consumer use, explaining the child drowning hazards of, possible safety measures for, and appropriate drowning hazard prevention measures for, home swimming pools and spas, and to donate the document to the department.

(b) The Legislature encourages the private entity to use existing documents from the United States Consumer Product Safety Commission on pool safety.

(c) If a private entity produces the document described in subdivisions (a) and (b) and donates it to the department, the department shall review and approve the brochure or booklet.

(d) Upon approval of the document by the department, the document shall become the property of the state and a part of the public domain. The department shall place the document on its Web site in a format that is readily available for downloading and for publication. The department shall review the document in a timely and prudent fashion and shall complete the review within 18 months of receipt of the document from a private entity.

(Added by Stats. 2003, Ch. 422, Sec. 3. Effective January 1, 2004.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=10.&chapter=5.&article=2.7.

115951.

For purposes of this article, the following definitions shall apply:

(a)Nonswimmer means a person who is a weak or inexperienced swimmer or a person who cannot swim.

(b)Patron means a swimmer or nonswimmer using a wave pool.

(c)Rest period means a period of time that the wave generating equipment for the wave pool is not producing breaking waves.

(d)Wave pool means a swimming pool designed for the purpose of producing breaking wave action in the water and that is not primarily designed for standup surfing or bodyboarding.

(Added by Stats. 2008, Ch. 335, Sec. 2. Effective January 1, 2009.)

115952.

On and after January 1, 2009, a wave pool in this state shall comply with all of the following:

(a)(1)A wave pool operator shall provide a United States Coast Guard-approved Type II or Type III lifevest that is free and available for use by a nonswimmer or a child under 48 inches in height. A wave pool operator shall also provide a United States Coast Guard-approved Type II or Type III lifevest that is free and available for use to any other patron at the request of the patron.

(2)Notwithstanding paragraph (1), a patron, including a nonswimmer and child, may use his or her own lifevest if that lifevest is a United States Coast Guard-approved Type II or Type III lifevest.

(b)(1)Children under 48 inches in height, regardless of whether the child is accompanied by an adult, shall wear a properly fitting United States Coast Guard-approved Type II or Type III lifevest to gain access to a wave pool.

(2)A child under 42 inches in height shall be accompanied by an adult in order to gain entry into the park. A wave pool operator shall deny entrance into the park of a child under 42 inches in height if that child is not accompanied by an adult.

(3)Any person or child who refuses to comply with paragraph (2) of subdivision (a) or paragraph (1) of this subdivision shall be removed from the park by the wave pool operator.

(c)In all cases where wave action is suspended for any reason, an audible signal shall be used prior to resuming wave action to warn patrons of impending waves. That audible signal may be of any duration, but shall sound within 15 seconds immediately prior to resuming the breaking wave action. The audible signal shall be loud enough so that it can be heard by all patrons of the wave pool, but shall not exceed 90 decibels.

(d)(1)Lifeguards shall be assigned to guard a wave pool.

(2)The wave pool operator shall ensure that there are a sufficient number of lifeguards on duty to recognize, respond, and provide care to swimmers in distress or passive or active drowning persons within, but no longer than, 30 seconds of the onset of their peril.

(3)A lifeguard subject to this subdivision shall have an unobstructed view of, and be able to completely observe, in its entirety, his or her defined zone of protection in the wave pool.

(4)A wave pool operator shall ensure that conditions in a wave pool are continually reevaluated for safety and shall adjust lifeguard staffing accordingly.

(e)An emergency stop for the wave equipment shall be easily accessible to the lifeguards and other pool officials, as required by the Division of Occupational Safety and Health.

(f)A wave pool operator shall ensure that the wave pool has regular periods without breaking waves being produced; to accomplish this, the wave pool operator shall ensure that continuous breaking wave cycles in a wave pool shall not exceed 15 minutes.

(g)Signs with clearly legible letters and, if appropriate, symbols, indicating the requirements described in subdivisions (a) to (c), inclusive, shall appear at the ticket booth or entrance gate to the park or other facility where the wave pool is located.

(Added by Stats. 2008, Ch. 335, Sec. 2. Effective January 1, 2009.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=10.&chapter=5.&article=2.8.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 10. RECREATIONAL SAFETY [115725 - 116095]__

(Part 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Safe Recreational Water Use [115825 - 116090.7]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2.8. Wave Basin Standards [115960.1 - 115960.2]__

(Article 2.8 added by Stats. 2022, Ch. 461, Sec. 1.)

115960.1.

The following definitions apply for purposes of this article:

(a)Department means the State Department of Public Health.

(b)Wave basin means an artificially constructed body of water within an impervious water containment structure incorporating the use of a mechanical device principally designed to generate waves for surfing on a surfboard or analogous surfing device commonly used in the ocean and intended for sport. Wave basin does not include wave pools, as defined under the Wave Pool Safety Act (Article 2.7 (commencing with Section 115950)).

(Added by Stats. 2022, Ch. 461, Sec. 1. (AB 2298) Effective January 1, 2023.)

115960.2.

(a)A wave basin shall be subject to regulation as a permanent amusement ride under the Permanent Amusement Ride Safety Inspection Program (Part 8.1 (commencing with Section 7920) of Division 5 of the Labor Code), and the Division of Occupational Safety and Health may inspect and otherwise oversee the operation of a wave basin to ensure compliance with those standards and requirements. This section does

not limit the existing authority of the division to regulate permanent amusement rides.

(b)The department, in consultation with the Division of Occupational Safety and Health, shall adopt regulations regulating sanitation and safety of wave basins. The department may consider the federal Centers for Disease Control and Prevention guidance, including, but not limited to, the guidance outlined in the Model Aquatic Health Code during the rulemaking process. The regulations adopted pursuant to this section may be modeled upon the sanitation and safety regulations for swimming pools, but shall consider the unique characteristics of a wave basin, including the volume of water, chemical dispersion caused by wave action, and the size of a typical wave basin.

(c)A local health officer shall have the authority to enforce wave basin sanitation and safety regulations adopted by the department, pursuant to subdivision (b), in their jurisdiction.

(d)Nothing in this article shall relieve a wave basin operator from its obligation to comply with applicable sanitation and safety requirements until the wave basin sanitation and safety regulations are adopted by the department pursuant to subdivision (b).

(Added by Stats. 2022, Ch. 461, Sec. 1. (AB 2298) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=10.&chapter=5.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 10. RECREATIONAL SAFETY [115725 - 116095]__

(Part 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Safe Recreational Water Use [115825 - 116090.7]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Life Saving Devices [115975 - 116020]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

115975.

Resort,□ as used in this article, means a resort, bathhouse, or other public place for the purpose of accommodating bathers, bordering upon or adjoining the seacoast or a lake where the public resort for the purpose of bathing in the open sea or lake.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115980.

No person shall own or conduct a resort unless it is equipped with at least one lifeboat.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115985.

The boat shall be fully equipped with oars, oarlocks, and not less than two life preservers, and two hundred feet of rope.

It shall be kept in good repair and near the resort.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115990.

The boat shall have the word lifeboat□ plainly printed or painted upon it. It shall be used for no purpose other than for the saving of life or for other cases of emergency.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

115995.

Every person who violates any provision of this article is guilty of a misdemeanor punishable by a fine of not less than ten nor more than four hundred dollars ($400), or by imprisonment for not less than ten days nor more than six months, or by both.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116000.

Resort, as used in this article, means any public bathing or swimming place or resort on a river or stream.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116005.

No person shall maintain a resort unless he or she carefully sounds the depth of water and locates the eddies and pools and determines the presence and nature of dangerous currents, sunken logs, rocks, and obstructions in the stream or river.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116010.

No person shall maintain a resort unless signs indicating in plain letters the depth of water, the location of pools or eddies, and the presence and direction of currents of water are placed and maintained in the water during the season when bathing and swimming are permitted or invited.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116015.

No person shall maintain a resort unless safety ropes are stretched wherever necessary to show the line of eddies, pools, sunken obstructions, and other hidden dangers to bathers in the water.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116020.

Every person who violates any provision of this article is guilty of a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=10.&chapter=5.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 10. RECREATIONAL SAFETY [115725 - 116095]__

(Part 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Safe Recreational Water Use [115825 - 116090.7]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 5. Swimming Pool Sanitation and Safety [116025 - 116068]__

(Heading of Article 5 amended by Stats. 2018, Ch. 270, Sec. 1.)

116025.

Public swimming pool, as used in this article, means any public swimming pool, bathhouse, public swimming and bathing place and all related appurtenances.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116028.

Except as provided in Section 116033, lifeguard service, as used in this article, means the attendance at a public swimming pool, during periods of use, of one or more lifeguards who possess, as minimum qualifications, current certificates from an American Red Cross or YMCA of the U.S.A. lifeguard training program, or have equivalent qualifications, as determined by the department, and who are trained to administer first aid, including, but not limited to, cardiopulmonary resuscitation in conformance with Section 123725 and the regulations adopted thereunder, and who have no duties to perform other than to supervise the safety of participants in water-contact activities. Lifeguard services includes the supervision of the safety of participants in water-contact activities by lifeguards who are providing swimming lessons, coaching or overseeing water-contact sports, or providing water safety instructions to participants when no other

persons are using the facilities unless those persons are supervised by separate lifeguard services.

(Amended by Stats. 2022, Ch. 273, Sec. 1. (AB 1672) Effective January 1, 2023.)

116030.

(a) The construction standards as set forth in this article and the regulations adopted pursuant thereto, shall not apply to any artificially constructed swimming facility in excess of 20,000 square feet of surface area, including, but not limited to, a manmade lake or swimming lagoon with sand beaches.

(b) The requirements of this article and regulations adopted pursuant thereto, pertaining to the operation, maintenance, and use of a public swimming pool, including the quality and purity of the water, lifesaving and other measures to ensure the safety of bathers, and measures to ensure personal cleanliness of bathers shall apply to the swimming facilities described in subdivision (a).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116033.

(a)Except as provided in subdivision (b), persons providing aquatic instruction, including, but not limited to, swimming instruction, water safety instruction, water contact activities, and competitive aquatic sports, at a public swimming pool shall possess current certificates from an American Red Cross or YMCA of the U.S.A. lifeguard training program, or have equivalent qualifications, as determined by the department. In addition, these persons shall be certified in standard first aid and cardiopulmonary resuscitation (CPR). All these persons shall meet these qualifications by January 1, 1991. Persons who only disseminate written materials relating to water safety are not persons providing aquatic instruction within the meaning of this section. The requirements of this section shall be waived under either of the following circumstances:

(1)When one or more aquatic instructors possessing the current certificates from an American Red Cross or YMCA of the U.S.A. lifeguard training program, or the equivalent, are in attendance continuously during periods of aquatic instruction.

(2)When one or more lifeguards meeting the requirements of Section 116028 are in attendance continuously during periods of aquatic instruction.

(b)If there is a staffing shortage where a local public agency pool operator, acting in good faith, is unable to maintain required staffing levels to maintain regular operating hours, the local public agency may use qualified lifeguard personnel, as defined in subdivision (c), to provide lifeguard services at a public swimming pool, if both requirements are met:

(1)The public agency is recognized by the United States Lifesaving Association (USLA) as a certified agency capable of administering an ongoing training program.

(2)The legislative body of the public agency makes a finding by resolution stating the use of qualified lifeguard personnel is needed for a time period no longer than 12 months in order to maintain regular operating hours of public swimming pools.

(c)As used in this section, qualified lifeguard personnel means a public agency lifeguard who has received and maintains USLA training from a certified agency, is certified in standard first aid and cardiopulmonary resuscitation, and has received additional public swimming pool-specific crossover training, provided by personnel certified by a national training agency, including treatment of spinal injuries, floatation device use techniques, pool extraction and extrication techniques, and submerged rescue techniques.

(Amended by Stats. 2022, Ch. 273, Sec. 2. (AB 1672) Effective January 1, 2023.)

116035.

The department has supervision of sanitation, healthfulness, and safety of public swimming pools.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116038.

Every person proposing to construct a public swimming pool shall file a copy of the plans therefor, prior to construction, with the local health officer having jurisdiction for approval.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116040.

Every person operating or maintaining a public swimming pool must do so in a sanitary, healthful and safe manner.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116043.

Every public swimming pool, including swimming pool structure, appurtenances, operation, source of water supply, amount and quality of water recirculated and in the pool, method of water purification, lifesaving apparatus, measures to insure safety of bathers, and measures to insure personal cleanliness of bathers shall be such that the public swimming pool is at all times sanitary, healthful and safe.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116045.

(a)Lifeguard service shall be provided for any public swimming pool that is of wholly artificial construction and for the use of which a direct fee is charged. For all other public swimming pools, lifeguard service shall

be provided or signs shall be erected clearly indicating that the service is not provided.

(b)Every public swimming pool that is required to provide lifeguard services and that charges a direct fee, as defined in subdivision (e), shall provide on its premises an Automated External Defibrillator (AED) unit. The AED unit shall be readily available during pool operations.

(c)(1)In order to ensure public safety, a person or entity that acquires an AED pursuant to these provisions shall comply with Section 1797.196.

(2)Pursuant to subdivision (d) of Section 1714.21 of the Civil Code, a person or entity that acquires an AED for emergency care pursuant to this section shall not be liable for any civil damages resulting from any acts or omissions in the rendering of emergency care by use of the AED.

(3)Pursuant to subdivision (b) of Section 1714.21 of the Civil Code, a volunteer who in good faith renders emergency care or treatment at the scene of an emergency with the use of an AED that is provided under this section shall not be liable for any civil damages resulting from any acts or omissions in rendering the emergency care, subject to the limitation in subdivision (e) of that section.

(d)For purposes of this section, a complex of two or more proximate pools that charges a single fee for admission to all of those pools shall be considered one single public swimming pool.

(e)For purposes of this section, the following definitions shall apply:

(1)Direct fee means a separately stated fee or charge for the use of a public swimming pool to the exclusion of any other service, facility, or amenity.

(2)Public swimming pool means any public swimming pool defined in Section 116025 that is open to the public.

(Amended by Stats. 2018, Ch. 270, Sec. 2. (AB 1766) Effective January 1, 2019.)

116046.

(a)The State Department of Education, in consultation with the State Department of Public Health, shall issue best practices guidelines related to pool safety at K"12 schools.

(b)Guidelines promulgated pursuant to this section that relate to the use or placement of automated external defibrillators shall be consistent with the requirements imposed under Section 1797.196, and shall include a reference to Section 49417 of the Education Code for purposes of providing information to schools about the liability protections and funding mechanisms provided in that section.

(Added by Stats. 2018, Ch. 270, Sec. 3. (AB 1766) Effective January 1, 2019.)

116048.

(a) On or after January 1, 1987, for public swimming pools in any common interest development, as defined in Section 4100 or 6534 of the Civil Code, that consists of fewer than 25 separate interests, as defined in

Section 4185 or 6564 of the Civil Code, the person operating each pool open for use shall be required to keep a record of the information required by subdivision (a) of Section 65523 of Title 22 of the California Administrative Code, except that the information shall be recorded at least two times per week and at intervals no greater than four days apart.

(b) On or after January 1, 1987, any rule or regulation of the department that is in conflict with subdivision (a) is invalid.

(Amended (as amended by Stats. 2012, Ch. 181, Sec. 77) by Stats. 2013, Ch. 605, Sec. 46. (SB 752) Effective January 1, 2014.)

116049.

(a) Public swimming pool, as used in this section, means any public swimming pool defined in Section 116025 that is owned or operated by the state or any local governmental entity, including, but not limited to, any city, county, city and county, charter city, charter county, or charter city and county.

(b) All dry-niche light fixtures, and all underwater wet-niche light fixtures operating at more than 15 volts in public swimming pools shall be protected by a ground-fault circuit interrupter in the branch circuit, and all light fixtures in public swimming pools shall have encapsulated terminals. This subdivision is declaratory of existing law.

(c) Any public swimming pools that do not meet the requirements specified in subdivision (b) by January 1, 1995, shall be retrofitted to comply with these requirements by January 1, 1996.

(d) The ground-fault circuit interrupter required pursuant to this section shall comply with UnderwritersLaboratory standards.

(e) Any state or local governmental entity that owns or operates a public swimming pool shall have its public swimming pool inspected by a qualified inspector prior to July 1, 1996, to determine compliance with this section.

(f) A public swimming pool may charge a fee, or increase its fee charged, to the public for use of the pool, for the purpose of recovering the administrative and other costs of retrofitting pools in compliance with this section. The charge or increase due to this section shall terminate when funds sufficient to cover these costs are collected.

(g) All electrical work required for compliance with this section shall be performed by an electrician licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116049.1.

(a) Public swimming pool, as used in this section, means any swimming pool operated for the use of the general public with or without charge, or for the use of the members and guests of a private club, including any swimming pool located on the grounds of a hotel, motel, inn, an apartment complex, or any residential

setting other than a single-family home. For purposes of this section, public swimming pool shall not include a swimming pool located on the grounds of a private single-family home.

(b) The design and installation of all underwater lighting systems, operating at more than 15 volts, supplied from a branch circuit either directly or by way of a transformer, shall be installed in a public swimming pool, as defined in this section, so that there is no shock hazard with any likely combination of fault conditions during normal use, and shall comply with both of the following requirements:

(1) An approved ground-fault circuit interrupter shall be installed in the branch circuit that supplies all fixtures operating at more than 15 volts.

(2) Only approved underwater lighting fixtures shall be used and no lighting fixtures shall be installed for operations at more than 150 volts between conductors.

(c) Any public swimming pool that does not meet the requirements specified in subdivision (b), shall be retrofitted to comply with these requirements by May 1, 1999.

(d) The ground-fault circuit interrupter required pursuant to this section shall comply with standards acceptable to the authority having jurisdiction.

(e) The owner or operator of a public swimming pool shall, on or before May 1, 1999, comply with both of the following:

(1) Obtain an inspection of its public swimming pool by the local health officer or a qualified contractor as set forth in subdivision (f).

(2) Certify to the local health officer as set forth in Section 116053 that the public swimming pool facility is in compliance with this section.

(f) All electrical work required for compliance with this section shall be performed by a person licensed to perform electrical work within his or her general, specialty, or limited specialty contractorslicensed scope of practice pursuant to Section 7059 of the Business and Professions Code.

(g) This section shall be known and may be cited as the Yasmin Paleso™o Memorial Swimming Pool Safety Law.

(Amended by Stats. 1998, Ch. 426, Sec. 2. Effective September 11, 1998.)

116050.

Except as provided in Section 18930, the department shall make and enforce regulations pertaining to public swimming pools as it deems proper and shall enforce building standards published in the State Building Standards Code relating to public swimming pools; provided, that no rule or regulation as to design or construction of pools shall apply to any pool that has been constructed before the adoption of the regulation, if the pool as constructed is reasonably safe and the manner of the construction does not preclude compliance with the requirements of the regulations as to bacteriological and chemical quality and clarity of the water in the pool. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 for the purposes described in this section.

(Amended by Stats. 2006, Ch. 538, Sec. 435. Effective January 1, 2007.)

116053.

Every health officer shall enforce the building standards published in the State Building Standards Code relating to swimming pools and the other regulations adopted by the department pursuant to this article in his or her jurisdiction.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116055.

For the purposes of this article, any health officer, or any inspector of the department, may at all reasonable times enter all parts of the premises of a public swimming pool to make examination and investigation to determine the sanitary condition and whether this article, building standards published in the State Building Standards Code relating to swimming pools, or the other regulations adopted by the department pursuant to this article are being violated.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116058.

The department may publish the reports of inspections.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116060.

Any public swimming pool constructed, operated, or maintained contrary to the provisions of this article is a public nuisance, dangerous to health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116063.

Any nuisance maintained in violation of this article may be abated or enjoined in an action brought by a local health officer, or the department, or it may be summarily abated in the manner provided by law for the summary abatement of other public nuisances dangerous to health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116064.

(a)As used in this section the following words have the following meanings:

(1)(A)Public wading pool means a pool that meets all of the following criteria:

(i)It has a maximum water depth not exceeding 18 inches.

(ii)It is a pool other than a pool that is located on the premises of a one-unit or two-unit residence, intended solely for the use of the residents or guests.

(B)Public wading pool includes, but is not limited to, a pool owned or operated by private persons or agencies, or by state or local governmental agencies.

(C)Public wading pool includes, but is not limited to, a pool located in an apartment house, hotel, or similar setting, that is intended for the use of residents or guests.

(2)Alteration means any of the following:

(A)To change, modify, or rearrange the structural parts or the design.

(B)To enlarge.

(C)To move the location of.

(D)To install a new water circulation system.

(E)To make any repairs costing fifty dollars ($50) or more to an existing circulation system.

(3)ANSI/APSP performance standard means a standard that is accredited by the American National Standards Institute (ANSI) and published by the Association of Pool and Spa Professionals (APSP).

(4)Suction outlet means a fitting or fixture typically located at the bottom or on the sides of a swimming pool that conducts water to a recirculating pump.

(b)A public wading pool shall have at least two circulation suction outlets per pump that are hydraulically balanced and symmetrically plumbed through one or more T fittings, and are separated by a distance of at least three feet in any dimension between the suction outlets.

(c)All public wading pool suction outlets shall be covered with antivortex grates or similar protective devices. All suction outlets shall be covered with grates or antivortex plates that cannot be removed except with the use of tools. Slots or openings in the grates or similar protective devices shall be of a shape, area, and arrangement that would prevent physical entrapment and would not pose any suction hazard to bathers.

(d)(1) The State Department of Health Services may adopt regulations pursuant to this section.

(2)The regulations may include, but not be limited to, standards permitting the use of alternative devices or safeguards, or incorporating new technologies, that produce, at a minimum, equivalent protection against

entrapment and suction hazard, whenever these devices, safeguards, or technologies become available to the public.

(3)Regulations adopted pursuant to this section constitute building standards and shall be forwarded pursuant to Section 11343 of the Government Code to the California Building Standards Commission for approval as set forth in Section 18907 of the Health and Safety Code.

(e)The California Building Standards Commission shall approve the building standards as set forth in this section and publish them in the California Building Standards Code by November 1, 1999. The commission shall publish the text of this section in Title 24 of the California Code of Regulations, Part 2, Chapter 31B, requirements for public swimming pools, with the following note: NOTE: These building standards are in statute but have not been adopted through the regulatory process.□ Enforcement of the standards set forth in this section does not depend upon adoption of regulations, therefore, enforcement agencies shall enforce the standards pursuant to the timeline set forth in this section prior to adoption of related regulations.

(f)The maximum velocity in the pump suction hydraulic system shall not exceed six feet per second when 100 percent of the pumpsflow comes from the circulation system and any suction outlet in the system is completely blocked.

(g)On and after January 1, 1998, all newly constructed public wading pools shall be constructed in compliance with this section.

(h)Commencing January 1, 1998, whenever a construction permit is issued for alteration of an existing public wading pool, it shall be retrofitted so as to be in compliance with this section.

(i)By January 1, 2000, every public wading pool, regardless of the date of original construction, shall be retrofitted to comply with this section.

(Amended by Stats. 2012, Ch. 679, Sec. 4.5. (AB 2114) Effective January 1, 2013.)

116064.2.

(a)As used in this section, the following words have the following meanings:

(1)ANSI/APSP performance standard□ means a standard that is accredited by the American National Standards Institute (ANSI) and published by the Association of Pool and Spa Professionals (APSP).

(2)ASME/ANSI performance standard□ means a standard that is accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.

(3)ASTM performance standard□ means a standard that is developed and published by ASTM International.

(4)Public swimming pool□ means an outdoor or indoor structure, whether in-ground or above-ground, intended for swimming or recreational bathing, including a swimming pool, hot tub, spa, or nonportable wading pool, that is any of the following:

(A)Open to the public generally, whether for a fee or free of charge.

(B)Open exclusively to members of an organization and their guests, residents of a multiunit apartment

building, apartment complex, residential real estate development, or other multifamily residential area, or patrons of a hotel or other public accommodations facility.

(C)Located on the premises of an athletic club, or public or private school.

(5)Qualified individual means a contractor who holds a current valid license issued by the State of California or a professional engineer licensed in the State of California who has experience working on public swimming pools.

(6)Safety vacuum release system means a vacuum release system that ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected.

(7)Skimmer equalizer line means a suction outlet located below the waterline, typically on the side of the pool, and connected to the body of a skimmer that prevents air from being drawn into the pump if the water level drops below the skimmer weir. However, a skimmer equalizer line is not a suction outlet for purposes of subdivisions (c) and (d).

(8)Suction outlet means a fitting or fixture of a swimming pool that conducts water to a recirculating pump.

(9)Unblockable suction outlet means a suction outlet, including the sump, that has a perforated (open) area that cannot be shadowed by the area of the 18 inch by 23 inch Body Blocking Element of the ANSI/APSP-16 performance standard, and that the rated flow through any portion of the remaining open area cannot create a suction force in excess of the removal force values in Table 1 of that standard.

(b)(1)Subject to subdivision (e), every public swimming pool shall be equipped with antientrapment devices or systems that comply with the ANSI/APSP-16 performance standard or successor standard designated by the federal Consumer Product Safety Commission.

(2)A public swimming pool that has a suction outlet in any location other than on the bottom of the pool shall be designed so that the recirculation system shall have the capacity to provide a complete turnover of pool water within the following time:

(A)One-half hour or less for a spa pool.

(B)One-half hour or less for a spray ground.

(C)One hour or less for a wading pool.

(D)Two hours or less for a medical pool.

(E)Six hours or less for all other types of public pools.

(c)Subject to subdivisions (d) and (e), every public swimming pool with a single suction outlet that is not an unblockable suction outlet shall be equipped with at least one or more of the following devices or systems that are designed to prevent physical entrapment by pool drains:

(1)A safety vacuum release system that has been tested by a nationally recognized testing laboratory and found to conform to ASME/ANSI performance standard A112.19.17, as in effect on December 31, 2009, or ASTM performance standard F2387, as in effect on December 31, 2009.

(2)A suction-limiting vent system with a tamper-resistant atmospheric opening, provided that it conforms to any applicable ASME/ANSI or ASTM performance standard.

(3)A gravity drainage system that utilizes a collector tank, provided that it conforms to any applicable ASME/ANSI or ASTM performance standard.

(4)An automatic pump shutoff system tested by a department-approved independent third party and found to conform to any applicable ASME/ANSI or ASTM performance standard.

(5)Any other system that is deemed, in accordance with federal law, to be equally effective as, or more effective than, the systems described in paragraph (1) at preventing or eliminating the risk of injury or death associated with the circulation system of the pool and suction outlets.

(d)Every public swimming pool constructed on or after January 1, 2010, shall have at least two suction outlets per pump that are hydraulically balanced and symmetrically plumbed through one or more T□ fittings, and that are separated by a distance of at least three feet in any dimension between the suction outlets. A public swimming pool constructed on or after January 1, 2010, that meets the requirements of this subdivision, shall be exempt from the requirements of subdivision (c).

(e)A public swimming pool constructed prior to January 1, 2010, shall be retrofitted to comply with subdivisions (b) and (c) by no later than July 1, 2010, except that no further retrofitting is required for a public swimming pool that completed a retrofit between December 19, 2007, and January 1, 2010, that complied with the Virginia Graeme Baker Pool and Spa Safety Act (15 U.S.C. Sec. 8001 et seq.) as in effect on the date of issue of the construction permit, or for a nonportable wading pool that completed a retrofit prior to January 1, 2010, that complied with state law on the date of issue of the construction permit. A public swimming pool owner who meets the exception described in this subdivision shall do one of the following prior to September 30, 2010:

(1)File the form issued by the department pursuant to subdivision (f), as otherwise provided in subdivision (h).

(2)(A)File a signed statement attesting that the required work has been completed.

(B)Provide a document containing the name and license number of the qualified individual who completed the required work.

(C)Provide either a copy of the final building permit, if required by the local agency, or a copy of one of the following documents if no permit was required:

(i)A document that describes the modification in a manner that provides sufficient information to document the work that was done to comply with federal law.

(ii)A copy of the final paid invoice. The amount paid for the services may be omitted or redacted from the final invoice prior to submission.

(f)Prior to March 31, 2010, the department shall issue a form for use by an owner of a public swimming pool to indicate compliance with this section. The department shall consult with county health officers and directors of departments of environmental health in developing the form and shall post the form on the departmentsInternet Web site. The form shall be completed by the owner of a public swimming pool prior to filing the form with the appropriate city, county, or city and county department of environmental health. The form shall include, but not be limited to, the following information:

(1)A statement of whether the pool operates with a single suction outlet or multiple suction outlets that comply with subdivision (d).

(2)Identification of the type of antientrapment devices or systems that have been installed pursuant to subdivision (b) and the date or dates of installation.

(3)Identification of the type of devices or systems designed to prevent physical entrapment that have been installed pursuant to subdivision (c) in a public swimming pool with a single suction outlet that is not an unblockable suction outlet and the date or dates of installation or the reason why the requirement is not applicable.

(4)A signature and license number of a qualified individual who certifies that the factual information provided on the form in response to paragraphs (1) to (3), inclusive, is true to the best of his or her knowledge.

(g)A qualified individual who improperly certifies information pursuant to paragraph (4) of subdivision (f) shall be subject to potential disciplinary action at the discretion of the licensing authority.

(h)Except as provided in subdivision (e), each public swimming pool owner shall file a completed copy of the form issued by the department pursuant to this section with the city, county, or city and county department of environmental health in the city, county, or city and county in which the swimming pool is located. The form shall be filed within 30 days following the completion of the swimming pool construction or installation required pursuant to this section or, if the construction or installation is completed prior to the date that the department issues the form pursuant to this section, within 30 days of the date that the department issues the form. The public swimming pool owner or operator shall not make a false statement, representation, certification, record, report, or otherwise falsify information that he or she is required to file or maintain pursuant to this section.

(i)In enforcing this section, health officers and directors of city, county, or city and county departments of environmental health shall consider documentation filed on or with the form issued pursuant to this section by the owner of a public swimming pool as evidence of compliance with this section. A city, county, or city and county department of environmental health may verify the accuracy of the information filed on or with the form.

(j)To the extent that the requirements for public wading pools imposed by Section 116064 conflict with this section, the requirements of this section shall prevail.

(k) The department shall have no authority to take any enforcement action against any person for violation of this section and has no responsibility to administer or enforce the provisions of this section.

(Amended by Stats. 2012, Ch. 679, Sec. 5. (AB 2114) Effective January 1, 2013.)

116065.

Every person who violates any provision of this article, building standards published in the State Building Standards Code relating to swimming pools, or the rules and regulations adopted pursuant to the provisions of this article, is guilty of a misdemeanor, punishable by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000), or by imprisonment for not more than six months, or both.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116068.

Each day that a violation of this article continues is a separate offense.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=10.&chapter=5.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 10. RECREATIONAL SAFETY [115725 - 116095]__

(Part 10 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Safe Recreational Water Use [115825 - 116090.7]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 6. Ocean Water-Contact Sports [116070 - 116090]__

(Article 6 added by Stats. 1995, Ch. 415, Sec. 6.)

116070.

As used in this article, water-contact sport means any sport in which the body of a person comes into

physical contact with water, including but not limited to swimming, surfboarding, paddleboarding, skin diving, and water-skiing. It does not include boating or fishing.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116075.

The department has supervision of sanitation, healthfulness, and safety of the public beaches and public water-contact sport areas of the ocean waters and bays of the state and, except as provided in Section 18930, the department may make and enforce regulations pertaining thereto as it deems proper.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116080.

Regulations made pursuant to this article shall include suitable standards of safe bacteria count for water-contact sports areas specified by the State Water Pollution Control Board or regional water pollution control boards, which standards shall be applied to all public water-contact sport areas of the ocean waters and bays of the state.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116085.

Every person who violates any rule or regulation adopted pursuant to this article is guilty of a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116090.

Nothing contained in this article shall be construed to give the department the authority to fix the areas wherein water-contact sports may be engaged in or to affect the authority of the State Water Pollution Control Board or regional water pollution control boards to fix appropriate areas for various uses.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=10.&chapter=5.&article=7.

116090.6.

For purposes of this article, the following terms have the following meanings:

(a)Local health officer means the legally appointed health officer or director of environmental health of the city, county, or city and county, having jurisdiction over the area in which a publicly accessible body of water is located, which may include a coastal area.

(b)Office means the Office of Environmental Health Hazard Assessment.

(c)Site-specific fish or shellfish health advisory means a consumption advisory regarding fish or shellfish in a specified body of water or area of that body of water, which may include a specified area of coastal waters.

(Added by Stats. 2019, Ch. 538, Sec. 1. (AB 762) Effective January 1, 2020.)

116090.7.

(a)Upon issuance by the office of a site-specific fish or shellfish health advisory pursuant to Section 59011 of this code or Section 13177.5 of the Water Code, a local health officer shall conspicuously post health warnings at public access points to locations where contaminated fish or shellfish may be caught, including piers, jetties, lakes, reservoirs, and other areas where recreational or subsistence fishing is known to occur, consistent with any program guidelines adopted by the State Water Resources Control Board pursuant to paragraph (2) of subdivision (e). The local health officer shall coordinate with the office, the State Department of Public Health, the Department of Fish and Wildlife, and the appropriate regional water quality control board to identify appropriate posting locations and signage. The local health officer shall be responsible for maintaining the signage until the office rescinds or revises the relevant site-specific fish or shellfish health advisory.

(b)(1)A local health officer shall post health warnings pursuant to this section within 180 days of receiving grant funding for posting those warnings awarded pursuant to paragraph (1) of subdivision (e). If a local health officer does not request grant funding for a fiscal year pursuant to paragraph (1) of subdivision (e), the local health officer shall post health warnings pursuant to this section within 180 days of the deadline for requesting grant funding for that fiscal year.

(2)At a minimum, the health warnings shall contain information on contaminants of concern and consumption guidelines issued by the office.

(c)(1)The office shall make available on its internet website digital posters of health warnings for each site-specific fish or shellfish health advisory issued pursuant to this article that local health officers may use in meeting their responsibilities under this article.

(2)The office shall make the digital posters available in English, Spanish, and other languages that persons who commonly fish in the area will understand, as determined by the office in consultation with the local health officer.

(d)If a local health officer has requested grant funding awarded pursuant to paragraph (1) of subdivision (e), the duties imposed on the local health officerslocal agency pursuant to this section are mandatory only to the extent that the local health officer has received grant funding to cover a local agencyscosts associated

with the performance of the duties imposed by this section. If a local health officer does not request grant funding for a fiscal year awarded pursuant to paragraph (1) of subdivision (e), the duties imposed on the local health officerslocal agency pursuant to this section are mandatory for that fiscal year.

(e)(1)Upon an appropriation for this purpose in the annual Budget Act or another statute, the State Water Resources Control Board shall award grants to local agencies, or to qualified nonprofit organizations to distribute to local agencies, to meet the requirements of this section.

(2)The State Water Resources Control Board may adopt program guidelines and procedures to administer appropriated funds. The State Water Resources Control Board shall consult with the office, the State Department of Public Health, the Department of Fish and Wildlife, and the regional water quality control boards, and shall hold a public workshop before the adoption of any program guidelines and procedures. The adoption of program guidelines and procedures is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3)Of the funds appropriated for the purposes of this section, the State Water Resources Control Board may use not more than 5 percent of the amount appropriated for its administrative costs.

(4)(A)On or before December 31, 2022, the State Water Resources Control Board shall submit a report to the Legislature summarizing whether or not the funds appropriated for local health officers to implement this section are sufficient.

(B)The report shall include, but is not limited to, all of the following information:

(i)A list of where the health advisories have been posted in accordance with this article. The list shall identify the health advisory postings funded by an appropriation in the annual Budget Act or another statute for this purpose.

(ii)A list of local agencies that have posted health advisories in accordance with this article. The list shall identify the local agencies that received a grant funded by an appropriation in the annual Budget Act or another statute for this purpose.

(iii)A summary of the bodies of water for which the office has issued health advisories pursuant to Section 59011 of this code or Section 13177.5 of the Water Code, but for which health advisories have not been posted in accordance with this article.

(iv)A cost estimate of the appropriation amount necessary to ensure full funding for implementation of this article.

(C)The report shall be submitted in compliance with Section 9795 of the Government Code.

(D)Pursuant to Section 10231.5 of the Government Code, this paragraph is inoperative on December 31, 2026.

(Added by Stats. 2019, Ch. 538, Sec. 1. (AB 762) Effective January 1, 2020.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=10.&chapter=6.&article=

116093.

(a) A pilot project shall use grant funds for all of the following purposes:

(1) To provide onsite nationally certified athletic trainers to participating schools. The project may provide a certified athletic trainer, or funds to help pay the costs associated with ensuring that there is an onsite athletic trainer, for at least 30 hours per week. Funds received pursuant to this section shall be used only to provide supplemental staff or services and shall not displace or reduce existing staff or services. Athletic trainers provided pursuant to this section shall not displace or reduce the hours or benefits available to any classified or certified employee who provides athletic training services for participating schools prior to the effective date of this section. A participating school that currently employs an athletic trainer shall coordinate the use of his or her services with the pilot project.

(2) To provide appropriate medical supplies and other supplies necessary to prevent and care for sports-related injuries.

(3) To provide in-service meetings for coaches and trainers, and to ensure that coaches and trainers receive first aid and CPR certification.

(4) To provide mentoring opportunities for pupils interested in the medical and athletic training fields.

(5) To provide community educational seminars for pupils, parents, trainers, coaches, and administrators on nutrition, the avoidance of drugs, and on injuries and prevention.

(6) To inform pupils about the availability of low-cost health insurance, including Medi-Cal and the Healthy Families Program.

(7) To provide strength training workshops for pupil-athletes and an off-season training program.

(b) Health care providers, including athletic trainers who participate in the pilot project shall not refer pupils to their own practice, to the practice of the other health care providers participating in the pilot project, or to the practice of other health care providers in whose practice they have a financial interest.

(Added by Stats. 2001, Ch. 553, Sec. 2. Effective January 1, 2002.)

116094.

(a) The State Department of Education shall establish a competitive grant process for private, nonprofit organizations that are registered with the Secretary of State to submit a grant application for the development, administration, and implementation of the Pupil Athletic Access and Safety Program.

(b) No later than May 1, 2002, the department, or its administering contracting entity, shall request and review proposals submitted by entities eligible for grants pursuant to this chapter. By June 1, 2002, the department, or its administering contracting entity, shall select a proposal for each of the two regions for receipt of a grant. The selected proposal shall meet the criteria set forth in this chapter and shall be selected on the basis of its ability to provide the best, most feasible service to the largest number of schools and

pupils in the pilot area.

(c) Proposals shall include all of the following:

(1) A description of the program goals.

(2) A list of measurable objectives for the purpose of evaluation by the department, or its administering contracting entity.

(3) A list of public secondary schools selected for participation, and the criteria used for selection of those schools.

(4) A list of professional participants with curriculum vitae and rÃ©sumÃ©s attached. Athletic trainers who are proposed to participate in the program shall be certified by the National Athletic Trainers Association.

(5) A method of ensuring medical quality for the program.

(6) The method that will be used to gather and submit data to the department, or its administering contracting entity.

(7) A clear description of the experience, expertise, and other qualifications of the private, nonprofit organization.

(8) A proposed budget for expenditure of the grant, including a proposed fundraising plan to raise the dollar-for-dollar match as required in this chapter.

(d) The department, or its administering contracting entity, upon making a selection pursuant to this chapter, shall fund the grant no later than August 1, 2002.

(e) (1) The department may expend up to 10 percent of the funds appropriated for the purposes of this chapter for the costs associated with administration of the competitive grant process, medical quality assurance and program oversight, data collection, and evaluation of the pilot project. No additional funds may be used for administration, oversight, or implementation of this program.

(2) The department may contract with a nonprofit statewide organization that specializes in administration of high school interscholastic athletic programs to function as the departmentsadministering agency for the program. If the department enters into a contract pursuant to this paragraph, the funds provided for administrative costs as set forth in paragraph (1) shall be expended, pursuant to the contract, by the nonprofit organization in its administration of this program on behalf of the department. The administering contracting entity shall be responsible for all aspects of the program, including the establishment of the competitive grant process, the selection of grantees and awarding of grants, program administration, monitoring, and evaluation, and the report required pursuant to Section 116095.

(f) The department, or its administering contracting entity, shall monitor and evaluate the program to ensure the performance and effectiveness of the program, including the following:

(1) Success in obtaining stated goals.

(2) Success in the pupil mentoring and scholarship programs.

(3) Reduction in injuries that occur during practice sessions and during actual athletic competitions.

(4) Reduction in recurring injury incidents.

(g) For the purpose of evaluating the programs, the department, or its administering contracting entity, shall, to the extent feasible, compare available data relating to injuries that occurred during practice sessions and official competitions in the school year prior to the existence of the pilot program, with comparable data collected in the second year of the pilot program.

If data regarding injuries has not been collected prior to the establishment of the pilot program, then data submitted by each grantee during the first six months of the program shall be used as baseline data to compare against data collected in the second year.

(h) In order to be eligible to receive funds pursuant to this chapter, a pilot project shall receive matching private funds equal to the public funds received.

(Added by Stats. 2001, Ch. 553, Sec. 2. Effective January 1, 2002.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=11.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=11.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 11. VECTORS [116100 - 116250]__

(Part 11 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 1. Definitions [116100 - 116108]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 6.)

116100.

As used in Article 5 (commencing with Section 116185) of Chapter 2, department means the State Department of Health Services.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116102.

Place, as used in Article 3 (commencing with Section 116125) of Chapter 2 and Section 116250, includes land, place, building, structure, wharf, pier, dock, vessel, or water craft.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116104.

Rodents, as used in Article 3 (commencing with Section 116125) of Chapter 2 and Section 116250, means rats, mice, gophers, and ground squirrels.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116106.

Possess, as used in Article 3 (commencing with Section 116125) of Chapter 2 and Section 116250, includes control, own, lease, occupy, possess, or have charge of or dominion over.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116108.

Vector, as used in Article 1 (commencing with Section 116110) of, and Article 2 (commencing with Section 116120) of Chapter 2, and Section 106925, means any animal capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including, but not limited to, mosquitoes, flies, other insects, ticks, mites, and rats.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=11.&chapter=2.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=11.&chapter=2.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 11. VECTORS [116100 - 116250]__

(Part 11 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 2. Powers and Duties [116110 - 116225]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Vector Biology and Control [116110 - 116112]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

116110.

The department shall maintain a program of vector biology and control including, but not limited to, the following:

(a) Providing consultation and assistance to local vector control agencies in developing and conducting programs for the prevention and control of vectors.

(b) Surveillance of vectors and vector-borne diseases.

(c) Coordinating and conducting emergency vector control, as required.

(d) Training and certifying government agency vector control technicians.

(e) Disseminating information to the public regarding protection from vectors and vector-borne diseases.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116111.

The department may provide any necessary and proper assistance and support to the vector control programs of counties, cities, cities and counties, mosquito abatement and vector control districts, and pest abatement districts.

(Added by Stats. 2002, Ch. 395, Sec. 10. Effective January 1, 2003.)

116112.

The Vectorborne Disease Account is hereby established within the State Treasury. When appropriated by the Legislature, the funds deposited in the Vectorborne Disease Account shall be available for expenditure by the department to support activities for the prevention, surveillance, and control of vectorborne diseases and to support other activities that carry out the purposes of this part.

(Added by Stats. 2004, Ch. 38, Sec. 3. Effective May 7, 2004.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=11.&chapter=2.&article=2.

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 11. VECTORS [116100 - 116250]__

(Part 11 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 2. Powers and Duties [116110 - 116225]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Importation of Exotic Vectors [116120- 116120.]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

116120.

(a) It shall be unlawful for any person to import into the state any exotic vector without written approval from the state department.

(b) The state department shall issue an applicant written authority to import into the state any exotic vector upon a determination by the state department that the public health and safety will not be endangered thereby.

(c) Exotic vector means a vector species that is not native to California and is not commonly found in the state.

(d) Any violation of this section is a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=11.&chapter=2.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 11. VECTORS [116100 - 116250]__

(Part 11 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 2. Powers and Duties [116110 - 116225]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Rodent Abatement [116125 - 116170]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

116125.

Every person possessing a place that is infested with rodents, as soon as their presence comes to his or her knowledge, shall at once proceed and continue in good faith to endeavor to exterminate and destroy the rodents, by poisoning, trapping, and other appropriate means, and to abate the conditions listed in Section 17920.3 that are causing the infestation.

(Amended by Stats. 2014, Ch. 81, Sec. 2. (SB 1167) Effective January 1, 2015.)

116130.

The department, the board of supervisors of each county, local health officers, or inspectors appointed by any of them, as provided in this article and Chapter 3 (commencing with Section 116250), may inspect a place for the purpose of ascertaining whether it is infested with rodents and whether the requirements of this article and Chapter 3 (commencing with Section 116250) as to their extermination and destruction, and the abatement of the conditions listed in Section 17920.3 that are causing the infestation are being complied with. However, no building occupied as a dwelling, hotel, or rooming house, shall be entered for inspection purposes except between the hours of 9 a.m., and 5 p.m.

(Amended by Stats. 2014, Ch. 81, Sec. 3. (SB 1167) Effective January 1, 2015.)

116135.

The board of supervisors of each county and the governing body of each city, whenever it may by resolution determine that it is necessary for the preservation of the public health or to prevent the spread of contagious or infectious disease, communicable to mankind, or when it determines that it is necessary to prevent great and irreparable damage to crops or other property, may appropriate money for the purchase of, and may purchase, poison, traps, and other materials for the purpose of exterminating and destroying rodents and abating the conditions listed in Section 17920.3 that are causing the infestation in that county or city, and may employ and pay inspectors, who shall prosecute the work of extermination, destruction, and abatement on both private and public property in the county or city.

(Amended by Stats. 2014, Ch. 81, Sec. 4. (SB 1167) Effective January 1, 2015.)

116140.

Whenever a person possessing a place that is infested with rodents, fails, neglects, or refuses to proceed and to continue to endeavor to exterminate and destroy the rodents and abate the conditions listed in Section 17920.3 that are causing the infestation, as required in this article and Chapter 3 (commencing with Section 116250), the department and its inspectors, the county board of supervisors and its inspectors, and the local health officer, shall at once cause the rodents to be exterminated and destroyed and the conditions listed in Section 17920.3 that are causing the infestation to be abated.

(Amended by Stats. 2014, Ch. 81, Sec. 5. (SB 1167) Effective January 1, 2015.)

116145.

The expense of exterminating and destroying the rodents and abating the conditions listed in Section 17920.3 that are causing the infestation is a charge against the county or city in which the work is done, and the board of supervisors or other governing body shall allow and pay it.

(Amended by Stats. 2014, Ch. 81, Sec. 6. (SB 1167) Effective January 1, 2015.)

116150.

The governing body shall record in the office of the county recorder a notice of payment, claiming a lien on the property for the amount of the payment.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116155.

All sums so paid by the county or city are a lien on the property on which the work was done, and may be recovered in an action against the property.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116160.

The action to foreclose the lien shall be brought within 90 days after the payment, and shall be prosecuted by the district or city attorney in the name of the county, or city, as the case may be, and for its benefit.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116165.

When the property is sold, enough of the proceeds shall be paid into the treasury of the county or city to satisfy the lien and the costs, and the surplus, if any, shall be paid to the owner of the property, if known, and if not known shall be paid into the court for the use of the owner when ascertained.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116170.

If it appears from the complaint in the action that the property on which the lien is to be foreclosed is likely to be removed from the jurisdiction of the court, the court may appoint a receiver to take possession of the property and hold it while the action is pending or until the defendant executes and files a bond, conditioned for the payment of any judgment that may be recovered against the defendant in the action and of all costs.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=11.&chapter=2.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 11. VECTORS [116100 - 116250]__

(Part 11 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 2. Powers and Duties [116110 - 116225]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Mosquito and Gnat Control [116175 - 116180]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

116175.

The department shall make studies and demonstrations as may be necessary to determine the areas of the state that have a high proportion of mosquito-borne diseases, including malaria and encephalitis.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116180.

(a) The department may enter into a cooperative agreement with any local district or other public agency engaged in the work of controlling mosquitoes, gnats, flies, other insects, rodents, or other vectors and pests of public health importance, in areas and under terms, conditions, and specifications as the director may prescribe.

(b) The agreement may provide for financial assistance on behalf of the state and for the doing of all or any portion of the necessary work by either of the contracting parties, except that in no event shall the department agree that the statescontribution shall exceed 50 percent of the total cost of any acceptable plan.

(c) The agreement may provide for contributions by the local district or other public agency to the Vectorborne Disease Account.

(Amended by Stats. 2004, Ch. 38, Sec. 4. Effective May 7, 2004.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=11.&chapter=2.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 11. VECTORS [116100 - 116250]__

(Part 11 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 2. Powers and Duties [116110 - 116225]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 5. Mosquito Control and Imported Tires [116185 - 116225]__

(Article 5 added by Stats. 1995, Ch. 415, Sec. 6.)

116185.

The Legislature finds and declares that used tires imported into this country have contained mosquitos that are carriers of disease that is harmful to humans.

The Legislature further finds and declares that, in order to attempt to ensure that these mosquitos are not brought into this state, it is necessary to require that used tires not be imported into this state unless they have been certified as being free of mosquitos.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996. Note: This section is not subject to the termination clause in Section 116225.)

116190.

(a) No used tires that have been imported into the United States shall be imported into this state, for purposes of sale, resale or disposal, unless they are inspected and certified as free from mosquitos in any stage of development by the department or its designee. Nothing in this section is intended to require inspection of each tire entering the state. The inspection shall be conducted using standard sampling procedures.

(b) Notwithstanding subdivision (a), if a shipment of tires imported into the United States has been inspected in a state other than California and certified as free from mosquitos in any state of development by persons meeting the federal certified pesticide applicator qualifications contained in 7 U.S.C. Section 136b, then the department shall review the certification to determine whether or not it is adequate. For the purposes of this subdivision, adequate means that the department shall confirm that the certification was performed by persons meeting the qualifications referred to in this subdivision and that the certification applies to the shipment of tires imported into this state.

If the certification is determined by the department to be adequate, the department shall make a written finding to that effect, and the inspection referred to in subdivision (a) shall not be required. The department may charge and collect a reasonable fee, not to exceed fifty dollars ($50) per shipment, to cover its costs incurred pursuant to this subdivision.

If the certification is determined by the department to be inadequate, the inspection referred to in subdivision (a) shall be required.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996. Conditionally inoperative as provided in Section 116225.)

116195.

The department shall administer this article. In carrying out this duty, the department may delegate its authority to other departments of the state or to local governmental agencies, or cooperate with other agencies in the enforcement of this article.

Notwithstanding Section 116180, the department may enter into a contract for services with local agencies, in order to implement this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996. Conditionally inoperative as provided in Section 116225.)

116200.

The department shall charge and collect a fee for each certificate issued by the department or its designee, which shall be in an amount reasonably necessary to produce sufficient revenue to effectively implement this article. The initial fee established by the department shall not be greater than thirty cents ($0.30) per tire or casing imported.

A nonreturnable interim fee of thirty cents ($0.30) per tire or casing imported, and for which a certificate is issued by the department or its designee, is hereby established and shall remain in effect until the

department adopts the necessary regulations pursuant to this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996. Conditionally inoperative as provided in Section 116225.)

116205.

The department shall collect and account for all money received pursuant to this article and shall deposit it in the Vectorborne Disease Account provided for in Section 116112.

(Amended by Stats. 2004, Ch. 38, Sec. 5. Effective May 7, 2004. Conditionally inoperative as provided in Section 116225.)

116210.

Fees collected pursuant to this article shall be subject to the annual fee increase provisions of Section 100425.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996. Conditionally inoperative as provided in Section 116225.)

116220.

It shall be a misdemeanor to violate this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996. Conditionally inoperative as provided in Section 116225.)

116225.

This article, with the exception of Section 116185, shall be inoperative upon a finding by the director that the federal government has established and is implementing a program that is at least as effective in ensuring that used tires imported into this state are free of mosquitos, as are the importation requirements established by this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996. Note: Termination clause affects Article 5, commencing with Section 116185, except Section 116185.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=11.&chapter=3.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 11. VECTORS [116100 - 116250]__

(Part 11 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 3. Enforcement and Penalties [116250- 116250.]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 6.)

116250.

A violation of Article 3 (commencing with Section 116125) of Chapter 2 is a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=12.&chapter=&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=12.&chapter=1.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=12.&chapter=2.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=12.&chapter=3.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=12.&chapter=4.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Pure and Safe Drinking Water [116270 - 116293]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

116270.

The Legislature finds and declares all of the following:

(a) Every resident of California has the right to pure and safe drinking water.

(b) Feasible and affordable technologies are available and shall be used to remove toxic contaminants from public water supplies.

(c) According to the State Department of Health Services, over 95 percent of all large public water systems in California are in compliance with health-based action levels established by the department for various contaminants.

(d) It is the policy of the state to reduce to the lowest level feasible all concentrations of toxic chemicals that, when present in drinking water, may cause cancer, birth defects, and other chronic diseases.

(e) This chapter is intended to ensure that the water delivered by public water systems of this state shall at all times be pure, wholesome, and potable. This chapter provides the means to accomplish this objective.

(f) It is the intent of the Legislature to improve laws governing drinking water quality, to improve upon the minimum requirements of the federal Safe Drinking Water Act Amendments of 1996, to establish primary drinking water standards that are at least as stringent as those established under the federal Safe Drinking Water Act, and to establish a program under this chapter that is more protective of public health than the minimum federal requirements.

(g) It is the further intent of the Legislature to establish a drinking water regulatory program within the state board to provide for the orderly and efficient delivery of safe drinking water within the state and to give the establishment of drinking water standards and public health goals greater emphasis and visibility within the state.

(h)This act shall be construed to ensure consistency with the requirements for states to obtain and maintain primary enforcement responsibility for public water systems under the federal Safe Drinking Water Act and acts amendatory thereof or supplementary thereto.

(Amended by Stats. 2015, Ch. 673, Sec. 3. (AB 1531) Effective January 1, 2016.)

116271.

(a)The state board succeeds to and is vested with all of the authority, duties, powers, purposes, functions, responsibilities, and jurisdiction of the State Department of Public Health, its predecessors, and its director for purposes of all of the following:

(1)The Environmental Laboratory Accreditation Act (Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101).

(2)Article 3 (commencing with Section 106875) of Chapter 4 of Part 1.

(3)Article 1 (commencing with Section 115825) of Chapter 5 of Part 10.

(4)This chapter and the Safe Drinking Water State Revolving Fund Law of 1997 (Chapter 4.5 (commencing with Section 116760)).

(5)Article 2 (commencing with Section 116800), Article 3 (commencing with Section 116825), and Article 4 (commencing with Section 116875) of Chapter 5.

(6)Chapter 7 (commencing with Section 116975).

(7)The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code).

(8)The Water Recycling Law (Chapter 7 (commencing with Section 13500) of Division 7 of the Water Code).

(9)Chapter 7.3 (commencing with Section 13560) of Division 7 of the Water Code.

(10)The California Safe Drinking Water Bond Law of 1976 (Chapter 10.5 (commencing with Section 13850) of Division 7 of the Water Code).

(11)Wholesale Regional Water System Security and Reliability Act (Division 20.5 (commencing with Section 73500) of the Water Code).

(12)Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Division 26.5 (commencing with Section 79500) of the Water Code).

(b)The state board shall maintain a drinking water program and carry out the duties, responsibilities, and functions described in this section. Statutory reference to department,□ state department,□ or director□ regarding a function transferred to the state board shall refer to the state board. This section does not impair the authority of a local health officer to enforce this chapter or a countyselection not to enforce this chapter, as provided in Section 116500.

(c)The state board shall succeed to the status of grantee or applicant, as appropriate, for any federal Drinking Water State Revolving Fund capitalization grants that the State Department of Public Health and any of its predecessors applied for.

(d)Regulations adopted, orders issued, and all other administrative actions taken by the State Department of Public Health, any of its predecessors, or its director, pursuant to the authorities now vested in the state board and in effect immediately preceding the operative date of this section shall remain in effect and are fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Regulations in the process of adoption pursuant to the authorities vested in the state board shall continue under the authority of the state board unless and until the state board determines otherwise. Any other administrative action adopted, prescribed, taken, or performed by, or on behalf of, the State Department of Public Health, or its director, in the administration of a program or the performance of a duty, responsibility, or authorization transferred to the state board shall remain in effect and shall be deemed to be an action of the state board unless and until the state board determines otherwise.

(e)Permits, licenses, accreditations, certificates, and other formal approvals and authorizations issued by the State Department of Public Health, any of its predecessors, or its director pursuant to authorities vested in the state board pursuant to this section are not affected by the transfer and remain in effect, subject to all applicable laws and regulations, unless and until renewed, reissued, revised, amended, suspended, or revoked by the state board or its deputy director, as authorized pursuant to subdivision (k).

(f)Any action or proceeding by or against the State Department of Public Health, including any officer or employee of the State Department of Public Health named in an official capacity, or any of its predecessors, pertaining to matters vested in the state board by this section shall not abate, but shall continue in the name of the state board. The state board shall be substituted for the State Department of Public Health, including any officer or employee of the State Department of Public Health named in an official capacity, and any of its predecessors, by the court or agency where the action or proceeding is pending. The substitution shall not in any way affect the rights of the parties to the action or proceeding.

(g)On and after the operative date of this section, the unexpended balance of all funds available for use by the State Department of Public Health or any of its predecessors in carrying out any functions transferred to the state board are available for use by the state board.

(h)Books, documents, data, records, and property of the State Department of Public Health pertaining to functions transferred to the state board shall be transferred to the state board. This subdivision does not transfer any part of property commonly known as the Richmond Campus that is owned by the State Public Works Board.

(i)A contract, lease, license, or any other agreement, including local primacy agreements, as described in Section 116330, to which the State Department of Public Health, any of its predecessors, its director, or their agents, is a party, are not void or voidable by reason of this section, but shall continue in full force and effect, with the state board assuming all of the rights, obligations, liabilities, and duties of the State Department of Public Health and any of its predecessors as it relates to the duties, powers, purposes, responsibilities, and jurisdiction vested in the state board pursuant to this section. This assumption does not affect the rights of the parties to the contract, lease, license, or agreement.

(j)If the Department of Water Resources entered into agreements on behalf of the State Department of Public Health or its predecessor, the State Department of Health Services, pursuant to Chapter 4.5 (commencing with Section 116760), the state board shall also succeed the Department of Water Resources as a party to those agreements and to all related security instruments, including, but not limited to, fiscal services agreements, deeds of trust, guarantees, letters of credit, and deposit control agreements.

(k)(1)The state board shall appoint a deputy director who reports to the executive director to oversee the issuance and enforcement of public water system permits and other duties as appropriate. The deputy director shall have public health expertise.

(2)The deputy director is delegated the state boardsauthority to provide notice, approve notice content, approve emergency notification plans, and take other action pursuant to Article 5 (commencing with Section 116450), to issue, renew, reissue, revise, amend, or deny any public water system permits pursuant to Article 7 (commencing with Section 116525), to suspend or revoke any public water system permit pursuant to Article 8 (commencing with Section 116625), and to issue citations, assess penalties, or issue orders pursuant to Article 9 (commencing with Section 116650). Decisions and actions of the deputy director taken pursuant to Article 5 (commencing with Section 116450) or Article 7 (commencing with Section 116525) are deemed decisions and actions taken by the state board, but are not subject to reconsideration by the state board except as provided in Section 116540. Decisions and actions of the deputy director taken pursuant to Article 8 (commencing with Section 116625) and Article 9 (commencing with Section 116650) are deemed decisions and actions taken by the state board, but any aggrieved person may petition the state board for reconsideration of the decision or action. This subdivision is not a limitation on the state boardsauthority to delegate any other powers and duties.

(3)The state board shall not delegate any authority, duty, power, purpose, function, or responsibility specified in this section, including, but not limited to, issuance and enforcement of public water system permits, to the regional water quality control boards.

(Amended by Stats. 2017, Ch. 327, Sec. 26. (AB 1438) Effective January 1, 2018.)

116275.

As used in this chapter:

(a)Contaminant means any physical, chemical, biological, or radiological substance or matter in water.

(b)Department means the state board.

(c)Primary drinking water standards means:

(1)Maximum levels of contaminants that, in the judgment of the state board, may have an adverse effect on the health of persons.

(2)Specific treatment techniques adopted by the state board in lieu of maximum contaminant levels pursuant to subdivision (j) of Section 116365.

(3)The monitoring and reporting requirements as specified in regulations adopted by the state board that pertain to maximum contaminant levels.

(d)Secondary drinking water standards means standards that specify maximum contaminant levels that, in the judgment of the state board, are necessary to protect the public welfare. Secondary drinking water standards may apply to any contaminant in drinking water that may adversely affect the odor or appearance of the water and may cause a substantial number of persons served by the public water system to discontinue its use, or that may otherwise adversely affect the public welfare. Regulations establishing secondary drinking water standards may vary according to geographic and other circumstances and may apply to any contaminant in drinking water that adversely affects the taste, odor, or appearance of the water when the standards are necessary to ensure a supply of pure, wholesome, and potable water.

(e)Human consumption means the use of water for drinking, bathing or showering, hand washing, oral hygiene, or cooking, including, but not limited to, preparing food and washing dishes.

(f)Maximum contaminant level means the maximum permissible level of a contaminant in water.

(g)Person means an individual, corporation, company, association, partnership, limited liability company, municipality, public utility, or other public body or institution, including the United States to the extent authorized by federal law.

(h)Public water system means a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:

(1)Any collection, treatment, storage, and distribution facilities under control of the operator of the system that are used primarily in connection with the system.

(2)Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system.

(3)Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

(i)Community water system means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents of the area served by the system.

(j)Noncommunity water system means a public water system that is not a community water system.

(k)Nontransient noncommunity water system means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over six months per year.

(l)Local health officer means a local health officer appointed pursuant to Section 101000 or a local comprehensive health agency designated by the board of supervisors pursuant to Section 101275 to carry out the drinking water program.

(m)Significant rise in the bacterial count of water means a rise in the bacterial count of water that the state board determines, by regulation, represents an immediate danger to the health of water users.

(n)State small water system means a system for the provision of piped water to the public for human consumption that serves at least 5, but not more than 14, service connections and does not regularly serve drinking water to more than an average of 25 individuals daily for more than 60 days out of the year.

(o)Transient noncommunity water system means a noncommunity water system that does not regularly serve at least 25 of the same persons over six months per year.

(p)User means a person using water for domestic purposes. User does not include a person processing, selling, or serving water or operating a public water system.

(q)Waterworks standards means regulations adopted by the state board entitled California Waterworks Standards (Chapter 16 (commencing with Section 64551) of Division 4 of Title 22 of the California Code of Regulations).

(r)Local primacy agency means a local health officer that has applied for and received primacy delegation pursuant to Section 116330.

(s)Service connection means the point of connection between the customerspiping or constructed conveyance, and the water systemsmeter, service pipe, or constructed conveyance. A connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection in determining if the system is a public water system if any of the following apply:

(1)The water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, and cooking, or other similar uses.

(2)The state board determines that alternative water to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulation is provided for residential or similar uses for drinking and cooking.

(3)The state board determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a passthrough entity, or the user to achieve the equivalent level of protection provided by the applicable primary drinking water regulations.

(t)Resident means a person who physically occupies, whether by ownership, rental, lease, or other means, the same dwelling for at least 60 days of the year.

(u)Water treatment operator means a person who has met the requirements for a specific water treatment operator grade pursuant to Section 106875.

(v)Water distribution operator means a person who has met the requirements for a specific water distribution operator grade pursuant to Section 106875.

(w)Water treatment plant means a group or assemblage of structures, equipment, and processes that treats, blends, or conditions the water supply of a public water system.

(x)Water distribution system means any combination of pipes, tanks, pumps, and other physical features that deliver water from the source or water treatment plant to the consumer.

(y)Public health goal means a goal established by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c) of Section 116365.

(z)Small community water system means a community water system that serves no more than 3,300 service connections or a yearlong population of no more than 10,000 persons.

(aa)Disadvantaged community means the entire service area of a community water system, or a community therein, in which the median household income is less than 80 percent of the statewide annual median household income level.

(ab)State board means the State Water Resources Control Board.

(ac)Deputy director means the deputy director appointed by the state board pursuant to subdivision (k) of Section 116271.

(Amended by Stats. 2023, Ch. 810, Sec. 1. (AB 664) Effective January 1, 2024.)

116276.

(a)The state board shall establish a program, in consultation with the State Department of Education, to award grants to local educational agencies for the purposes of improving access to, and the quality of, drinking water in public schools consistent with the Legislaturesintent that school facilities be maintained in good repair, as defined in paragraph (1) of subdivision (d) of Section 17002 of the Education Code. Eligible entities shall be limited to local educational agencies serving kindergarten or any of grades 1 to 12, inclusive, and preschools and child day care facilities, as defined in Section 1596.750, located on public school property. The program shall include, but not be limited to, funding for at least one of the following:

(1)Installation of water bottle filling stations.

(2)Installation or replacement of drinking water fountains with devices that are capable of removing contaminants that are present in the facilityswater supply.

(3)Installation of point-of-entry or point-of-use treatment devices for drinking fountains, and up to three years of postinstallation replacement filters, and operation, maintenance, and monitoring of the devices, including training on how to operate and maintain the treatment devices and community outreach and education about their use.

(b)The state board shall implement the program by taking actions that include, but are not necessarily limited to, the development of procedures and guidelines for the submission of grant applications and criteria for the evaluation of those applications.

(c)(1)In developing the procedure for awarding grants pursuant to this section, the state board shall do all of the following:

(A)Set requirements for grant recipients to adopt a program for inspecting and maintaining any water treatment device funded by the grant.

(B)Establish a maximum grant amount.

(C)Give priority to each of the following:

(i)Projects for schools within, or serving pupils from, a small disadvantaged community, as defined in Section 13193.9 of the Water Code.

(ii)Projects that have high effectiveness in increasing access to safe drinking water at schools.

(2)In developing the procedure for awarding grants pursuant to this section, the state board may require applicants to commit additional resources to the project, except that the state board shall not require matching funds for local educational agencies serving small disadvantaged communities or interfere with the prioritization of grant funding to small disadvantaged communities.

(d)(1)Procedures and guidelines for the program developed by the state board under this section are not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2)Before finalizing the procedures and guidelines for the distribution of grants pursuant to this section, the state board shall hold at least one public meeting to receive and consider public comment on the draft procedures and guidelines.

(e)The state board shall provide technical assistance to applicants, including completing applications, overseeing installations, and assisting with operation and maintenance.

(f)A contract entered into under the authority of this section is not be subject to Section 10295 of the Public Contract Code.

(Added by Stats. 2016, Ch. 29, Sec. 32. (SB 828) Effective June 27, 2016.)

116280.

This chapter does not apply to a public water system that meets all of the following conditions:

(a) Consists only of distribution and storage facilities and does not have any collection and treatment facilities.

(b) Obtains all of its water from, but is not owned or operated by, a public water system to which this chapter applies.

(c) Does not sell water to any person or user. For purposes of this subdivision, sale of water shall not include the sale of water, obtained from a public water system that is subject to this chapter, through a submetered distribution system if each user of the system is charged no more than the rate the user would be charged by the public water system.

By enacting this subdivision, it is not the intent of the Legislature to change existing law as to responsibility or liability for distribution systems beyond the mastermeter.

(Amended by Stats. 2011, Ch. 516, Sec. 2. (AB 1194) Effective January 1, 2012.)

116285.

Before August 6, 1998, this chapter shall not apply to an irrigation canal system if the owner or operator of the system certifies to the department, and notifies each user, in writing, that the water is untreated and is being furnished or supplied solely for agricultural purposes to either of the following:

(a) A user where the user receives the water, by pipe or otherwise, directly from the irrigation canal system.

(b) A person who owns or operates an integrated pipe system where the person receives the water, by pipe or otherwise, directly from the irrigation canal system.

Irrigation canal system, as used in this section, means a system of water conveyance facilities, including pipes, tunnels, canals, conduits, pumping plants and related facilities operated to furnish or supply water for agricultural purposes where a substantial portion of the facilities is open to the atmosphere.

(Amended by Stats. 1997, Ch. 734, Sec. 2. Effective October 7, 1997.)

116286.

(a) A water district, as defined in subdivision (b), in existence prior to May 18, 1994, that provides primarily agricultural services through a piped water system with only incidental residential or similar uses shall not be considered to be a public water system if the department determines that either of the following applies:

(1)The system is providing alternative water for residential or similar uses for drinking water and cooking to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulations.

(2)The water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a passthrough entity, or the user to achieve the equivalent level of protection provided by the applicable primary drinking water regulations.

(b)For purposes of this section, water district means any district or other political subdivision, other than a city or county, a primary function of which is irrigation, reclamation, or drainage of land.

(Amended by Stats. 2021, Ch. 64, Sec. 1. (AB 1428) Effective January 1, 2022.)

116287.

(a) The department, in implementing subdivision (s) of Section 116275 and Section 116286, shall place requirements on affected public water systems and water districts that are consistent with this chapter and the guidelines established by the United States Environmental Protection Agency for implementing comparable provisions of the federal Safe Drinking Water Act of 1996.

(b) The department, in making the determinations specified in paragraphs (2) and (3) of subdivision (s) of Section 116275 and subdivisions (a) and (b) of Section 116286, shall utilize criteria that are consistent with this chapter and those used by the United States Environmental Protection Agency in administering the comparable provisions of the federal Safe Drinking Water Act.

(c) The department shall periodically monitor and review the conditions under which a public water system, or a water district as defined in subdivision (b) of Section 116286, has met the requirements of this chapter pursuant to subdivision (s) of Section 116275 or Section 116286, or pursuant to the federal act, to ensure that the conditions continue to be met.

(d) The department may prescribe reasonable, feasible, and cost-effective actions to be taken by a public water system, water district, as defined in subdivision (b) of Section 116286, or users subject to subdivision (s) of Section 116275 or Section 116286 to ensure that alternative water or treated water provided by the water systems, water districts, or users pursuant to Section 116275 or 116286 will not be injurious to health.

(e) A notice prominently titled Notice of Noncompliance with Safe Drinking Water Requirements at the top of the document that states the requirements and actions prescribed by the department under subdivisions (a) and (d), describes the real property by assessors parcel number or legal description to which these requirements and actions apply, and names the record owners of that real property, may be recorded by the affected public water system or water district in the county where the real property is located. Recordation and proper indexing, as prescribed by law, shall provide constructive notice of these requirements and actions and shall not constitute a title defect, lien, or encumbrance. The public water system or water district shall provide notice of this recordation to the record owners of the real property by first-class mail, postage prepaid, to the address as shown on the latest county assessment roll. If the public water system or water district later determines that the record owners of the real property have complied with the requirements and actions prescribed by the department, the public water system or water district, within 10 days of that determination, shall record a subsequent notice titled Notice of Compliance with Safe Drinking Water Requirements that states that the Notice of Noncompliance with Safe Drinking Water Requirements has no further force or effect.

(f) A water district subject to this section shall annually publish a notice in a newspaper of general circulation describing any requirements and actions prescribed by the department to be taken by the water district and any record of compliance by the water district with these requirements and actions.

(g) This section shall not relieve a water district from complying with any other provisions of law.

(Amended by Stats. 2003, Ch. 167, Sec. 1. Effective January 1, 2004.)

116290.

Before August 6, 1998, in areas where the water service rendered by a person is primarily agricultural, and domestic service is only incidental thereto, this chapter shall not apply except in specific areas in which the department has found its application to be necessary for the protection of the public health and has given written notice thereof to the person furnishing or supplying water in the area.

The department may prescribe reasonable and feasible action to be taken by those persons or the users to insure that their domestic water will not be injurious to health.

(Amended by Stats. 1997, Ch. 734, Sec. 5. Effective October 7, 1997.)

116293.

(a) On January 1, 2003, the Office of Environmental Health Hazard Assessment shall perform a risk assessment and, based upon that risk assessment, shall adopt a public health goal based exclusively on public health consideration for perchlorate using the criteria set forth in subdivision (c) of Section 116365.

(b) On or before January 1, 2004, the department shall adopt a primary drinking water standard for perchlorate found in public water systems in California in a manner that is consistent with this chapter.

(Added by Stats. 2002, Ch. 425, Sec. 2. Effective January 1, 2003.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Department and Local Responsibilities [116325 - 116345]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

116325.

The department shall be responsible for ensuring that all public water systems are operated in compliance with this chapter and any regulations adopted hereunder. The department shall directly enforce this chapter for all public water systems except as set forth in Section 116500.

(Amended by Stats. 1997, Ch. 734, Sec. 7. Effective October 7, 1997.)

116326.

In administering programs to fund improvements and expansions of small community water systems, the department shall do all of the following:

(a)Give priority to funding projects in disadvantaged communities.

(b)Encourage the consolidation of small community water systems that serve disadvantaged communities in instances where consolidation will help the affected agencies and the state to meet all of the following goals:

(1)Improvement in the quality of water delivered.

(2)Improvement in the reliability of water delivery.

(3)Reduction in the cost of drinking water for ratepayers.

(c)Pursuant to subdivision (b), allow funding for feasibility studies performed prior to a construction project to include studies of the feasibility of consolidating two or more community water systems, at least one of which is a small community water system that serves a disadvantaged community.

(d)In instances where it is shown that small community water system consolidation will further the goals of subdivision (b), give priority to funding construction projects that involve the physical restructuring of two or more community water systems, at least one of which is a small community water system that serves a disadvantaged community, into a single, consolidated system.

(Added by Stats. 2007, Ch. 614, Sec. 2. Effective January 1, 2008.)

116330.

(a) The department may delegate primary responsibility for the administration and enforcement of this chapter within a county to a local health officer authorized by the board of supervisors to assume these duties, by means of a local primacy delegation agreement if the local health officer demonstrates that it has the capability to meet the local primacy program requirements established by the department pursuant to subdivision (h) of Section 116375. This delegation shall not include the regulation of community water systems serving 200 or more service connections. The local primacy agreement may contain terms and conditions that the department deems necessary to carry out this chapter. The local primacy agreement shall provide that, although the local primacy agency shall be primarily responsible for administration and enforcement of this chapter for the designated water systems, the department does not thereby relinquish its authority, but rather shall retain jurisdiction to administer and enforce this chapter for the designated water systems to the extent determined necessary by the department.

(b) Any local health officer seeking a local primacy delegation shall submit an application to the department. The application shall be submitted by March 1, 1993, for local health officers seeking local primacy agreements for the 1993“94 fiscal year. Thereafter, the application shall be submitted by January 1, of the fiscal year immediately preceding the commencement of the fiscal year for which the local primacy delegation is sought. The application shall be in the format, and shall contain information, required by the department. The department shall approve the application for primacy if the department determines that the local health officer is capable of meeting the primacy program requirements established by the department.

(c) A local primacy delegation approved by the department shall remain in effect until any of the following conditions occur:

(1) The delegation is withdrawn by mutual agreement.

(2) The local primacy agency provides 120-day advance written notice to the department that it no longer wishes to retain local primacy.

(3) The department determines that the local primacy agency no longer complies with the departmentslocal primacy program requirements. The department shall provide written notice to the local primacy agency and the board of supervisors and shall provide an opportunity for a public hearing prior to initiation of any local primacy revocation action by the department.

(d) The department shall evaluate the drinking water program of each local primacy agency at least annually. The department shall prepare a report of the evaluation and list any program improvements needed to conform to the departmentslocal primacy program requirements. A copy of the evaluation report shall be provided to the local primacy agency and the board of supervisors. The local primacy agency shall be granted a reasonable amount of time to make any needed program improvements prior to the initiation of any local primacy revocation actions.

(e) To the extent funds are available in the Safe Drinking Water Account, the department shall provide the local primacy agency with an annual drinking water surveillance program grant to cover the cost of conducting the inspection, monitoring, surveillance, and water quality evaluation activities specified in the local primacy agreement. The annual program grant pursuant to this subdivision shall not exceed the amount that the department determines would be necessary for the department to conduct inspection, monitoring, surveillance, and water quality evaluation activities in the absence of a local primacy agreement for those systems in that county.

(f) The local primacy agency shall act for the department as the primary agency responsible for the administration and enforcement of this chapter for the specified public water systems and shall be empowered with all of the authority granted to the department by this chapter over those water systems.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116335.

(a)The public water systems serving the City of Maywood shall conduct, publish, and submit to the City of Maywood, the State Department of Public Health, the Office of Environmental Health Hazard Assessment, the Senate Committee on Environmental Quality, and the Assembly Committee on Environmental Safety and Toxic Materials a study on the City of Maywoodswater by December 21, 2010, addressing the impacts of manganese on the quality of the City of Maywoodswater. The report shall contain all of the following:

(1)Testing information and results on manganese for all of the sources of drinking water for the City of Maywood.

(2)The amount of manganese being contributed by each water source that serves the City of Maywood.

(3)Immediate and long-term steps that can be taken by the public water systems to reduce the amount of

manganese in the drinking water supply to be at least as low as a level that is consistent with the average level in communities within a 20-mile radius of the City of Maywood.

(4)Infrastructure improvements that can be made to reach the immediate and long-term goals to reduce the level of manganese and other contaminants in the water to be consistent with the average level in communities within a 20-mile radius of the City of Maywood.

(5)Actions that the public water systems will take to pursue funding in order to achieve those improvements.

(b)The City Council of Maywood shall conduct a public hearing on the results of the study.

(c)The public water systems shall respond in writing to public comments made at the hearing to the City Council of Maywood.

(d)The study and comments shall be posted on the public water systems™ Internet Web sites.

(e)All current notifications sent to the rate payers within the City of Maywood concerning water contaminants shall also be sent to occupants, in the same manner as set forth in subdivision (f) of Section 116450, and shall be distributed in English and the primary language of the residents of the city as well as posted on the public water systems™ Internet Web sites.

(Added by Stats. 2009, Ch. 259, Sec. 2. (AB 890) Effective January 1, 2010.)

116340.

This chapter shall not apply to state small water systems except as provided under this section:

(a) The state board shall adopt regulations specifying minimum requirements for operation of a state small water system. The requirements may be less stringent than the requirements for public water systems as set forth in this chapter.

(b) The minimum requirements for state small water systems adopted by the state board pursuant to subdivision (a) shall be enforced by the local health officer or a local health agency designated by the local health officer. In counties that do not have a local health officer, the requirements shall be enforced by the state board. Local health agencies may adopt more stringent requirements for state small water systems than those specified in the state regulations.

(c) The reasonable costs of the local health officer in carrying out the requirements of this section may be recovered through the imposition of fees on state small water systems by the local governing body in accordance with Section 101325.

(d)Sections 116400, 116530, 116665, and 116735 and Article 10 (commencing with Section 116700) apply to a state small water system to the same extent as those sections apply to a public water system. Section 116650 applies to a state small system for a violation of a requirement or order that applies to a state small system under this section.

(e)This section does not limit the remedies available, civil or criminal, for violations or requirements of this chapter that apply to a state small water system or for consistent failure to provide an adequate supply of safe drinking water.

(Amended by Stats. 2021, Ch. 187, Sec. 2. (SB 776) Effective January 1, 2022.)

116345.

(a) The local health officer shall submit a report monthly to the department regarding the status of compliance with this chapter by the public water systems under the jurisdiction of the local health officer. The report shall be in a form and manner prescribed by the department.

(b) The department shall review the public water system program of the local health officer at least every three years to assure compliance with this chapter. A report of the findings of the review along with any recommendations of the department shall be provided to the local health officer and the board of supervisors.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Operations [116350 - 116407]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

116350.

(a) The department shall administer the provisions of this chapter and all other provisions relating to the regulation of drinking water to protect public health.

(b) The department shall also have the following responsibilities:

(1) Conduct research, studies, and demonstration projects relating to the provision of a dependable, safe supply of drinking water, including, but not limited to, all of the following:

(A) Improved methods to identify and measure the existence of contaminants in drinking water and to identify the source of the contaminants.

(B) Improved methods to identify, measure, and assess the potential adverse health effects of contaminants in drinking water.

(C) New methods of treating raw water to prepare it for drinking, so as to improve the efficiency of water treatment and to remove or reduce contaminants.

(D) Improved methods for providing a dependable, safe supply of drinking water, including improvements in water purification and distribution, and methods of assessing health-related hazards.

(E) Improved methods of protecting the water sources of public water systems from contamination.

(F) Alternative disinfection technologies that minimize, reduce, or eliminate hazardous disinfection byproducts.

(2) Enforce provisions of the federal Safe Drinking Water Act and regulations adopted pursuant thereto.

(3) Adopt regulations to implement this chapter.

(c) The department may conduct studies and investigations as it deems necessary to assess the quality of private domestic water wells.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116355.

(a)Once every five years the state board shall submit to the Legislature a comprehensive Safe Drinking Water Plan for California.

(b)The Safe Drinking Water Plan shall include, but not be limited to, the following information:

(1)An analysis of the overall quality of Californiasdrinking water and the identification of specific water quality problems.

(2)Types and levels of contaminants found in public drinking water systems that have less than 10,000 service connections. The discussion of these water systems shall include the following:

(A)Estimated costs of requiring these systems to meet primary drinking water standards and public health goals.

(B)Recommendations for actions that could be taken by the Legislature, the department, and these systems to improve water quality.

(3)A discussion and analysis of the known and potential health risks that may be associated with drinking water contamination in California.

(4)An evaluation of how existing water quality information systems currently maintained by local or state agencies can be more effectively used to protect drinking water.

(5)An evaluation of the research needed to develop inexpensive methods and instruments to ensure better screening and detection of waterborne chemicals, and inexpensive detection methods that could be used by small utilities and consumers to detect harmful microbial agents in drinking water.

(6)An analysis of the technical and economic viability and the health benefits of various treatment techniques that can be used to reduce levels of trihalomethanes, lead, nitrates, synthetic organic chemicals, micro-organisms, and other contaminants in drinking water.

(7)A discussion of alternative methods of financing the construction, installation, and operation of new treatment technologies, including, but not limited to user charges, state or local taxes, state planning and construction grants, loans, and loan guarantees.

(8)A discussion of sources of revenue presently available, and projected to be available, to public water systems to meet current and future expenses.

(9)An analysis of the current cost of drinking water paid by residential, business, and industrial consumers based on a statewide survey of large, medium, and small public water systems.

(10)Specific recommendations, including recommendations developed pursuant to paragraph (6), to improve the quality of drinking water in California and a detailed five-year implementation program.

(11)A review of the use of administrators pursuant to Section 116686 in the state, including, but not limited to, the number of communities that have achieved access to safe drinking water through use of an administrator, the costs and duties of the administrator and a comparison of costs, whether rate structures for communities served by an administrator have resulted in significantly higher rates and whether those rates are affordable, and whether the administrator program should be modified to better serve communities.

(12)A review of the consolidations pursuant to Section 116682 in the state, including, but not limited to, the number of communities that have achieved access to safe drinking water through consolidation, whether rate structures for communities are affordable following consolidation, barriers to consolidation, and whether the consolidation program should be modified to better serve communities.

(Amended by Stats. 2018, Ch. 871, Sec. 1. (AB 2501) Effective January 1, 2019.)

116360.

(a)The department shall take all reasonable measures it determines necessary to reduce the risk to public health from waterborne illnesses in drinking water caused by cryptosporidium and giardia, to the extent those micro-organisms are not yet able to be adequately controlled through existing drinking water treatment and other management practices.

(b)The department shall directly conduct, or order the statespublic water systems to conduct, comprehensive sanitary surveys, as present resources permit, to identify risks to public health from cryptosporidium and giardia.

(c)To thoroughly address the public health risks currently posed by cryptosporidium, in particular, the department shall ensure that its initial cryptosporidium action plan, that has been circulated to public water systems serving more than 1,000 service connections, is comprehensively implemented and shall devise and implement necessary strategies for protecting the health of individuals served by smaller public water systems from cryptosporidium exposure.

(Amended by Stats. 2004, Ch. 193, Sec. 122. Effective January 1, 2005.)

116361.

(a) The Office of Environmental Health Hazard Assessment shall place a priority on the development of a public health goal for arsenic in drinking water, pursuant to subdivision (c) of Section 116365, sufficient to allow it to adopt the goal no later than December 31, 2002.

(b) Commencing January 1, 2002, the department shall commence the process for revising the existing primary drinking water standard for arsenic, and shall adopt a revised standard for arsenic not later than June 30, 2004. In considering the technological and economic feasibility of compliance with the proposed standard pursuant to paragraph (3) of subdivision (b) of Section 116365, the department shall consider emerging technologies that may cost-effectively reduce exposure to arsenic in drinking water.

(c) On or before December 31, 2002, the Secretary for Environmental Protection shall develop language regarding the health effects associated with the ingestion of arsenic in drinking water for inclusion in consumer confidence reports pursuant to Section 116470. On and after July 1, 2003, this language shall be included in the consumer confidence reports mailed or delivered to customers by each water system that measures arsenic in finished water at levels that exceed the applicable public health goal.

(d) The language developed by the Secretary for Environmental Protection for use in consumer confidence reports to describe the health effects associated with the ingestion of arsenic in drinking water shall be developed in accordance with primacy requirements described in subdivision (e) of Section 141.151 and subsections (b), (c), and (d) of Section 142.12 of Title 40 of the Code of Federal Regulations.

(e) Nothing in this section affects or changes the date for implementation of a revised arsenic standard by public water systems as required in Parts 9, 141, and 142 of Title 40 of the Code of Federal Regulations.

(Added by Stats. 2001, Ch. 604, Sec. 2. Effective January 1, 2002.)

116365.

(a)The state board shall adopt primary drinking water standards for contaminants in drinking water that are based upon the criteria set forth in subdivision (b) and shall not be less stringent than the national primary drinking water standards adopted by the United States Environmental Protection Agency. A primary drinking water standard adopted by the state board shall be set at a level that is as close as feasible to the corresponding public health goal placing primary emphasis on the protection of public health, and that, to the extent technologically and economically feasible, meets all of the following:

(1)With respect to acutely toxic substances, avoids any known or anticipated adverse effects on public health with an adequate margin of safety.

(2)With respect to carcinogens, or any substances that may cause chronic disease, avoids any significant risk to public health.

(b)The state board shall consider all of the following criteria when it adopts a primary drinking water standard:

(1)The public health goal for the contaminant published by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c).

(2)The national primary drinking water standard for the contaminant, if any, adopted by the United States Environmental Protection Agency.

(3)The technological and economic feasibility of compliance with the proposed primary drinking water standard. For the purposes of determining economic feasibility pursuant to this paragraph, the state board shall consider the costs of compliance to public water systems, customers, and other affected parties with the proposed primary drinking water standard, including the cost per customer and aggregate cost of compliance, using best available technology.

(c)(1)The Office of Environmental Health Hazard Assessment shall prepare and publish an assessment of the risks to public health posed by each contaminant for which the state board proposes a primary drinking water standard. The risk assessment shall be prepared using the most current principles, practices, and methods used by public health professionals who are experienced practitioners in the fields of epidemiology, risk assessment, and toxicology. The risk assessment shall contain an estimate of the level of the contaminant in drinking water that is not anticipated to cause or contribute to adverse health effects, or that does not pose any significant risk to health. This level shall be known as the public health goal for the contaminant. The public health goal shall be based exclusively on public health considerations and shall be set in accordance with all of the following:

(A)If the contaminant is an acutely toxic substance, the public health goal shall be set at the level at which no known or anticipated adverse effects on health occur, with an adequate margin of safety.

(B)If the contaminant is a carcinogen or other substance that may cause chronic disease, the public health goal shall be set at the level that, based upon currently available data, does not pose any significant risk to health.

(C)To the extent information is available, the public health goal shall take into account each of the following factors:

(i)Synergistic effects resulting from exposure to, or interaction between, the contaminant and one or more other substances or contaminants.

(ii)Adverse health effects the contaminant has on members of subgroups that comprise a meaningful portion of the general population, including, but not limited to, infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subgroups that are identifiable as being at greater risk of adverse health effects than the general population when exposed to the contaminant in drinking water.

(iii)The relationship between exposure to the contaminant and increased body burden and the degree to which increased body burden levels alter physiological function or structure in a manner that may significantly increase the risk of illness.

(iv)The additive effect of exposure to the contaminant in media other than drinking water, including, but not limited to, exposures to the contaminant in food, and in ambient and indoor air, and the degree to which these exposures may contribute to the overall body burden of the contaminant.

(D)If the Office of Environmental Health Hazard Assessment finds that currently available scientific data are insufficient to determine the level of a contaminant at which no known or anticipated adverse effects on health will occur, with an adequate margin of safety, or the level that poses no significant risk to public health, the public health goal shall be set at a level that is protective of public health, with an adequate margin of safety. This level shall be based exclusively on health considerations and shall, to the extent scientific data is available, take into account the factors set forth in clauses (i) to (iv), inclusive, of subparagraph (C), and shall be based on the most current principles, practices, and methods used by public health professionals who are experienced practitioners in the fields of epidemiology, risk assessment, and toxicology. However, if adequate scientific evidence demonstrates that a safe dose response threshold for a contaminant exists, then the public health goal should be set at that threshold. The state board may set the public health goal at zero if necessary to satisfy the requirements of this subparagraph.

(2)The determination of the toxicological endpoints of a contaminant and the publication of its public health goal in a risk assessment prepared by the Office of Environmental Health Hazard Assessment are not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Office of Environmental Health Hazard Assessment and the state board shall not impose any mandate on a public water system that requires the public water system to comply with a public health goal. The Legislature finds and declares that the addition of this paragraph by Chapter 777 of the Statutes of 1999 is declaratory of existing law.

(3)(A)The Office of Environmental Health Hazard Assessment shall, at the time it commences preparation of a risk assessment for a contaminant as required by this subdivision, electronically post on its Internet Web site a notice that informs interested persons that it has initiated work on the risk assessment. The notice shall also include a brief description, or a bibliography, of the technical documents or other information the office has identified to date as relevant to the preparation of the risk assessment and inform persons who wish to submit information concerning the contaminant that is the subject of the risk assessment of the name and address of the person in the office to whom the information may be sent, the date by which the information shall be received in order for the office to consider it in the preparation of the risk assessment, and that all information submitted will be made available to any member of the public who requests it.

(B)A draft risk assessment prepared by the Office of Environmental Health Hazard Assessment pursuant to this subdivision shall be made available to the public at least 45 calendar days before the date that public comment and discussion on the risk assessment are solicited at the public workshop required by Section 57003.

(C)At the time the Office of Environmental Health Hazard Assessment publishes the final risk assessment for a contaminant, the office shall respond in writing to significant comments, data, studies, or other written information submitted by interested persons to the office in connection with the preparation of the risk assessment. These comments, data, studies, or other written information submitted to the office shall be made available to any member of the public who requests it.

(D)After the public workshop on the draft risk assessment, as required by Section 57003, is completed, the Office of Environmental Health Hazard Assessment shall submit the draft risk assessment for external scientific peer review using the process set forth in Section 57004 and shall comply with paragraph (2) of subdivision (d) of Section 57004 before publication of the final public health goal.

(d)Notwithstanding any other provision of this section, any maximum contaminant level in effect on August 22, 1995, may be amended by the state board to make the level more stringent pursuant to this section. However, the state board may only amend a maximum contaminant level to make it less stringent if the state board shows clear and convincing evidence that the maximum contaminant level should be made less stringent and the amendment is made consistent with this section.

(e)(1)All public health goals published by the Office of Environmental Health Hazard Assessment shall be established in accordance with the requirements of subdivision (c). The office shall determine, at least once every five years, whether there has been a detection of the corresponding contaminant of each public health goal in the preceding five years in the testing required pursuant to this chapter. Each public health goal shall be reviewed at least once every five years unless the office determines, pursuant to this paragraph, that there has not been a detection of the corresponding contaminant in the preceding five years. Reviewed public health goals shall be revised, pursuant to subdivision (c), as necessary based upon the availability of new scientific data.

(2)On or before January 1, 1998, the Office of Environmental Health Hazard Assessment shall publish a public health goal for at least 25 drinking water contaminants for which a primary drinking water standard has been adopted by the state board. The office shall publish a public health goal for 25 additional drinking water contaminants by January 1, 1999, and for all remaining drinking water contaminants for which a primary drinking water standard has been adopted by the state board by no later than December 31, 2001. A public health goal shall be published by the Office of Environmental Health Hazard Assessment at the same time the state board proposes the adoption of a primary drinking water standard for any newly regulated contaminant.

(f)The state board or Office of Environmental Health Hazard Assessment may review, and adopt by reference, any information prepared by, or on behalf of, the United States Environmental Protection Agency for the purpose of adopting a national primary drinking water standard or maximum contaminant level goal when it establishes a California maximum contaminant level or publishes a public health goal.

(g)At least once every five years after adoption of a primary drinking water standard, the state board shall review the primary drinking water standard and shall, consistent with the criteria set forth in subdivisions (a) and (b), amend any standard if either of the following occur:

(1)Changes in technology or treatment techniques that permit a materially greater protection of public health or attainment of the public health goal.

(2)New scientific evidence that indicates that the substance may present a materially different risk to public health than was previously determined.

(h)No later than March 1 of every year, the state board shall provide public notice of each primary drinking water standard it proposes to review in that year pursuant to this section. Thereafter, the state board shall solicit and consider public comment and hold one or more public hearings regarding its proposal to either amend or maintain an existing standard. With adequate public notice, the state board may review additional contaminants not covered by the March 1 notice.

(i)This section shall operate prospectively to govern the adoption of new or revised primary drinking water standards and does not require the repeal or readoption of primary drinking water standards in effect immediately preceding January 1, 1997.

(j)The state board may, by regulation, require the use of a specified treatment technique in lieu of establishing a maximum contaminant level for a contaminant if the state board determines that it is not economically or technologically feasible to ascertain the level of the contaminant.

(Amended by Stats. 2018, Ch. 51, Sec. 15. (SB 854) Effective June 27, 2018.)

116365.01.

(a)(1)Notwithstanding any other provision of law or regulation, including Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, and Part 3 (commencing with Section 13000) of the Government Code, and except as provided in subdivision (b), for any proposed regulation that relates to the maximum contaminant levels for primary or secondary drinking water standards, as defined in subdivisions (c) and (d) of Section 116275, that is submitted by the department to the Office of Administrative Law for review, pursuant to Section 11349.1 of the Government Code, the Department of Finance shall take no longer than 90 days, commencing on the date that the department submits the rule or regulation to the Department of Finance, to do any of the following:

(A)Review any estimate pursuant to subdivision (c) of Section 11357 of the Government Code.

(B)Provide a letter or documentation, if required, pursuant to Section 11349.1 of the Government Code.

(C)Complete any other function in connection with the adoption of proposed regulations that relates to the maximum contaminant levels for primary or secondary drinking water standards, as required pursuant to any provision of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(D)Return the proposed regulation if the department has not prepared the estimate required by paragraph (6) of subdivision (a) of Section 11346.5 of the Government Code, in accordance with Section 11357 of the Government Code.

(2)If the Department of Finance returns the proposed regulation pursuant to subparagraph (D) of paragraph (1), an additional 90 day time period under this section shall begin when the regulations are resubmitted by the department to the Department of Finance.

(3)If the Department of Finance takes longer than 90 days to complete any of the functions set forth in subparagraphs (A) to (D), inclusive, of paragraph (1), the proposed regulations shall be exempt from any provision of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that requires the involvement of the Department of Finance, and the department and the Office of Administrative Law shall proceed with all other applicable procedures in connection with the

adoption of proposed regulations.

(b)Subdivision (a) shall not apply to any regulation adopted by the department that reduces, weakens, lessens, or otherwise undermines any requirement established pursuant to this chapter for the protection of public health.

(Added by Stats. 2007, Ch. 725, Sec. 2. Effective January 1, 2008.)

116365.02.

(a)The department may adopt, pursuant to subdivision (c) of Section 11346.2 of the Government Code, any rules and regulations promulgated pursuant to the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.), other than those federal rules and regulations that establish maximum contaminant levels for primary and secondary drinking water standards.

(b)Rules and regulations adopted pursuant to this subdivision shall not be subject to subparagraphs (C) and (D) of paragraph (3) of subdivision (d) of Section 11349.1 of the Government Code.

(Added by Stats. 2007, Ch. 725, Sec. 3. Effective January 1, 2008.)

116365.03.

The state board may adopt as an emergency regulation, a regulation, except a regulation that establishes maximum contaminant levels for primary and secondary drinking water standards, that is not more stringent than, and is not materially different in substance and effect than, the requirements of a regulation promulgated pursuant to the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.). The adoption of a regulation pursuant to this section is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation adopted by the state board pursuant to this section is not subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board.

(Added by Stats. 2015, Ch. 673, Sec. 5. (AB 1531) Effective January 1, 2016.)

116365.2.

(a)In conducting the periodic review and revision of public health goals pursuant to paragraph (1) of subdivision (e) of Section 116365, the Office of Environmental Health Hazard Assessment may give special consideration to those contaminants that, on the basis of currently available data or scientific evidence, cause or contribute to adverse health effects in members of subgroups that comprise a meaningful portion of the general population, including, but not limited to, infants, children, pregnant women, the elderly, individuals with a history of serious illness, or other subgroups that are identifiable as being at greater risk of adverse health effects than the general population when exposed to the contaminant in drinking water.

(b)In preparing and publishing risk assessments pursuant to subparagraph (C) of paragraph (1) of subdivision (c) of Section 116365 that involve infants and children, the office shall assess all of the following, to the extent information is available:

(1)Exposure patterns, including, but not limited to, patterns determined by relevant data, among bottle-fed infants and children that are likely to result in disproportionately high exposure to contaminants in comparison to the general population.

(2)Special susceptibility of infants and children to contaminants in comparison to the general population.

(3)The effects on infants and children of exposure to contaminants and other substances that have a common mechanism of toxicity.

(4)The interaction of multiple contaminants on infants and children.

(Added by Stats. 2004, Ch. 678, Sec. 1. Effective January 1, 2005.)

116365.5.

(a) The Department of Health Services shall commence the process for adopting a primary drinking water standard for hexavalent chromium that complies with the criteria established under Section 116365.

(b) The department shall report to the Legislature on its progress in developing a primary drinking standard for hexavalent chromium by January 1, 2003.

(c) The department shall establish a primary drinking water standard for hexavalent chromium on or before January 1, 2004.

(Added by Stats. 2001, Ch. 602, Sec. 1. Effective January 1, 2002.)

116366.

(a) No public water system, or its customers, shall be responsible for remediation or treatment costs associated with MTBE, or a product that contains MTBE, provided, however, that the public water system shall be permitted as necessary to incur MTBE remediation and treatment costs and to include those costs in its customer rates and charges, necessary to comply with drinking water standards or directives of the State Department of Health Services or other lawful authority. Any public water system that incurs MTBE remediation or treatment costs may seek recovery of those costs from parties responsible for the MTBE contamination, or from other available alternative sources of funds.

(b) If the public water system has included the costs of MTBE treatment and remediation in its customer rates and charges, and subsequently recovers all or a portion of its MTBE treatment and remediation costs from responsible parties or other available alternative sources of funds, it shall make an adjustment to its schedule of rates and charges to reflect the amount of funding received from responsible parties or other available alternative sources of funds for MTBE treatment or remediation.

(c) Subdivision (a) shall not prevent the imposition of liability on any person for the discharge of MTBE if that

liability is due to the conduct or status of that person independently of whether the person happens to be a customer of the public water system.

(Added by Stats. 1997, Ch. 816, Sec. 6. Effective January 1, 1998.)

116367.5.

The department shall establish a Research Advisory Committee, which shall consist of 11 members. The department shall provide for the support staff and meeting facility needs of the committee. The committee shall meet as necessary to review requests for research projects pursuant to paragraph (4) of subdivision (d) of Section 116367. The committee members shall be appointed by the director and shall consist of the following members:

(a) Four members representing public water systems.

(b) Four members representing entities paying into the Underground Storage Tank Cleanup Trust Fund created pursuant to Section 25299.50.

(c) One member representing environmental interest groups.

(d) One member representing consumer interest groups.

(e) One member representing the department.

(Added by Stats. 1998, Ch. 997, Sec. 8. Effective January 1, 1999.)

116370.

On or before January 1, 1998, the department shall propose, hold a public hearing, and adopt a finding of the best available technology for each contaminant for which a primary drinking water standard has been adopted. Thereafter, the department shall adopt a finding of the best available technology for each contaminant for which a primary drinking water standard has been adopted at the time the standard is adopted. The finding of the department shall take into consideration the costs and benefits of best available treatment technology that has been proven effective under full-scale field applications.

(Amended by Stats. 1996, Ch. 755, Sec. 10. Effective January 1, 1997.)

116375.

The department shall adopt regulations it determines to be necessary to carry out the purposes of this chapter. The regulations shall include, but not be limited to, the following:

(a) The monitoring of contaminants, including the type of contaminant, frequency and method of sampling and testing, and the reporting of results.

(b) The monitoring of unregulated contaminants for which drinking water standards have not been established by the department. The requirements shall be not less stringent than those adopted pursuant to paragraph (2) of subsection (a) of Section 1445 of the federal Safe Drinking Water Act, as amended (42 U.S.C. Sec. 300j-4 (a)(2)). Until the time that the department adopts regulations regarding the monitoring of unregulated contaminants, the department may, by order, require any public water system that has been shown to contain detectable levels of any unregulated contaminants to conduct periodic water analyses in accordance with conditions specified by the department. The water analyses shall be reported on a quarterly basis unless the department finds that more or less frequent analysis is necessary.

(c) Requirements for the design, operation, and maintenance of public water systems, including, but not limited to, waterworks standards and the control of cross-connections, that the department determines are necessary to obtain, treat, and distribute a reliable and adequate supply of pure, wholesome, potable, and healthy water.

(d) Requirements for treatment, including disinfection of water supplies.

(e) Requirements for the filtration of surface water supplies at least as stringent as regulations promulgated pursuant to subparagraph (C) of paragraph (7) of subsection (b) of Section 1412 of the federal Safe Drinking Water Act, as amended (42 U.S.C. Sec. 300g-1 (b)(7)(C)).

(f) Requirements for notifying the public of the quality of the water delivered to consumers.

(g) Minimum acceptable financial assurances that a public water system shall be required to submit as a demonstration of its capability to provide for the ongoing operation, maintenance, and upgrading of the system, including compliance with monitoring and treatment requirements and contingencies. For privately owned systems not regulated by the Public Utilities Commission, the financial assurance may be in the form of a trust fund, surety bond, letter of credit, insurance, or other equivalent financial arrangement acceptable to the department.

(h) Program requirements for the conduct of the public water system program by a local health officer under a primacy delegation from the department as set forth in this chapter. The requirements shall include, but not be limited to, the issuance of permits, surveillance and inspections, reporting of monitoring and compliance data, and the taking of enforcement actions.

(i) Methods for determination of the number of persons served by a public water system for drinking water regulatory purposes.

(j) The adoption by the State Department of Health Services, in consultation with the State Water Resources Control Board and representatives from operators of public water systems, of emergency regulations for the uniform, scientific sampling, and analytical testing protocols for oxygenates as defined in subdivision (k) of Section 51010.5 of the Government Code.

(Amended by Stats. 1997, Ch. 814, Sec. 10. Effective January 1, 1998.)

116376.

(a)The state board, on or before July 1, 2020, shall adopt a definition of microplastics in drinking water.

(b)The state board, on or before July 1, 2021, shall do all of the following:

(1)Adopt a standard methodology to be used in the testing of drinking water for microplastics.

(2)Adopt requirements for four years of testing and reporting of microplastics in drinking water, including public disclosure of those results.

(3)If appropriate, consider issuing a notification level or other guidance to aid consumer interpretations of the results of the testing required pursuant to this section.

(4)Accredit qualified laboratories in California to analyze microplastics.

(c)The state board may implement this section through the adoption of a policy handbook that is not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 2018, Ch. 902, Sec. 1. (SB 1422) Effective January 1, 2019.)

116377.

The department may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, to implement amendments to this chapter. The initial adoption of emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Initial emergency regulations and the first readoption of those regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations and shall remain in effect for not more than 180 days.

(Added by Stats. 1996, Ch. 197, Sec. 8. Effective July 22, 1996.)

116378.

(a)The state board may order a public water system to monitor for perfluoroalkyl substances and polyfluoroalkyl substances, in accordance with conditions set by the state board. A laboratory that has accreditation or certification pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 shall perform the analysis of any material required by an order to monitor for these substances. The order shall identify the analytical test methods to be used by laboratories and provide for the electronic submission of monitoring results to the state board.

(b)An order issued pursuant to subdivision (a) may apply to an individual public water system, specific groups of public water systems, or to all public water systems. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to an order issued pursuant to subdivision (a) to specific groups of public water systems or to all public water systems. All monitoring results shall be submitted to the state board electronically as directed by the state board in its order.

(c)(1)If any monitoring undertaken pursuant to an order issued under subdivision (a) results in a confirmed detection, a community water system or a nontransient noncommunity water system shall report that

detection in the water systemsannual consumer confidence report. Unless the water source is taken out of use or new data becomes available to show that the response level is no longer being exceeded, the community water system or nontransient noncommunity water system will provide notice of the exceedance of the response level in the water systemsannual consumer confidence report.

(2)In addition to the notification pursuant to paragraph (1), for perfluoroalkyl substances and polyfluoroalkyl substances with notification levels, a community water system or a nontransient noncommunity water system shall report the detection if the level exceeds the notification level as required by Section 116455.

(3)For perfluoroalkyl substances and polyfluoroalkyl substances with response levels where detected levels of a substance exceed the response level, a community water system or a nontransient noncommunity public water system shall take a water source where detected levels exceed the response level out of use or provide public notification within 30 days of the confirmed detection. For the purposes of this paragraph, notice shall be provided as follows:

(A)A community water system shall do the following:

(i)Mail or directly deliver notice to each customer receiving a bill, including those that provide drinking water to others, and to other service connections to which water is delivered by the water system.

(ii)Email notice to each customer of the water system with an email address known by the water system.

(iii)Post the notice on the internet website of the water system.

(iv)Use one or more of the following methods to reach persons not likely to be reached by the notice provided in clause (i):

(I)Publish notice in a local newspaper for at least seven days.

(II)Post notice in conspicuous public places served by the water system for at least seven days.

(III)Post notice on an appropriate social media site for at least seven days.

(IV)Deliver notice to community organizations.

(B)A nontransient noncommunity water system shall do both of the following:

(i)Post notice in conspicuous locations throughout the area served by the water system.

(ii)Use one or more of the following methods to reach persons not likely to be reached by the notice provided in clause (i):

(I)Publish notice in a local newspaper for at least seven days.

(II)Publish notice in a newsletter distributed to customers.

(III)Send notice by email to employees or students.

(IV)Post notice on the internet website of the water system and an appropriate social media site for at least seven days.

(V)Deliver notice directly to each customer.

(C)A notice shall contain all of the following information:

(i)A statement that there was a confirmed detection above the response level, the numeric level of the applicable response level, and the level of the confirmed detection.

(ii)A description of the potential adverse health effects as identified by the state board in establishing the notification level or response level.

(iii)The population at risk, including subpopulations particularly vulnerable from exposure.

(iv)The name, business address, and phone number of the water system owner, operator, or designee, as a source of additional information concerning the notice.

(v)A statement to encourage the notice recipient to distribute the notice to other persons served, using the following standard language: Please share this information with all of the other people who drink this water, especially those who may not have received this public notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

(vi)Information in Spanish regarding the importance of the notice or a telephone number or address where Spanish-speaking residents may contact the water system to obtain a translated copy of the notice or assistance in Spanish.

(vii)If a non-English speaking group other than a Spanish-speaking group exceeds 1,000 residents or 10 percent of the residents served by the water system, either of the following:

(I)Information in the appropriate language regarding the importance of the notice.

(II)A telephone number or address where a resident may contact the water system to obtain a translated copy of the notice or assistance in the appropriate language.

(D)The following requirements apply to a notice provided by a water system:

(i)The notice shall be displayed so that it catches peoplesattention when printed or posted.

(ii)The message in the notice should be understandable at the eighth grade reading level.

(iii)The notice shall not contain technical language beyond an eighth grade reading level or print smaller than 12-point type.

(iv)The notice shall not contain language that minimizes or contradicts the information provided in the notice.

(d)This section is not a substitute for compliance with any requirements of Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1 of the Government Code that apply to a community water system or nontransient noncommunity water system.

(Amended by Stats. 2020, Ch. 370, Sec. 209. (SB 1371) Effective January 1, 2021.)

116380.

(a)The State Water Resources Control Board shall adopt regulations governing the use of point-of-entry and point-of-use treatment by public water systems in lieu of centralized treatment where it can be demonstrated that centralized treatment is not immediately economically feasible, limited to the following:

(1)Water systems with less than 200 service connections.

(2)Usage not prohibited by the federal Safe Drinking Water Act and its implementing regulations and guidance.

(3)Water systems that have submitted applications for funding to correct the violations for which the point-of-entry and point-of-use treatment is provided.

(b)The State Water Resources Control Board shall adopt emergency regulations governing the permitted use of point-of-entry and point-of-use treatment by public water systems in lieu of centralized treatment.

(1)The emergency regulations shall comply with Section 116552, and shall comply with all of the requirements set forth in subdivision (a) applicable to nonemergency regulations, but shall not be subject to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The emergency regulations shall take effect when filed with the Secretary of State, and shall be published in the California Code of Regulations.

(2)The emergency regulations adopted pursuant to this subdivision shall remain in effect until the earlier of January 1, 2018, or the effective date of regulations adopted pursuant to subdivision (a).

(Amended by Stats. 2015, Ch. 663, Sec. 1. (AB 434) Effective October 9, 2015.)

116385.

(a) Any person operating a public water system shall obtain and provide at that personsexpense an analysis of the water to the state board, in the form, covering those matters, and at intervals as the state board by regulation may prescribe. The analysis shall be performed by a laboratory duly certified by the state board.

(b)The adoption of regulations under this section relating to the form or format of, and intervals at which, the analysis shall be provided and any amendments to that regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation or amendments to that regulation adopted by the state board pursuant to this section is not subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board. The state board shall hold a public hearing before adopting the regulations.

(Amended by Stats. 2021, Ch. 187, Sec. 3. (SB 776) Effective January 1, 2022.)

116390.

(a) No laboratory, other than a laboratory operated by the department, shall perform tests required pursuant to this chapter for any public water system without first obtaining a certificate issued by the department pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101.

(b) No person or public entity of the state shall contract with a laboratory for environmental analyses for which the state department requires certification pursuant to this section, unless the laboratory holds a valid certificate.

(Amended by Stats. 1997, Ch. 734, Sec. 8. Effective October 7, 1997.)

116395.

(a) The Legislature finds and declares all of the following:

(1) The large water system testing program has discovered chemical contamination of the statesdrinking water with increasing frequency.

(2) A significant number of California residents rely on the statessmall water systems to provide their water.

(3) The small systems, because they tend to be located in outlying rural areas where pesticide use is prevalent, and because they draw their water from shallow aquifers, face a serious threat of contamination.

(4) Unchecked water sources that may be contaminated pose a potentially serious threat to the health of the citizens of California, particularly those living in outlying rural areas.

(5) It is in the interest of all Californians that a testing program for small public water systems be implemented and carried out as expeditiously as possible.

(b) For purposes of this section, small public water system means a system with 200 connections or less, and is one of the following:

(1) A community water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents.

(2) A state small water system.

(3) A noncommunity water system such as a school, labor camp, institution, or place of employment, as designated by the department.

(c) The department shall conduct training workshops to assist health officers in evaluation of small public water systems for organic chemical contamination, and in sampling and testing procedures. The department shall, at a minimum, provide health officers with guidelines for evaluating systems and instructions for sampling.

(d) The department shall develop a schedule for conduct of the programs by the local health officers. The schedule shall establish a program to address first those systems with the most serious potential for contamination. The department shall enter into agreements with the local health agencies to conduct the

necessary work to be performed pursuant to the schedule. The department shall begin the program no later than three months after September 19, 1985. All local health officers shall complete the evaluation, sampling, testing, review of sampling results, and notification to the public water systems within their jurisdiction in accordance with the agreements entered into with the department and within the schedule established by the department. All work required by this section shall be completed within three years after September 19, 1985.

(e) In consultation with the department, the local health officer shall conduct an evaluation of all small public water systems under their jurisdictions to determine the potential for contamination of groundwater sources by organic chemicals. The evaluation shall include, but not be limited to:

(1) A review of the historical water quality data of each system to determine possible evidence of degradation.

(2) A review, to be coordinated with the State Water Resources Control Board, and the California regional water quality control boards, of past and present waste disposal practices that may potentially affect the respective well water supply.

(3) A review of other organic chemicals used in the water supply area that have potential health risks and that may have the potential for contaminating drinking water supplies because of environmental persistence or resistance to natural degradation under conditions existing in California.

(f) Based upon the evaluation of each system, the local health officers shall develop a sampling plan for each system within their jurisdiction. The health officer shall collect samples in accordance with the plan and shall submit the samples for analysis to a certified laboratory designated by the department. When applicable, the laboratory shall test water samples using the Environmental Protection Agencys13 approved analytical techniques established under subdivision (h) of Section 304 of the Clean Water Act to qualitatively identify the complete range of contaminants in the same class as the specific contaminant or class of contaminants being analyzed.

(g) Within 10 days of the receipt from the laboratory of the testing results, the local health officer shall notify the small public water system, the department and the California regional water quality control board for that region of the results.

(h) Following a review of the testing results, the local health officer may order the public water system to conduct a periodic water sampling and analysis program in accordance with conditions specified by the local health officer. The department shall provide ongoing advice and assistance to local health officers in interpreting test results and determining appropriate notification and followup activities in those instances where contaminants are found.

(i) This section shall be operative during any fiscal year only if the Legislature appropriates sufficient funds to pay for all state-mandated costs to be incurred by local agencies pursuant to this section during that year.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116400.

If the department determines that a public water system is subject to potential contamination, the department may, by order, require the public water system to conduct a periodic water analysis in

accordance with conditions specified by the department. The water analysis shall be reported on a quarterly basis, unless the department finds that reasonable action requires either more or less frequent analysis.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116405.

(a) In counties with a population not exceeding 500,000 persons as shown by the 1970 federal decennial census, any public water system supplying both domestic and untreated irrigation water in separate pressurized systems that were in existence prior to January 1, 1990, and that is operated by an incorporated or unincorporated association of users, shall not require protection against backflow into the domestic water system from premises receiving both the water services and having available no other source of water, except where interconnection between the systems has taken place. It shall be a misdemeanor for any person to knowingly interconnect the water services on a userspremises without installing a backflow protection device approved by the state department.

(b) Regulations of the state department requiring the installation of backflow protection shall not be continued to require the installation of the protection in any public water system described in subdivision (a), except as provided in that subdivision.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116407.

(a)On or before January 1, 2020, the state board shall adopt standards for backflow protection and cross-connection control.

(b)(1)The state board may implement subdivision (a) through the adoption of a policy handbook that is not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The policy handbook shall include standards for backflow protection and cross-connection control. In developing the standards and any amendments to those standards, the state board shall consult with state and local agencies and other persons whom the state board has identified as having expertise in the subject of backflow protection and cross-connection control. The state board shall hold at least two public hearings before adopting the policy handbook. The policy handbook shall be posted on the boardsinternet website.

(2)(A)The policy handbook described in this subdivision shall include provisions for the use of a swivel or changeover device to supply potable water to a dual-plumbed system during an interruption in recycled water service.

(B)The use of a swivel or changeover device shall be consistent with any notification and backflow protection provisions contained in the policy handbook.

(c)(1)Upon the effective date of a policy handbook adopted by the state board pursuant to subdivision (b), the regulations set forth in Article 1 (commencing with Section 7583) and Article 2 (commencing with Section 7601) of Group 4 of Subchapter 1 of Chapter 5 of Division 1 of Title 17 of the California Code of Regulations shall become inoperative, and, 90 days thereafter, are repealed, unless the state board makes a

determination not to repeal a specific regulation.

(2)If the state board determines not to repeal a specific regulation pursuant to paragraph (1), the state board shall provide to the Office of Administrative Law and the Secretary of State written notice of its determination, including identification of the specific regulation that is not repealed. That regulation, upon the provision of that written notice to the Office of Administrative Law and the Secretary of State, shall become operative.

(Amended by Stats. 2019, Ch. 455, Sec. 2. (AB 1180) Effective January 1, 2020.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=3.5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3.5. Fluoridation of Drinking Water [116409 - 116415]__

(Article 3.5 heading added by Stats. 2004, Ch. 727, Sec. 1.)

116409.

The Legislature finds and declares all of the following:

(a)Promotion of the public health of Californians of all ages by protection and maintenance of dental health through the fluoridation of drinking water is a paramount issue of statewide concern.

(b)It is the intent of the Legislature in enacting this article to preempt local government regulations, ordinances, and initiatives that prohibit or restrict the fluoridation of drinking water by public water systems with 10,000 or more service connections, without regard to whether the public water system might otherwise be exempt from Section 116410 or the requirements of this section, pursuant to Section 116415.

(c)It is further the intent of the Legislature in establishing this article to decrease the burden the Medi-Cal and the Denti-Cal programs place upon the stateslimited funds.

(Added by Stats. 2004, Ch. 727, Sec. 2. Effective January 1, 2005.)

116410.

(a)Each public water system with at least 10,000 service connections and with a natural level of fluorides that is less than the minimum established in the regulations adopted pursuant to this section shall be fluoridated in order to promote the public health of Californians of all ages through the protection and maintenance of dental health, a paramount issue of statewide concern. The department shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, requiring the fluoridation of public water systems. By July 1, 1996, and at 10-year intervals thereafter, each public water system with at least 10,000 service connections shall provide to the department an estimate of the total capital costs to install fluoridation treatment. The regulations adopted by the department shall take effect on January 1, 1997. Capital costs estimates are no longer required after installation of the fluoridation treatment equipment.

(b)The regulations shall include, but not be limited to, the following:

(1)Minimum and maximum permissible concentrations of fluoride to be maintained by fluoridation of public water systems.

(2)The requirements and procedures for maintaining proper concentrations of fluoride, including equipment, testing, recordkeeping, and reporting.

(3)Requirements for the addition of fluorides to public water systems in which the natural level of fluorides is less than the minimum level established in the regulations.

(4)A schedule for the fluoridation of public water systems with at least 10,000 service connections, based on the lowest capital cost per connection for each system.

(c)The purpose of the schedule established pursuant to paragraph (4) of subdivision (b) is not to mandate the order in which public water systems receiving funding from private sources must fluoridate their water. Available funds may be offered to any system on the schedule.

(d)The estimates provided to the department pursuant to subdivision (a) of this section and subdivision (g) of Section 116415 of the total capital and associated costs and noncapital operation and maintenance costs related to fluoridation treatments and the similar estimates provided to those sources offering to provide the funds set forth in paragraph (1) of subdivision (a) of Section 116415 shall be reasonable, as determined by the department. A registered civil engineer recognized or employed by the department who is familiar with

the design, construction, operation, and maintenance of fluoridations systems shall determine for the department whether the costs are reasonable.

(e)As used in this section and Section 116415, costs means only those costs that require an actual expenditure of funds or resources, and do not include costs that are intangible or speculative, including, but not limited to, opportunity or indemnification costs.

(f)Any public water system with multiple water sources, when funding is not received to fluoridate all sources, is exempt from maintaining otherwise required fluoridations levels in areas receiving any nonfluoridated water. The exemption shall be in effect only until the public water system receives funding to fluoridate the entire water system and the treatment facilities are installed and operational.

(Amended by Stats. 2004, Ch. 727, Sec. 3. Effective January 1, 2005.)

116415.

(a)(1)A public water system is not required to fluoridate pursuant to Section 116410, or the regulations adopted thereunder by the department, in any of the following situations:

(A)If the public water system is listed on the schedule to implement a fluoridation program pursuant to paragraph (4) of subdivision (b) of Section 116410 and funds are not offered pursuant to a binding contractual offer to the public water system sufficient to pay the capital and associated costs from any outside source. As used in this section, outside source means a source other than the systemsratepayers, shareholders, local taxpayers, bondholders, or any fees or charges levied by the water system.

(B)If the public water system has been offered pursuant to a binding contractual offer the capital and associated funds necessary for fluoridation as set forth in subparagraph (A) and has completed the installation of a fluoridation system, however, in any given fiscal year (July 1-June 30, inclusive) funding is not available to the public water system sufficient to pay the noncapital operation and maintenance costs described in subdivision (g) from any outside source other than the systemsratepayers, shareholders, local taxpayers, bondholders, or any fees or charges levied by the water system. A binding contractual offer to provide funds for 12 months, without regard to fiscal year, of noncapital operation and maintenance costs shall render a water system unqualified for an exemption under this subparagraph for that year.

(C)If the funding provided by an outside source for capital and associated costs is depleted prior to completion of the installation of a fluoridation system and funds sufficient to complete the installation have not been offered pursuant to a binding contractual offer to the public water system by an outside source. In the event of a disagreement between the public water system and an outside funding source about the reasonableness of additional capital and associated costs, in order to qualify for an exemption under this subparagraph the costs overruns must be found to be reasonable by a registered civil engineer recognized or employed by the department who is familiar with the design, construction, operation, and maintenance of fluoridation systems.

(2)Each year the department shall prepare and distribute a list of those water systems that do not qualify for exemption under this section from the fluoridation requirements of Section 116410. This list shall include water systems that have been offered, have received, or are expected to receive, sufficient funding for capital and associated costs so as to not qualify for exemption under subparagraph (A) of paragraph (1), and have either (A) been offered or have received, or anticipate receiving, sufficient noncapital maintenance and operation funding pursuant to subdivision (g), or (B) have not yet completed the installation of a fluoridation

system, so that they do not qualify for exemption under subparagraph (B) of paragraph (1).

(3)Any water system that has been offered pursuant to a binding contractual offer the funds necessary for fluoridation as set forth in subparagraph (A) of paragraph (1), and is not included in the list pursuant to paragraph (2), may elect to exercise the option not to fluoridate during the following fiscal year pursuant to subparagraph (B) of paragraph (1) by so notifying the department by certified mail on or before June 1.

(4)The permit issued by the department for a public water system that is scheduled to implement fluoridation pursuant to paragraph (4) of subdivision (b) of Section 116410 shall specify whether it is required to fluoridate pursuant to Section 116410, or whether it has been granted an exemption pursuant to either subparagraph (A) or subparagraph (B) of paragraph (1).

(b)The department shall enforce Section 116410 and this section, and all regulations adopted pursuant to these sections, unless delegated pursuant to a local primary agreement.

(c)If the owner or operator of any public water system subject to Section 116410 fails, or refuses, to comply with any regulations adopted pursuant to Section 116410, or any order of the department implementing these regulations, the Attorney General shall, upon the request of the department, institute mandamus proceedings, or other appropriate proceedings, in order to compel compliance with the order, rule, or regulation. This remedy shall be in addition to all other authorized remedies or sanctions.

(d)Neither this section nor Section 116410 shall supersede subdivision (b) of Section 116410.

(e)The department shall seek all sources of funding for enforcement of the standards and capital cost requirements established pursuant to this section and Section 116410, including, but not limited to, all of the following:

(1)Federal block grants.

(2)Donations from private foundations.

Expenditures from governmental sources shall be subject to specific appropriation by the Legislature for these purposes.

(f)A public water system with less than 10,000 service connections may elect to comply with the standards, compliance requirements, and regulations for fluoridation established pursuant to this section and Section 116410.

(g)Costs, other than capital costs, incurred in complying with this section and Section 116410, including regulations adopted pursuant to those sections, may be paid from federal grants, or donations from private foundations, for these purposes. Each public water system that will incur costs, other than capitalization costs, as a result of compliance with this section and Section 116410, shall provide an estimate to the department of the anticipated total annual operations and maintenance costs related to fluoridation treatment by January 1 of each year.

(h)A public water system subject to the jurisdiction of the Public Utilities Commission shall be entitled to recover from its customers all of its capital and associated costs, and all of its operation and maintenance expenses associated with compliance with this section and Section 116410. The Public Utilities Commission shall approve rate increases for an owner or operator of a public water system that is subject to its jurisdiction within 45 days of the filing of an application or an advice letter, in accordance with the commissionsrequirements, showing in reasonable detail the amount of additional revenue required to

recover the foregoing capital and associated costs, and operation and maintenance expenses.

(Amended by Stats. 2004, Ch. 727, Sec. 4. Effective January 1, 2005.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=3.6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3.6. Constituents of Emerging Concern Action Fund [116416 - 116424]__

(Article 3.6 added by Stats. 2022, Ch. 676, Sec. 2.)

116416.

For purposes of this article, the following definitions apply:

(a)CEC means a constituent of emerging concern.

(b)Panel means the Science Advisory Panel for CECs in drinking water specified in Section 116418.

(c)Program means the Constituents of Emerging Concern in Drinking Water Program specified in Section 116417.

(Added by Stats. 2022, Ch. 676, Sec. 2. (SB 230) Effective January 1, 2023.)

116417.

(a)The state board shall build upon its existing work dealing with, and work to improve its knowledge of, CECs in waters of the state and drinking water. As part of the state boardswork on CECs, the deputy director shall work to improve the knowledge of CECs in drinking water by assessing the state of information, and may recommend areas for further studies, such as the following:

(1)The occurrence of CECs in drinking water.

(2)Fate, transport, and biodegradation of CECs.

(3)Water treatment and laboratory analyses.

(4)The potential effects on public health of CECs in drinking water.

(b)The state board may establish, maintain, and direct a dedicated program called the Constituents of Emerging Concern in Drinking Water Program.

(c)Nothing in this article limits the state boardsexisting authority to act on CECs.

(d)Nothing in this article changes or interferes with the state boardsongoing activities on CECs.

(Added by Stats. 2022, Ch. 676, Sec. 2. (SB 230) Effective January 1, 2023.)

116418.

(a)The deputy director may convene a Science Advisory Panel for CECs in drinking water.

(b)(1)The panel may include at least nine members comprised of the following:

(A)Seven experts appointed by the deputy director from the following fields:

(i)Public health sciences.

(ii)Water and wastewater, including water treatment, engineering.

(iii)Toxicology.

(iv)Epidemiology.

(v)Chemical sciences.

(vi)Biological sciences, including pathogens.

(vii)Human health risk assessment.

(B)One expert in public health who has expertise in water contamination, appointed by the Speaker of the Assembly within 60 days of the deputy director calling for the formation of the panel.

(C)One expert in public health who has expertise in water contamination, appointed by the President pro Tempore of the Senate within 60 days of the deputy director calling for the formation of the panel.

(2)Panel members shall not have financial conflicts of interest.

(c)The deputy director may adjust panel membership numbers and composition, as necessary.

(d)Any science advisory panel convened pursuant to this section shall hold at least one open public session to take public comment before releasing any final reports or findings.

(Added by Stats. 2022, Ch. 676, Sec. 2. (SB 230) Effective January 1, 2023.)

116419.

(a)The panel shall serve at the direction of the deputy director. At the deputy directorsrequest, the panelsduties may include, but are not limited to, any of the following activities in consultation with the Office of Environmental Health Hazard Assessment and, as needed, the Department of Toxic Substances Control:

(1)Review existing data, including, but not limited to, occurrence and toxicity data, for CECs collected by the state board and nationwide by the United States Environmental Protection AgencysUnregulated Contaminant Monitoring Rule program and recommend to the deputy director further actions based on state-specific conditions and the statesCEC initiatives.

(2)Identify CEC candidates based on potential public health effects.

(3)Incorporate recommendations from other ongoing efforts evaluating CECs both within California and throughout the United States, as applicable.

(4)Review the existing CEC risk-based framework in aquatic and recycled water systems to see if the framework is applicable to drinking water.

(5)Recommend a framework for a risk-based screening program for CECs and appropriate indicators and surrogates that consider their occurrence in drinking water, contribution and fate in the environment, and potential for human exposure.

(6)Review the results of any screening program, which may include screening programs within California and throughout the United States, and provide recommendations to assist the deputy director in prioritizing, monitoring, evaluating health impacts, and informing regulatory determinations for CECs.

(7)Address the United States Environmental Protection AgencysContaminant Candidate List and not create any impediments to complying with federal law or duplicative monitoring.

(b)Nothing in this section or Section 116418 shall duplicate, change, or interfere with the state boardsor the deputy directorsongoing efforts on perfluoroalkyl and polyfluoroalkyl substances and CECs.

(Added by Stats. 2022, Ch. 676, Sec. 2. (SB 230) Effective January 1, 2023.)

116420.

(a)If the state board imposes CEC monitoring requirements pursuant to Section 116375, the state board may provide financial assistance, upon appropriation by the Legislature for this purpose, to eligible recipients. Eligible recipients of these funds shall be community water systems serving fewer than 10,000 individuals and located in disadvantaged communities. The state board may also provide funding to technical assistance providers that assist eligible recipients in complying with CEC monitoring imposed by the state board.

(b)For purposes of this section,

technical assistance provider has the same meaning as defined in Section 116767.

(Added by Stats. 2022, Ch. 676, Sec. 2. (SB 230) Effective January 1, 2023.)

116421.

The Legislature finds and declares that the program is intended to help inform the deputy director in recommending regulatory determinations for CECs and is not intended to supersede any requirements related to setting drinking water standards or a public health goal as prescribed in Section 116365 or a notification level or a response level as prescribed in Section 116455.

(Added by Stats. 2022, Ch. 676, Sec. 2. (SB 230) Effective January 1, 2023.)

116422.

(a)The CEC Action Fund is hereby established in the State Treasury. The state board shall administer the CEC Action Fund.

(b)All moneys deposited in the CEC Action Fund may be used, upon appropriation by the Legislature, in support of, but not limited to, all of the following:

(1)Costs associated with developing, maintaining, implementing, and administering the state boardsCEC efforts.

(2)Costs associated with establishing and maintaining the panel, developing a risk-based screening program, collecting occurrence data, and reporting on those activities.

(3)Costs associated with developing standardized analytical methods internally by the state board or through external contracts, direct expenditures, or grants.

(4)Costs associated with contracts, direct expenditures, or grants to public or private external research organizations to fill research gaps.

(5)Public participation and outreach efforts pursuant to Section 116423.

(6)Other state board costs associated with implementing and administering the program, including monitoring pursuant to Section 116375 and administrative costs.

(7)Costs associated with financial assistance provided to community water systems for monitoring CECs pursuant to Section 116420.

(8)Costs associated with the state boardsresearch and scientific investigations related to perfluoroalkyl and polyfluoroalkyl substances.

(c)(1)The state board may provide for the deposit into the CEC Action Fund of federal contributions, voluntary contributions, gifts, grants, bequests, transfers by the Legislature from the General Fund, and funding from authorized general obligation bond acts. All moneys remitted to the state board pursuant to this section shall be deposited in the CEC Action Fund.

(2)Any federal contributions shall be subject to federal requirements and shall be used only for the permissible purposes allowed by the federal law or a federal grant deposited in the fund, to the extent authorized and funded by that grant.

(d)Contracts entered into pursuant to this section are exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Section 4526 of the Government Code, and may be awarded on a noncompetitive bid basis as necessary to implement the purposes of this section.

(e)Actions taken to implement, interpret, or make specific this section, including, but not limited to, the adoption of any plan, handbook, or map, are not subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(f)The state board may, upon appropriation by the Legislature, expend moneys from the CEC Action Fund for reasonable costs associated with the administration of this article.

(Added by Stats. 2022, Ch. 676, Sec. 2. (SB 230) Effective January 1, 2023.)

116423.

(a)The program shall provide opportunities for public participation. Public participation may include, but is not limited to, conducting periodic stakeholder meetings and workshops to solicit relevant information, data, suggestions, and feedback for the development and implementation of the program.

(b)The state board may maintain a program internet website and make relevant research, reports, and data available to the public.

(c)The state board may provide an annual program update, as an informational item, at a regularly noticed meeting of the state board.

(d)(1)If the deputy director convenes a panel pursuant to this article, the deputy director shall, three years

after the panel is convened, post a report to the state boardsinternet website on the work conducted by the panel.

(2)The requirement for posting a report imposed under paragraph (1) is inoperative on June 1, 2030.

(Added by Stats. 2022, Ch. 676, Sec. 2. (SB 230) Effective January 1, 2023.)

116424.

Implementation of this article is contingent upon an appropriation by the Legislature for purposes of this article in the annual Budget Act or another statute.

(Added by Stats. 2022, Ch. 676, Sec. 2. (SB 230) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=4.

116425.

(a)The state board may exempt a public water system from a maximum contaminant level or treatment technique requirement if it finds all the following:

(1)The public water system was in operation, or had applied for a permit to operate, on the effective date of the maximum contaminant level or treatment technique requirement.

(2)Due to compelling factors, which may include either of the following factors, the public water system is unable to comply with the maximum contaminant level or treatment technique requirement or to implement measures to develop an alternative water supply:

(A)Economic factors.

(B)The entire service area of the public water system consists of a disadvantaged community, as defined under Section 1452(d) of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300g-5), and meets the affordability criteria established by the department, after review and public hearing.

(3)The granting of the exemption will not result in an unreasonable risk to health.

(4)Management or restructuring changes, or both, cannot reasonably be made that will result in compliance with this chapter or, if compliance cannot be achieved, improve the quality of the drinking water.

(b)If the state board grants a public water system an exemption for a primary drinking water standard under subdivision (a), the state board shall prescribe, at the time the exemption is granted, a schedule for both of the following:

(1)Compliance by the public water system with each contaminant level or treatment technique requirement for which the exemption was granted.

(2)Implementation by the public water system of interim control measures the state board may require for each contaminant or treatment technique requirement for which the exemption was granted.

(c)Any schedule prescribed by the state board pursuant to this section shall require compliance by the public water system with each contaminant level or treatment technique requirement for which the exemption was granted within 12 months from the granting of the exemption.

(d)The final date for compliance with any schedule issued pursuant to this section may be extended by the state board for a period not to exceed three years from the date of the granting of the exemption if the state board finds all of the following:

(1)The system cannot meet the standard without capital improvements that cannot be completed before the date established pursuant to Section 1412(b)(1) of the federal Safe Drinking Water Act (42 U.S.C. 300g-(b)(1)).

(2)In the case of a system that needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain the financial assistance or the system has entered into an enforceable agreement to become part of a regional public water system.

(3)The system is taking all practicable steps to meet the standard.

(e)In the case of a system that does not serve more than a population of 3,300 and that needs financial assistance for the necessary improvements, an exemption granted pursuant to paragraph (2) of subdivision (d) shall not exceed a total of six years.

(f)Prior to the granting of an exemption pursuant to this section, the state board shall provide notice and an opportunity for a public hearing. Notice of any public hearing held pursuant to this section shall be given by the state board in writing to the public water system seeking the exemption and to the public as provided in Section 6061 of the Government Code. A public hearing provided pursuant to this subdivision is not an adjudicative hearing and is not required to comply with Section 100171.

(g)A public water system shall not receive an exemption under this section if the system is granted a variance pursuant to Section 116430.

(h)Unless the state board has already granted an exemption pursuant to subdivision (a), the state board may exempt a public water system from compliance with a maximum contaminant level or treatment technique requirement for up to two years if the state board finds, and continues to find, that a plan submitted by the water system may reasonably be expected to bring the water system into compliance by any of the following means:

(1)The physical consolidation of the system with one or more other systems.

(2)The consolidation of significant management and administrative functions of the system with one or more other systems.

(3)The transfer of ownership of the system.

(Amended by Stats. 2017, Ch. 327, Sec. 27. (AB 1438) Effective January 1, 2018.)

116430.

(a) The department may grant a variance or variances from primary drinking water standards to a public water system. Any variance granted pursuant to this subdivision shall conform to the requirements established under the federal Safe Drinking Water Act, as amended (42 U.S.C. Sec. 300g-4).

(b) (1) In addition to the authority provided in subdivision (a), at the request of any public water system, the department shall grant a variance from the primary drinking water standard adopted by the department for fluoride. A variance granted by the department pursuant to this subdivision shall prohibit fluoride levels in excess of 75 percent of the maximum contaminant level established in the national primary drinking water regulation adopted by the United States Environmental Protection Agency for fluoride, or three milligrams per liter, whichever is higher, and shall be valid for a period of up to 30 years. The department shall review each variance granted pursuant to this section at least every five years. The variance may be withdrawn upon reasonable notice by the department if the department determines that the community served by the public water system no longer accepts the fluoride level authorized in the variance or the level of fluoride authorized by the variance poses an unreasonable risk to health. In no case may a variance be granted in excess of the United States Environmental Protection Agency maximum contaminant level.

(2) The department shall grant a variance pursuant to paragraph (1) only if it determines, after conducting a public hearing in the community served by the public water system, that there is no substantial community opposition to the variance and the variance does not pose an unreasonable risk to health. The public water system shall provide written notification, approved by the department, to all customers which shall contain at least the following information:

(A) The fact that a variance has been requested.

(B) The date, time and location of the public hearing that will be conducted by the department.

(C) The level of fluoride that will be allowed by the requested variance and how this level compares to the maximum contaminant levels prescribed by the state primary drinking water standard, the federal national primary drinking water regulation, and the federal national secondary drinking water regulation.

(D) A discussion of the types of health and dental problems that may occur when the fluoride concentration exceeds the maximum contaminant levels prescribed by the state standard and the federal regulations.

(3) If, at any time after a variance has been granted pursuant to paragraph (1), substantial community concerns arise concerning the level of fluoride present in the water supplied by the public water system, the public water system shall notify the department, conduct a public hearing on the concerns expressed by the community, determine the fluoride level that is acceptable to the community, and apply to the department for an amendment to the variance which reflects that determination.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 5. Public Notification [116450 - 116485]__

(Article 5 added by Stats. 1995, Ch. 415, Sec. 6.)

116450.

(a)When any primary drinking water standard specified in the departmentsregulations is not complied with, when a monitoring requirement specified in the departmentsregulations is not performed, or when a water purveyor fails to comply with the conditions of any variance or exemption, the person operating the public water system shall notify the department and shall give notice to the users of that fact in the manner prescribed by the department. When a variance or an exemption is granted, the person operating the public water system shall give notice to the users of that fact.

(b)When a person operating a public water system determines that a significant rise in the bacterial count of water has occurred in water he or she supplies, the person shall provide, at his or her expense, a report on the rise in bacterial count of the water, together with the results of an analysis of the water, within 24 hours to the department and, where appropriate, to the local health officer.

(c)When the department receives the information described in subdivision (b) and determines that it constitutes an immediate danger to health, the department shall immediately notify the person operating the public water system to implement the emergency notification plan required by this chapter.

(d)In the case of a failure to comply with any primary drinking water standard that represents an imminent danger to the health of water users, the operator shall notify each of his or her customers as provided in the

approved emergency notification plan.

(e)In addition, the same notification requirement shall be required in any instance in which the department or the local health department recommends to the operator that it notify its customers to avoid internal consumption of the water supply and to use bottled water due to a chemical contamination problem that may pose a health risk.

(f)The content of the notices required by this section shall be approved by the department. Notice shall be repeated at intervals, as required by the department, until the department concludes that there is compliance with its standards or requirements. Notices may be given by the department.

In any case where public notification is required by this section because a contaminant is present in drinking water at a level in excess of a primary drinking water standard, the notification shall include identification of the contaminant, information on possible effects of the contaminant on human health, and information on specific measures that should be taken by persons or populations who might be more acutely affected than the general population.

(g)Whenever a school or school system, the owner or operator of residential rental property, or the owner or operator of a business property receives a notification from a person operating a public water system under any provision of this section, the school or school system shall notify school employees, students and parents if the students are minors, the owner or operator of a residential rental property shall notify tenants, and the owner or operator of business property shall notify employees of businesses located on the property.

(1)The operator shall provide the customer with a sample notification form that may be used by the customer in complying with this subdivision and that shall indicate the nature of the problem with the water supply and the most appropriate methods for notification that may include, but is not limited to, the sending of a letter to each water user and the posting of a notice at each site where drinking water is dispensed.

(2)The notice required by this subdivision shall be given within 10 days of receipt of notification from the person operating the public water system.

(3)Any person failing to give notice as required by this subdivision shall be civilly liable in an amount not to exceed one thousand dollars ($1,000) for each day of failure to give notice.

(4)If the operator has evidence of noncompliance with this subdivision the operator shall report this information to the local health department and the department.

(h)(1)Notwithstanding any other provision of law, commencing July 1, 2012, a written Tier 1 public notice given by a public water system pursuant to this section shall comply with the following:

(A)It shall be provided in English, Spanish, and in the language spoken by any non-English-speaking group that exceeds 10 percent of persons served by the public water system, and it shall contain a telephone number or address where residents may contact the public water system for assistance.

(B)For each non-English-speaking group that speaks a language other than Spanish and that exceeds 1,000 residents but is less than 10 percent of the persons served by the public water system described in subparagraph (A), the notice shall contain information regarding the importance of the notice and a telephone number or address where the public water system will provide either a translated copy of the notice or assistance in the appropriate language.

(2)(A)After July 1, 2012, it shall be presumed that the public water system has determined the appropriate languages for notification pursuant to paragraph (1) if the public water system has made a reasonable attempt to utilize the data available through the American Community Survey of the United States Census Bureau to identify the non-English speaking groups that reside in a city, county, or city and county that encompasses the service area of the public water system.

(B)After July 1, 2012, it shall be presumed that the notice has been correctly translated if the public water system has made a reasonable attempt to obtain either in-house or contracted-for translation services for providing a translated copy of the notice or assistance in the appropriate languages pursuant to paragraph (1) and the translated copy of the notice or assistance has been provided.

(C)After July 1, 2012, if the public water system has made a reasonable attempt to have the notice required by paragraph (1) translated into the appropriate languages, it shall be presumed that a notice translated into languages other than Spanish has been adequately provided if it contains translations in the appropriate languages of all of the following:

(i)Identification of the contaminant.

(ii)Information on the health effects associated with the presence of the contaminant in drinking water at a level in excess of the primary drinking water standard.

(iii)Actions that members of the public should take to protect their health, such as, for example, Do not drink, Boil water before using, or Stop boiling your water.

(3)In addition to nonwritten notification provided for in the public water systemsemergency notification plan, the public water system may, and is encouraged to, provide notice through foreign language media outlets.

(4)For purposes of this subdivision, Tier 1 public notice means a public notice as defined pursuant to Section 64401.71 of Title 22 of the California Code of Regulations.

(5)Nothing in this subdivision shall require the department to review or approve notices in any language other than English.

(Amended by Stats. 2011, Ch. 514, Sec. 1. (AB 938) Effective January 1, 2012.)

116451.

If user notification is required pursuant to Section 116450, the department shall make a reasonable effort to ensure that notification is given.

(Added by Stats. 2009, Ch. 298, Sec. 14. (AB 1540) Effective January 1, 2010.)

116455.

(a)A public water system shall comply with the requirements of this section within 30 days after it is first informed of a confirmed detection of a contaminant found in drinking water delivered by the public water system for human consumption that is in excess of a maximum contaminant level, a notification level, or a

response level established by the department.

(1)If the public water system is a wholesale water system, then the person operating the wholesale water system shall notify the wholesale water systemsgoverning body and the water systems that are directly supplied with that drinking water. If the wholesale water system is a water company regulated by the California Public Utilities Commission, then the wholesale water system shall also notify the commission. The commission in the exercise of its general and specific powers to ensure the health, safety, and availability of drinking water served by the utilities subject to its jurisdiction, may order further action that is not inconsistent with the standards and regulations of the department to ensure a potable water supply.

(2)If the public water system is a retail water system, then the person operating the retail water system shall notify the retail water systemsgoverning body and the governing body of any local agency whose jurisdiction includes areas supplied with drinking water by the retail water system. If the retail water system is a water company regulated by the California Public Utilities Commission, then the retail water system shall also notify the commission. The commission, in the exercise of its general and specific powers to ensure the health, safety, and availability of drinking water served by the utilities subject to its jurisdiction, may order further action that is not inconsistent with the standards and regulations of the department to ensure a potable water supply.

(b)The notification required by subdivision (a) shall identify the drinking water source, the origin of the contaminant, if known, the maximum contaminant level, response level, or notification level, as appropriate, the concentration of the detected contaminant, and the operational status of the drinking water source, and shall provide a brief and plainly worded statement of health concerns.

(c)For purposes of this section, the following terms have the following meanings:

(1)Drinking water source means an individual groundwater well, an individual surface water intake, or in the case of water purchased from another water system, the water at the service connection.

(2)Local agency means a city or county, or a city and county.

(3)Notification level means the concentration level of a contaminant in drinking water delivered for human consumption that the department has determined, based on available scientific information, does not pose a significant health risk but warrants notification pursuant to this section. Notification levels are nonregulatory, health-based advisory levels established by the department for contaminants in drinking water for which maximum contaminant levels have not been established. Notification levels are established as precautionary measures for contaminants that may be considered candidates for establishment of maximum contaminant levels, but have not yet undergone or completed the regulatory standard setting process prescribed for the development of maximum contaminant levels and are not drinking water standards.

(4)Response level means the concentration of a contaminant in drinking water delivered for human consumption at which the department recommends that additional steps, beyond notification pursuant to this section, be taken to reduce public exposure to the contaminant. Response levels are established in conjunction with notification levels for contaminants that may be considered candidates for establishment of maximum contaminant levels, but have not yet undergone or completed the regulatory standard setting process prescribed for the development of maximum contaminant levels and are not drinking water standards.

(5)Retail water system means a public water system that supplies water directly to the end user.

(6)Wholesale water system means a public water system that supplies water to other public water systems

for resale.

(Repealed and added by Stats. 2004, Ch. 679, Sec. 2. Effective January 1, 2005.)

116456.

(a)When establishing or revising a notification level or response level, the state board shall do all of the following:

(1)Electronically post on its internet website and distribute through email a notice informing interested persons that the state board has initiated the development or revision of a notification level or response level.

(2)Electronically post on its internet website and distribute through email a notice that a proposed notification level or response level is available. The notice shall include an electronic link to an internet webpage where the proposed level can be viewed electronically along with the complete study or studies or an electronic link to the complete study or studies, and the notification level recommendations document provided to the state board by the Office of Environmental Health Hazard Assessment, if applicable, that were used to establish the level. The state board shall not make available or provide an electronic link to a study that is not subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The notice shall indicate whether the study or studies were peer reviewed and whether only one study was used. Notice and document availability shall occur at least 30 days before the meeting required pursuant to paragraph (3).

(3)Before a proposed notification level or response level is finalized, include, as an informational item, the proposed notification level or response level at a regularly noticed meeting of the state board.

(b)If the Division of Drinking Water of the state board finds that a contaminant presents the potential for imminent harm to public health and safety, paragraph (3) of subdivision (a), and the requirement to publish the proposed level and the 30-day deadline for the notice and document availability requirement in paragraph (2) of subdivision (a), shall not apply to the establishment or revision of the notification level or response level for the contaminant. At the time the notification level or response level is established or revised, the division shall post the information specified in paragraph (2) of subdivision (a) and any other information supporting its finding that the contaminant presents the potential for imminent harm to public health and safety. Within 45 days of establishing or revising the notification level or response level, the state board shall include, as an informational item, the notification level or response level at a regularly noticed meeting of the state board.

(Amended by Stats. 2021, Ch. 615, Sec. 280. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

116460.

No person shall operate a public water system without an emergency notification plan that has been submitted to and approved by the department. The emergency notification plan shall provide for immediate notice to the customers of the public water system of any significant rise in the bacterial count of water or other failure to comply with any primary drinking water standard that represents an imminent danger to the

health of the water users.

No permit, variance, or exemption may be issued or amended under this chapter until an emergency notification plan has been approved by the department.

The department shall adopt regulations to implement the provisions of this section. The regulations may provide for the exclusion of public water systems from the requirements of this section when, in the judgment of the department, the exclusion will best serve the public interest.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116465.

Upon formal complaint by the director alleging that additional facilities are necessary to provide the users of a public water system operated by a public utility under the jurisdiction of the Public Utilities Commission with a continuous and adequate supply of water or to bring the water system into conformity with secondary drinking water standards, the commission may, after hearing, direct the public utility to make the changes in its procedures or additions to its facilities as the commission shall determine are necessary to provide a continuous and adequate supply of water to the users thereof or to bring the system into conformity with secondary drinking water standards. Any proceeding of the commission pursuant to this article shall be conducted as provided in Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code, and any order issued by the commission pursuant to this action shall be subject to judicial review as provided in Chapter 9.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116470.

(a) As a condition of its operating permit, every public water system shall annually prepare a consumer confidence report and mail or deliver a copy of that report to each customer, other than an occupant, as defined in Section 799.28 of the Civil Code, of a recreational vehicle park. A public water system in a recreational vehicle park with occupants as defined in Section 799.28 of the Civil Code shall prominently display on a bulletin board at the entrance to or in the office of the park, and make available upon request, a copy of the report. The report shall include all of the following information:

(1) The source of the water purveyed by the public water system.

(2) A brief and plainly worded definition of the terms maximum contaminant level,□ primary drinking water standard,□ and public health goal.□

(3) If any regulated contaminant is detected in public drinking water supplied by the system during the past year, the report shall include all of the following information:

(A) The level of the contaminant found in the drinking water, and the corresponding public health goal and primary drinking water standard for that contaminant.

(B) Any violations of the primary drinking water standard that have occurred as a result of the presence of

the contaminant in the drinking water and a brief and plainly worded statement of health concerns that resulted in the regulation of that contaminant.

(C) The public water systemsaddress and phone number to enable customers to obtain further information concerning contaminants and potential health effects.

(4) Information on the levels of unregulated contaminants, if any, for which monitoring is required pursuant to state or federal law or regulation.

(5) Disclosure of any variances or exemptions from primary drinking water standards granted to the system and the basis therefor.

(b) On or before July 1, 1998, and every three years thereafter, public water systems serving more than 10,000 service connections that detect one or more contaminants in drinking water that exceed the applicable public health goal, shall prepare a brief written report in plain language that does all of the following:

(1) Identifies each contaminant detected in drinking water that exceeds the applicable public health goal.

(2) Discloses the numerical public health risk, determined by the office, associated with the maximum contaminant level for each contaminant identified in paragraph (1) and the numerical public health risk determined by the office associated with the public health goal for that contaminant.

(3) Identifies the category of risk to public health, including, but not limited to, carcinogenic, mutagenic, teratogenic, and acute toxicity, associated with exposure to the contaminant in drinking water, and includes a brief plainly worded description of these terms.

(4) Describes the best available technology, if any is then available on a commercial basis, to remove the contaminant or reduce the concentration of the contaminant. The public water system may, solely at its own discretion, briefly describe actions that have been taken on its own, or by other entities, to prevent the introduction of the contaminant into drinking water supplies.

(5) Estimates the aggregate cost and the cost per customer of utilizing the technology described in paragraph (4), if any, to reduce the concentration of that contaminant in drinking water to a level at or below the public health goal.

(6) Briefly describes what action, if any, the local water purveyor intends to take to reduce the concentration of the contaminant in public drinking water supplies and the basis for that decision.

(c) Public water systems required to prepare a report pursuant to subdivision (b) shall hold a public hearing for the purpose of accepting and responding to public comment on the report. Public water systems may hold the public hearing as part of any regularly scheduled meeting.

(d) The department shall not require a public water system to take any action to reduce or eliminate any exceedance of a public health goal.

(e) Enforcement of this section does not require the department to amend a public water systemsoperating permit.

(f) Pending adoption of a public health goal by the Office of Environmental Health Hazard Assessment pursuant to subdivision (c) of Section 116365, and in lieu thereof, public water systems shall use the national

maximum contaminant level goal adopted by the United States Environmental Protection Agency for the corresponding contaminant for purposes of complying with the notice and hearing requirements of this section.

(g) This section is intended to provide an alternative form for the federally required consumer confidence report as authorized by 42 U.S.C. Section 300g-3(c).

(Repealed and added by Stats. 1996, Ch. 755, Sec. 12. Effective January 1, 1997.)

116475.

(a) The Emergency Clean Water Grant Fund is hereby established in the General Fund and, notwithstanding Section 13340 of the Government Code, is continuously appropriated to the department, without regard to fiscal years, to provide financial assistance to public water systems and to fund emergency actions by the department to ensure that safe drinking water supplies are available to all Californians who are served by public water systems.

(b) The department may expend funds in the Emergency Clean Water Grant Fund for the purposes specified in subdivision (a), including, but not limited to, payment for all of the following actions:

(1) The provision of alternative water supplies and bottled water.

(2) Improvements of the existing water supply system.

(3) Hookups with adjacent water systems.

(4) Design, purchase, installation, and operation and maintenance of water treatment technologies.

(c) The department shall develop and revise guidelines for the allocation and administration of moneys in the Emergency Clean Water Grant Fund. These guidelines shall include, but are not limited to, all of the following:

(1) A definition of what constitutes an emergency requiring an alternative or improved water supply.

(2) Priorities and procedures for allocating funds.

(3) Repayment provisions, as appropriate.

(4) Procedures for recovering funds from parties responsible for the contamination of public water supplies.

The guidelines are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116480.

(a)The department shall expend moneys available in the Emergency Clean Water Grant Fund only for the purpose of taking corrective action necessary to remedy or prevent an emergency or imminent threat to public health due to the contamination or potential contamination of the public water supply.

(b)Notwithstanding any other provision of law, the department may enter into written contracts for remedial action taken or to be taken pursuant to subdivision (a), and may enter into oral contracts, not to exceed ten thousand dollars ($10,000) in obligation, when, in the judgment of the department, immediate remedial action is necessary to remedy or prevent an emergency specified in subdivision (a). The contracts, written or oral, may include provisions for the rental or purchase of tools and equipment, either with or without operators, for the furnishing of labor and materials and for engineering consulting necessary to accomplish the work.

(Amended by Stats. 2007, Ch. 614, Sec. 3. Effective January 1, 2008.)

116485.

Any remedial action taken or contracted for by the department pursuant to Section 116480 shall be exempt from the following provisions:

(a) State Contract Act provided for pursuant to Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of the Public Contract Code.

(b) Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(c) Section 14780 of the Government Code and Article 5 (commencing with Section 10355) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

(d) Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=6.

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 6. Enforcement Responsibility [116500- 116500.]__

(Article 6 added by Stats. 1995, Ch. 415, Sec. 6.)

116500.

This chapter shall be enforced directly by the department for all public water systems, including state small water systems, in any county that does not have a local health officer, or contracts with the department for environmental health services pursuant to Section 1157 and elects not to enforce this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=7.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 7. Requirements and Compliance [116525 - 116596]__

(Article 7 added by Stats. 1995, Ch. 415, Sec. 6.)

116525.

(a) No person shall operate a public water system unless he or she first submits an application to the department and receives a permit as provided in this chapter. A change in ownership of a public water system shall require the submission of a new application.

(b) The department may require a new application whenever a change in regulatory jurisdiction has occurred.

(c) The department may renew, reissue, revise, or amend any domestic water supply permit whenever the department deems it to be necessary for the protection of public health whether or not an application has been filed.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116527.

(a)As used in this section, water-related improvement includes, but is not limited to, a water pipe, a water pump, or drinking water infrastructure.

(b)(1)Before a person submits an application for a permit for a proposed new public water system, the person shall first submit a preliminary technical report to the state board at least six months before initiating construction of any water-related improvement.

(2)In order to assist in expediting the permitting process, a person that is considering submitting an application for a permit for a proposed new public water system is encouraged, but is not required, to submit the preliminary technical report no later than seven days after submission of an application to the city or county for a building permit for any water-related improvement.

(3)For a proposed new public water system that would be regulated by a local primacy agency, the applicant shall also submit a copy of the preliminary technical report to the state board.

(4)The state board may approve the preliminary technical report and allow construction to proceed before the end of the six-month period. For a proposed new public water system that would be regulated by a local

primacy agency, the state board and local primacy agency may approve the preliminary technical report and allow construction to proceed before the end of the six-month period.

(c)The preliminary technical report shall include all of the following:

(1)The name and type of each public water system for which any service area boundary is within three miles, as measured through existing public rights-of-way, of any boundary of the applicantsproposed public water systemsservice area.

(2)A discussion of the feasibility of each of the adjacent community water systems identified pursuant to paragraph (1) annexing, connecting, or otherwise supplying domestic water to the applicantsproposed new public water systemsservice area. The applicant shall consult with each adjacent community water system in preparing the report and shall include in the report any information provided by each adjacent community water system regarding the feasibility of annexing, connecting, or otherwise supplying domestic water to that service area.

(3)A discussion of all actions taken by the applicant to secure a supply of domestic water from an existing community water system for the proposed new public water systemsservice area.

(4)All sources of domestic water supply for the proposed new public water system.

(5)The estimated cost to construct, operate, and maintain the proposed new public water system, including long-term operation and maintenance costs and a potential rate structure.

(6)A comparison of the costs associated with the construction, operation and maintenance, and long-term sustainability of the proposed new public water system to the costs associated with providing water to the proposed new public water systemsservice area through annexation by, consolidation with, or connection to an existing community water system.

(7)A discussion of all actions taken by the applicant to pursue a contract for managerial or operational oversight from an existing community water system.

(8)An analysis of whether a proposed new public water systemstotal projected water supplies available during normal, single dry, or multiple dry water years during a 20-year projection will meet the projected water demand for the service area.

(9)Any information provided by the local agency formation commission. The applicant shall consult with the local agency formation commission if any adjacent public water system identified pursuant to paragraph (1) is a local agency as defined by Section 56054 of the Government Code.

(d)(1)If documents prepared to comply with Division 13 (commencing with Section 21000) of the Public Resources Code or any other application for public agency approval concerning providing drinking water to the proposed new public water systemsservice area include the information required by subdivision (c), including documentation of the consultation with each adjacent community water system and the local agency formation commission, the applicant may submit those documents to the state board in lieu of the preliminary technical report and the documents shall be considered the functional equivalent of the preliminary technical report.

(2)If documents prepared to comply with Division 13 (commencing with Section 21000) of the Public Resources Code or any other application for public agency approval concerning providing drinking water to the proposed new public water systemsservice area include some, but not all, of the information required by

subdivision (c), including documentation of the consultation with an adjacent community water system and the local agency formation commission, the applicant shall submit those documents and the preliminary technical report to the state board and together those documents and the preliminary technical report shall be considered the functional equivalent of the preliminary technical report requirements of this section. A preliminary technical report submitted pursuant to this paragraph shall only be required to include information that is not otherwise addressed by the other submitted documents.

(e)Upon review of a preliminary technical report submitted pursuant to this section, the state board may do all of the following actions:

(1)If an existing public water system has not already sought annexation of the service area of a proposed new public water system from the local agency formation commission or the applicant has not already sought an extension of services agreement from an existing public water system, direct the applicant to undertake additional discussion and negotiation with the local agency formation commission and any existing public water system meeting the requirements of paragraph (1) of subdivision (c) that the state board determines has the technical, managerial, and financial capacity to provide an adequate and reliable supply of domestic water to the service area of the proposed new public water system. The state board shall not direct the applicant to undertake additional discussion and negotiation if documentation submitted to the state board demonstrates that additional discussion and negotiation is unlikely to be successful, including, but not limited to, documentation that the local agency formation commission has previously denied the application for an extension of service or annexation, or that the existing public water system has declined to apply to the local agency formation commission for approval of an extension of services to, or annexation of, the service area of the proposed new public water system.

(2)Direct the applicant to report on the results of discussion and negotiations conducted pursuant to paragraph (1) to the state board.

(3)Establish a time schedule for the applicantsperformance of directives issued pursuant to this subdivision.

(f)(1)An applicant shall comply with the state boardsdirectives as assigned in and consistent with subdivision (e) before submitting an application for a permit for a proposed new public water system under this chapter.

(2)An application for a permit for a proposed new public water system under this chapter shall not be deemed complete unless the applicant has complied with the requirements of this section.

(g)The state boardsreview of a preliminary technical report pursuant to this section shall not be deemed a project or approval of a permit application submitted under this chapter.

(h)The requirements of this section do not apply to either of the following:

(1)An application for a permit for a new public water system that was deemed complete prior to January 1, 2017, pursuant to the statutory permit application requirements effective at the date of the permit submission.

(2)An extension of, or annexation to, an existing public water system.

(i)(1)The requirements of this section do not apply to a service area where an applicant certifies in writing to the state board that the applicant will not rely on the establishment of a new public water system for its water supply. The state board shall acknowledge receipt of the applicantscertification in a timely manner.

(2)An applicant who certifies that the service area will not rely on the establishment of a new public water

system and later seeks a permit for a new public water system shall comply with the provisions of this section and shall assume all risk of delay or rejection related to the permit application.

(j)(1)The provisions of this subdivision apply to a proposed new public water system that achieves either or both of the following:

(A)Consolidates two or more existing public water systems, existing state small water systems, or other existing water systems, which results in the creation of a new public water system.

(B)Provides water service in lieu of individual domestic wells.

(2)At least six months before the construction of any water-related improvements, an applicant for a new public water system that meets the criteria in paragraph (1) shall provide a written notice to the state board that does both of the following:

(A)Clearly describes the proposed new public water system and how it meets the criteria in paragraph (1).

(B)Requests an exemption from the requirements of this section.

(3)The state board shall promptly acknowledge receipt of a written notice described in paragraph (2). The state board shall have 30 days from the acknowledgment of receipt of the written notice to issue a written notice to the applicant that compliance with the requirements of this section is necessary and that an application for a permit of a new public water system under this chapter is not complete until the applicant has complied with the requirements of this section. A determination by the state board that compliance with the requirements of this section is necessary shall be final and is not subject to review by the state board. A determination by the state board pursuant to this subdivision is not considered a project subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

(4)If the state board receives a written notice from a project applicant that satisfies the requirements of paragraph (2), the project described in the notice is deemed exempt from the requirements of this section on the 35th day following the date of the state boardsacknowledgment of receipt of the written notice, unless the state board has issued a notice to comply pursuant to paragraph (3).

(Amended by Stats. 2018, Ch. 195, Sec. 1. (AB 2900) Effective January 1, 2019.)

116530.

(a)A public water system shall submit a technical report to the state board as part of the permit application or when otherwise required by the state board. This report may include, but not be limited to, detailed plans and specifications, water quality information, physical descriptions of the existing or proposed system, information related to technical, managerial, and financial capacity and sustainability, and information related to achieving the goals of Section 106.3 of the Water Code, including affordability and accessibility.

(b)A public water system shall submit the report in the form and format and at intervals specified by the state board.

(Amended by Stats. 2019, Ch. 120, Sec. 6. (SB 200) Effective July 24, 2019.)

116535.

Upon determination that an application submitted pursuant to this chapter is complete, the department shall make a thorough investigation of the proposed or existing plant, works, system, or water supply, and all other circumstances and conditions that it deems material, including any required financial assurance information.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116540.

(a)Following completion of the investigation and satisfaction of the requirements of paragraphs (1) and (2), the state board shall issue or deny the permit. The state board may impose permit conditions, requirements for system improvements, technical, financial, or managerial requirements, and time schedules as it deems necessary to ensure a reliable and adequate supply of water at all times that is pure, wholesome, potable, and does not endanger the health of consumers.

(1)A public water system that was not in existence on January 1, 1998, shall not be granted a permit unless the public water system demonstrates to the state board that the water supplier possesses adequate financial, managerial, and technical capability to ensure the delivery of pure, wholesome, and potable drinking water. This section shall also apply to any change of ownership of a public water system.

(2)A permit under this chapter shall not be issued to an association organized under Title 3 (commencing with Section 18000) of the Corporations Code. This section shall not apply to unincorporated associations that, as of December 31, 1990, are holders of a permit issued under this chapter.

(b)Notwithstanding Section 116330, a local primacy agency shall not issue a permit under this article without the concurrence of the state board.

(c)In considering whether to approve a proposed new public water system, the state board shall consider the sustainability of the proposed new public water system and its water supply in the reasonably foreseeable future, in view of global climate change, potential migration of groundwater contamination and other potential treatment needs, and other factors that can significantly erode a systemscapacity.

(d)If the state board determines that it is feasible for the service area of the public water system addressed by an application under this article to be served by one or more permitted public water systems identified pursuant to paragraph (1) of subdivision (c) of Section 116527, the state board may deny the permit of a proposed new public water system.

(e)An applicant may petition the state board for reconsideration of a decision of action of the deputy director taken pursuant to this section.

(Amended by Stats. 2019, Ch. 120, Sec. 7. (SB 200) Effective July 24, 2019.)

116545.

Prior to the issuance of any new, revised, renewed, or amended permit, or the denial of a permit, the department may conduct a public hearing to obtain additional public comment. Notice of the hearing shall be provided to the applicant and interested persons at least 30 days prior to the hearing. The department may require the applicant to distribute the notice of the hearing to affected consumers.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116550.

(a) No person operating a public water system shall modify, add to or change his or her source of supply or method of treatment of, or change his or her distribution system as authorized by a valid existing permit issued to him or her by the department unless the person first submits an application to the department and receives an amended permit as provided in this chapter authorizing the modification, addition, or change in his or her source of supply or method of treatment.

(b) Unless otherwise directed by the department, changes in distribution systems may be made without the submission of a permit application if the changes comply in all particulars with the waterworks standards.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116551.

The state board shall not issue a permit to a public water system or amend a valid existing permit for the use of a reservoir as a source of supply that is directly augmented with recycled water, as defined in subdivision (n) of Section 13050 of the Water Code, unless the state board does all of the following:

(a) Performs an engineering evaluation that evaluates the proposed treatment technology and finds that the proposed technology will ensure that the recycled water meets all applicable primary and secondary drinking water standards and poses no significant threat to public health.

(b) Holds at least three duly noticed public hearings in the area where the recycled water is proposed to be used or supplied for human consumption to receive public testimony on that proposed use. The state board shall make available to the public, not less than 10 days prior to the date of the first hearing held pursuant to this subdivision, the evaluations and findings made pursuant to subdivision (a).

(Amended by Stats. 2015, Ch. 673, Sec. 7. (AB 1531) Effective January 1, 2016.)

116552.

The State Water Resources Control Board shall not issue a permit to a public water system or amend a valid existing permit to allow the use of point-of-use or point-of-entry treatment unless the State Water Resources Control Board determines, after conducting a public hearing in the community served by the public water system, that there is no substantial community opposition to the installation of the treatment devices. The issuance of a permit pursuant to this section shall be limited to not more than three years or until funding for centralized treatment is available, whichever occurs first.

(Amended by Stats. 2015, Ch. 663, Sec. 2. (AB 434) Effective October 9, 2015.)

116555.

(a)Any person who owns a public water system shall ensure that the system does all of the following:

(1)Complies with primary and secondary drinking water standards.

(2)Will not be subject to backflow under normal operating conditions.

(3) Provides a reliable and adequate supply of pure, wholesome, healthful, and potable water.

(4)Employs or utilizes only water treatment operators that have been certified by the state board at the appropriate grade.

(5)Complies with the operator certification program established pursuant to Article 3 (commencing with Section 106875) of Chapter 4 of Part 1.

(b)Any person who owns a community water system or a nontransient noncommunity water system shall do all of the following:

(1)Employ or utilize only water distribution system operators who have been certified by the state board at the appropriate grade for positions in responsible charge of the distribution system.

(2)Place the direct supervision of the water system, including water treatment plants, water distribution systems, or both under the responsible charge of an operator or operators holding a valid certification equal to or greater than the classification of the treatment plant and the distribution system.

(Amended by Stats. 2017, Ch. 561, Sec. 133. (AB 1516) Effective January 1, 2018.)

116555.5.

A public water system shall implement a cross-connection control program that complies with applicable regulations and with standards adopted by the board pursuant to Section 116407.

(Added by Stats. 2017, Ch. 533, Sec. 2. (AB 1671) Effective January 1, 2018.)

116556.

Notwithstanding subdivision (c) of Section 116555 and its implementing regulations, including Sections 64562 and 64568 of the California Code of Regulations, the Redwood Valley County Water District, in order to relieve hardship, may make not more than 135 new 3/4-inch equivalent domestic service connections to its water system if all of the following conditions are met:

(a) The district has a contract, agreement, or independent water right to divert water from Lake Mendocino or another adequate source of water supply.

(b) Redwood Valley is an allowed place of use under that contract, agreement, or water right.

(c) The department has determined that the water source provides an adequate physical supply of water under its duly adopted waterworks standards.

(d) The connection will relieve hardship, as determined by the district based on objective proof that the structure served by the connection was constructed prior to December 31, 1997, and absent a connection, only has access to a water supply that furnishes an inadequate quality or quantity of water as measured by drinking water standards adopted by the district.

(e) The connections authorized by this section are in addition to connections otherwise allowed by law, including connections authorized by Section 116555.

(Added by Stats. 1998, Ch. 259, Sec. 3. Effective August 4, 1998.)

116565.

(a)Each public water system shall submit an annual fee according to a fee schedule established by the state board pursuant to subdivision (c) for the purpose of reimbursing the state board for the costs incurred by the state board for conducting activities mandated by this chapter. The amount of reimbursement shall be sufficient to pay, but in no event shall exceed, the state boardscosts in conducting these activities, including a prudent reserve in the Safe Drinking Water Account.

(b)Payment of the annual fee shall be due 90 calendar days following the due date established in the schedule. Failure to pay the annual fee within 90 calendar days shall result in a 10-percent late penalty that shall be paid in addition to the fee.

(c)The state board shall adopt, by regulation, a schedule of fees, as authorized by this section. The regulations may include provisions concerning the administration and collection of the fees.

(d)The state board shall set the amount of total revenue collected each year through the fee schedule at an amount equal to the amount appropriated by the Legislature in the annual Budget Act from the Safe Drinking Water Account for expenditure for the administration of this chapter, taking into account the reserves in the Safe Drinking Water Account. The state board shall review and revise the fees each fiscal year as necessary to conform with the amounts appropriated by the Legislature. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the amounts appropriated by the Legislature, the state board may further adjust the fees to compensate for the over or under collection of revenue.

(e)(1)Except as provided in subparagraph (A) of paragraph (2), the regulations adopted pursuant to this section, any amendment thereto, or subsequent adjustments to the annual fees, shall be adopted by the state board as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(2)Notwithstanding Section 116377, both of the following shall apply:

(A)The initial regulations adopted by the state board to implement this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and may not rely on the statutory declaration of emergency in paragraph (1) or Section 116377.

(B)Any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board.

(f)A public water system under the jurisdiction of a local primacy agency shall pay the fees specified in this section to the local primacy agency in lieu of the state board. This section does not preclude a local health officer from imposing additional fees pursuant to Section 101325.

(g)This section shall become operative on July 1, 2016.

(Repealed (in Sec. 19) and added by Stats. 2015, Ch. 24, Sec. 20. (SB 83) Effective June 24, 2015. Section operative July 1, 2016, by its own provisions.)

116577.

(a) Each person shall reimburse the state board for actual costs incurred by the state board for any of the following enforcement activities related to that person:

(1) Preparing, issuing, and monitoring compliance with, an order or a citation.

(2) Preparing and issuing public notification.

(3) Conducting a hearing pursuant to Section 116625.

(b) The state board shall submit an invoice for these enforcement costs to the person that requires payment before September 1 of the fiscal year following the fiscal year in which the costs were incurred. The invoice shall indicate the total hours expended, the reasons for the expenditure, and the hourly cost rate of the state board. The costs set forth in the invoice shall not exceed the total actual costs to the state board of enforcement activities specified in this section.

(c) Notwithstanding the reimbursement of enforcement costs of the local primacy agency pursuant to subdivision (a) of Section 116595 by a public water system under the jurisdiction of the local primacy agency, a public water system or other person shall also reimburse enforcement costs, if any, incurred by the state board pursuant to this section.

(d) Enforcement costs,□ as used in this section, does not include litigation costs□ pursuant to Section 116585.

(e) The state board shall not be entitled to enforcement costs pursuant to this section if a court determines that enforcement activities were in error.

(f)Payment of the invoice shall be made within 90 days of the date of the invoice. Failure to pay the invoice

within 90 days shall result in a 10-percent late penalty that shall be paid in addition to the invoiced amount.

(g)The state board may, at its sole discretion, waive payment by a public water system of all or any part of the invoice or penalty.

(Amended by Stats. 2023, Ch. 810, Sec. 2. (AB 664) Effective January 1, 2024.)

116585.

In a civil court action brought to enforce this chapter, the prevailing party or parties shall be awarded litigation costs, including, but not limited to, salaries, benefits, travel expenses, operating equipment, administrative, overhead, other litigation costs, and attorneysfees, as determined by the court. Litigation costs awarded to the state board by the court shall be deposited into the Safe Drinking Water Account. Litigation costs awarded to a local primacy agency by the court shall be used by that local primacy agency to offset the local primacy agencyslitigation costs.

(Amended by Stats. 2015, Ch. 24, Sec. 24. (SB 83) Effective June 24, 2015.)

116590.

(a)Funds received by the state board pursuant to this chapter shall be deposited into the Safe Drinking Water Account, which is hereby established, and shall be available for use by the state board, upon appropriation by the Legislature, for the purpose of providing funds necessary to administer this chapter and the Water Shutoff Protection Act (Chapter 6 (commencing with Section 116900)).

(b)A public water system may collect a fee from its customers to recover the fees paid by the public water system pursuant to this chapter.

(c)The total amount of funds received for state operations program costs to administer this chapter for fiscal year 2016”17 shall not exceed thirty-eight million nine hundred seven thousand dollars ($38,907,000) and the total amount of funds received for administering this chapter for each fiscal year thereafter shall not increase by more than 5 percent of the amount received in the previous fiscal year plus any changes to salary, benefit, and retirement adjustments contained in each annual Budget Act.

(d)This section shall become operative on July 1, 2016.

(Amended by Stats. 2023, Ch. 855, Sec. 1. (SB 3) Effective January 1, 2024.)

116595.

(a) A public water system under the jurisdiction of a local primacy agency shall reimburse the local primacy agency for any enforcement cost incurred by the local primacy agency related to any of the following relating to that water system:

(1) Preparing, issuing, and monitoring compliance with, an order or a citation.

(2) Preparing and issuing public notification.

(3) Conducting a hearing pursuant to Section 116625.

(b)The local primacy agency shall submit an invoice to the public water system that requires payment, before September 1 of the fiscal year following the fiscal year in which the costs were incurred. The invoice shall indicate the total hours expended, the reasons for the expenditure, and the hourly cost rate of the local primacy agency. The invoice shall not exceed the total costs to the local primacy agency of enforcement activities specified in this subdivision. Notwithstanding the reimbursement to the state board of enforcement costs, if any, pursuant to Section 116577, any public water system under the jurisdiction of the local primacy agency shall also reimburse the local primacy agency for enforcement costs incurred by the local primacy agency pursuant to this section. The local primacy agency shall not be entitled to enforcement costs pursuant to this subdivision if a court determines that enforcement activities were in error. Enforcement costs as used in this subdivision does not include litigation costs as used in Section 116585.

(c)Payment of the invoice shall be made within 90 days of the date of the invoice. Failure to pay the invoice within 90 days shall result in a 10-percent late penalty that shall be paid in addition to the invoiced amount.

(d)The local primacy agency may, in its sole discretion, waive payment by a public water system of all or any part of the invoice or the penalty.

(Amended by Stats. 2015, Ch. 24, Sec. 27. (SB 83) Effective June 24, 2015.)

116596.

(a)The state board shall require a public water system that has experienced a wildfire event of 300 acres or more, if the event damaged or destroyed a structure or structures connected to the public water systemswater distribution system, to perform sample collection and analysis of its source waters, treatment facilities, conveyance facilities, distribution systems, or a combination thereof, for the presence of benzene as soon as it is safe to do so.

(b)If a public water system conducts sampling and finds detectable concentrations of benzene, the state board may require a public water system response, including all the following:

(1)A requirement that investigation and additional testing be completed in consultation with, or at the direction of, the state board.

(2)Timelines for investigation and additional testing.

(3)Additional testing frequency and duration.

(4)Additional testing locations, such as specific locations within a distribution system.

(5)Flushing prior to confirmed detections of contamination.

(6)Requirements to provide notice to affected customers upon a finding of contamination, including the form and content of the notices and when the notice shall be provided.

(7)Remediation measures if contamination is found in the source waters, treatment facilities, conveyance facilities, distribution systems, or a combination thereof, such as taking sources offline, flushing within the distribution system, repairs, and replacements.

(c)For purposes of this section, wildfire has the same meaning as defined in Section 51177 of the Government Code.

(d)This section does not limit the state boardsauthority under any other law.

(Added by Stats. 2023, Ch. 530, Sec. 2. (AB 541) Effective January 1, 2024.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=7.5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 7.5. MTBE Detection [116610- 116610.]__

(Article 7.5 added by Stats. 1997, Ch. 814, Sec. 11.)

116610.

(a) This article shall be known, and may be cited, as the Local Drinking Water Protection Act.

(b) For purposes of this article, MTBE means methyl tertiary-butyl ether.

(c) Commencing January 1, 1998, the State Department of Health Services shall commence the process for adopting a primary drinking water standard for MTBE that complies with the criteria established under Section 116275. The State Department of Health Services shall establish a primary drinking water standard for MTBE on or before July 1, 1999. The State Department of Health Services may, at its discretion, set primary drinking water standards for other oxygenates.

(d) On or before July 1, 1998, the State Department of Health Services shall adopt a secondary drinking water standard that complies with the criteria established under subdivision (d) of Section 116275 and that does not exceed a consumer acceptance level for MTBE.

(Added by Stats. 1997, Ch. 814, Sec. 11. Effective January 1, 1998. See similar section added by Stats. 1997, Ch. 815. Note: The textual difference is in subd. (c), wherein this version refers to Section 116275 and the Ch. 815 version refers to Section 116365.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=7.5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 7.5. MTBE Detection [116610- 116610.]__

(Article 7.5 added by Stats. 1997, Ch. 814, Sec. 11.)

116610.

(a) This article shall be known, and may be cited, as the Local Drinking Water Protection Act.

(b) For purposes of this article, MTBE means methyl tertiary-butyl ether.

(c) Commencing January 1, 1998, the State Department of Health Services shall commence the process for adopting a primary drinking water standard for MTBE that complies with the criteria established under Section 116275. The State Department of Health Services shall establish a primary drinking water standard for MTBE on or before July 1, 1999. The State Department of Health Services may, at its discretion, set primary drinking water standards for other oxygenates.

(d) On or before July 1, 1998, the State Department of Health Services shall adopt a secondary drinking water standard that complies with the criteria established under subdivision (d) of Section 116275 and that does not exceed a consumer acceptance level for MTBE.

(Added by Stats. 1997, Ch. 814, Sec. 11. Effective January 1, 1998. See similar section added by Stats. 1997, Ch. 815. Note: The textual difference is in subd. (c), wherein this version refers to Section 116275 and the Ch. 815 version refers to Section 116365.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=8.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 8. Violations [116625- 116625.]__

(Article 8 added by Stats. 1995, Ch. 415, Sec. 6.)

116625.

(a)The state board, after providing notice to the permittee and opportunity for a hearing, may suspend or revoke any permit issued pursuant to this chapter if the state board determines pursuant to the hearing that the permittee is not complying with the permit, this chapter, or any regulation, standard, or order issued or adopted thereunder, or that the permittee has made a false statement or representation on any application, record, or report maintained or submitted for purposes of compliance with this chapter. If the permittee does not request a hearing within the period specified in the notice, the state board may suspend or revoke the permit without a hearing. If the permittee submits a timely request for a hearing, the hearing shall be before the state board or a member of the state board, in accordance with Section 183 of the Water Code and the rules for adjudicative proceedings adopted under Section 185 of the Water Code. If the permit at issue has been temporarily suspended pursuant to subdivision (b), the notice shall be provided within 15 days of the effective date of the temporary suspension order. The commencement of the hearing under this subdivision shall be as soon as practicable, but no later than 60 days after the effective date of the temporary suspension order, unless the state board grants an extension of the 60 day period upon request of the permittee.

(b)The state board may temporarily suspend any permit issued pursuant to this chapter before any hearing when the action is necessary to prevent an imminent or substantial danger to health. The state board shall notify the permittee of the temporary suspension and the effective date of the temporary suspension and, at the same time, notify the permittee that a hearing has been scheduled. The hearing shall be held as soon as possible, but not later than 15 days after the effective date of the temporary suspension unless the state board grants an extension of the 15-day period upon request of the permittee, and shall deal only with the issue of whether the temporary suspension shall remain in place pending a hearing under subdivision (a). The hearing shall be conducted under the rules for adjudicative proceedings adopted by the state board under Section 185 of the Water Code. The temporary suspension shall remain in effect until the hearing under this subdivision is completed and the state board has made a final determination on the temporary suspension, which shall be made within 15 days after the completion of the hearing unless the state board grants an extension of the 15-day period upon request of the permittee. If the determination is not transmitted within 15 days after the hearing is completed, or any extension of this period requested by the permittee, the temporary suspension shall be of no further effect. Dissolution of the temporary suspension does not deprive the state board of jurisdiction to proceed with a hearing on the merits under subdivision (a).

(Amended by Stats. 2018, Ch. 92, Sec. 153. (SB 1289) Effective January 1, 2019.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=9.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 9. Remedies [116650 - 116687]__

(Article 9 added by Stats. 1995, Ch. 415, Sec. 6.)

116650.

(a)If the state board determines that a person is in violation of this chapter or any regulation, permit, standard, citation, or order issued or adopted thereunder, the state board may issue a citation to the person. The citation shall be served upon the person personally or by certified mail. Service shall be deemed effective as of the date of personal service or the date of receipt of the certified mail. If a person to whom a citation is directed refuses to accept delivery of the certified mail, the date of service shall be deemed to be the date of mailing.

(b)Each citation shall be in writing and shall describe the nature of the violation or violations, including a reference to the statutory provision, standard, order, citation, permit, or regulation alleged to have been violated.

(c)A citation may specify a date for elimination or correction of the condition constituting the violation.

(d)A citation may include the assessment of a penalty as specified in subdivision (e).

(e)The state board may assess a penalty in an amount not to exceed one thousand dollars ($1,000) per day for each day that a violation occurred, and for each day that a violation continues to occur. A separate penalty may be assessed for each violation and shall be in addition to any liability or penalty imposed under

any other law.

(Amended by Stats. 2023, Ch. 810, Sec. 3. (AB 664) Effective January 1, 2024.)

116655.

(a) Whenever the state board determines that any person has violated or is violating this chapter, or any order, permit, regulation, or standard issued or adopted pursuant to this chapter, the state board may issue an order doing any of the following:

(1) Directing compliance forthwith.

(2) Directing compliance in accordance with a time schedule set by the state board.

(3) Directing that appropriate preventive action be taken in the case of a threatened violation.

(b) An order issued pursuant to this section may include, but shall not be limited to, any or all of the following requirements:

(1) That the existing plant, works, or system be repaired, altered, or added to.

(2) That purification or treatment works be installed.

(3) That the source of the water supply be changed.

(4) That no additional service connection be made to the system.

(5) That the water supply, the plant, or the system be monitored.

(6) That a report on the condition and operation of the plant, works, system, or water supply be submitted to the state board.

(Amended by Stats. 2015, Ch. 673, Sec. 9. (AB 1531) Effective January 1, 2016.)

116660.

(a)Any person who operates a public water system without having an unrevoked permit to do so, may be enjoined from so doing by any court of competent jurisdiction at the suit of the department.

(b)When the department determines that any person has engaged in or is engaged in any act or practice that constitutes a violation of this chapter, or any regulation, permit, standard, or order issued or adopted thereunder, the department may bring an action in the superior court for an order enjoining the practices or for an order directing compliance.

(c)Upon a showing by the department of any violation set forth in subdivision (b), the superior court shall enjoin the practices and may do any of the following:

(1)Enforce a reasonable plan of compliance, including the appointment of a competent person, to be approved by the department, and paid by the operator of the public water system, who shall take charge of and operate the system so as to secure compliance.

(2)Enjoin further service connections to the public water system.

(3)Afford any further relief that may be required to insure compliance with this chapter.

(Amended by Stats. 2006, Ch. 538, Sec. 436. Effective January 1, 2007.)

116665.

Whenever the department determines that any public water system is unable or unwilling to adequately serve its users, has been actually or effectively abandoned by its owners, or is unresponsive to the rules or orders of the department, the department may petition the superior court for the county within which the system has its principal office or place of business for the appointment of a receiver to assume possession of its property and to operate its system upon such terms and conditions as the court shall prescribe. The court may require, as a condition to the appointment of the receiver, that a sufficient bond be given by the receiver and be conditioned upon compliance with the orders of the court and the department, and the protection of all property rights involved. The court may provide, as a condition of its order, that the receiver appointed pursuant to the order shall not be held personally liable for any good faith, reasonable effort to assume possession of, and to operate, the system in compliance with the order.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116670.

Anything done, maintained, or suffered as a result of failure to comply with any primary drinking water standard is a public nuisance dangerous to health, and may be enjoined or summarily abated in the manner provided by law. Every public officer or body lawfully empowered to do so shall abate the nuisance immediately.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116675.

Notwithstanding Sections 116340 and 116500, the department shall, after adequate notification of the local health officer, take action authorized by this chapter against a public water system under the jurisdiction of the local health officer if any of the following occur:

(a) The public water system has been in violation of any provision of this chapter or the regulations adopted hereunder, including any violation of compliance with drinking water standards or waterworks standards, for a period of at least 90 days within the previous year.

(b) A contaminant is present in, or likely to enter, a public water system and presents an imminent and

substantial danger to the health of the users of the system.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116680.

The Legislature finds and declares as follows:

(a)It is the policy of the state to encourage orderly growth and development, which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation, consolidation, and operation of water systems is an important factor in promoting orderly development and in balancing that development against sometimes competing state interests of discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending other government services. Therefore, the policy of the state should be affected by the logical formation, consolidation, and operation of water systems.

(b)The powers set forth in Section 116682 for consolidation of water systems are consistent with the intent of promoting orderly growth.

(Added by Stats. 2015, Ch. 27, Sec. 1. (SB 88) Effective June 24, 2015.)

116681.

The following definitions shall apply to this section and Sections 116682, 116684, and 116686:

(a)Adequate supply means sufficient water to meet residents™ health and safety needs at all times.

(b)Affected residence means a residence within a disadvantaged community that is reliant on a water supply that is either inadequate or unsafe and that is not served by a public water system or state small water system.

(c)At-risk domestic well means a domestic well that serves a disadvantaged community and is at risk of consistently failing to provide an adequate supply of safe drinking water as determined by the state board pursuant to the methodology established in the 2021 Drinking Water Needs Assessment referenced in subdivision (b) of Section 116769, or a substantially similar methodology adopted by the state board in an update to the Drinking Water Needs Assessment.

(d)At-risk water system means a water system that meets all the following conditions:

(1)The water system is either a public water system with 3,300 or fewer connections or a state small water system.

(2)The system serves a disadvantaged community.

(3)The system is at risk of consistently failing to provide an adequate supply of safe drinking water, as determined by the state board pursuant to the methodology established in the 2021 Drinking Water Needs Assessment referenced in subdivision (b) of Section 116769, or a substantially similar methodology adopted

by the state board in an update to the Drinking Water Needs Assessment.

(e)Consistently fails" means a failure to provide an adequate supply of safe drinking water.

(f)Consolidated water system" means the public water system resulting from the consolidation of a public water system with another public water system, state small water system, or affected residences.

(g)Consolidation" means joining two or more public water systems, state small water systems, or affected residences into a single public water system.

(h)Disadvantaged community" means a disadvantaged community, as defined in Section 79505.5 of the Water Code.

(i)Domestic well" means a groundwater well used to supply water for the domestic needs of an individual residence or a water system that is not a public water system and that has no more than four service connections.

(j)Extension of service" means the provision of service through any physical or operational infrastructure arrangement other than consolidation.

(k)Groundwater sustainability agency" has the same meaning as provided in Section 10721 of the Water Code.

(l)Infill site" means a site within the area served by a subsumed water system that, as of the date of consolidation, is adjacent to a parcel that is developed for a qualified urban use.

(m)Operation period" means the period during which an administrator provides services to a designated water system, as provided in paragraph (2) of subdivision (r) of Section 116686.

(n)Qualified urban use" means any residential, commercial, public institutional, industrial, transit or transportation facility, or retail use, or any combination of those uses.

(o)Receiving water system" means the public water system that provides service to a subsumed water system through consolidation or extension of service.

(p)Safe drinking water" means water that meets all primary and secondary drinking water standards.

(q)State small water system" has the same meaning as provided in Section 116275.

(r)Subsumed water system" means a public water system, state small water system, or affected residences served by domestic wells consolidated into or receiving service from the receiving water system.

(Amended by Stats. 2022, Ch. 681, Sec. 1. (SB 1254) Effective January 1, 2023.)

116682.

(a)(1)The state board, in circumstances described in subparagraph (A) or (B), may order consolidation with a receiving water system as provided in this section and Section 116684. The consolidation may be physical or operational. The state board may also order the extension of service to an area within a disadvantaged

community that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. The consolidation shall occur within six months of the initiation of the extension of service. The state board may set timelines and performance measures to facilitate completion of consolidation.

(A)A public water system or a state small water system, serving a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water, or is an at-risk water system.

(B)A disadvantaged community, in whole or in part, is substantially reliant on domestic wells that consistently fail to provide an adequate supply of safe drinking water, or are at-risk domestic wells.

(2)No later than July 1, 2020, the state board shall develop and adopt a policy that provides a process by which members of a disadvantaged community may petition the state board to consider ordering consolidation. The state board shall adopt the policy in a policy handbook consistent with the process provided for in subdivision (a) of Section 116760.43.

(b)Before ordering consolidation or extension of service as provided in this section, the state board shall do all of the following:

(1)Encourage voluntary consolidation or extension of service.

(2)Consider other enforcement remedies specified in this article.

(3)Consult with, and fully consider input from, the relevant local agency formation commission regarding the provision of water service in the affected area, the recommendations for improving service in a municipal service review, whether the consolidation or extension of service is cost effective, and any other relevant information.

(4)Consult with, and fully consider input from, the Public Utilities Commission when the consolidation would involve a water corporation subject to the commissionsjurisdiction. If a receiving water system is regulated by the Public Utilities Commission, the state board shall inform the commission at least 60 days before the consolidation order, and upon issuance of the order the commission shall open a proceeding to determine cost allocation, ratemaking, and commission public participation requirements for the consolidation process.

(5)Consult with, and fully consider input from, the local government with land use planning authority over the affected area, particularly regarding any information in the general plan required by Section 65302.10 of the Government Code.

(6)Consult with, and fully consider input from, the potentially receiving water system and all public water systems in the chain of distribution of the potentially receiving water system. The input from the potentially receiving water system may include, but is not limited to, information related to the classification of the potentially subsumed water system as an at-risk water system or a state small water system or of at-risk domestic wells.

(7)Consult with, and fully consider input from, any groundwater sustainability agency in a basin that provides groundwater supply, in whole or in part, to the affected area.

(8)(A)Notify the potentially receiving water system and the potentially subsumed water system, if any, and establish a reasonable deadline of no less than six months, unless a shorter period is justified, for the potentially receiving water system and the potentially subsumed water system, if any, to negotiate consolidation or another means of providing an adequate supply of safe drinking water.

(B)During this period, the state board shall provide technical assistance and work with the potentially receiving water system and the potentially subsumed water system to develop a financing package that benefits both the receiving water system and the subsumed water system.

(C)Upon a showing of good cause, the deadline may be extended by the state board at the request of the potentially receiving water system, potentially subsumed water system, the local agency formation commission with jurisdiction over the potentially subsumed water system, or the Public Utilities Commission.

(9)Consider the affordability of the anticipated monthly rates for drinking water service to residential customers of the potentially subsumed water system.

(10)(A)Hold at least one public meeting at the initiation of this process in a place as close as feasible to the affected areas. The state board shall make reasonable efforts to provide a 30-day notice of the meeting to the ratepayers, renters, and property owners to receive water service through service extension or in the area of the subsumed water system and all affected local government agencies and drinking water service providers. The 30-day notice shall include information about water quality concerns in the area, relevant information about health effects of water contaminants, and information about opportunities for consolidation or extension of service to address water quality issues. The meeting shall provide representatives of the potentially subsumed water system, affected ratepayers, renters, property owners, the potentially receiving water system, and the public an opportunity to present oral and written comments.

(B)The state board shall provide an opportunity to submit comments by mail or electronically during the notice period and for at least one week after the meeting.

(C)The state board shall review comments received during the meeting and received by mail and electronically during the notice period and for one week after the public meeting.

(11)If the potentially subsumed water system to be consolidated into the receiving water system is an at-risk water system, the state board shall do all of the following:

(A)Conduct outreach to ratepayers and residents served by the at-risk water system, including identifiable local community groups. These outreach efforts shall gauge community support for consolidation of the at-risk water system. The state board shall consider the results of this outreach when deciding whether to order consolidation of the at-risk water system.

(B)Consider any petition submitted pursuant to paragraph (2) of subdivision (a) by members of a disadvantaged community served by the at-risk water system.

(C)(i)If the potentially subsumed water system contends during the initial written comment period set forth in subparagraph (B) of paragraph (10) that it is not an at-risk water system, the state board shall consider during a public meeting any information provided by the potentially subsumed water system in support of its contention that it is not an at-risk water system.

(ii)The state board shall make reasonable efforts to provide a 30-day notice of the public meeting described in clause (i) to the ratepayers, renters, and property owners to receive water service through service extension or in the area of the subsumed water system and all affected local government agencies and drinking water service providers.

(c)If a consolidation or other means of providing an adequate supply of safe drinking water has not been negotiated by the potentially receiving water system and the potentially subsumed water system before the

expiration of the deadline set by the state board pursuant to paragraph (8) of subdivision (b), the state board shall do the following:

(1)Consult with the potentially receiving water system and the potentially subsumed water system, if any.

(2)(A)If the consolidation has not concluded within six months following the first public meeting held pursuant to paragraph (10) of subdivision (b), conduct a public meeting in a location as close as feasible to the affected communities. The meeting shall be held after the state board has made the findings described in subdivision (d).

(B)The state board shall make reasonable efforts to provide a 30-day notice of the meeting to the ratepayers, renters, property owners to receive water service through service extension or in the area of the subsumed water system, and the public, and to all affected local government agencies and drinking water service providers.

(C)The meeting shall provide representatives of the potentially subsumed water system, affected ratepayers, renters, property owners, and the potentially receiving water system an opportunity to present oral and written comments.

(D)The meeting shall provide an opportunity for public comment.

(3)The state board shall make reasonable efforts to ensure that a receiving water system and a subsumed water system are informed on a regular basis of progress regarding actions taken pursuant to this section.

(d)Before ordering consolidation or extension of service, the state board shall find all of the following:

(1)The potentially subsumed water system has consistently failed to provide an adequate supply of safe drinking water or it is at risk of doing so, as determined by the state board.

(2)Reasonable efforts to negotiate consolidation or extension of service were made.

(3)Consolidation of the receiving water system and subsumed water system or extension of service is appropriate and technically and economically feasible. In making this finding, the state board shall consider how many owners of dwelling units served by domestic wells in the service area have provided, or are likely to provide, written consent to extension of service. The state board need not find that any specific percentage of the owners of dwelling units served by domestic wells in the service area are likely to consent to the consolidation or extension of service to serve their dwelling unit.

(4)There is no pending local agency formation commission process that is likely to resolve the problem in a reasonable amount of time.

(5)Concerns regarding water rights and water contracts of the subsumed and receiving water systems have been adequately addressed.

(6)Consolidation or extension of service is an effective and cost-effective means to provide an adequate supply of safe drinking water.

(7)The capacity of the proposed interconnection needed to accomplish the consolidation is limited to serving the current customers of the subsumed water system, infill sites within the community served by the subsumed water system, residents of disadvantaged communities in existence as of the date of consolidation and that are located along the service line connecting the subsumed water system and the receiving water

system, and vacant lots within the community served by the subsumed water system that are zoned to allow residential use and have no more than one other vacant lot between that parcel and an infill parcel, including capacity needed for services such as firefighting.

(e)Upon ordering consolidation or extension of service, the state board shall do all of the following:

(1)As necessary and appropriate, as determined by the state board, compensate the receiving water system for any capacity lost as a result of the consolidation or extension of service either by paying the water systemscapacity charge set out in the water systemsadopted rate structure or by providing additional capacity needed as a result of the consolidation or extension of service, and by paying legal fees. When the receiving water system is compensated for capacity lost by payment of a capacity charge, the capacity charge shall be paid only to the extent that it does not exceed the reasonable cost of providing the service in accordance with Section 66013 of the Government Code. If capacity beyond what is needed for consolidation is provided by a project funded through the state board, the state board shall retain an option to use that capacity for future consolidations, without paying additional capacity charges, for five years, unless it releases that option in writing. Funding pursuant to this paragraph is available for the general purpose of providing financial assistance for the infrastructure needed for the consolidation or extension of service and does not need to be specific to each individual consolidation project. The state board shall provide appropriate financial assistance for the water infrastructure needed for the consolidation or extension of service. The state boardsexisting financial assistance guidelines and policies shall be the basis for the financial assistance.

(2)Ensure payment of standard local agency formation commission fees caused by state board-ordered consolidation or extension of service.

(3)Adequately compensate the owners of a privately owned subsumed water system for the fair market value of the system, as determined by the Public Utilities Commission or the state board.

(4)Coordinate with the appropriate local agency formation commission and other relevant local agencies to facilitate the change of organization or reorganization.

(5)If ordering consolidation or extension of service between two water systems, consider any existing domestic wells within the service area that could also be subject to consolidation or extension of service pursuant to this section.

(6)If ordering consolidation or extension of service to a community containing residences served by domestic wells, promptly take all reasonable steps to obtain written consent to the consolidation or extension of service from an owner of each residence served by a domestic well.

(f)If funds are appropriated for this purpose, the state board may make funds available for the purposes of subdivision (e), as necessary and appropriate, to the receiving water system, the subsumed water system, or an administrator providing full oversight of construction or development projects related to a consolidation or extension of service.

(g)(1)For purposes of this section, fees, charges, and terms and conditions that may be imposed on new and existing customers of a receiving water system shall be subject to the following limitations:

(A)The consolidated water system shall not increase charges on existing customers of the receiving water system solely as a consequence of the consolidation or extension of service unless the customers receive a corresponding benefit.

(B)Except as provided in paragraph (2), fees or charges imposed on a customer of a subsumed water system shall not exceed the costs of the service.

(C)Except as provided in paragraph (2), the receiving water system shall not charge any fees to, or place conditions on, customers of the subsumed water system that it does not charge to, or impose on, new customers that are not subject to the consolidation with the receiving water system.

(2)(A)Notwithstanding subparagraph (B) or (C) of paragraph (1), if costs incurred by the receiving water system in completing the consolidation or extension of service are not otherwise recoverable as provided in subparagraph (B) of this paragraph, the receiving water system may charge fees to customers of the subsumed water system to recover those costs.

(B)A receiving water system shall not charge a fee pursuant to subparagraph (A) for costs that are otherwise recoverable from the state, the federal government, programs administered by local agencies, parties responsible for causing contamination that the consolidation or extension of service is designed to address, or other sources, as determined by the state board.

(h)The state board shall not, pursuant to this section, fund public works or upgrades unrelated to the delivery of an adequate supply of affordable, safe drinking water, including, but not limited to, the installation of streetlights, sidewalks, curbs, and gutters. A local agencysdecision whether to provide these public works or upgrades shall not delay the consolidation or extension of service.

(i)When a public water system is operated by a local educational agency, the state board may order a receiving water system to consolidate or extend service to a public water system operated by a local educational agency pursuant to this section if both the following additional conditions are met:

(1)The local educational agency serves students from one or more census blocks that are disadvantaged communities.

(2)The state board obtains a written determination from the local educational agency that the state boardsanalysis in the financing package, developed pursuant to subparagraph (B) of paragraph (8) of subdivision (b), indicates that consolidating or extending service would not result in additional unacceptable costs to the local educational agency and would result in safe drinking water being available to the local educational agency.

(j)(1)An order pursuant to this section shall not require consolidation or extension of service to a residence served solely by a domestic well until an owner of the affected residence provides written consent to the consolidation or extension of service.

(2)Any owner of a domestic well that is located within the consolidation or extended service area who does not provide written consent shall be ineligible, until the consent is provided, for any future water-related grant funding from the state other than funding to mitigate a well failure, disaster, or other emergency.

(3)(A)Notwithstanding any other law, any owner of a domestic well that serves a rental property and is located within the consolidation or extended service area who does not provide written consent shall ensure that tenants of rental properties served solely by that domestic well have access to an adequate supply of safe drinking water and, until consent is provided, shall do all of the following:

(i)Once per year, test the drinking water from domestic wells subject to subparagraph (A). Testing shall be conducted for all contaminants for which the state board has adopted primary and secondary drinking water standards and conducted pursuant to Section 64534 of Title 22 of the California Code of Regulations, and

any revisions to those regulations.

(ii)Provide the results from the testing to all tenants within 10 days of receiving those results. The notice shall comply with subdivisions (a) and (d) of Section 64465 of Title 22 of the California Code of Regulations, and any revisions to those regulations, and shall be provided in English and the primary language spoken by the tenant recipient.

(iii)Provide the test results to the local health officer or other relevant health agency.

(B)If the testing results collected pursuant to subparagraph (A) demonstrate a violation of any primary or secondary drinking water standards adopted by the state board, the domestic well owner shall provide or pay for uninterrupted replacement water service, which may include wellhead treatment.

(C)If wellhead treatment is used to meet the requirement of subparagraph (B), the domestic well owner shall do both of the following:

(i)Conduct testing pursuant to Section 64534 of Title 22 of the California Code of Regulations, and any revisions to those regulations, to determine if, subsequent to wellhead treatment, water from the domestic well meets primary and secondary drinking water standards adopted by the state board.

(ii)Provide the test results to tenants pursuant to clause (ii) of subparagraph (A) and to the local health officer or other relevant health agency.

(D)An owner of a domestic well shall not impose any charge, or increase any fee, rent, or other charge imposed, on any tenant solely as a result of the requirements of subparagraphs (A), (B), and (C).

(E)The requirements of this paragraph shall apply to consolidations ordered by the state board pursuant to this section, and to voluntary consolidations negotiated between a receiving water system and a subsumed water system, subsequent to encouragement to consolidate by the state board pursuant to paragraph (1) of subdivision (b).

(F)The state board shall enforce this paragraph if the Legislature has appropriated sufficient funds in the annual Budget Act or otherwise for that purpose.

(k)A finding that a disadvantaged community, in whole or in part, is substantially reliant on at-risk domestic wells shall be based on the maps created pursuant to paragraph (1) of subdivision (a) of Section 116772 and inspection or testing of the domestic wells showing an imminent risk of failing to provide an adequate supply of safe drinking water.

(l)The state board may prioritize consolidation of an at-risk water system that has historically been overburdened by pollution and industrial development or faced other environmental justice hurdles.

(m)Division 3 (commencing with Section 56000) of Title 5 of the Government Code does not apply to an action taken by the state board pursuant to this section.

(Amended by Stats. 2023, Ch. 810, Sec. 4. (AB 664) Effective January 1, 2024.)

116684.

(a)Liability of a consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system shall be limited as described in this section.

(b)(1)The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or those who consumed water provided through the subsumed water system concerning the operation and supply of water from the subsumed water system during the interim operation period specified in subdivision (d) for any good faith, reasonable effort using ordinary care to assume possession of, to operate, or to supply water to the subsumed water system.

(2)The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or by those who consumed water provided through the subsumed water system for any injury that occurred prior to the commencement of the interim operation period specified in subdivision (d).

(c)(1)The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or by those who consumed water provided through the subsumed water system concerning the provision of supplemental imported water supplies to the subsumed water system during the interim operation period specified in subdivision (d) for any good faith, reasonable effort using ordinary care to supply water to the subsumed water system.

(2)The consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system, shall not be held liable for claims by past or existing customers or by those who consumed water provided through the subsumed water system concerning the operation and supply of water from the subsumed water system for any injury that occurred prior to the commencement of the interim operation period specified in subdivision (d).

(3)This subdivision shall only apply if the water supplied by the consolidated water system through a temporary potable service pipeline to the subsumed water system meets or exceeds federal and state drinking water quality standards.

(d)(1)The interim operation period shall commence upon the connection of a temporary potable service pipeline by the consolidated water system to the subsumed water system, or upon the execution of an agreement between the consolidated water system, subsumed water system, and any other signatories to provide service to the customers of the subsumed water system, whichever occurs first.

(2)(A)Except as provided in subparagraph (B), the interim operation period shall last until permanent replacement facilities are accepted by the consolidated water system with the concurrence of the State Water Resources Control Board and the facilities and water supply meet drinking water and water quality standards.

(B)Upon the showing of good cause, the interim operation period shall be extended by the State Water Resources Control Board for up to three successive one-year periods at the request of the consolidated water system.

(3)The acceptance date of permanent replacement facilities shall be publicly noticed by the consolidated water system.

(e)Subdivision (b) shall only apply if the consolidated water system provides water to the subsumed water system in accordance with all of the following conditions:

(1)Water provided by the consolidated water system through a temporary potable service pipeline to the subsumed water system shall meet or exceed federal and state drinking water quality standards.

(2)Reasonable water system flow and pressure through a temporary potable service pipeline shall be maintained during the interim operation period based upon the condition and integrity of the existing subsumed water system, and any disruptions to water delivery resulting from construction-related activities associated with the installation of permanent replacement facilities shall be minimal.

(3)The consolidated water system shall notify fire officials serving the subsumed water system service area of the condition and firefighting support capabilities of the subsumed water system and planned improvements with the installation of permanent replacement facilities thereto. The consolidated water system shall maintain or improve the condition and firefighting support capabilities of the subsumed water system during the interim operation period.

(4)Customers of the subsumed water system shall receive written notice upon any change in possession, control, or operation of the water system.

(f)Nothing in this section shall be construed to do any of the following:

(1)Relieve any water district, water wholesaler, or any other entity from complying with any provision of federal or state law pertaining to drinking water quality.

(2)Impair any cause of action by the Attorney General, a district attorney, a city attorney, or any other public prosecutor, or impair any other action or proceeding brought by or on behalf of a regulatory agency.

(3)Impair any claim alleging the taking of property without compensation within the meaning of either the Fifth Amendment to the United States Constitution or Section 19 of Article I of the California Constitution.

(Added by Stats. 2015, Ch. 27, Sec. 4. (SB 88) Effective June 24, 2015.)

116686.

(a)(1)To provide an adequate supply of affordable, safe drinking water to disadvantaged communities, voluntary participants, and public water systems that have demonstrated difficulty in maintaining technical, managerial, and financial capacity and to prevent fraud, waste, and abuse, the state board may do any of the following, if sufficient funding is available:

(A)(i)Contract with, or provide a grant to, an administrator to provide administrative, technical, operational, legal, or managerial services, or any combination of those services, to a designated water system to assist the designated water system with the provision of an adequate supply of affordable, safe drinking water, which services may include steps necessary to enable consolidation.

(ii)To fulfill the requirements of this section, the state board may contract with more than one administrator, but only one administrator may be assigned to provide services to a given designated water system.

(iii)An administrator may provide services to more than one designated water system.

(B)Order a designated water system to accept administrative, technical, operational, legal, or managerial services, including full management and control of all aspects of the designated water system, from an

administrator selected by the state board.

(C)Order a designated water system to accept administrative, technical, operational, legal, or managerial services from an administrator appointed by the state board for full oversight of construction or development projects related to a consolidation or extension of service, including, but not limited to, accepting loans and grants issued by the state board and entering into contracts on behalf of the designated water system.

(2)In performing its duties pursuant to paragraph (1), the state board may use criteria from the handbook adopted pursuant to subdivision (g).

(b)Unless the state board has already held a public meeting pursuant to subdivision (b) of Section 116682, the state board shall do all of the following to determine that a public water system or state small water system is a designated water system:

(1)Provide the public water system or state small water system with notice and an opportunity to show either of the following:

(A)That the public water system or state small water system has neither consistently failed to provide an adequate supply of affordable, safe drinking water nor is it an at-risk water system.

(B)That the public water system or state small water system has taken steps to timely address its failure to provide an adequate supply of affordable, safe drinking water and that it is not an at-risk water system.

(2)(A)Conduct a public meeting in a location as close as feasible to the affected community.

(B)The state board shall make reasonable efforts to provide a 30-day notice of the public meeting to affected ratepayers, renters, and property owners.

(C)The state board shall provide representatives of the public water system or state small water system, affected ratepayers, renters, and property owners with an opportunity to present oral and written comments at the public meeting.

(D)The state board shall provide at the meeting an opportunity for public comment.

(3)Provide the public with an opportunity to submit comments by mail or electronically during the 30-day notice period and for at least one week after the public meeting described in paragraph (2).

(4)If the public water system is operated by a local educational agency, obtain the local educational agencysagreement, in writing, to the appointment of an administrator.

(c)The state board shall make financial assistance available to an administrator of a designated water system, as appropriate and to the extent that funding is available.

(d)The authority granted to an administrator by the state board pursuant to subdivision (a) may include, but shall not be limited to, the authority to do all of the following:

(1)Expend available moneys for capital infrastructure improvements that the designated water system needs to provide an adequate supply of affordable, safe drinking water or to execute a consolidation ordered pursuant to Section 116682.

(2)Set and collect user water rates and fees, subject to approval by the state board. The state board shall consider affordability when approving water rates and fees. The provisions of this section are subject to all applicable constitutional requirements, including Article XIII‰D of the California Constitution.

(3)Expend available moneys for operation and maintenance costs of the designated water system.

(4)Expend available moneys necessary to achieve consolidation, including conducting feasibility or planning studies, or addressing outstanding technical or legal issues.

(e)The state board shall work with the administrator of a designated water system and the communities served by that designated water system to develop, within the shortest practicable time, adequate technical, managerial, and financial capacity to deliver an adequate supply of affordable, safe drinking water so that the services of the administrator are no longer necessary.

(f)A designated water system shall not be responsible for any costs associated with an administrator that are higher than the costs necessary to maintain the designated water system and provide an adequate supply of affordable, safe drinking water.

(g)Before ordering a designated water system to accept administrative, technical, operational, legal, or managerial services from an administrator pursuant to subdivision (a), the state board shall develop standards, terms, and procedures in a handbook adopted consistent with the process provided for in subdivision (a) of Section 116760.43 for all of the following:

(1)Ensuring compliance with subdivision (f).

(2)Providing opportunity for public comment on the selection of an administrator and the services to be provided.

(3)Providing public access to budgets, ownership and financial information, and other documents and records related to the provision of water service to the designated water system or affected residences and to the management of the designated water system by the administrator.

(4)Providing regular public meetings, notifications, opportunities for public comment, and other forms of engagement with customers of the designated water system for significant decisions or actions made on behalf of the designated water system, including, but not limited to, establishing operating budgets, altering water rates, adopting system policies, entering into long-term contracts or financing commitments, and developing system projects or plans.

(5)Formal requests to the state board to reverse or modify a decision of an administrator or to request substitution of an administrator.

(6)Ensuring an administrator acts in the best interests of the community served.

(7)Development and approval of a post-administrator drinking water service plan to ensure compliance with subdivision (e). Development of the plan shall include, but is not limited to, an evaluation of long-term public governance or community ownership options.

(h)An administrator appointed pursuant to this section for a designated water system shall not be liable for claims by past or existing ratepayers, or those who consumed water provided through the designated water system, if good faith, reasonable effort, and ordinary care were used by the administrator to assume possession of, or to operate, the designated water system.

(i)An administrator appointed pursuant to this section for a designated water system shall not be liable for claims by past or existing ratepayers, or those who consumed water provided through the designated water system, for any injury or damages that occurred before the commencement of the operation period.

(j)This section does not limit or supersede any other law authorizing claims against the state board or providing a defense to liability, and shall not be construed to create any new or expanded basis for liability.

(k)Nothing in this section shall be construed to do any of the following:

(1)Relieve a water district, water wholesaler, or any other entity from complying with any provision of federal or state law, including those pertaining to drinking water quality.

(2)Impair any cause of action by the Attorney General, a district attorney, a city attorney, or other public prosecutor, or impair any other action or proceeding brought by, or on behalf of, a regulatory agency.

(3)Impair any claim alleging the taking of property without compensation within the meaning of either the Fifth Amendment to the United States Constitution or Section 19 of Article I of the California Constitution.

(4)Relieve any person or entity from liability for action or inaction in bad faith, or without reasonable effort or ordinary care.

(l)Nothing in this section shall absolve, indemnify, or protect a prior operator, designated water system, or individual from liability based on an act or failure to act prior to the operation period.

(m)Administrative and managerial contracts pursuant to this section shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and may be awarded on a noncompetitive bid basis as necessary to implement the purposes of this section.

(n)For purposes of this section, a local government, as defined in Article XIII‰C of the California Constitution, that sets water rates in accordance with Article XIII‰D of the California Constitution shall be deemed to be providing affordable water.

(o)This section does not apply to a charter city, charter county, or charter city and county.

(p)(1)For purposes of this section, an administrator is authorized to act on behalf of an affected residence to the same extent, and in the same manner, as a designated water system with the consent of the affected residence.

(2)For purposes of this section, where an administrator is authorized to act on behalf of a designated public water system, it may also act on behalf of a voluntary participant.

(q)The Legislature finds and declares that the funding provided to a state small water system, affected residence, public water system, voluntary participant, or administrator for purposes of this section serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

(r)For purposes of this section, the following terms have the following meanings:

(1)Administrator means a person whom the state board has determined is competent to perform the administrative, technical, operational, legal, or managerial services required for purposes of this section,

pursuant to criteria set forth in the handbook adopted pursuant to subdivision (g). Notwithstanding any other law, a privately owned public utility may serve as an administrator for purposes of this section.

(2)Designated water system means any of the following:

(A)A public water system or state small water system that has been ordered to consolidate pursuant to Section 116682.

(B)A public water system or state small water system that serves a disadvantaged community and that the state board finds consistently fails to provide an adequate supply of affordable, safe drinking water.

(C)An at-risk water system.

(3)Voluntary participant means the owner of a domestic well or state small water system who has agreed to accept financial assistance pursuant to Chapter 4.6 (commencing with Section 116765) for the provision of an adequate and affordable supply of safe drinking water.

(Amended by Stats. 2022, Ch. 681, Sec. 2. (SB 1254) Effective January 1, 2023.)

116687.

(a)For purposes of this section, the following terms have the following meanings:

(1)District means the Sativa-Los Angeles County Water District.

(2)Commission means the Local Agency Formation Commission for the County of Los Angeles.

(b)To provide affordable, safe drinking water to disadvantaged communities, the state board shall order the district to accept administrative and managerial services, including full management and control, from an administrator selected by the state board, as prescribed in Section 116686, except that the state board is not required to conduct a public meeting as described in paragraph (2) of subdivision (b) of Section 116686.

(c)(1)Upon the appointment of an administrator, all of the following apply:

(A)Notwithstanding Article 1 (commencing with Section 30500) of Chapter 1 of Part 3 of Division 12 of the Water Code, the districtsboard of directors shall surrender all control to the appointed administrator and shall thereafter cease to exist.

(B)The members of the board of directors of the district shall have no standing to represent the districtsratepayers, and a member of the board of directors shall have no claim for benefits other than those the member actually received while a member of the board of directors.

(C)Any action by the board of directors to divest the district of its assets shall be deemed tampering with a public water system pursuant to Section 116750 and is subject to the criminal penalties provided for in that section.

(2)Within 90 days of the appointment of an administrator, the Controller shall perform a desk audit or financial review of the district. The state board shall exercise its legal authority to facilitate the desk audit or financial review, including, but not limited to, its authority to take possession of the districtsfinancial records.

(3)Any decision by the commission about the dissolution or consolidation of the district is not subject to the provisions of Section 57077.6 of the Government Code, nor to any other requirement for a protest proceeding or election. The commission shall not impose any condition on the successor agency that requires a protest proceeding or an election, as described in Part 4 (commencing with Section 57000) and Part 5 (commencing with Section 57300) of Division 3 of Title 5 of the Government Code, respectively.

(4)If the commission approves a dissolution of the district initiated by the commission, a successor agency designated in the dissolution by the commission, in consultation with the commission, may solicit proposals, evaluate submittals, and select any public water system to be the receiving water system and subsume all assets, liabilities, adjudicated water rights, responsibilities, and service obligations to provide retail water service to existing and future ratepayers within the former territory of the district. The successor agency shall represent the interests of the public and the ratepayers in the former territory of the district.

(d)The state board may provide additional funding to the administrator or the Water Replenishment District of Southern California or the successor agency designated by the commission for urgent infrastructure repairs to the public water system of the district without regard to the future ownership of any facilities affected by this funding. For purposes of this section, urgent infrastructure repairs are those that are immediately necessary to protect the public health, safety, and welfare of those served by the district.

(e)If the district is consolidated with a receiving water system as prescribed in Sections 116682 and 116684, the subsumed territory of the district may include both unincorporated territory of the County of Los Angeles and incorporated territory of the City of Compton.

(f)(1)Any administrator appointed pursuant to subdivision (b), any successor agency to the district designated by the commission to take over the district, any receiving operator of a public water system that provides service to the territory of the district, any water corporation that acquires the district, and the commission shall not be held liable for claims by past or existing district ratepayers or those who consumed water provided through the district concerning the operation and supply of water from the district during the interim operation period specified in subdivision (g) for any good faith, reasonable effort using ordinary care to assume possession of the territory of, to operate, or to supply water to the ratepayers within the territory of, the district.

(2)Any administrator appointed pursuant to subdivision (b), any successor agency to the district designated by the commission to take over the district, any receiving operator of a public water system that provides service to the territory of the district, any water corporation that acquires the district, and the commission shall not be held liable for claims by past or existing district ratepayers or those who consumed water provided through the district for any injury that occurred prior to the commencement of the interim operation period specified in subdivision (g).

(g)(1)Notwithstanding subdivision (d) of Section 116684, for any successor agency to the district designated by the commission to take over the district, any receiving operator of a public water system that provides service to the territory of the district, or any water corporation that acquires the district, the interim operation period shall commence upon the execution of an agreement or designation by the commission to provide water services to the district and shall end one year later. Upon the showing of good cause, the interim operation period shall be extended by the commission for up to three successive one-year periods at the request of an entity described in this paragraph.

(2)For the administrator appointed pursuant to subdivision (b), the interim operation period commences upon being appointed by the state board and ends when a successor agency has been designated by the commission to provide water service to ratepayers of the district, when a receiving water agency is

consolidated with or extends service to ratepayers of the district, when a water corporation acquires the district with the approval of the Public Utilities Commission, or when the administratorsobligation to provide interim administrative and managerial services has otherwise ended.

(Amended by Stats. 2022, Ch. 89, Sec. 17. (SB 938) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=10.

116700.

(a)Within 30 days after service of a copy of a decision or order issued by the state board, an aggrieved party may file with the superior court a petition for a writ of mandate for review of the decision or order.

(b)In every case, the court shall exercise its independent judgment on the evidence.

(c)Except as otherwise provided in this section, subdivisions (e) and (f) of Section 1094.5 of the Code of Civil Procedure shall govern proceedings pursuant to this section.

(d)If no aggrieved party petitions for a writ of mandate within the time provided by this section, the decision or order of the state board is not subject to review by any court.

(Amended by Stats. 2017, Ch. 327, Sec. 30. (AB 1438) Effective January 1, 2018.)

116701.

(a)(1)Within 30 days of issuance of an order or decision under authority delegated to an officer or employee of the state board under Article 8 (commencing with Section 116625) or Article 9 (commencing with Section 116650), an aggrieved person may petition the state board for reconsideration.

(2)Within 30 days of issuance of an order or decision under authority delegated to an officer or employee of the state board under Section 116540, the applicant may petition the state board for reconsideration.

(3)Within 30 days of final action by an officer or employee of the state board acting under delegated authority, the owner of a laboratory that was the subject of the final action may petition the state board for reconsideration of any of the following actions:

(A)Denial of an application for certification or accreditation under Section 100855.

(B)Issuance of an order directing compliance under Section 100875.

(C)Issuance of a citation under Section 100880.

(D)Assessment of a penalty under subdivision (e) of Section 100880.

(b)The petition shall include the name and address of the petitioner, a copy of the order or decision for which the petitioner seeks reconsideration, identification of the reason the petitioner alleges the issuance of the order or decision was inappropriate or improper, the specific action the petitioner requests, and other information as the state board may prescribe. The petition shall be accompanied by a statement of points and authorities of the legal issues raised by the petition.

(c)The evidence before the state board shall consist of the record before the officer or employee who issued the order or decision and any other relevant evidence that, in the judgment of the state board, should be considered to implement the policies of this chapter. The state board may, in its discretion, hold a hearing for receipt of additional evidence.

(d)The state board may refuse to reconsider the order or decision if the petition fails to raise substantial issues that are appropriate for review, may deny the petition upon a determination that the issuance of the order or decision was appropriate and proper, may set aside or modify the order or decision, or take other appropriate action. The state boardsaction pursuant to this subdivision shall constitute the state boardscompletion of its reconsideration.

(e)The state board, upon notice and hearing, if a hearing is held, may stay in whole or in part the effect of the order or decision subject to the petition for reconsideration.

(f)If an order or decision is subject to reconsideration under this section, the filing of a petition for reconsideration is an administrative remedy that must be exhausted before filing a petition for writ of mandate under Section 100920.5 or 116700.

(Amended by Stats. 2017, Ch. 327, Sec. 31. (AB 1438) Effective January 1, 2018.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=11.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 11. Crimes and Penalties [116725 - 116751]__

(Article 11 added by Stats. 1995, Ch. 415, Sec. 6.)

116725.

(a)Any person who knowingly makes any false statement or representation in any application, record, report, or other document submitted, maintained, or used for purposes of compliance with this chapter, may be liable, as determined by the court, for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation or, for continuing violations, for each day that violation continues.

(b)Any person who violates a citation schedule of compliance for a primary drinking water standard or any order regarding a primary drinking water standard or the requirement that a reliable and adequate supply of pure, wholesome, healthful, and potable water be provided may be liable, as determined by the court, for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each separate violation or, for continuing violations, for each day that violation continues.

(c)Any person who violates any order, other than one specified in subdivision (b), issued pursuant to this chapter may be liable, as determined by the court, for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation or, for continuing violations, for each day that violation continues.

(d)Any person who operates a public water system without a permit issued by the department pursuant to this chapter may be liable, as determined by the court, for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each separate violation or, for continuing violations, for each day that violation continues.

(e)Each civil penalty imposed for any separate violation pursuant to this section shall be separate and in addition to any other civil penalty imposed pursuant to this section or any other provision of law.

(Amended by Stats. 2009, Ch. 298, Sec. 18. (AB 1540) Effective January 1, 2010.)

116730.

(a)Any person who knowingly does any of the following acts may, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment:

(1)Makes any false statement or representation in any application, record, report, or other document submitted, maintained, or used for the purposes of compliance with this chapter.

(2)Has in his or her possession any record required to be maintained pursuant to this chapter that has been altered or concealed.

(3)Destroys, alters, or conceals any record required to be maintained pursuant to this chapter.

(4)Withholds information regarding an imminent and substantial danger to the public health or safety when the information has been requested by the department in writing and is required to carry out the departmentsresponsibilities pursuant to this chapter in response to an imminent and substantial danger.

(5)Violates an order issued by the department pursuant to this chapter that has a substantial probability of presenting an imminent danger to the health of persons.

(6)Operates a public water system without a permit issued by the department pursuant to this chapter.

(b)A second or subsequent violation of subdivision (a) is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 20, or 24 months or imprisonment in a county jail for not more than one year, by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both that imprisonment and fine.

(Amended by Stats. 2011, Ch. 15, Sec. 201. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

116735.

(a) (1)In order to carry out the purposes of this chapter, a duly authorized representative of the state board may, at a reasonable hour of the day, do any of the following:

(A)Enter and inspect a public water system or a place where the public water system records are stored, kept, or maintained.

(B)Inspect and copy records, reports, test results, or other information required to carry out this chapter.

(C)Set up and maintain monitoring equipment for purposes of assessing compliance with this chapter.

(D)Obtain samples of the water supply.

(E)Photograph a portion of the system, activity, or a sample taken.

(2)An owner of a public water system shall provide to the state board reports, test results, and other information required to carry out this chapter within 15 business days of receiving a request for those records from a duly authorized representative of the state board.

(b)The state board shall inspect each public water system as follows:

(1)A system with any surface water source with treatment shall be inspected annually.

(2)A system with any groundwater source subject to treatment with only groundwater sources shall be inspected biennially.

(3)A system with only groundwater sources not subject to treatment shall be inspected every three years.

(c)Nothing in this section shall prohibit the state board from inspecting public water systems on a more frequent basis. An opportunity shall be provided for a representative of the public water system to accompany the representative of the state board during the inspection of the water system.

(d) It shall be a misdemeanor for a person to prevent, interfere with, or attempt to impede in any way a duly authorized representative of the state board from undertaking the activities authorized by paragraph (1) of subdivision (a). A person who violates paragraph (2) of subdivision (a) shall be subject to the provisions of Section 116730, as applicable.

(Amended by Stats. 2015, Ch. 673, Sec. 11. (AB 1531) Effective January 1, 2016.)

116740.

If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, the Attorney General or the district attorney shall recover the amount for which the person is liable in the superior court. In this action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116745.

The remedies provided by this chapter are cumulative and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party, and no judgment under this chapter shall preclude any party from obtaining additional relief based upon the same facts.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116750.

(a) Any person who tampers with a public water system is guilty of a felony and shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, four, or five years, subject to a fine not to exceed thirty thousand dollars ($30,000), or both.

(b) Any person who tampers with or makes a threat to tamper with a public water system is guilty of a felony and shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months, two, or three years, subject to a fine not to exceed twenty thousand dollars ($20,000), or both.

(c) For purposes of this section, the term tamper means either of the following:

(1) To introduce a contaminant into a public water system with the intention of harming persons.

(2) To otherwise interfere with the operation of a public water system with the intention of harming persons.

(Amended by Stats. 2011, Ch. 15, Sec. 202. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

116751.

The Department of Fish and Wildlife shall not introduce a poison to a drinking water supply for purposes of fisheries management unless the state board determines that the activity will not have a permanent adverse impact on the quality of the drinking water supply or wells connected to the drinking water supply. In making this determination, the state board shall evaluate the short- and long-term health effects of the poison in drinking water, ensure that an alternative supply of drinking water is provided to the users of the drinking water supply while the activity takes place, and, in cooperation with the Department of Fish and Wildlife, develop and implement a monitoring program to ensure that no detectable residuals of the poison, breakdown products, and other components of the poison formulation remain in the drinking water supply or adjoining wells after the activity is completed.

(Amended by Stats. 2015, Ch. 673, Sec. 12. (AB 1531) Effective January 1, 2016.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.&article=12.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. California Safe Drinking Water Act [116270 - 116755]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 12. Board Member Training [116755- 116755.]__

(Article 12 added by Stats. 2011, Ch. 512, Sec. 9.)

116755.

(a)Each board member of a mutual water company that operates a public water system, as defined in Section 116275, shall, within six months of taking office, or by December 31, 2012, if that member was serving on the board on December 31, 2011, complete a two-hour course offered by a qualified trainer regarding the duties of board members of mutual water companies, including, but not limited to, the duty of a corporate director to avoid contractual conflicts of interest and fiduciary duties, the duties of public water systems to provide clean drinking water that complies with the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.) and this chapter, and long-term management of a public water system. A board member of a mutual water company that operates a public water system shall repeat this training every six years. For the purposes of this subdivision, a trainer may be qualified in any of the following ways:

(1)Membership in the California State Bar.

(2)Accreditation by the International Association of Continuing Education and Training (IACET) ANSI/IACET 1-2007.

(3)Sponsorship by either the Rural Community Assistance Corporation or the California Rural Water Association.

(b)A mutual water company formed pursuant to Part 7 (commencing with Section 14300) of Division 3 of Title 1 of the Corporations Code, that operates a public water system, shall be liable for the payment of any fines, penalties, costs, expenses, and other amounts that may be imposed upon the mutual water company pursuant to this chapter. The mutual water company may levy an assessment, pursuant to Section 14303 of the Corporations Code, to pay these fines, penalties, costs, expenses, and other amounts so imposed. If the amount of outstanding fines, penalties, costs, expenses and other amounts imposed pursuant to this chapter exceed 5 percent of the annual budget of the mutual water company, then the mutual water company shall levy an assessment, pursuant to Section 14303 of the Corporations Code, to pay those fines, penalties, costs, expenses, and other amounts so imposed.

(Amended by Stats. 2013, Ch. 633, Sec. 5. (AB 240) Effective January 1, 2014.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=12.&chapter=4.5.&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=12.&chapter=4.5.&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.5.&article=1.

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4.5. Safe Drinking Water State Revolving Fund Law of 1997 [116760 - 116762.60]__

(Chapter 4.5 added by Stats. 1997, Ch. 734, Sec. 15.)

__ARTICLE 1. Short Title [116760- 116760.]__

(Article 1 added by Stats. 1997, Ch. 734, Sec. 15.)

116760.

This chapter shall be known and may be cited as the Safe Drinking Water State Revolving Fund Law of 1997.

(Added by Stats. 1997, Ch. 734, Sec. 15. Effective October 7, 1997.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.5.&article=2.

116760.10.

(a)Because the federal Safe Drinking Water Act (42 U.S.C. Sec. 300j et seq.) provides for establishment of a perpetual drinking water revolving fund, which will be partially capitalized by federal contributions, it is in the interest of the people of the state, in order to ensure full participation by the state under the federal Safe Drinking Water Act, to enact this chapter to authorize the state to establish and implement a state drinking water revolving fund that will meet federal conditions for receipt of federal funds. The primary purpose of this chapter is to enable receipt of funds under the federal Safe Drinking Water Act. It is the intent of the Legislature that the terms of this chapter shall be liberally construed to achieve this purpose.

(b)Toxic contaminants and new pathogenic organisms, including cryptosporidium, have been discovered in many of Californiaspublic drinking water systems.

(c)Many of the contaminants in Californiasdrinking water supplies are known to cause, or are suspected of causing, cancer, birth defects, and other serious illnesses.

(d)It is unlikely that the contamination problems of small public water systems can be solved without financial assistance from the state.

(e)The protection of the health, safety, and welfare of the people of California requires that the water supplied for domestic purposes be at all times pure, wholesome, and potable. It is in the interest of the people that the State of California provide technical and financial assistance to ensure a safe, dependable, and potable supply of water for domestic purposes and that water is available in adequate quantity at sufficient pressure for health, cleanliness, and other domestic purposes.

(f)It is the intent of the Legislature to provide for the upgrading of existing public water supply systems to ensure that all domestic water supplies meet safe drinking water standards and other requirements established under Chapter 4 (commencing with Section 116270).

(g)The extent of the current risk to public health from contamination in drinking water creates a compelling need to upgrade existing public water systems. The demand for financial assistance to enable public water systems to meet drinking water standards and regulations exceeds funds available from the Safe Drinking Water State Revolving Fund.

(h)The Legislature further finds and declares that regional solutions to water contamination problems are often more effective, efficient, and economical than solutions designed to address solely the problems of a single small public water system, and it is in the interest of the people of the State of California to encourage the consolidation of the management and the facilities of small water systems to enable those systems to better address their water contamination problems.

(i)The protection of drinking water sources is essential to ensuring that the people of California are provided with pure, wholesome, and potable drinking water.

(j)That coordination among local, state, and federal public health and environmental management programs be undertaken to ensure that sources of drinking water are protected while avoiding duplication of effort and reducing program costs.

(k)It is necessary that a source water protection program be implemented for the purposes of delineating, assessing, and protecting drinking water sources throughout the state and that federal funds be utilized pursuant to the federal Safe Drinking Water Act to carry out that program.

(l)It is in the interest of the people of the state to provide funds for a perpetual Safe Drinking Water State Revolving Fund that may be combined with similar federal funding to the extent the funding is authorized pursuant to the federal Safe Drinking Water Act.

(m)This chapter shall govern implementation of the Safe Drinking Water State Revolving Fund, and shall be implemented in a manner that is consistent with the federal Safe Drinking Water Act, and, to the extent authorized under the federal act, in a manner that is consistent with the California Safe Drinking Water Act, Chapter 4 (commencing with Section 116270).

(n)This section shall become operative on July 1, 2014.

(Repealed (in Sec. 64) and added by Stats. 2014, Ch. 35, Sec. 65. (SB 861) Effective June 20, 2014. Section operative July 1, 2014, by its own provisions.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.5.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4.5. Safe Drinking Water State Revolving Fund Law of 1997 [116760 - 116762.60]__

(Chapter 4.5 added by Stats. 1997, Ch. 734, Sec. 15.)

__ARTICLE 3. Safe Drinking Water State Revolving Fund [116760.20 - 116760.46]__

(Article 3 added by Stats. 1997, Ch. 734, Sec. 15.)

116760.20.

Unless the context otherwise requires, the following definitions govern the construction of this chapter:

(a)Acceptable result means the project that, when constructed, solves the problem for which the project was placed on the project priority list, ensures the owner and operator of the improved or restructured public water system shall have long-term technical, managerial, and financial capacity to operate and maintain the public water system in compliance with state and federal safe drinking water standards, can provide a dependable source of safe drinking water long-term, and is both short-term and long-term affordable, as determined by the board.

(b)Administrative fund means the Safe Drinking Water State Revolving Fund Administration Fund created by Section 116761.70.

(c)Board means the State Water Resources Control Board.

(d)Community water system has the meaning set forth in Section 116275.

(e)Cost-effective means achieves an acceptable result at the most reasonable cost.

(f)Disadvantaged community means a community that meets the definition provided in Section 116275.

(g)Federal Safe Drinking Water Act or federal act means the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.) and acts amendatory thereof or supplemental thereto.

(h)Fund means the Safe Drinking Water State Revolving Fund created by Section 116760.30.

(i)Financing means financial assistance awarded under this chapter, including loans, refinancing, installment sales agreements, purchase of debt, loan guarantees for municipal revolving funds, and grants.

(j)Matching funds means state money that equals that percentage of federal contributions required by the federal act to be matched with state funds.

(k)Project means cost-effective facilities for the construction, improvement, or rehabilitation of a public water system. It also may include the planning and design of the facilities, annexation or consolidation of water systems, source water assessments, source water protection, and other activities specified under the federal act.

(l)Public agency means any city, county, city and county, whether general law or chartered, district, joint powers authority, or other political subdivision of the state, that owns or operates a public water system, or any municipality, as that term is defined in the federal act.

(m)Public water system or public water supply system means a system for the provision to the public of water for human consumption, as defined in Section 116275.

(n)Safe drinking water standards means those standards established pursuant to Chapter 4 (commencing with Section 116270), as they may now or hereafter be amended.

(o)Severely disadvantaged community means a community with a median household income of less than 60 percent of the statewide average.

(p)Small community water system has the meaning set forth in Section 116275.

(q)Supplier means any person, partnership, corporation, association, public agency, or other entity that owns or operates a public water system.

(Amended by Stats. 2022, Ch. 680, Sec. 1. (SB 1188) Effective January 1, 2023.)

116760.30.

(a)There is hereby created in the State Treasury the Safe Drinking Water State Revolving Fund for the purpose of implementing this chapter, and, notwithstanding Section 13340 of the Government Code, moneys in the fund are hereby continuously appropriated, without regard to fiscal years, to the board for expenditure in accordance with this chapter.

(b)Notwithstanding Section 10231.5 of the Government Code, the board shall, at least once every two years, post information on its Internet Web site and send a link of the Internet Web site to the policy and budget committees of the Legislature regarding the implementation of this chapter and expenditures from the fund. The information posted on the boardsInternet Web site shall describe the numbers and types of projects funded, the reduction in risks to public health from contaminants in drinking water provided through the funding of the projects, and the criteria used by the board to determine funding priorities. The Internet Web site posting shall include the results of the United States Environmental Protection Agencysmost recent survey of the infrastructure needs of Californiaspublic water systems, the amount of money available through the fund to finance those needs, the total dollar amount of all funding agreements executed pursuant to this chapter since the date of the previous report or Internet Web site post, the fund utilization rate, the amount of unliquidated obligations, and the total dollar amount paid to funding recipients since the previous report or Internet Web site post.

(c)This section shall become operative on July 1, 2014.

(Repealed (in Sec. 69) and added by Stats. 2014, Ch. 35, Sec. 70. (SB 861) Effective June 20, 2014. Section operative July 1, 2014, by its own provisions.)

116760.38.

Subject to all applicable constitutional restrictions, a city, county, or special district may borrow money and incur indebtedness pursuant to this chapter.

(Added by Stats. 2015, Ch. 673, Sec. 14. (AB 1531) Effective January 1, 2016.)

116760.39.

(a)In addition to the actions described in Section 116760.40, the board may, to implement the Safe Drinking Water State Revolving Fund, improve access to financial assistance for small community water systems and not-for-profit nontransient noncommunity water systems serving severely disadvantaged communities by

doing both of the following:

(1)Working to establish a payment process pursuant to which the recipient of financial assistance would receive funds within 30 days of the date on which the board receives a complete project payment request, unless the board, within that 30-day period, determines that the project payment would not be in accordance with the terms of the program guidelines.

(2)Investigating the use of wire transfers or other appropriate payment procedures to expedite project payments.

(b)This section shall become operative on July 1, 2014.

(Repealed (in Sec. 71) and added by Stats. 2014, Ch. 35, Sec. 72. (SB 861) Effective June 20, 2014. Section operative July 1, 2014, by its own provisions.)

116760.40.

(a)The board may undertake any of the following actions to implement the Safe Drinking Water State Revolving Fund:

(1)Enter into agreements with the federal government for federal contributions to the fund.

(2)Accept federal contributions to the fund.

(3)Use moneys in the fund for the purposes permitted by the federal act.

(4)Provide for the deposit of matching funds and other available and necessary moneys into the fund.

(5)Make requests, on behalf of the state, for deposit into the fund of available federal moneys under the federal act.

(6)Determine, on behalf of the state, that public water systems that receive financial assistance from the fund will meet the requirements of, and otherwise be treated as required by, the federal act.

(7)Provide for appropriate audit, accounting, and fiscal management services, plans, and reports relative to the fund.

(8)Take additional incidental action as may be appropriate for adequate administration and operation of the fund.

(9)Enter into an agreement with, and accept matching funds from, a public water system.

(10)Charge public water systems that elect to provide matching funds a fee to cover the actual cost of obtaining the federal funds pursuant to Section 1452(e) of the federal act (42 U.S.C. Sec. 300j-12) and to process the loan application. The fee shall be waived by the board if sufficient funds to cover those costs are available from other sources.

(11)Use any source of matching funds, if not prohibited by statute, as matching funds for the federal administrative allowance under Section 1452(g) of the federal act (42 U.S.C. Sec. 300j-12).

(12)Establish separate accounts or subaccounts as required or allowed in the federal act and related guidance, for funds to be used for administration of the fund and other purposes. Within the fund, the board may modify existing accounts and may establish other accounts as the board deems appropriate or necessary for proper administration of the chapter.

(13)Deposit federal funds for administration and other purposes into separate accounts or subaccounts, as allowed by the federal act.

(14)Determine, on behalf of the state, whether sufficient progress is being made toward compliance with the enforceable deadlines, goals, and requirements of the federal act and the California Safe Drinking Water Act, Chapter 4 (commencing with Section 116270).

(15)To the extent permitted under federal law, including, but not limited to, Section 1452(a)(2) and (f)(4) of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300j-12(a)(2) and (f)(4)), use any and all amounts deposited in the fund, including, but not limited to, loan repayments and interest earned on the loans, as a source of reserve and security for the payment of principal and interest on revenue bonds, the proceeds of which are deposited in the fund.

(16)Request the Infrastructure and Economic Development Bank (I-Bank), established under Chapter 2 (commencing with Section 63021) of Division 1 of Title 6.7 of the Government Code, to issue revenue bonds, enter into agreements with the I-Bank, and take all other actions necessary or convenient for the issuance and sale of revenue bonds pursuant to Article 6.3 (commencing with Section 63048.55) of Chapter 2 of Division 1 of Title 6.7 of the Government Code. The purpose of the bonds is to augment the fund.

(17)Engage in the transfer of capitalization grant funds, as authorized by Section 35.3530(c) of Title 40 of the Code of Federal Regulations and reauthorized by Public Law 109-54, to the extent set forth in an Intended Use Plan, that shall be subject to approval by the board.

(18)Cross-collateralize revenue bonds with the State Water Pollution Control Revolving Fund created pursuant to Section 13477 of the Water Code, as authorized by Section 35.3530(d) of Title 40 of the Code of Federal Regulations.

(b)This section shall become operative on July 1, 2014.

(Repealed (in Sec. 73) and added by Stats. 2014, Ch. 35, Sec. 74. (SB 861) Effective June 20, 2014. Section operative July 1, 2014, by its own provisions.)

116760.41.

Moneys in the fund and the special accounts may be expended for additional purposes provided in the federal act.

(Added by Stats. 1997, Ch. 734, Sec. 15. Effective October 7, 1997.)

116760.42.

(a)The board may enter into an agreement with the federal government for federal contributions to the fund only if the board is prepared to commit to expenditure of any minimum amount in the fund in the manner required by the federal act.

(b)An agreement between the board and the federal government shall contain those provisions, terms, and conditions required by the federal act, and implementing federal rules, regulations, guidelines, and policies, including, but not limited to, agreement to the following:

(1)Moneys in the fund shall be expended in an expeditious and timely manner.

(2)All moneys in the fund as a result of federal capitalization grants shall be expended to ensure sufficient progress is being made toward compliance with the enforceable deadlines, goals, and requirements of the federal act, including any applicable compliance deadlines.

(3)Federal funds deposited in the special accounts are continuously appropriated for use by the board as allowed by federal law. Unexpended funds in the special accounts shall be carried over into subsequent years for use by the board.

(4)This section shall become operative on July 1, 2014.

(Repealed (in Sec. 75) and added by Stats. 2014, Ch. 35, Sec. 76. (SB 861) Effective June 20, 2014. Section operative July 1, 2014, by its own provisions.)

116760.43.

(a)The board shall implement this chapter pursuant to the adoption of a policy handbook that is not subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code. The policy handbook shall be posted on the boardsInternet Web site.

(b)Any regulations that have been promulgated pursuant to this chapter are repealed effective upon adoption by the board of the policy handbook.

(c)This section shall become operative on July 1, 2014.

(Repealed (in Sec. 77) and added by Stats. 2014, Ch. 35, Sec. 78. (SB 861) Effective June 20, 2014. Section operative July 1, 2014, by its own provisions.)

116760.44.

(a)The board may deposit administrative fees and charges paid by public water systems and other available and necessary money into an account of the fund.

(b)This section shall become operative on July 1, 2014.

(Repealed (in Sec. 79) and added by Stats. 2014, Ch. 35, Sec. 80. (SB 861) Effective June 20, 2014. Section operative July 1, 2014, by its own provisions.)

116760.45.

(a)For purposes of this section act means the American Recovery and Reinvestment Act of 2009.

(b)Notwithstanding any other provision of this chapter or any regulations adopted pursuant to this chapter, the department may expend moneys in the fund, received from the federal government pursuant to the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), in accordance with the provisions of the act and federal guidelines implementing the act. To the extent that any law or regulation of the state is in conflict with the provisions and requirements of the act, to the extent that the conflict impairs the expenditure of federal moneys received, the provisions and requirements of the act shall prevail.

(c)The department may develop criteria necessary to implement the act. These criteria shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The department shall publish the criteria on its Internet Web site and shall provide opportunity for public review and comment, to include at least one public hearing conducted upon not less than 20 days™ notice.

(d)For the implementation of the act, the maximum amount of a grant to an applicant under this chapter is ten million dollars ($10,000,000) per project.

(Added by Stats. 2009, 3rd Ex. Sess., Ch. 25, Sec. 1. Effective March 27, 2009.)

116760.46.

(a)The Safe Drinking Water Small Community Emergency Grant Fund is hereby created in the State Treasury.

(b)The following moneys shall be deposited in the grant fund:

(1)Moneys transferred to the grant fund pursuant to subdivision (c).

(2)Notwithstanding Section 16475 of the Government Code, any interest earned upon the moneys deposited in the grant fund.

(c)(1)For any financing made pursuant to this chapter, the board may assess an annual charge to be deposited in the grant fund in lieu of interest that would otherwise be charged.

(2)Any amounts collected under this subdivision shall be deposited in the grant fund.

(3)The charge authorized by this subdivision may be applied at any time during the term of the financing and, once applied, shall remain unchanged, unless the board determines that the application of the charge is any of the following:

(A)No longer consistent with federal requirements regarding the fund.

(B)No longer necessary.

(C)Negatively affecting the boardsability to fund projects that support the boardsgoals as specified in this

chapter.

(4)If the board ceases collecting the charge before the financing repayment is complete, the board shall replace the charge with an identical interest rate.

(5)The charge authorized by this subdivision shall not increase the financing repayment amount, as set forth in the terms and conditions imposed pursuant to this chapter.

(d)(1)Moneys in the grant fund may be expended on grants for projects that meet the requirements of this chapter and that serve disadvantaged and severely disadvantaged communities or address emergencies experienced by small community water systems.

(2)For the purpose of approving grants, the board shall give priority to projects that serve severely disadvantaged communities.

(3)Funds expended pursuant to this section shall be expended in a manner consistent with the federal EPA capitalization grant requirements established in Section 35.3530(b)(2) of Title 40 of the Code of Federal Regulations.

(e)This section shall become operative on July 1, 2014.

(Repealed (in Sec. 81) and added by Stats. 2014, Ch. 35, Sec. 82. (SB 861) Effective June 20, 2014. Section operative July 1, 2014, by its own provisions.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.5.&article=4.

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4.5. Safe Drinking Water State Revolving Fund Law of 1997 [116760 - 116762.60]__

(Chapter 4.5 added by Stats. 1997, Ch. 734, Sec. 15.)

__ARTICLE 4. Establishment and Utilization of Priority List for Funding [116760.50- 116760.50.]__

(Article 4 added by Stats. 1997, Ch. 734, Sec. 15.)

116760.50.

(a)The board shall establish eligibility criteria for project financing pursuant to this chapter that shall be consistent with federal requirements.

(b)To the extent permitted by federal law, the board may provide up to 100 percent grant funding, and principal forgiveness on loans, from the Safe Drinking Water State Revolving Fund to a project for a water system eligible under subdivision (a) of Section 116761.20.

(Amended by Stats. 2022, Ch. 680, Sec. 2. (SB 1188) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.5.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4.5. Safe Drinking Water State Revolving Fund Law of 1997 [116760 - 116762.60]__

(Chapter 4.5 added by Stats. 1997, Ch. 734, Sec. 15.)

__ARTICLE 5. Project Eligibility, Funding, and Contracts [116761.20 - 116761.40]__

(Article 5 added by Stats. 1997, Ch. 734, Sec. 15.)

116761.20.

(a)Planning and preliminary engineering studies, project design, and construction costs incurred by a community water system or not-for-profit noncommunity water system may be funded under this chapter.

(b)(1)The board shall determine what portion of the full costs the water system is capable of repaying and may authorize funding in the form of a loan or other repayable financing for up to that amount.

(2)Where an otherwise eligible water system is not a water corporation regulated by the Public Utilities Commission and serves a severely disadvantaged community with fewer than 200 service connections, the water system is deemed to have no ability to repay any financing for a project serving the severely disadvantaged community.

(c)At the request of the board, the Public Utilities Commission shall submit comments concerning the ability of water systems, subject to its jurisdiction, to finance the project from other sources and to repay the financing.

(Amended by Stats. 2022, Ch. 680, Sec. 3. (SB 1188) Effective January 1, 2023.)

116761.40.

(a)The failure or inability of any public water system to receive funds under this chapter or any other financial assistance program or any delay in obtaining the funds shall not alter the obligation of the system to comply in a timely manner with all applicable drinking water standards and requirements of the California Safe Drinking Water Act or the federal act.

(b)This section shall become operative on July 1, 2014.

(Repealed (in Sec. 106) and added by Stats. 2014, Ch. 35, Sec. 107. (SB 861) Effective June 20, 2014. Section operative July 1, 2014, by its own provisions.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.5.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4.5. Safe Drinking Water State Revolving Fund Law of 1997 [116760 - 116762.60]__

(Chapter 4.5 added by Stats. 1997, Ch. 734, Sec. 15.)

__ARTICLE 6. Contracts for Project Funding [116761.50 - 116761.51]__

(Article 6 added by Stats. 1997, Ch. 734, Sec. 15.)

116761.50.

(a)The board may enter into financing agreements with applicants for the purposes set forth in this chapter.

(b)If the board provides construction financing, the financing recipient shall commit to operate and maintain, or ensure the operation and maintenance of, the water system for the term of the financing agreement or the useful life of the project, as determined by the board, unless otherwise authorized by the board.

(c)This section shall become operative on January 1 of the next calendar year occurring after the board provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the board has adopted a policy handbook pursuant to Section 116760.43.

(Repealed (in Sec. 109) and added by Stats. 2014, Ch. 35, Sec. 110. (SB 861) Effective June 20, 2014. Section became operative on January 1, 2015, pursuant to its own provisions.)

116761.51.

(a)As a condition of receiving construction financing under this article for work performed at the City of San DiegosNorth City Water Reclamation Plant, North City Pure Water Facility, or any other portion of the Pure Water San Diego Program, an applicant shall ensure that any construction contract awarded on or after January 1, 2020, for any phase of the Pure Water San Diego Program, including, but not limited to,

expanding or modifying wastewater conveyance, detention, or treatment processes at the North City Water Reclamation Plant, work on the North City Pure Water Facility or the adjacent Pure Water Pump Station, or work on any other portion of the Pure Water San Diego Program, requires the contractor to enter into a project labor agreement that meets the requirements of Section 2500 of the Public Contract Code.

(b)The condition on receiving construction financing imposed pursuant to this section shall remain in effect only until completion of all phases of the Pure Water San Diego Program.

(Added by Stats. 2019, Ch. 755, Sec. 1. (AB 1290) Effective January 1, 2020.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.5.&article=7.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4.5. Safe Drinking Water State Revolving Fund Law of 1997 [116760 - 116762.60]__

(Chapter 4.5 added by Stats. 1997, Ch. 734, Sec. 15.)

__ARTICLE 7. Safe Drinking Water State Revolving Fund Management [116761.62 - 116761.86]__

(Article 7 added by Stats. 1997, Ch. 734, Sec. 15.)

116761.62.

(a)To the extent permitted by federal and state law, moneys in the fund may be expended to rebate to the federal government all arbitrage profits required by the federal Tax Reform Act of 1986 (Public Law 99-514)

or any amendment of or supplement to that law. To the extent that this expenditure of the moneys in the fund is prohibited by federal or state law, any rebates required by federal law shall be paid from the General Fund or other sources, upon appropriation by the Legislature.

(b)Notwithstanding any other law or regulation, the board may enter into contracts or may procure those services and equipment that may be necessary to ensure prompt and complete compliance with any provisions relating to the fund imposed by either the federal Tax Reform Act of 1986 (Public Law 99-514) or the federal Safe Drinking Water Act.

(c)This section shall become operative on July 1, 2014.

(Repealed (in Sec. 113) and added by Stats. 2014, Ch. 35, Sec. 114. (SB 861) Effective June 20, 2014. Section operative July 1, 2014, by its own provisions.)

116761.65.

(a)The board shall establish, and may periodically adjust, the interest rate for repayable financing made pursuant to this chapter at a rate not to exceed 50 percent of the average interest rate, computed by the true interest cost method, paid by the state on general obligation bonds issued in the prior calendar year, rounded up to the closest one-tenth of 1 percent.

(b)Notwithstanding subdivision (a), to the extent authorized by federal law, the board may provide reduced or 0 percent financing to further the purposes of this chapter.

(Amended by Stats. 2022, Ch. 680, Sec. 4. (SB 1188) Effective January 1, 2023.)

116761.70.

(a)The Safe Drinking Water State Revolving Fund Administration Fund is hereby created in the State Treasury.

(b)The following moneys shall be deposited into the administration fund:

(1)Moneys transferred to pay the costs incurred by the state board in connection with the administration of this chapter.

(2)The amounts collected for financial assistance services pursuant to subdivision (c).

(3)Notwithstanding Section 16475 of the Government Code, any interest earned upon the moneys in the fund.

(c)(1)For financial assistance made pursuant to this chapter, where that financial assistance is to be repaid to the state board, the state board may assess an annual charge for financial assistance services with regard to the financial assistance, not to exceed 1 percent of the financial assistance balance, computed according to the true interest cost method.

(2)The financial assistance service rate authorized by this subdivision may be applied at any time during the term of the financial assistance, and once applied, shall remain unchanged for the duration of the financial

assistance and shall not increase the financial assistance repayment amount, as set forth in the terms and conditions imposed pursuant to this chapter.

(d)Upon appropriation by the Legislature, moneys in the administration fund may be expended by the state board for payment of the reasonable costs of administering the fund.

(e)The state board shall set the total amount of revenue collected each year through the charge authorized by subdivision (c) at an amount that is equal as practicable to the appropriation amount set forth in the annual Budget Act for this activity. At least once each fiscal year, the state board shall adjust the financial assistance service charge imposed pursuant to subdivision (c) to conform with the appropriation amount set forth in the annual Budget Act.

(Repealed and added by Stats. 2015, Ch. 673, Sec. 18. (AB 1531) Effective January 1, 2016.)

116761.85.

(a)Moneys repaid to the state pursuant to any contract executed pursuant to this chapter, including interest payments and all interest earned on or accruing to any moneys in the fund, shall be deposited in the fund and shall be available in perpetuity, for expenditure for the purposes and uses permitted by this chapter and the federal act.

(b)This section shall become operative on July 1, 2014.

(Repealed (in Sec. 121) and added by Stats. 2014, Ch. 35, Sec. 122. (SB 861) Effective June 20, 2014. Section operative July 1, 2014, by its own provisions.)

116761.86.

To the extent amounts in the fund are not required for current obligation or expenditure, those amounts shall be invested in interest bearing obligations, and the interest earned shall become part of the fund.

(Added by Stats. 1997, Ch. 734, Sec. 15. Effective October 7, 1997.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.5.&article=8.

116762.60.

(a)The board shall, contingent upon receiving federal capitalization grant funds, develop and implement a program to protect sources of drinking water. In carrying out this program, the board shall coordinate with local, state, and federal agencies that have public health and environmental management programs to ensure an effective implementation of the program while avoiding duplication of effort and reducing

program costs. The program shall include all of the following:

(1)A source water assessment program to delineate and assess the drinking water supplies of public drinking water systems pursuant to Section 1453 of the federal act.

(2)A wellhead protection program to protect drinking water wells from contamination pursuant to Section 1428 of the federal act.

(3)Pursuant to Section 1452(k) of the federal act, the board shall set aside federal capitalization grant funds sufficient to carry out paragraphs (1) and (2).

(b)The board shall set aside federal capitalization grant funds to provide assistance to water systems pursuant to Section 1452(k) of the federal act for the following source water protection activities, to the extent that those activities are proposed:

(1)To acquire land or a conservation easement if the purpose of the acquisition is to protect the source water of the system from contamination and to ensure compliance with primary drinking water regulations.

(2)To implement local, voluntary source water protection measures to protect source water in areas delineated pursuant to Section 1453 of the federal act, in order to facilitate compliance with primary drinking water regulations applicable to the water system under Section 1412 of the federal act or otherwise significantly further the health protection objectives of the federal and state acts.

(3)To carry out a voluntary, incentive-based source water quality protection partnership pursuant to Section 1454 of the federal act.

(c)The board shall post a report to its Internet Web site, every two years, on its activities under this section. The report shall contain a description of each program for which funds have been set aside under this section, the effectiveness of each program in carrying out the intent of the federal and state acts, and an accounting of the amount of set-aside funds used.

(d)This section shall become operative on January 1 of the next calendar year occurring after the board provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the board has adopted a policy handbook pursuant to Section 116760.43.

(Repealed (in Sec. 124) and added by Stats. 2014, Ch. 35, Sec. 125. (SB 861) Effective June 20, 2014. Section became operative on January 1, 2015, pursuant to its own provisions.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=12.&chapter=4.6.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.6.&article=1.

116765.

The Legislature finds and declares all of the following:

(a)Every Californian should enjoy the same degree of protection from environmental and health hazards. Every community should be a healthy environment in which to live, work, play, and learn.

(b)No single group of people should bear a disproportionate share of the negative environmental consequences and adverse health impacts arising from industrial, governmental, or commercial operations or policies.

(c)Concentrated environmental contamination in water creates cumulative health burdens resulting in communities with higher rates of disease such as asthma, heart disease, cancer, neurological and reproductive health effects, birth defects, and obesity.

(d)Despite significant improvements in environmental protection over the past several decades, millions of Californians continue to live, work, play, and go to school in unhealthy environments.

(e)California was one of the first states in the nation to put environmental justice considerations into law and defines environmental justice as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

(f)California law also declares that it is the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

(g)Yet, still more than 1,000,000 Californians do not have access to safe drinking water. In communities where the sole water supply is contaminated with substances like arsenic, manganese, nitrates, or hexavalent chromium, families are often left without safe water. The central valley and central coast regions, where more than 90% of the communities rely on groundwater as a primary source of drinking water, are particularly at risk, but other communities around the state are also at risk. More than 250,000 people in the central valley alone lack access to a consistent source of safe, affordable water.

(h)The Safe Drinking Water and Toxic Enforcement Act of 1986 lists lead, arsenic, and hexavalent chromium as substances that can cause cancer and reproductive toxicity.

(i)Established state environmental justice laws and policies are only effective insofar as they result in true parity.

(j)It is the intent of the Legislature that the State of California bring true environmental justice to our state and begin to address the continuing disproportionate environmental burdens in the state by creating a fund to provide safe drinking water in every California community, for every Californian.

(k)Climate change is exacerbating the water impacts on disadvantaged and environmentally burdened communities by reducing surface water flows, accelerating declining groundwater basins, and contributing to increasing concentrations of environmental contamination.

(l)Enhancing the long-term sustainability of drinking water systems in disadvantaged and environmentally burdened communities increases those communities™ resilience to climate change.

(m)Funding for safe and affordable drinking water under this chapter promotes investments in disadvantaged communities, provides important contributions to those communities in adapting to climate change, and is an appropriate expenditure from the Greenhouse Gas Reduction Fund created pursuant to Section 16428.8 of the Government Code.

(n)It is the intent of the Legislature that the state board, in developing the fund expenditure plan pursuant to Article 4 (commencing with Section 116768), strive to ensure all regions of the state receive the same level of consideration for funding pursuant to this chapter, to the extent practicable.

(Amended by Stats. 2020, Ch. 370, Sec. 210. (SB 1371) Effective January 1, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.6.&article=2.

116766.

(a)The Safe and Affordable Drinking Water Fund is hereby established in the State Treasury to help water systems provide an adequate and affordable supply of safe drinking water in both the near and long terms. Notwithstanding Section 13340 of the Government Code, all moneys deposited in the fund are continuously appropriated to the board to fund all of the following:

(1)Operation and maintenance costs to help deliver an adequate supply of safe drinking water in both the near and long terms.

(2)Consolidating water systems, or extending drinking water services to other public water systems, domestic wells, and state small water systems.

(3)The provision of replacement water, as needed, to ensure immediate protection of health and safety as a short-term solution.

(4)The provision of services under Section 116686 for purposes of helping the water systems become self-sufficient in the long term.

(5)The development, implementation, and sustainability of long-term drinking water solutions.

(6)Board costs associated with the implementation and administration of programs pursuant to this chapter.

(b)Consistent with subdivision (a), the board shall expend moneys in the fund for grants, loans, contracts, or services to assist eligible recipients.

(c)(1)Eligible recipients of funding under this chapter are public agencies, nonprofit organizations, public utilities, mutual water companies, federally recognized California Native American tribes, nonfederally recognized Native American tribes on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004, administrators, groundwater sustainability agencies, community water systems, and technical assistance providers.

(2)Any waiver of tribal sovereign immunity that is required by the board for a tribe that is an eligible recipient to access funding under this chapter shall be narrowly drafted to serve both the individual needs of the tribe and make the funding agreement enforceable. The waiver of sovereign immunity shall be negotiated with the direct involvement and assistance of the boardstribal liaison or their designee or designees.

(3)In order to facilitate better coordination between the board and tribes that are eligible recipients, the board shall include its designated tribal liaison or their designee or designees in all discussions with eligible recipients, unless those eligible recipients give permission for the tribal liaison or their designee or designees to be absent.

(4)In expending moneys from the fund under this chapter, the board shall consider the extent that funds for safe drinking water projects from the programs administered by the board are distributed to eligible recipients to provide assistance to federally recognized California Native American tribes or nonfederally recognized Native American tribes on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004 and shall make diligent efforts to ensure the distribution of funds to those tribes. The board shall expend those funds, upon appropriation by the Legislature, for grants, loans, contracts, or services to assist those tribes.

(5)The board shall post on its internet website, and update annually, the number of inquiries for funding received from tribes, the number of applications for funding received from tribes, and the total amount of funding granted to tribes each year. If the board is not able to consistently approve funding applications from eligible tribes in a timely manner, the board shall identify barriers to the tribes receiving funding and propose possible solutions in the fund expenditure plan.

(6)To be eligible for funding under this chapter, grants, loans, contracts, or services provided to a public utility that is regulated by the Public Utilities Commission or a mutual water company shall have a clear and definite public purpose and shall benefit the customers of the water system and not the investors.

(7)For purposes of this subdivision, tribal liaison means an individual employed by the board as a tribal liaison, or if the tribal liaison is unavailable, a tribal coordinator, the boardschair, the boardsexecutive director, or the boardschief counsel acting in that capacity as a designee or the designees of the tribal liaison.

(d)On and after July 1, 2020, an expenditure from the fund shall be consistent with the fund expenditure plan.

(e)The board may expend moneys from the fund for reasonable costs associated with the administration of this chapter, not to exceed 5 percent of the annual deposits into the fund.

(f)In administering the fund, the board shall make reasonable efforts to ensure that funds are used to secure the long-term sustainability of drinking water service and infrastructure, including, but not limited to, requiring adequate technical, managerial, and financial capacity of eligible applicants as part of funding agreement outcomes.

(g)Beginning in the 2023”24 fiscal year, and each fiscal year thereafter until June 30, 2030, if the annual transfer to the fund pursuant to paragraph (3) of subdivision (b) of Section 39719 is less than one hundred thirty million dollars ($130,000,000), on an annual basis the Director of Finance shall calculate a sum equivalent to the difference, up to one hundred thirty million dollars ($130,000,000), and the Controller shall transfer that sum from the General Fund to the fund. This subdivision is operative only while a market-based compliance mechanism adopted pursuant to Section 38562 is operative.

(h)The board may authorize funding up to ten thousand dollars ($10,000) without a written agreement to address a drinking water emergency.

(i)Notwithstanding Section 11019 of the Government Code, the board may make advance payments, as necessary to implement the purposes of this chapter, except that an advance payment for construction shall not exceed 25 percent of the total amount of construction funding provided by the board for a project.

(j)Contracts pursuant to this section are exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Section 4526 of the Government Code, and may be awarded on a noncompetitive bid basis as necessary to implement the purposes of this section.

(Amended by Stats. 2022, Ch. 481, Sec. 1. (AB 2877) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.6.&article=3.

116767.

For purposes of this chapter:

(a)Adequate supply” has the same meaning as defined in Section 116681.

(b)Administrator” has the same meaning as defined in Section 116686.

(c)Board” means the State Water Resources Control Board.

(d)Community water system” has the same meaning as defined in Section 116275.

(e)Consistently fails” has the same meaning as defined in Section 116681.

(f)Disadvantaged community” has the same meaning as defined in Section 79505.5 of the Water Code.

(g)Domestic well” has the same meaning as defined in Section 116681.

(h)Fund” means the Safe and Affordable Drinking Water Fund established pursuant to Section 116766.

(i)Fund expenditure plan” means the fund expenditure plan adopted by the board pursuant to Article 4 (commencing with Section 116768).

(j)Groundwater sustainability agency has the same meaning as defined in Section 10721 of the Water Code.

(k)Low-income household means a single household with an income that is less than 200 percent of the federal poverty level, as updated periodically in the Federal Register by the United States Department of Health and Human Services under authority of Section 9902(2) of Title 42 of the United States Code.

(l)Mutual water company means a mutual water company, as described in Section 14300 of the Corporations Code, that operates a public water system or a state small water system.

(m)Nonprofit organization means an organization qualified to do business in California and qualified under Section 501(c)(3) of Title 26 of the United States Code.

(n)Public agency means a state agency or department, special district, joint powers authority, city, county, city and county, or other political subdivision of the state.

(o)Public utility has the same meaning as defined in Section 216 of the Public Utilities Code.

(p)Public water system has the same meaning as defined in Section 116275.

(q)Replacement water includes, but is not limited to, bottled water, vended water, point-of-use, or point-of-entry treatment units.

(r)Safe drinking water has the same meaning as defined in Section 116681.

(s)Service connection has the same meaning as defined in Section 116275.

(t)State small water system has the same meaning as defined in Section 116275.

(u)Technical assistance provider means a person whom the state board has determined is competent to assist a water system by providing administrative, technical, operational, legal, or managerial services to meet the purposes of this section, pursuant to criteria set forth in the policy adopted by the state board pursuant to Section 116768.5 and the fund expenditure plan. A privately owned public utility may serve as a technical assistance provider for purposes of this section.

(v)Vended water has the same meaning as defined in Section 111070.

(Amended by Stats. 2021, Ch. 258, Sec. 18. (SB 155) Effective September 23, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.6.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4.6. Safe and Affordable Drinking Water [116765 - 116772]__

(Chapter 4.6 added by Stats. 2019, Ch. 120, Sec. 9.)

__ARTICLE 4. Fund Expenditure Plan [116768 - 116770]__

(Article 4 added by Stats. 2019, Ch. 120, Sec. 9.)

116768.

The purposes of the fund expenditure plan are as follows:

(a)To identify public water systems, community water systems, and state small water systems that consistently fail to provide an adequate supply of safe drinking water, including the cause or causes of the failure and appropriate measures to remedy the failure.

(b)To determine the amount and type of funding necessary to implement appropriate measures to remedy a failure to provide an adequate supply of safe drinking water.

(c)To identify public water systems, community water systems, and state small water systems that are at significant risk of failing to provide an adequate supply of safe drinking water, including the source or sources of the risk and appropriate measures to eliminate the risk.

(d)To determine the amount and type of funding necessary to implement appropriate measures to eliminate the risk of failing to provide an adequate supply of safe drinking water.

(e)To identify gaps in the provision of safe drinking water, in furtherance of Section 106.3 of the Water Code, and to determine the amount and type of funding necessary to minimize or eliminate those gaps.

(Added by Stats. 2019, Ch. 120, Sec. 9. (SB 200) Effective July 24, 2019.)

116768.5.

(a)On or before July 1, 2020, the board shall develop and adopt a policy for developing the fund expenditure plan that includes all of the following elements:

(1)A requirement that the board consult with an advisory group to aid in meeting the purposes of the fund expenditure plan as established in Section 116768. The advisory group shall include representatives of the following:

(A)Public water systems.

(B)Technical assistance providers.

(C)Local agencies.

(D)Nongovernmental organizations.

(E)Residents served by community water systems in disadvantaged communities, state small water systems, and domestic wells.

(F)The public.

(2)Identification of key terms, criteria, and metrics, and their definitions.

(3)A description of how proposed remedies will be identified, evaluated, prioritized, and included in the fund expenditure plan.

(4)The establishment of a process by which members of a disadvantaged community may petition the board to consider ordering consolidation.

(5)A requirement that the board hold at least one public hearing before adopting a fund expenditure plan.

(b)The board, in consultation with the Department of Finance, shall annually adopt a fund expenditure plan. The board shall adopt a handbook and may update it at least once every three years.

(c)On or before March 1, 2021, and every March 1 thereafter, the board shall provide to the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house of the Legislature the most recently adopted fund expenditure plan. The board may submit the fund expenditure plan as required by this subdivision either in the GovernorsBudget documents or as a separate report.

(Added by Stats. 2019, Ch. 120, Sec. 9. (SB 200) Effective July 24, 2019.)

116769.

(a)The fund expenditure plan shall contain the following:

(1)A report of expenditures from the fund for the prior fiscal year and planned expenditures for the current fiscal year.

(2)A list of systems that consistently fail to provide an adequate supply of safe drinking water. The list shall include, but is not limited to, all of the following:

(A)Any public water system that consistently fails to provide an adequate supply of safe drinking water.

(B)Any community water system that serves a disadvantaged community that must charge fees that exceed the affordability threshold established by the board in order to supply, treat, and distribute potable water that complies with federal and state drinking water standards.

(C)Any state small water system that consistently fails to provide an adequate supply of safe drinking water.

(3)A list of public water systems, community water systems, and state small water systems that may be at risk of failing to provide an adequate supply of safe drinking water.

(4)An estimate of the number of households that are served by domestic wells or state small water systems in high-risk areas identified pursuant to Article 6 (commencing with Section 116772). The estimate shall identify approximate locations of households, without identifying exact addresses or other personal information, in order to identify potential target areas for outreach and assistance programs.

(5)An estimate of the funding needed for the next fiscal year based on the amount available in the fund, anticipated funding needs, other existing funding sources, and other relevant data and information.

(6)A list of programs to be funded that assist or will assist households supplied by a domestic well that consistently fails to provide an adequate supply of safe drinking water. This list shall include the number and approximate location of households served by each program without identifying exact addresses or other personal information.

(7)A list of programs to be funded that assist or will assist households and schools whose tap water contains contaminants, such as lead or secondary contaminants, at levels that exceed recommended standards.

(b)The fund expenditure plan shall be based on data and analysis drawn from the drinking water needs assessment funded by Chapter 449 of the Statutes of 2018 as that assessment may be updated and as information is developed pursuant to Article 6 (commencing with Section 116772).

(c)The fund expenditure plan shall prioritize funding for all of the following:

(1)Assisting disadvantaged communities served by a public water system, and low-income households served by a state small water system or a domestic well.

(2)The consolidation or extension of service, when feasible, and administrative and managerial contracts or grants entered into pursuant to Section 116686 where applicable.

(3)Funding costs other than those related to capital construction costs, except for capital construction costs associated with consolidation and service extension to reduce the ongoing unit cost of service and to increase sustainability of drinking water infrastructure and service delivery.

(Added by Stats. 2019, Ch. 120, Sec. 9. (SB 200) Effective July 24, 2019.)

116770.

The fund expenditure plan may include expenditures for the following:

(a)The provision of replacement water, as needed, to ensure immediate protection of health and safety as a short-term solution.

(b)The development, implementation, and sustainability of long-term drinking water solutions, including, but not limited to, the following:

(1)(A)Technical assistance, planning, construction, repair, and operation and maintenance costs associated with any of the following:

(i)Replacing, blending, or treating contaminated drinking water.

(ii)Repairing or replacing failing water system equipment, pipes, or fixtures.

(iii)Operation and maintenance costs associated with consolidated water systems, extended drinking water services, or reliance on a substituted drinking water source.

(B)Technical assistance and planning costs may include, but are not limited to, analyses to identify and efforts to further opportunities to reduce the unit cost of providing drinking water through organizational and operational efficiency improvements, and other options and approaches to reduce costs.

(2)Creating and maintaining natural means and green infrastructure solutions that contribute to sustainable drinking water.

(3)Consolidating water systems.

(4)Extending drinking water services to other public water systems, community water systems, state small water systems, or domestic wells.

(5)Satisfying outstanding long-term debt obligations of public water systems, community water systems, and state small water systems where the board determines that a systemslack of access to capital markets renders this solution the most cost effective for removing a financial barrier to the systemssustainable, long-term provision of drinking water.

(c)Identifying and providing outreach to persons who are eligible to receive assistance from the fund.

(d)Testing the drinking water quality of domestic wells serving low-income households, prioritizing those in high-risk areas identified pursuant to Article 6 (commencing with Section 116772).

(e)Providing services under Section 116686.

(Amended by Stats. 2020, Ch. 370, Sec. 211. (SB 1371) Effective January 1, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.6.&article=5.

116771.

(a)The board may undertake any of the following actions to implement the fund:

(1)Provide for the deposit of any of the following moneys into the fund:

(A)Federal contributions.

(B)Voluntary contributions, gifts, grants, or bequests.

(C)Financial participation by a public agency in an activity authorized for funding from the fund.

(2)Enter into agreements for contributions to the fund from the federal government, local or state agencies, and private corporations or nonprofit organizations.

(3)Direct portions of the fund to a subset of eligible applicants as required or appropriate based on funding source and consistent with the annual fund expenditure plan.

(4)Direct moneys described in subparagraph (B) of paragraph (1) towards a specific project, program, or study.

(5)Take additional action as may be appropriate for adequate administration and operation of the fund.

(b)The board may set appropriate requirements as a condition of funding, including, but not limited to, the following:

(1)A system technical, managerial, or financial capacity audit.

(2)Improvements to reduce costs and increase efficiencies.

(3)An evaluation of alternative treatment technologies.

(4)A consolidation or service extension feasibility study.

(5)Requirements for a domestic well with nitrate contamination where ongoing septic system failure may be causing or contributing to contamination of a drinking water source to have conducted an investigation and project to address the septic system failure, if adequate funding sources are identified and accessible.

(c)Actions taken to implement, interpret, or make specific this chapter, including, but not limited to, the adoption or development of any plan, handbook, or map, are not subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(Added by Stats. 2019, Ch. 120, Sec. 9. (SB 200) Effective July 24, 2019.)

116771.5.

(a)This chapter does not expand any obligation of the state to provide resources for the provisions of this article or to require the expenditure of additional resources beyond the amount of moneys deposited in the fund.

(b)The Legislature finds and declares that participation in an activity authorized for funding from the fund or a contribution to the fund by a federal, state, or local agency serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

(Added by Stats. 2019, Ch. 120, Sec. 9. (SB 200) Effective July 24, 2019.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.6.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4.6. Safe and Affordable Drinking Water [116765 - 116772]__

(Chapter 4.6 added by Stats. 2019, Ch. 120, Sec. 9.)

__ARTICLE 6. Information on High-Risk Areas [116772- 116772.]__

(Article 6 added by Stats. 2019, Ch. 120, Sec. 9.)

116772.

(a)(1)By January 1, 2021, the board, in consultation with local health officers and other relevant stakeholders, shall use available data to make available a map of aquifers that are at high risk of containing contaminants that exceed safe drinking water standards that are used or likely to be used as a source of drinking water for a state small water system or a domestic well. The board shall update the map annually based on new and relevant data.

(2)The board shall make the map of high-risk areas, as well as the data used to make the map, publicly accessible on its internet website in a manner that complies with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The board shall notify local health officers and county planning agencies of high-risk areas within their jurisdictions.

(b)(1)By January 1, 2021, a local health officer or other relevant local agency shall provide to the board all results of, and data associated with, water quality testing performed by a laboratory that has accreditation or certification pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 for a state small water system or domestic well that was collected after January 1, 2014, and that is in the possession of the local health officer or other relevant local agency.

(2)By January 1, 2022, and by January 1 of each year thereafter, all results of, and data associated with, water quality testing performed by a laboratory that has accreditation or certification pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 for a state small water system or domestic well that is submitted to a local health officer or other relevant local agency shall also be submitted directly to the board in electronic format.

(Added by Stats. 2019, Ch. 120, Sec. 9. (SB 200) Effective July 24, 2019.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=4.7.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4.7. Water and Wastewater System Payments Under the American Rescue Plan Act of 2021 [116773 - 116773.8]__

(Chapter 4.7 added by Stats. 2021, Ch. 115, Sec. 61.)

116773.

This chapter shall be known, and may be cited, as the Water and Wastewater System Payments Under the American Rescue Plan Act of 2021.

(Added by Stats. 2021, Ch. 115, Sec. 61. (AB 148) Effective July 22, 2021. Inoperative July 1, 2026, pursuant to Section 116773.8. Repealed as of January 1, 2027, pursuant to Section 116773.8.)

116773.2.

For purposes of this chapter, the following definitions apply:

(a)Community water system has the same meaning as defined in Section 116275.

(b)COVID-19 pandemic bill relief period means the period from March 4, 2020, to December 31, 2022, inclusive, and includes any customer billing period that includes these dates.

(c)Enterprise revenue means revenues of the water or wastewater enterprise of the community water system or wastewater treatment provider.

(d)Past-due bills means customer water bills that are 60 days or more past due and includes both active and inactive accounts, and accounts that have payment plans or payment arrangements.

(e)Proportional basis means based on the percentage of the total statewide need for community water system reimbursement under this chapter, estimated by the state board, and the total assistance available for disbursement.

(f)Small community water system has the same meaning as defined in Section 116275.

(g)State board means the State Water Resources Control Board.

(h)Wastewater treatment provider means any of the following:

(1)A city, county, special district, or joint powers authority that provides wastewater collection, treatment, or disposal service through a publicly owned treatment works.

(2)Any privately owned facility used in the treatment or reclamation of sewage or industrial wastes, and regulated by the Public Utilities Commission pursuant to Sections 216 and 230.6 of, and Chapter 4 (commencing with Section 701) of Part 1 of Division 1 of, the Public Utilities Code.

(Amended by Stats. 2023, Ch. 51, Sec. 14. (SB 122) Effective July 10, 2023. Inoperative July 1, 2026, pursuant to Section 116773.8. Repealed as of January 1, 2027, pursuant to Section 116773.8.)

116773.4.

(a)The California Water and Wastewater Arrearage Payment Program is hereby established in the state board

to implement this chapter.

(b)(1)The state board shall adopt a resolution establishing guidelines for application requirements and reimbursement amounts for those arrearages and enterprise revenue shortfalls.

(2)There shall be an initial 60-day application timeframe in which a community water system or wastewater treatment provider may apply to the state board for reimbursement.

(3)The state board shall use the application total to determine the total amount of residential and commercial arrearages and enterprise revenue shortfalls from community water systems and wastewater treatment providers that have submitted that information.

(4)If there are insufficient funds in the appropriation described in paragraph (1) to reimburse the total amount of reported arrearages and enterprise revenue shortfalls of community water systems and wastewater treatment providers, the state board shall disburse the funds on a proportional basis to each applicant.

(5)An applicant shall calculate or estimate, based on its billing frequency, the total amount of outstanding past-due bills that have accumulated during the COVID-19 pandemic bill relief period. The calculations shall include documentation to support the amount of outstanding customer arrearages or enterprise revenue shortfalls that were incurred during that period, if available. An applicantsauthorized representative, or its designee, shall attest that the application is true and accurate.

(6)(A)The state board shall prioritize the timing of the disbursement of funding to small community water systems or wastewater treatment providers serving small communities.

(B)The state board shall establish guidelines to prioritize residential water or wastewater customers and customers with the largest arrearages.

(7)If a community water system or wastewater treatment provider uses customer classes for purposes of its billing program, the following customer classes are eligible for funding under this chapter and may be included in the application:

(A)Residential customers.

(B)Commercial customers.

(c)An applicant shall, within 60 days of receiving funds under this chapter, allocate payments as follows:

(1)As bill credits to customers to help address past-due bills incurred during the COVID-19 pandemic bill relief period and notify customers of the amounts credited to their accounts.

(2)As offsets to or reimbursements for eligible enterprise revenue shortfalls.

(d)(1)An applicant shall provide customers with arrearages accrued during the COVID-19 pandemic bill relief period a notice that they may enter into a payment plan and that they have 30 days from the date of the notice to enroll in the payment plan. A payment plan and its associated rules offered by a community water system of any size shall conform with Chapter 6 (commencing with Section 116900), notwithstanding limitations in that chapter relating to a community water systemssize. A community water system shall not discontinue water service to a customer that remains current on a payment plan.

(2)A community water system shall not discontinue water service due to nonpayment of past-due bills before either of the following dates, whichever date is later:

(A)December 31, 2021.

(B)For a customer that has been offered an opportunity to participate in a payment plan, the date the customer misses the enrollment deadline for, or defaults on, the payment plan.

(e)A system or provider shall remit any moneys disbursed to the system or provider under this chapter not credited to customers or utilized as eligible enterprise revenue offsets within six months of receipt back to the state board.

(f)Customer information collected under this chapter is subject to Section 7927.410 of the Government Code.

(g)A community water system or wastewater treatment provider receiving assistance under this chapter may expend up to 3 percent, or up to one million dollars ($1,000,000), whichever amount is less, of that assistance for costs incurred in applying for the assistance or complying with use and reporting conditions of the assistance.

(Amended by Stats. 2023, Ch. 51, Sec. 15. (SB 122) Effective July 10, 2023. Inoperative July 1, 2026, pursuant to Section 116773.8. Repealed as of January 1, 2027, pursuant to Section 116773.8.)

116773.5.

(a)Notwithstanding any other law, any assistance or relief authorized by, and provided by a community water system or a wastewater treatment provider to an individual pursuant to, this chapter shall be treated in the same manner as the federal earned income refund for the purpose of determining the individualseligibility to receive benefits under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, excluding benefits under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, or amounts of those benefits.

(b)Notwithstanding any other law, any assistance or relief authorized by, and provided by a community water system or a wastewater treatment provider to an individual pursuant to, this chapter shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of that individual, or any other individual, for benefits or assistance or the amount or extent of benefits or assistance under any state or local program not covered in subdivision (a). With respect to a state or local program, this subdivision shall only be implemented to the extent that it does not conflict with federal law relating to that program, and that any required federal approval or waiver is first obtained for that program.

(Added by Stats. 2022, Ch. 3, Sec. 3. (SB 113) Effective February 9, 2022. Inoperative July 1, 2026, pursuant to Section 116773.8. Repealed as of January 1, 2027, pursuant to Section 116773.8.)

116773.6.

(a)Actions by the state board to implement this chapter, including the adoption or development of any plan, handbook, guidelines, reporting and audit requirements, or forms, are exempt from Chapter 3.5

(commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b)Actions by the state board to implement this chapter, including entering into contracts for services or equipment, are exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. The state board may award a contract under this chapter on a noncompetitive bid basis as necessary to implement the purposes of this chapter.

(c)The state board shall coordinate with the Department of Community Services and Development in allocating funding under this chapter to community water systems that are publicly owned utilities providing electric and water services.

(d)The state board may use its authority granted pursuant to Chapter 4 (commencing with Section 116270) to implement the requirements of this chapter. For purposes of Article 7 (commencing with Section 116525), Article 8 (commencing with Section 116625), and Article 9 (commencing with Section 116650) of Chapter 4, a violation of any requirement imposed in connection with funding under this chapter or the associated program is a violation of Chapter 4.

(e)This chapter satisfies the requirement for subsequent legislation in Provision 2 of Item 3940-062-8506, Provision 3 of Item 3940-162-8506 of Section 2.00 of the Budget Act of 2021, and implementation of Item 3940-162-8506 of Section 2.00 of the Budget Act of 2023.

(Amended by Stats. 2023, Ch. 51, Sec. 16. (SB 122) Effective July 10, 2023. Inoperative July 1, 2026, pursuant to Section 116773.8. Repealed as of January 1, 2027, pursuant to Section 116773.8.)

116773.8.

(a)This chapter shall become inoperative on July 1, 2026, and, as of January 1, 2027, is repealed.

(b)Notwithstanding the repeal of this chapter, any claim or cause of action based thereon that was commenced before January 1, 2027, whether or not reduced to a final judgment, or other action of an implementing agency undertaken pursuant to this chapter shall be preserved, and any remedy that was or could have been ordered to redress a violation of this chapter as it read on June 30, 2026, may be ordered or maintained thereafter.

(Amended by Stats. 2023, Ch. 51, Sec. 17. (SB 122) Effective July 10, 2023. Repealed as of January 1, 2027, by its own provisions. Note: Repeal affects Chapter 4.7, commencing with Section 116773.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=12.&chapter=5.&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=12.&chapter=5.&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=5.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Water Equipment and Control [116775 - 116890]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Water Softeners [116775 - 116795]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

116775.

The Legislature hereby finds and declares that the utilization of the waters of the state by residential consumers for general domestic purposes, including drinking, cleaning, washing, and personal grooming and sanitation of the people is a right that should be interfered with only when necessary for specified health and safety purposes or to protect the quality of the waters of the state. The Legislature further finds that variation in water quality, and particularly in water hardness, throughout the state often requires that onsite water softening or conditioning be available to domestic consumers to ensure their right to a water supply that is effective and functional for domestic requirements of the residential household, but that residential water softening or conditioning appliances shall be available only as authorized in this article.

(Amended by Stats. 1999, Ch. 969, Sec. 1. Effective January 1, 2000.)

116780.

(a) Unless the context otherwise requires the definitions in this section govern the construction of this article.

(b) Clock control means the system controlling the periodic automatic regeneration of a residential water softening or conditioning appliance that is based upon a predetermined and preset time schedule.

(c) Demand control means the system controlling the periodic automatic regeneration of a residential water softening or conditioning appliance that is based either upon a sensor that detects imminent exhaustion of the active softening or conditioning material or upon the measurement of the volume of water passing through the appliance. A demand control system activates regeneration based upon the state of the equipment and its ability to continue the softening process.

(d) Fully manual regeneration means the method of regeneration of a residential water softening or conditioning appliance in which operations are performed manually and in which dry salt is added directly to the ion-exchanger tank after sufficient water is removed to make room for the salt.

(e) Hardness means the total of all dissolved calcium, magnesium, iron and other heavy metal salts, that interact with soaps and detergents in a manner that the efficiency of soaps and detergents for cleansing purposes is impaired. Hardness is expressed in grains per gallon or milligrams per liter as if all such salts were present as calcium carbonate.

(f) Local agency means a city, county, city and county, district, or any other political subdivision of the state.

(g) Manually initiated control means the system controlling the periodic regeneration of a residential water softening or conditioning appliance in which all operations, including bypass of hard water and return to service, are performed automatically after manual initiation.

(h) Regeneration means the phase of operation of a water softening or conditioning appliance whereby the capability of the appliance to remove hardness from water is renewed by the application of a brine solution of sodium or potassium chloride salt to the active softening or conditioning material contained therein followed by a subsequent rinsing of the active softening or conditioning material.

(i) Salt efficiency rating means the efficiency of the use of sodium chloride salt in the regeneration of a water softening appliance, expressed in terms of hardness removal capacity of the appliance per pound of salt used in the regeneration process. The units of salt efficiency rating are grains of hardness removed per pound of salt used. One grain of hardness per gallon is approximately equivalent to 17.1 milligrams of hardness per liter.

(Amended by Stats. 1999, Ch. 969, Sec. 2. Effective January 1, 2000.)

116785.

Except as provided in Section 116786, a residential water softening or conditioning appliance may be installed only if either of the following apply:

(a) The regeneration of the appliance is performed at a nonresidential facility separate from the location of the residence where the appliance is used.

(b) The regeneration of the appliance discharges to the community sewer system and all of the following conditions are satisfied:

(1) The appliance activates regeneration by demand control.

(2) An appliance installed on or after January 1, 2000, shall be certified by a third party rating organization using industry standards to have a salt efficiency rating of no less than 3,350 grains of hardness removed per pound of salt used in regeneration. An appliance installed on or after January 1, 2002, shall be certified by a third party rating organization using industry standards to have a salt efficiency rating of no less than 4,000 grains of hardness removed per pound of salt used in regeneration.

(3) The installation of the appliance is accompanied by the simultaneous installation of the following softened or conditioned water conservation devices on all fixtures using softened or conditioned water, unless the devices are already in place or are prohibited by local and state plumbing and building standards or unless the devices will adversely restrict the normal operation of the fixtures:

(A) Faucet flow restrictors.

(B) Shower head restrictors.

(C) Toilet reservoir dams.

(D) A piping system installed so that untreated (unsoftened or unconditioned) supply water is carried to hose bibs and sill cocks that serve water to the outside of the house, except that bypass valves may be installed on homes with slab foundations constructed prior to the date of installation; or condominiums constructed prior to the date of installation; or otherwise where a piping system is physically inhibited.

(Amended by Stats. 1999, Ch. 969, Sec. 3. Effective January 1, 2000.)

116786.

(a) Notwithstanding subdivision (b) of Section 116785, a local agency may, by ordinance, limit the availability, or prohibit the installation, of residential water softening or conditioning appliances that discharge to the community sewer system if the local agency makes all of the following findings and includes them in the ordinance:

(1) Limiting the availability, or prohibiting the installation, of the appliances is a necessary means of achieving compliance with waste discharge requirements issued by a California regional water quality control board. In determining a necessary means of achieving compliance, the local agency shall assess both of the following:

(A) The technological and economic feasibility of alternatives to the ordinance.

(B) The potential saline discharge reduction of the ordinance.

(2) The local agency has adopted and is enforcing regulatory requirements that limit the volumes and concentrations of saline discharges from nonresidential sources in the community waste disposal system to the extent technologically and economically feasible.

(b) Notwithstanding subdivision (b) of Section 116785, a local agency may, by ordinance, limit the availability, or prohibit the installation, of residential water softening or conditioning appliances that discharge to the community sewer system if the local agency makes all of the following findings and includes them in the ordinance:

(1) Limiting the availability, or prohibiting the installation, of the appliances is a necessary means of achieving compliance with the water reclamation requirements or the master reclamation permit issued by a California regional water quality control board. In determining a necessary means of achieving compliance, the local agency shall assess both of the following:

(A) The technological and economic feasibility of alternatives to the ordinance.

(B) The potential saline discharge reduction of the ordinance.

(2) The local agency has adopted, and is enforcing, regulatory requirements that limit the volumes and concentrations of saline discharges from nonresidential sources to the community waste disposal system to the extent technologically and economically feasible.

(c) Local agency findings shall be substantiated by an independent study of discharges from all sources of salinity, including, but not limited to, residential water softening or conditioning appliances, residential consumptive use, industrial and commercial discharges, and seawater or brackish water infiltration and inflow into the sewer collection system. The study shall quantify, to the greatest extent feasible, the total discharge from each source of salinity and identify remedial actions taken to reduce the discharge of salinity into the community sewer system from each source, to the extent technologically and economically feasible, to bring the local agency into compliance with waste discharge requirements, water reclamation requirements, or a master reclamation permit, prior to limiting or prohibiting the use of residential water softening or conditioning appliances.

(d) Any ordinance adopted pursuant to this section shall be prospective in nature and may not require the removal of residential water softening or conditioning appliances that are installed before the effective date of the ordinance.

(e) To comply with this section, any local agency described in subdivision (f) of Section 116780 is authorized to adopt an ordinance.

(f) This section shall become operative on January 1, 2003.

(Amended by Stats. 2003, Ch. 172, Sec. 1. Effective January 1, 2004.)

116787.

(a)Notwithstanding subdivision (d) of Section 116786, the Santa Clarita Valley Sanitation District, or any successor district, may, by ordinance adopted subsequent to an ordinance adopted pursuant to Section 116786, require the removal of all installed residential self-regenerating water softeners, if the district makes all of the following findings and includes those findings in the ordinance:

(1)The removal of residential self-regenerating water softeners is a necessary and cost-effective means of achieving timely compliance with waste discharge requirements, water reclamation requirements, or a Total Maximum Daily Load (TMDL) issued by a California regional water quality control board. In determining what

constitutes a necessary and cost-effective means of achieving compliance, the district shall assess all of the following:

(A)Alternatives to the ordinance.

(B)The cost-effectiveness and timeliness of the alternatives as compared to the adoption of the ordinance.

(C)The reduction in chloride levels to date resulting from the voluntary program implemented pursuant to paragraph (1) of subdivision (c).

(D)The potential reduction in chloride levels expected as a result of the program implemented pursuant to paragraph (2) of subdivision (c).

(2)The district has adopted and is enforcing regulatory requirements that limit the volume and concentrations of saline discharges from nonresidential sources to the community sewer system, to the extent that is technologically and economically feasible.

(3)Based on available information, sufficient wastewater treatment capacity exists in Los Angeles County to make portable exchange water softening services available to residents affected by this ordinance.

(4)Based on available information, the adoption and implementation of the ordinance will avoid or significantly reduce the costs associated with advanced treatment for salt removal and brine disposal that otherwise would be necessary to meet the Total Maximum Daily Load (TMDL) for chloride, established by the Regional Water Quality Control Board, Los Angeles Region, for Reaches 5 and 6 of the Santa Clara River, in Los Angeles County that took effect May 4, 2005.

(b)(1)An ordinance adopted pursuant to subdivision (a) shall not be effective until it is approved by a majority vote of the qualified votes cast in a regularly scheduled election, following the adoption of the ordinance, held in the districtsservice area, in a referendum in accordance with applicable provisions of the Elections Code.

(2)Information regarding the projected cost differences between advanced treatment for salt removal and brine disposal without the removal of installed residential self-regenerating water softeners, alternatives identified in paragraph (1) of subdivision (a), and the removal of installed residential self-regenerating water softeners shall be included in voter information material.

(c)(1)Prior to the effective date of any ordinance adopted pursuant to subdivision (a), the district shall make available to owners of residential self-regenerating water softeners within its service area a voluntary program to compensate the owner of the appliance for 100 percent of the reasonable value of the removed appliance, and the reasonable cost of the removal and disposal of the appliance, both of which shall be determined by the district, with consideration given to information provided by manufacturers of residential self-regenerating water softeners and providers of water softening or conditioning appliances and services in the districtsservice area regarding purchase price, useful life, and the cost of installation, removal, and disposal.

(2)On and after the effective date of any ordinance adopted pursuant to subdivision (a), the district shall make available to owners of residential self-regenerating water softeners within its service area a program to compensate the owner of the appliance for 75 percent of the reasonable value of the removed appliance, and the reasonable cost of the removal and disposal of the appliance, both of which shall be determined by the district, with consideration given to information provided by manufacturers of residential self-regenerating water softeners and providers of water softening or conditioning appliances and services in the

districtsservice area regarding purchase price, useful life, and the cost of installation, removal, and disposal.

(3)Compensation pursuant to paragraphs (1) and (2) shall only be made available if the owner disposes of the residential self-regenerating water softener and provides written confirmation of the disposal, which may include, but is not limited to, verification in writing provided by the franchise refuse hauler that provides the service of removing the appliance or verification in writing of the appliancesdestruction by the party responsible for its recycling or final disposal.

(4)If the owner of a residential self-regenerating water softener is in the business of renting or leasing residential self-regenerating water softeners, the owner may voluntarily waive compensation pursuant to paragraphs (1) and (2), and shall not be required to dispose of the appliance if the owner provides the district with written confirmation that the appliance has been removed from the home within the districtsservice area for use in a location outside the districtsservice area.

(5)The terms of compensation included in paragraphs (1) and (2) shall be included in an ordinance adopted pursuant to subdivision (a).

(6)(A)Upon the request of the district, the providers of water softening or conditioning services and appliances to residents of the districtsservice area shall provide the district, within 60 days, copies of purchase agreements or receipts, or any other specific records of sales of residential self-generating water softeners in the districtsservice area.

(B)The information in this paragraph shall remain protected and confidential in accordance with applicable provisions of the Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d)Any ordinance adopted pursuant to subdivision (a) and approved in accordance with subdivision (b) shall not take effect until January 1, 2009.

(e)For purposes of this section, residential self-regenerating water softeners and appliances mean residential water softening or conditioning appliances that discharge brine into the community sewer system.

(Amended by Stats. 2021, Ch. 615, Sec. 281. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

116790.

Any water softening appliance in place at a residential dwelling prior to January 1, 1980, in those areas being served by sewage treatment facilities that have been limited with regard to salt loading pursuant to Division 7 (commencing with Section 13000) of the Water Code and for which the appropriate regional water quality control board makes a finding, after adoption of waste discharge requirements and subject to a public hearing, that the control of residential salinity input is necessary to provide compliance with those limitations, may be continued in operation for a period no longer than four years after the regional water quality control board has made its findings. After the four-year period has elapsed, any water softening appliance at that site shall be set at a salt efficiency rating of no less than 2850 grains of hardness removed per pound of salt used in regeneration when regeneration is initiated with clock controls or manually-initiated controls, or shall have regenerations initiated with demand devices. Also, after the four-year period has elapsed, those water-saving devices in shower heads, on faucets, and in toilet reservoirs, as recited in paragraph (2) of subdivision (b) of Section 116785, shall be installed unless already in place or prohibited by

local and state plumbing and building standards. The salt efficiency rating of the water softening or conditioning appliance and the installation of water-saving devices shall be certified in accordance with Section 116795.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116795.

The certification required by this article shall be provided by the new user of the appliance and shall be completed by a contractor having a valid Class C-55 water conditioning contractorslicense or Class C-36 plumbing contractorslicense and filed with the local agency responsible for issuing plumbing permits.

The certification form shall contain all of the following information:

(a) Name and address of homeowner.

(b) Manufacturer of the water softening or conditioning appliance, model number of the appliance, pounds of salt used per regeneration, and salt efficiency rating at the time of certification.

(c) Manufacturer of the water-saving devices installed, model number, and number installed.

(d) Name, address, and the specialty contractorslicense number of the C-55 and C-36 licensee making the certification.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=5.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Water Equipment and Control [116775 - 116890]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Cross-Connection Control by Water Users [116800 - 116820]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

116800.

Local health officers may maintain programs for the control of cross-connections by water users, within the users™ premises, where public exposure to drinking water contaminated by backflow may occur. The programs may include inspections within water users premises for the purpose of identifying cross-connection hazards and determining appropriate backflow protection. Water users shall comply with all orders, instructions, regulations, and notices from the local health officer with respect to the installation, testing, and maintenance of backflow prevention devices. The local health officer may collect fees from those water users subject to inspection to offset the costs of implementing cross-connection control programs.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116805.

(a) Local health officers may maintain programs, in cooperation with water suppliers, to protect against backflow through service connections into the public water supply, and, with the consent of the water supplier, may collect fees from the water supplier to offset the costs of implementing these programs.

(b) The fees authorized under this section and under Section 116800 shall be limited to the costs of administering these programs. At the discretion of the water supplier, the fees collected from the water supplier by the local health officer may be passed through to water users.

(c) Programs authorized under this section and Section 116800 shall be conducted in accordance with backflow protection regulations adopted by the department.

(d) Nothing in this article shall prevent a water supplier from directly charging those water users required to install backflow prevention devices for the costs of the programs authorized in this section and Section 116800.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116810.

To ensure that testing and maintenance of backflow prevention devices are performed by persons qualified to do testing and maintenance, local health officers may maintain programs for certification of backflow prevention device testers. The local health officer may suspend, revoke, or refuse to renew the certificate of a tester, if, after a hearing before the local health officer or his or her designee, the local health officer or his or her designee finds that the tester has practiced fraud or deception or has displayed gross negligence or misconduct in the performance of his or her duties as a certified backflow prevention device tester. The local health officer may collect fees from certified testers to offset the cost of the certification program provided pursuant to this section. The certification standards shall be consistent with standards adopted by the state board pursuant to Section 116407 and any other applicable backflow protection regulations.

(Amended by Stats. 2017, Ch. 533, Sec. 3. (AB 1671) Effective January 1, 2018.)

116815.

(a) All pipes installed above or below the ground, on and after June 1, 1993, that are designed to carry recycled water, shall be colored purple or distinctively wrapped with purple tape.

(b) Subdivision (a) shall apply only in areas served by a water supplier delivering water for municipal and industrial purposes, and in no event shall apply to any of the following:

(1) Municipal or industrial facilities that have established a labeling or marking system for recycled water on their premises, as otherwise required by a local agency, that clearly distinguishes recycled water from potable water.

(2) Water delivered for agricultural use.

(c) For purposes of this section, recycled water has the same meaning as defined in subdivision (n) of Section 13050 of the Water Code.

(Added by renumbering Section 4049.54 (as amended by Stats. 1995, Ch. 28) by Stats. 1996, Ch. 1023, Sec. 188. Effective September 29, 1996.)

116820.

Any person who violates any provision of this article, violates any order of the local health officer pursuant to this article, or knowingly files a false statement or report required by the local health officer pursuant to this article is guilty of a misdemeanor punishable by a fine not exceeding five hundred dollars ($500) or by imprisonment not exceeding 30 days in the county jail or by both such fine and imprisonment. Each day of a violation of any provision of this article or of any order of the local health officer beyond the time stated for compliance of the order shall be a separate offense.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=5.&article=3.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=104.&title=&part=12.&chapter=5.&article=3.)

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Water Equipment and Control [116775 - 116890]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Water Treatment Devices [116825 - 116865]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

116825.

Unless the context otherwise requires, the following definitions shall govern construction of this article:

(a)Water treatment device means any point of use or point of entry instrument or contrivance sold or offered for rental or lease for residential use, and designed to be added to the plumbing system, or used without being connected to the plumbing of a water supply intended for human consumption in order to improve the water supply by any means, including, but not limited to, filtration, distillation, adsorption, ion exchange, reverse osmosis, or other treatment. Water treatment device does not include any device that is regulated pursuant to Article 12 (commencing with Section 111070) of Chapter 5 of Part 5.

(b)Department means the State Department of Public Health.

(c)Person means any individual, firm, corporation, or association, or any employee or agent thereof.

(d)Contaminants means any health-related physical, chemical, biological, or radiological substance or matter in water.

(e)Health or safety claim means any claim that the water treatment device will remove or reduce a contaminant for which either of the following applies:

(1)A primary drinking water standard as defined in Section 116275, or a treatment requirement as authorized in subdivision (j) of Section 116365 and subdivision (d) of Section 116375, has been established.

(2)A national primary drinking water standard or treatment requirement has been established under the federal Safe Drinking Water Act (42 U.S.C. Sec. 300g-1).

(f)Manufacturer means any of the following:

(1)A person that makes, converts, constructs, or produces water treatment devices for the purposes of sale, lease, or rental to individuals, corporations, associations, or other entities.

(2)A person that assembles water treatment devices or treatment components from components manufactured by another entity.

(3)A person that adds its own product name or product identification to water treatment devices or treatment components that have been manufactured or assembled by another entity.

(Amended by Stats. 2013, Ch. 403, Sec. 2. (AB 119) Effective January 1, 2014.)

116831.

All regulations adopted pursuant to this article prior to January 1, 2014, are repealed.

(Added by Stats. 2013, Ch. 403, Sec. 4. (AB 119) Effective January 1, 2014.)

116832.

(a)Commencing January 1, 2014, each manufacturer that offers for sale in California a water treatment device for which it makes a health or safety claim shall, for each water treatment device for which the manufacturer does not have a valid, unexpired certificate issued by the department prior to December 1, 2013, annually submit to the department the following information, together with the fee prescribed in Section 116850, for purposes of the department publishing the information on its Internet Web site:

(1)The name, address, telephone number, and Internet Web site address, if any, of the manufacturer.

(2)The name, address, and telephone number of a contact person for the manufacturer.

(3)The name and model number of the water treatment device, and any other product identification, used by the manufacturer to describe the water treatment device or treatment component.

(4)Each specific contaminant claimed to be removed or reduced by the device.

(5)For each specific contaminant identified pursuant to paragraph (4), the name of the organization that meets the accreditation standards of the American National Standards Institute and that has certified the

device to verify its removal or reduction performance for that contaminant, the name of the testing protocol or standard used to test the device, a statement from the testing laboratory giving the date of the test, a summary of the results, and the date, if any, by which the device must be retested for verification of the removal or reduction performance to remain effective.

(6)A product information worksheet that includes the following information:

(A)A summary of the information required to be submitted to the department pursuant to paragraphs (1) to (5), inclusive.

(B)A copy of the certificate issued by the organization that certified the device, as described in paragraph (5).

(C)The service flow rate in gallons per minute or gallons per day or the production rate in gallons per day.

(D)The rated service life of the water treatment device, if applicable.

(E)The general use conditions and needs of the device, including, but not limited to, its maximum turbidity and the bacteriological quality of source water.

(F)The model or part number of components that must be periodically or routinely replaced to maintain the effectiveness of the device.

(G)The maximum and minimum operating temperature of the device in degrees Fahrenheit and degrees Centigrade.

(H)The maximum and minimum operating pressure of the device in pounds per square inch and kilograms per square centimeter.

(I)A reference to the devicesowners™ manual for general operation and maintenance requirements and the manufacturerswarranty.

(b)(1)Information submitted to the department pursuant to subdivision (a) that is accompanied by the fee required by Section 116850 and postmarked, or sent electronically, after September 1, but on or before March 1, shall be published by the department pursuant to Section 116845 no later than April 1 next following the submission.

(2)Information submitted to the department pursuant to subdivision (a) that is accompanied by the fee required by Section 116850 and postmarked, or sent electronically, after March 1, but on or before September 1, shall be published by the department pursuant to Section 116845 no later than October 1 of that same year.

(Added by Stats. 2013, Ch. 403, Sec. 5. (AB 119) Effective January 1, 2014.)

116835.

(a)A water treatment device for which a health or safety claim is made shall not be sold or otherwise distributed unless the device is included on the list of water treatment devices published on the state boardsInternet Web site pursuant to Section 116845.

(b)After July 1, 2015, the exterior packaging of a water treatment device for which a health or safety claim is made, and that is offered for sale in a retail establishment in California, shall clearly identify the contaminant or contaminants that the device has been certified pursuant to subdivision (a) to remove or reduce. If a device has been certified to remove or reduce more than five contaminants, at least five contaminants shall be listed on the exterior packaging followed by a statement directing consumers to visit the manufacturersInternet Web site to obtain information regarding additional contaminants that the device is certified to remove or reduce.

(c)After July 1, 2015, the manufacturer of a water treatment device for which it makes a health or safety claim shall include with each water treatment device offered for sale in California a decal that may be affixed to the device by the consumer that states, at a minimum, the following:

Please refer to the ownersmanual for proper maintenance and operation. If this device is not maintained and operated as specified in the ownersmanual, there is a risk of exposure to contaminants. For more information, visit the manufacturersInternet Web site at ManufacturersInternet Web site or the State Water Resources Control BoardsInternet Web site at www.swrcb.ca.gov.

(Amended by Stats. 2014, Ch. 828, Sec. 2. (AB 2738) Effective January 1, 2015.)

116836.

(a)Notwithstanding any other law, a certificate issued by the department shall not be valid unless the application for certification was filed on or before November 1, 2013.

(b)A currently valid certificate issued by the department on or before December 31, 2013, pursuant to this article, shall remain valid for five years following the date of initial issuance, provided that the manufacturer pays the annual fee established by Section 116850.

(Added by Stats. 2013, Ch. 403, Sec. 8. (AB 119) Effective January 1, 2014.)

116840.

(a)The department, or any local health officer with the concurrence of the department, shall enforce this article.

(b)The department may remove a water treatment device from, or determine not to include a water treatment device on, the list of water treatment devices on the departmentsInternet Web site upon its determination of any of the following:

(1)That the manufacturer, or any employee or agent thereof, has violated this article or Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

(2)That any of the information submitted pursuant to Section 116832 is not true.

(3)That a certificate issued by the department prior to December 31, 2013, has expired, unless the manufacturer otherwise complies with Section 116832.

(4)That the manufacturer has not paid the annual fees required by Section 116850.

(5)That the manufacturer has failed to submit all of the information required by subdivision (a) of Section 116832.

(c)Any person, corporation, firm, partnership, joint stock company, or any other association or organization that violates any provision of this article shall be liable for a civil penalty not to exceed five thousand dollars ($5,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of the conduct is a separate and distinct violation. The civil penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(d)If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalties collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(e)Unless otherwise provided, the remedies or penalties provided by this article are cumulative to each other and to remedies or penalties available under all other laws of this state.

(Amended by Stats. 2013, Ch. 403, Sec. 9. (AB 119) Effective January 1, 2014.)

116845.

The department shall publish semiannually on its Internet Web site the following:

(a)(1)A list of water treatment devices for which a valid certification was issued by the department on or before December 31, 2013, except for those water treatment devices that the department has removed from, or determined not to include on, the list of water treatment devices on its Internet Web site.

(2)A list of water treatment devices for which a manufacturer has submitted information pursuant to Section 116832, except for those water treatment devices that the department has determined to remove from, or not include on, the list pursuant to Section 116840.

(3)A product worksheet for each water treatment device listed on the departmentsInternet Web site.

(b)Consumer information, in English and Spanish, regarding the appropriate use of water treatment devices.

(Repealed and added by Stats. 2013, Ch. 403, Sec. 11. (AB 119) Effective January 1, 2014.)

116850.

(a)The department shall charge and collect the applicable annual fee, as established pursuant to subdivision (b), from each manufacturer that submits information as required by Section 116832 and from each manufacturer that has a currently valid certificate issued by the department. The fees established pursuant to subdivision (b) shall not exceed the amount necessary to recoup the reasonable regulatory costs incurred by

the department in publishing and maintaining the information on its Internet Web site as provided in Section 116845 and in conducting enforcement actions, including, but not limited to, referring matters for enforcement to other agencies pursuant to Section 116840.

(b)(1)For each water treatment device for which the manufacturer has submitted the information required by subdivision (a) of Section 116832, the annual fee shall be up to five hundred dollars ($500).

(2)For each water treatment device that has a valid, unexpired certificate issued by the department prior to December 31, 2013, the annual fee shall be up to five hundred dollars ($500).

(c)The department may establish and periodically adjust the fee authorized by subdivision (a) by publishing the fee on its Internet Web site. This action by the department shall not be subject to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(Repealed and added by Stats. 2013, Ch. 403, Sec. 13. (AB 119) Effective January 1, 2014.)

116855.

This article shall not apply to residential self-regenerating water softeners, as defined in Section 13148 of the Water Code.

(Repealed and added by Stats. 2013, Ch. 403, Sec. 15. (AB 119) Effective January 1, 2014.)

116860.

There is in the State Treasury the Water Device Certification Special Account. Fees collected pursuant to Section 116850 shall be deposited in the account created by this section. The money in the account is available for expenditure by the department, upon appropriation by the Legislature, solely for the purposes specified in this article.

(Amended by Stats. 2013, Ch. 403, Sec. 16. (AB 119) Effective January 1, 2014.)

116865.

The Director of Finance may authorize the department to borrow up to two hundred thousand dollars ($200,000) for the purpose of implementing this article from any fund or account deemed appropriate by the Director of Finance. The department shall repay the loan with interest to be determined in accordance with Section 16314 of the Government Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.

&title=&part=12.&chapter=5.&article=4.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=5.&article=4.)

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Water Equipment and Control [116775 - 116890]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Lead Materials [116875 - 116890]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

116875.

(a)No person shall use any pipe, pipe or plumbing fitting or fixture, solder, or flux that is not lead free in the installation or repair of any public water system or any plumbing in a facility providing water for human consumption, except when necessary for the repair of leaded joints of cast iron pipes.

(b)(1)No person shall introduce into commerce any pipe, pipe or plumbing fitting, or fixture intended to convey or dispense water for human consumption through drinking or cooking that is not lead free, as defined in subdivision (e). This includes kitchen faucets, bathroom faucets, and any other end-use devices intended to convey or dispense water for human consumption through drinking or cooking, but excludes service saddles, backflow preventers for nonpotable services such as irrigation and industrial, and water distribution main gate valves that are two inches in diameter and above.

(2)Pipes, pipe or plumbing fittings, or fixtures that are used in manufacturing, industrial processing, for irrigation purposes, and any other uses where the water is not intended for human consumption through drinking or cooking are not subject to the requirements of paragraph (1).

(3)For all purposes other than manufacturing, industrial processing, or to convey or dispense water for human consumption, lead free is defined in subdivision (f).

(c)No person engaged in the business of selling plumbing supplies, except manufacturers, shall sell solder or flux that is not lead free.

(d)No person shall introduce into commerce any solder or flux that is not lead free unless the solder or flux bears a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

(e)For the purposes of this section, lead free means not more than 0.2 percent lead when used with respect to solder and flux and not more than a weighted average of 0.25 percent when used with respect to the wetted surfaces of pipes and pipe fittings, plumbing fittings, and fixtures. The weighted average lead content of a pipe and pipe fitting, plumbing fitting, and fixture shall be calculated by using the following formula: The percentage of lead content within each component that comes into contact with water shall be multiplied by the percent of the total wetted surface of the entire pipe and pipe fitting, plumbing fitting, or fixture represented in each component containing lead. These percentages shall be added and the sum shall constitute the weighted average lead content of the pipe and pipe fitting, plumbing fitting, or fixture.

(f)For the purposes of paragraph (3) of subdivision (b), lead free, consistent with the requirements of federal law, means not more than 0.2 percent lead when used with respect to solder and flux and not more than 8 percent when used with respect to pipes and pipe fittings. With respect to plumbing fittings and fixtures, lead free means not more than 4 percent by dry weight after August 6, 2002, unless the department has adopted a standard, based on health effects, for the leaching of lead.

(g)(1)All pipe, pipe or plumbing fittings or fixtures, solder, or flux shall be certified by an independent American National Standards Institute (ANSI) accredited third party, including, but not limited to, NSF International, as being in compliance with this section.

(2)(A)The certification described in paragraph (1) shall, at a minimum, include testing of materials in accordance with the protocols used by the Department of Toxic Substances Control in implementing Article 10.1.2 (commencing with Section 25214.4.3) of Chapter 6.5 of Division 20.

(B)The certification required pursuant to this subdivision shall not interfere with either the departmentsexercise of its independent authority to protect public health pursuant to this section, or the Department of Toxic Substances Controlsexercise of its independent authority to implement Article 10.1.2 (commencing with Section 25214.4.3) of Chapter 6.5 of Division 20.

(3)It is the intent of the Legislature that this subdivision only provide guidance and assistance to the entities that use an independent ANSI accredited third party to demonstrate compliance with this section. Any tests developed by an independent ANSI accredited third party in accordance with this subdivision shall have no weight of authority under California statute.

(4)Notwithstanding paragraph (1), the department shall retain its independent authority in administering this article.

(h)This section shall become operative on January 1, 2010. The requirement described in subdivision (g) shall not be construed in any manner as to justify a delay in compliance with the lead-free standard set forth in subdivision (e).

_(Amended (as added by Stats. 2006, Ch. 853, Sec. 2) by Stats. 2008, Ch. 580, Sec. 2. Effective January 1, 2009.

Section operative January 1, 2010, by its own provisions.)_

116876.

(a)Commencing January 1, 2023, a person shall not manufacture, and offer for sale in the state, an endpoint device intended to convey or dispense water for human consumption that leaches more than one microgram of lead for test statistic Q or R, when normalized for a first draw sample up to or equal to one liter in volume, as calculated in accordance with the 2020 NSF International Standard 61, which became effective in the year 2020, and certified by an American National Standards Institute-accredited third party.

(b)Commencing July 1, 2023, a person shall not introduce into commerce or offer for sale in the state an endpoint device intended to convey or dispense water for human consumption that leaches more than one microgram of lead for test statistic Q or R, when normalized for a first draw sample up to or equal to one liter in volume, as calculated in accordance with the 2020 NSF International Standard 61, which became effective in the year 2020, and certified by an American National Standards Institute-accredited third party.

(c)The consumer-facing product packaging or product labeling of an endpoint device intended to convey or dispense water for human consumption that meets the lead free standard specified in subdivision (e) of Section 116875 and does not leach more than one microgram of lead for test statistic Q or R, when normalized for a first draw sample up to or equal to one liter in volume, as calculated in accordance with the 2020 NSF International Standard 61, which became effective in the year 2020, and certified by an American National Standards Institute-accredited third party, shall indicate that compliance by including the lettering NSF/ANSI/CAN 61: Q â‰¤ 1 in an easily identifiable manner.

(d)(1)For purposes of this section, endpoint device means a single device, such as a plumbing fitting, fixture, or faucet, that is typically installed within the last one liter of the water distribution system of a building. An endpoint device includes all of the following:

(A)Remote chillers.

(B)Lavatory faucets.

(C)Bar faucets.

(D)Kitchen faucets.

(E)Hot and cold water dispensers.

(F)Drinking fountains.

(G)Drinking fountain bubblers.

(H)Water coolers.

(I)Glass fillers.

(J)Residential refrigerator ice makers.

(2)An endpoint device does not include either of the following:

(A)Devices specifically exempted from section nine, Mechanical Plumbing Devices, of the 2020 NSF International Standard 61, which became effective in the year 2020.

(B)Devices the 2020 NSF International Standard 61, which became effective in the year 2020, subjects to a different lead leaching standard or normalization requirement than that specified in subdivision (a).

(Added by Stats. 2021, Ch. 692, Sec. 1. (AB 100) Effective January 1, 2022.)

116880.

The department shall adopt building standards to implement Section 116875. The standards shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and shall be published in the State Building Standards Code located in Title 24 of the California Code of Regulations. The standards shall be enforced by the appropriate state and local building and health officials.

(Amended by Stats. 1997, Ch. 734, Sec. 18. Effective October 7, 1997.)

116885.

(a)By July 1, 2018, a community water system shall compile an inventory of known lead user service lines in use in its distribution system and identify areas that may have lead user service lines in use in its distribution system.

(b)(1)By July 1, 2020, a community water system that has identified known lead user service lines in use in its distribution system as provided in subdivision (a) shall provide a timeline for replacement of known lead user service lines in use in its distribution system to the state board.

(2)By July 1, 2020, a community water system that has identified areas that may have lead user service lines in use in its distribution system as provided for in subdivision (a) shall do both of the following:

(A)Provide to the state board its determination as to whether there are any lead user service lines in use in those areas of its distribution system and provide a timeline to the state board for replacement of those lead user service lines that the community water system has identified.

(B)Provide its findings as to whether there are any areas for which it cannot determine the content of the user service lines and a timeline to the state board for replacement of the user service lines whose content cannot be determined.

(c)The state board shall review and approve a timeline established pursuant to subdivision (b) as follows:

(1)The state board shall review a community water systemsproposed timeline for lead user service line replacement and, within 30 days of submission of the timeline to the state board, do either of the following:

(A)Approve the proposed timeline.

(B)Deny the proposed timeline and propose a revised timeline to the community water system. The state board shall explain to the community water system, in writing, why the community water systemstimeline was not approved, the factors that the state board used to propose a revised timeline, and why the state board used those factors.

(2)If the state board fails to act within 30 days of the submission of the timeline, the timeline shall be deemed approved.

(3)If the public water system rejects the state boardsproposed revised timeline, the public water system and the state board shall develop a compromise timeline within 30 days.

(4)An approved timeline or a compromise timeline shall be a public record and available on the state boardsInternet Web site.

(5)In cases where a portion of a community water systemsdistribution system is located within a Superfund site, as designated under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.), under an active cleanup order, the state board shall not propose a timeline for lead user service line replacement that does not conform to any applicable federal regulatory requirements or timelines.

(Amended by Stats. 2017, Ch. 238, Sec. 1. (SB 427) Effective January 1, 2018.)

116890.

(a)For purposes of this article, the following definitions apply:

(1)Community water system has the same meaning as in Section 116275.

(2)Public water system has the same meaning as in Section 116275.

(3)State board means the State Water Resources Control Board.

(4)User service line has the same meaning as in Section 64551.60 of Title 22 of the California Code of Regulations.

(b)The state board may apply the requirements of subdivision (a) of Section 116875 and Section 116885 to, and enforce the requirements of those provisions against, public water systems and community water systems under Chapter 4 (commencing with Section 116270). For purposes of Article 7 (commencing with Section 116525), Article 8 (commencing with Section 116625), and Article 9 (commencing with Section 116650) of Chapter 4, a violation of subdivision (a) of Section 116875 or Section 116885 by a public water system is a violation of Chapter 4 (commencing with Section 116270).

(Added by Stats. 2017, Ch. 238, Sec. 2. (SB 427) Effective January 1, 2018.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=6.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Discontinuation of Residential Water Service [116900 - 116926]__

(Chapter 6 added by Stats. 2018, Ch. 891, Sec. 2.)

116900.

This chapter shall be known, and may be cited, as the Water Shutoff Protection Act.

(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)

116902.

For the purposes of this chapter, the following definitions apply:

(a)Board means the State Water Resources Control Board.

(b)Community water system has the same meaning as defined in Section 116275.

(c)Covered water system means a water system or supplier described in Section 116904.

(d)Residential service means water service to a residential connection that includes single-family residences, multifamily residences, mobilehomes, including, but not limited to, mobilehomes in mobilehome parks, or farmworker housing.

(e)Urban and community water system means a public water system, as defined in Section 116275, that supplies water to more than 200 service connections.

(f)Urban water supplier has the same meaning as defined in Section 10617 of the Water Code.

(Amended by Stats. 2023, Ch. 855, Sec. 2. (SB 3) Effective January 1, 2024.)

116904.

(a)An urban water supplier not regulated by the Public Utilities Commission shall comply with this chapter on and after February 1, 2020.

(b)An urban and community water system regulated by the Public Utilities Commission shall comply with this chapter on and after February 1, 2020. The urban and community water system regulated by the Public Utilities Commission shall file advice letters with the commission to conform to this chapter.

(c)An urban and community water system not described in subdivision (a) or (b) shall comply with this chapter on and after April 1, 2020.

(d)A community water system not described in subdivision (a), (b), or (c) shall comply with this chapter on and after August 1, 2024.

(e)Subject to the availability of funding, the state board shall make funds available for providing training statewide to community water systems with between 15 and 200 service connections to assist in compliance with this chapter.

(Amended by Stats. 2023, Ch. 855, Sec. 3. (SB 3) Effective January 1, 2024.)

116906.

(a)A covered water system that serves 200 or more service connections shall have a written policy on discontinuation of residential service for nonpayment available in English, the languages listed in Section 1632 of the Civil Code, and any other language spoken by at least 10 percent of the people residing in its service area. A covered water system that serves fewer than 200 service connections shall have a written policy on disconnection of residential service for nonpayment available in English, any language spoken by at least 10 percent of the people residing in its service area, and, upon request of a customer, any of the languages listed in Section 1632 of the Civil Code. Nothing in this section shall be construed to prevent a covered water system from making the policy available in any other language. The policy shall include all of the following:

(1)A plan for deferred or reduced payments that is available for any customer regardless of whether they meet the conditions of subdivision (a) of Section 116910. The plan for deferred or reduced payments that is available to any customer regardless of whether they meet the conditions of subdivision (a) of Section 116910 is not required to reduce the total amount due for water service provided.

(2)Alternative payment schedules that are available for any customer regardless of whether they meet the conditions of subdivision (a) of Section 116910.

(3)A formal mechanism for a customer to contest or appeal a bill.

(4)A telephone number for a customer to contact to discuss options for averting discontinuation of residential service for nonpayment.

(b)The policy shall be available on the covered water systemsinternet website, if an internet website exists. If an internet website does not exist, the covered water system shall provide the policy to customers in writing, upon request.

(c)(1)The board may enforce the requirements of this section pursuant to Sections 116577, 116650, and 116655. The provisions of Section 116585 and Article 10 (commencing with Section 116700) of Chapter 4 apply to enforcement undertaken for a violation of this section.

(2)All moneys collected pursuant to this subdivision shall be deposited in the Safe Drinking Water Account established pursuant to Section 116590.

(Amended by Stats. 2023, Ch. 855, Sec. 4. (SB 3) Effective January 1, 2024.)

116908.

(a)(1)(A)A covered water system shall not discontinue residential service for nonpayment until a payment by a customer has been delinquent for at least 60 days. No fewer than seven business days before discontinuation of residential service for nonpayment, a covered water system shall contact the customer named on the account by telephone or written notice.

(B)When the covered water system contacts the customer named on the account by telephone pursuant to subparagraph (A), it shall offer to provide in writing to the customer the covered water systemspolicy on discontinuation of residential service for nonpayment. A covered water system shall offer to discuss options to avert discontinuation of residential service for nonpayment, including, but not limited to, alternative payment schedules, deferred payments, minimum payments, procedures for requesting amortization of the unpaid balance, and petition for bill review and appeal.

(C)When the covered water system contacts the customer named on the account by written notice pursuant to subparagraph (A), the written notice of payment delinquency and impending discontinuation shall be mailed to the customer of the residence to which the residential service is provided. If the customersaddress is not the address of the property to which residential service is provided, the notice also shall be sent to the address of the property to which residential service is provided, addressed to Occupant. The notice shall include, but is not limited to, all of the following information in a clear and legible format:

(i)The customersname and address.

(ii)The amount of the delinquency.

(iii)The date by which payment or arrangement for payment is required in order to avoid discontinuation of residential service.

(iv)A description of the process to apply for an extension of time to pay the delinquent charges.

(v)A description of the procedure to petition for bill review and appeal.

(vi)A description of the procedure by which the customer may request a deferred, reduced, or alternative

payment schedule, including an amortization of the delinquent residential service charges, consistent with the written policies provided pursuant to subdivision (a) of Section 116906.

(2)If the covered water system is unable to make contact with the customer or an adult occupying the residence by telephone, and written notice is returned through the mail as undeliverable, the covered water system shall make a good faith effort to visit the residence and leave, or make other arrangements for placement in a conspicuous place of, a notice of imminent discontinuation of residential service for nonpayment and the covered water systemspolicy for discontinuation of residential service for nonpayment.

(b)If an adult at the residence appeals the water bill to the covered water system or any other administrative or legal body to which that appeal may be lawfully taken, the covered water system shall not discontinue residential service while the appeal is pending.

(Amended by Stats. 2023, Ch. 855, Sec. 5. (SB 3) Effective January 1, 2024.)

116910.

(a)A covered water system shall not discontinue residential service for nonpayment if all of the following conditions are met:

(1)The customer, or a tenant of the customer, submits to the covered water system the certification of a primary care provider, as that term is defined in subparagraph (A) of paragraph (1) of subdivision (b) of Section 14088 of the Welfare and Institutions Code, that discontinuation of residential service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises where residential service is provided.

(2)The customer demonstrates that they are financially unable to pay for residential service within the covered water systemsnormal billing cycle. The customer shall be deemed financially unable to pay for residential service within the covered water systemsnormal billing cycle if any member of the customershousehold is a current recipient of CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children, or the customer declares that the householdsannual income is less than 200 percent of the federal poverty level.

(3)The customer is willing to enter into an amortization agreement, alternative payment schedule, or a plan for deferred or reduced payment, consistent with the written policies provided pursuant to subdivision (a) of Section 116906, with respect to all delinquent charges.

(b)(1)If the conditions listed in subdivision (a) are met, the covered water system shall offer the customer one or more of the following options:

(A)Amortization of the unpaid balance.

(B)Participation in an alternative payment schedule.

(C)A partial or full reduction of the unpaid balance financed without additional charges to other ratepayers.

(D)Temporary deferral of payment.

(2)The covered water system may choose which of the payment options described in paragraph (1) the customer undertakes and may set the parameters of that payment option. Ordinarily, the repayment option offered should result in repayment of any remaining outstanding balance within 12 months. A covered water system may grant a longer repayment period if it finds the longer period is necessary to avoid undue hardship to the customer based on the circumstances of the individual case.

(3)Residential service may be discontinued no sooner than five business days after the covered water system posts a final notice of intent to disconnect service in a prominent and conspicuous location at the property under either of the following circumstances:

(A)The customer fails to comply with an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges for 60 days or more.

(B)While undertaking an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges, the customer does not pay their current residential service charges for 60 days or more.

(Amended by Stats. 2023, Ch. 855, Sec. 6. (SB 3) Effective January 1, 2024.)

116912.

A covered water system that discontinues residential service for nonpayment shall provide the customer with information on how to restore residential service.

(Amended by Stats. 2023, Ch. 855, Sec. 7. (SB 3) Effective January 1, 2024.)

116914.

(a)For a residential customer who demonstrates to a covered water system household income below 200 percent of the federal poverty line, the covered water system shall do both of the following:

(1)Set a reconnection of service fee for reconnection during normal operating hours at fifty dollars ($50), but not to exceed the actual cost of reconnection if it is less. Reconnection fees shall be subject to an annual adjustment for changes in the Consumer Price Index beginning January 1, 2021. For the reconnection of residential service during nonoperational hours, a covered water system shall set a reconnection of service fee at one hundred fifty dollars ($150), but not to exceed the actual cost of reconnection if it is less. Reconnection fees shall be subject to an annual adjustment for changes in the Consumer Price Index beginning January 1, 2021.

(2)Waive interest charges on delinquent bills once every 12 months.

(b)A covered water system shall deem a residential customer to have a household income below 200 percent of the federal poverty line if any member of the household is a current recipient of CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children, or the customer declares that the householdsannual income is less than 200 percent of the federal poverty level.

(Amended by Stats. 2023, Ch. 855, Sec. 8. (SB 3) Effective January 1, 2024.)

116916.

(a)This section applies if there is a landlord-tenant relationship between the residential occupants and the owner, manager, or operator of the dwelling.

(b)If a covered water system furnishes individually metered residential service to residential occupants of a detached single-family dwelling, a multiunit residential structure, mobilehome park, or permanent residential structure in a labor camp as defined in Section 17008, and the owner, manager, or operator of the dwelling, structure, or park is the customer of record, the covered water system shall make every good faith effort to inform the residential occupants, by means of written notice, when the account is in arrears that service will be terminated at least 10 days prior to the termination. The written notice shall further inform the residential occupants that they have the right to become customers, to whom the service will then be billed, without being required to pay any amount that may be due on the delinquent account.

(c)The covered water system is not required to make service available to the residential occupants unless each residential occupant agrees to the terms and conditions of service and meets the requirements of law and the covered water systemsrules and tariffs. However, if one or more of the residential occupants are willing and able to assume responsibility for the subsequent charges to the account to the satisfaction of the covered water system, or if there is a physical means legally available to the covered water system of selectively terminating service to those residential occupants who have not met the requirements of the covered water systemsrules and tariffs, the covered water system shall make service available to those residential occupants who have met those requirements.

(d)If prior service for a period of time is a condition for establishing credit with the covered water system, residence and proof of prompt payment of rent or other credit obligation acceptable to the covered water system for that period of time is a satisfactory equivalent.

(e)Any residential occupant who becomes a customer of the covered water system pursuant to this section whose periodic payments, such as rental payments, include charges for residential water service, where those charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the covered water system for those services during the preceding payment period.

(f)In the case of a detached single-family dwelling, the covered water system may do any of the following:

(1)Give notice of termination at least seven days prior to the proposed termination.

(2)In order for the amount due on the delinquent account to be waived, require an occupant who becomes a customer to verify that the delinquent account customer of record is or was the landlord, manager, or agent of the dwelling. Verification may include, but is not limited to, a lease or rental agreement, rent receipts, a government document indicating that the occupant is renting the property, or information disclosed pursuant to Section 1962 of the Civil Code.

(Amended by Stats. 2023, Ch. 855, Sec. 9. (SB 3) Effective January 1, 2024.)

116918.

A covered water system shall report the number of annual discontinuations of residential service for inability to pay on the covered water systemsinternet website, if an internet website exists, and to the board. The board shall post on its internet website the information reported.

(Amended by Stats. 2023, Ch. 855, Sec. 10. (SB 3) Effective January 1, 2024.)

116920.

(a)The Attorney General, at the request of the board or upon the Attorney Generalsown motion, may bring an action in state court to do either of the following:

(1)Restrain by temporary or permanent injunction the use of any method, act, or practice declared in this chapter to be unlawful.

(2)Restore to any person in interest any money or property, real or personal, that may have been acquired by any method, act, or practice declared by this chapter to be unlawful.

(b)For a covered water system regulated by the Public Utilities Commission, the commission may bring an action in state court to restrain by temporary or permanent injunction the use by a covered water system regulated by the commission of any method, act, or practice declared in this chapter to be unlawful.

(Amended by Stats. 2023, Ch. 855, Sec. 11. (SB 3) Effective January 1, 2024.)

116922.

All written notices required under this chapter shall be provided in English, the languages listed in Section 1632 of the Civil Code, and any other language spoken by 10 percent or more of the customers in the covered water systemsservice area.

(Amended by Stats. 2023, Ch. 855, Sec. 12. (SB 3) Effective January 1, 2024.)

116924.

Where provisions of existing law are duplicative of this chapter, compliance with one shall be deemed compliance with the other. Where those provisions are inconsistent, the provisions of this chapter shall apply. Nothing in this chapter shall be construed to limit or restrict the procedural safeguards against the disconnection of residential water service existing as of December 31, 2018.

(Added by Stats. 2018, Ch. 891, Sec. 2. (SB 998) Effective January 1, 2019.)

116926.

This chapter does not apply to the termination of a service connection by a covered water system due to an unauthorized action of a customer.

(Amended by Stats. 2023, Ch. 855, Sec. 13. (SB 3) Effective January 1, 2024.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=12.&chapter=7.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=7.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Water Supply [116975 - 117130]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Water Supply Provisions [116975 - 117075]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

116975.

No person shall put the carcass of any dead animal, or the offal from any slaughter pen, corral, or butcher shop, into any river, creek, pond, reservoir, or stream.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116980.

No person shall put any water closet, privy, cesspool or septic tank, or the carcass of any dead animal, or any offal of any kind, in, or upon the borders of, any stream, pond, lake, or reservoir from which water is drawn for the supply of any portion of the inhabitants of this state, in a manner that the drainage of the water closet, privy, cesspool or septic tank, or carcass, or offal may be taken up by or in the water.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116985.

No person shall allow any water closet, privy, cesspool, or septic tank, or carcass of any dead animal, or any offal of any kind, to remain in or upon the borders of any stream, pond, lake, or reservoir within the boundaries of any land owned or occupied by him or her, in a manner that the drainage from the water closet, privy, cesspool or septic tank, or carcass, or offal, may be taken up by or in the stream, pond, lake, or reservoir, if water is drawn therefrom for the supply of any portion of the inhabitants of this state.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116990.

No person shall keep any horses, mules, cattle, swine, sheep, or live stock of any kind, penned, corralled, or housed on, over, or on the borders of any stream, pond, lake, or reservoir, in a manner that the waters become polluted, if water is drawn therefrom for the supply of any portion of the inhabitants of this state.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

116995.

No person shall cause or permit any horses, cattle, sheep, swine, poultry, or any kind of live stock or domestic animals, to pollute the waters, or tributaries of waters, used or intended for drinking purposes by any portion of the inhabitants of this state.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117000.

No person shall bathe, except as permitted by law, in any stream, pond, lake, or reservoir from which water is drawn for the supply of any portion of the inhabitants of this state, or by any other means foul or pollute the waters of any such stream, pond, lake, or reservoir.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117005.

Nothing in this article shall be held to prevent the grazing of livestock in areas embracing any stream or watershed where the grazing would not tend to render the waters unwholesome or injurious to the public health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117010.

Every person who washes clothes in any spring, stream, river, lake, reservoir, well, or other waters that are used or intended for drinking purposes by the inhabitants of the vicinage or of any city, county, or town, of this state, is guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 90 days, or a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

Each daysviolation of this section is a separate offense.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117015.

Every person who violates, or refuses or neglects to conform to, any sanitary rule, order, or regulation prescribed by the department for the prevention of the pollution of springs, streams, rivers, lakes, wells, or other waters used or intended to be used for human or animal consumption, is guilty of a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117020.

No person shall construct, maintain, or use any waste well extending to or into a subterranean water-bearing stratum that is used or intended to be used as, or is suitable for, a source of water supply for domestic purposes, except pursuant to Article 6 (commencing with Section 13540) of Chapter 7, Division 7 of the Water Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117025.

It is unlawful for the owner, tenant, lessee, or occupant of any houseboat or boat intended for or capable of being used as a residence, house, dwelling, or habitation, or agent of the owner, tenant, lessee, or occupant to moor or anchor it or permit it to be moored or anchored in or on any river or stream, the waters of which are used for drinking or domestic purposes by any city, town, or village, within a distance of two miles above the intake or place where the city, town, or village water system takes water from the river or stream. This section does not apply to the mooring or anchoring of a houseboat when necessary, during transportation, for a period of not longer than one day.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117030.

Violation of this article may be enjoined by any court of competent jurisdiction at the suit of any person whose supply of water for human or animal consumption or for domestic purposes is or may be affected, or by the state department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117035.

Anything done, maintained, or suffered, in violation of any of the provisions of this article is a public nuisance, dangerous to health, and may be summarily abated as such.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117040.

A city, city and county, district or other public agency, owning or operating a reservoir used for domestic or drinking water purposes, may open to public fishing all or any part of the reservoir and its surrounding land.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117045.

Before the reservoir and its surrounding land are opened to public fishing the public agency owning or operating the reservoir shall determine that the public fishing will not affect the purity and safety for drinking and domestic purposes of the water collected in the reservoir, and shall obtain from the department a valid water supply permit setting forth the terms and conditions upon which public fishing may be conducted in the reservoir and on its surrounding land.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117050.

Public fishing shall not be conducted in a reservoir or on its surrounding land if the reservoir is used as a regulating reservoir to meet daily or peak consumption demands and as a terminal reservoir to a water collecting facility and as a distribution reservoir from which water may be supplied for drinking or domestic purposes without full purification treatment after withdrawal from the reservoir.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117055.

The department may allow public fishing on any terminal reservoir if it finds that adequate means are being used to protect drinking water quality and that public fishing will have no significant effect on water quality. The department shall examine all feasible means of protecting water quality on terminal reservoirs and other reservoirs where public fishing may be allowed. The department may close any terminal water supply reservoir to public angling on an emergency basis, if water quality is threatened by public use.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117060.

The public agency owning or operating the reservoir may establish and collect fees, including charges for motor vehicle parking, for the construction and operation of structures, facilities and equipment and the operation and use of the reservoir and its surrounding lands for public fishing. The public agency may contract with any agency or department of the federal government or the state, with other public agencies or with private individuals for the construction, operation and use of structures, facilities and equipment and the performance of services necessary or convenient to public fishing in the reservoir and on its surrounding land, including the rental, lease or permission to use portions of the reservoir and its surrounding lands for structures, facilities and equipment necessary or convenient for the use of the public. The public agency may establish and enforce all rules and regulations necessary or convenient to the conducting of public fishing on the reservoir and its surrounding land and for the control, operation and protection of the reservoir, its surrounding land and all structures, facilities and equipment in connection with the reservoir.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117065.

The public agency shall cause a copy of the rules and regulations to be posted upon the area opened to public fishing and other recreational uses, and it shall cause the rules and regulations to be published at least once in a newspaper of general circulation published in the county in which the reservoir is in whole or in part situated, if there be a newspaper, otherwise in a newspaper of general circulation published within the area of the public agency. If a public agency amends its rules and regulations, the public agency shall similarly publish a summary of its amended rules and regulations, along with an Internet address and the physical location where the complete text of the amended rules and regulations may be viewed. Posting and publication shall be sufficient notice to all persons. The affidavit of the secretary, clerk, or corresponding officer of the public agency that the rules and regulations have been so posted and published is prima facie evidence thereof. A copy of the rules and regulations, attested by the secretary, clerk, or corresponding officer of the public agency shall be prima facie evidence that the regulations have been made by the public agency as provided by law.

(Amended by Stats. 2010, Ch. 699, Sec. 30. (SB 894) Effective January 1, 2011.)

117070.

Any violation of any rule or regulation lawfully made by the public agency is a misdemeanor. The superior court of the county within which the reservoir lies in whole or in part is a proper place for trial of all prosecutions for violations of any rules and regulations adopted by the public agency.

(Amended by Stats. 2003, Ch. 449, Sec. 28. Effective January 1, 2004.)

117075.

Sections 117040 to 117070, inclusive, shall not apply to reservoirs used for domestic or drinking water purposes that are open to fishing or recreational uses on September 11, 1957, or that have been open to fishing or recreational uses prior to that date.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=7.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Water Supply [116975 - 117130]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Additional Water Supply Provisions [117080 - 117125]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

117080.

Governmental agency, as used in this article, includes a city, city and county, and district, but does not include a chartered city or city and county.

Body of water means a reservoir or lake.

Owned means owned or controlled.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117085.

The board of supervisors of any county wherein is located a body of water owned by a governmental agency, that is used to supply water for human consumption may by resolution request the governmental agency owning the body of water to open the body of water to public fishing and the surrounding land area for other recreational use. The governmental agency owning the body of water shall thereupon make and file with said board of supervisors an estimate of the cost of preparing a coordinated plan for public fishing in said body of water and other recreational uses in the surrounding land area. The board of supervisors thereupon may deposit with the governmental agency owning the body of water the amount of the estimate not exceeding two thousand five hundred dollars ($2,500), and the governmental agency owning said body of water thereupon shall proceed promptly with and complete the coordinated plan. In event the cost of preparing the plan shall be less than the amount deposited by the board of supervisors, the excess shall be repaid by the governmental agency owning the body of water to the board of supervisors that made the

deposit. The plan may provide for development of the area by stages and may exclude from public access structures, facilities or works of the agency necessary in supplying water for human consumption and the portions of the body of water and surrounding land area as may be reasonably required for the protection, maintenance or operation of the structures, facilities, or works. The plan may exclude portions of the surrounding area as are unsuitable for public recreational use. The coordinated plan may also include an estimate of the cost of the capital improvements necessary or convenient for public fishing and recreational uses, an estimate of the annual cost of maintenance and operation of the plan, and a recommendation as to the manner in which the plan may be financed.

After completion of the coordinated plan the governmental agency shall promptly make application to the department for an amendment to its water supply permit, that would allow the opening of the body of water to public fishing and the surrounding land area for other recreational use pursuant to the coordinated plan.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117090.

Upon receipt of the amended permit, if the agency does not allow such use, it shall call for a vote of its constituents at the next statewide primary election or general election, or if the agency is a municipal corporation at the next general municipal election, to determine whether or not the use shall be allowed and if a majority vote is in favor the public agency shall allow public fishing in the body of water and other recreational uses in the surrounding area in compliance with the amended permit.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117095.

Nothing herein contained shall permit or require fishing or other recreational uses in a secondary reservoir from which water is supplied for domestic use without purification treatment after withdrawal from said reservoir.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117100.

The ballot for the election authorized by Section 117090 shall contain the instructions required by law to be printed thereon and in addition thereto the following:

Shall the (insert name of governmental agency) allow fishing in the (name of body of water)and other recreational uses in the surrounding area subject to the regulations of the State Department of Health Services?	YES	

|
| NO | |

If the governmental agency concludes that a bond issue is required to pay for the capital improvements included in the coordinated plan as approved by the amended permit, there shall also be printed on the ballot, immediately following the ballot proposition aforesaid, the following proposition to be voted on by the constituents of the governmental agency:

|
Shall the (insert name of governmental agency) incur a bonded indebtedness in the principal amount of $____ for providing the capital improvements for fishing in the (name of bodyof water) and other recreational uses in the surrounding land area, subject to the regulations of the State Department of Health Services?	YES	
NO	

(Amended by Stats. 2006, Ch. 538, Sec. 437. Effective January 1, 2007.)

117105.

The governmental agency owning the body of water may fix and collect fees, including charges for motor vehicle parking, for the construction of facilities, operation, and use of the area opened for public fishing and other recreational uses. The governmental agency shall have the power to contract with others for the rendering of any or all of the services required in connection with the operation of the area including the right to rent or lease the whole or any part of the area to provide necessary or convenient facilities for the use of the public. The governmental agency shall have the power to make and enforce regulations that it may find necessary or convenient for proper control of the areas opened to public fishing and other recreational uses. The department shall make recurring inspections of all recreational areas approved under this article to ensure the continued purity of drinking water.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117110.

The governmental agency shall cause a copy of the rules and regulations to be posted upon the area opened to public fishing and other recreational uses, and it shall cause the rules and regulations to be published at least once in a newspaper of general circulation published in the county in which the reservoir is in whole or in part situated, if there be such a newspaper, otherwise in a newspaper of general circulation published within the area of the governmental agency. The posting and publication shall be sufficient notice to all persons. The affidavit of the secretary, clerk, or corresponding officer of the governmental agency that the rules and regulations have been so posted and published is prima facie evidence thereof. A copy of the rules and regulations, attested by the secretary, clerk, or corresponding officer of the governmental agency shall be prima facie evidence that the rules and regulations have been made by the governmental agency as

provided by law.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117115.

As far as possible the development and operation of the recreational uses authorized by this article shall be financed out of the revenues authorized by this article; provided, however, that the governmental agency owning the body of water is not required to fix fees that are unreasonably high and in its discretion may make use of any means of financing that it is otherwise authorized to use for any purpose.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117120.

Any violation of any rule or regulation lawfully made by the governmental agency is a misdemeanor. The superior court of the county within which the reservoir lies in whole or in part is a proper place for trial of all prosecutions for violations of any rules and regulations adopted by the governmental agency.

(Amended by Stats. 2003, Ch. 449, Sec. 29. Effective January 1, 2004.)

117125.

Notwithstanding any other law, the Department of Fish and Wildlife may stock with fish any body of water opened to public fishing pursuant to this article.

(Amended by Stats. 2015, Ch. 673, Sec. 19. (AB 1531) Effective January 1, 2016.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=7.&article=3.

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 12. DRINKING WATER [116270 - 117130]__

(Part 12 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Water Supply [116975 - 117130]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Punishment or Violations [117130- 117130.]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

117130.

Violation of any provision of this chapter is a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=13.&chapter=&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=13.&chapter=1.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=13.&chapter=2.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=13.&chapter=3.&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=13.&chapter=4.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=13.&chapter=4.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 13. GARBAGE AND ONSITE SEWAGE DISPOSAL [117400 - 117590]__

(Part 13 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Waste and Waste Disposal [117400 - 117590]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Septic Tanks [117400 - 117450]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

117400.

This article shall not apply to any city, town, county, sanitary district, sanitation district, sewer maintenance district or to any agency or institution of the state or the federal government by reason of the cleaning of septic tanks, chemical toilets, cesspools, sewage seepage pits or sewage works that are owned and operated by any of these governmental agencies or institutions.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117405.

It is unlawful for any person or firm to carry on or engage in the business of the cleaning of septic tanks, chemical toilets, cesspools or sewage seepage pits or to dispose of the cleanings therefrom in any city, town, county, or city and county unless he or she or it shall hold an unrevoked registration issued by the local health officer or his or her duly authorized representative of the city, town, county, or city and county for the carrying on of the business.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117410.

Except as provided in Section 25163, it is unlawful for any person to clean septic tanks, chemical toilets, cesspools or sewage seepage pits or to dispose or aid in the disposal of the cleanings thereof, for any person or firm engaged in the business of cleaning out septic tanks, chemical toilets, cesspools or sewage seepage

pits or disposing of the cleanings thereof who does not hold an unrevoked registration as provided in this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117415.

All applications for registration under this article shall be filed with the local health officer in the city, town, county, or city and county in which it is desired to carry on the business. The application shall state the name in full, if a partnership then names of each of the partners, the relation of the applicant to the firm or partnership, the place of business and place of residence of the applicant for registration and of each of the partners in the business, if a partnership, and shall state the exact location of the place at which it is proposed to dispose of cleanings. The application shall be signed by the authorized officer of a corporation, if a corporation; or by the managing partner, if a partnership.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117420.

Registration shall be issued only after a satisfactory examination by the health officer or his or her duly authorized representative covering the equipment to be used, the applicantsknowledge of sanitary principles and of the laws and ordinances affecting human health or nuisances, and the reliability of the applicant in observing sanitary laws, ordinances and directions, and in selecting laborers and employees who may clean out septic tanks, chemical toilets, cesspools and sewage seepage pits without endangering human health or comfort; and only after examination of the place or places and manner of disposal of the cleanings proposed by the applicant.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117425.

The health officer is required to act upon each application within thirty (30) days of the date of filing same.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117430.

Registration shall be only for the unexpired portion of the calendar year in which application is made, and at the end of the calendar year all registrations shall become void and of no effect.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117435.

(a) Applicants may be registered under any terms, conditions, orders, and directions as the health officer or his or her duly authorized representative may deem necessary for the protection of human health and comfort. Each health officer and his or her duly authorized representative may require any and all persons who are registered with the health officer to clean septic tanks, cesspools, or sewage seepage pits or to dispose of the cleanings therefrom, to file with the health officer at any time and at any frequency or intervals as the health officer or duly authorized representative may desire, a statement specifying all of the following:

(1) The name and address of the owner or tenant of each and every one of the premises where a septic tank, cesspool, or sewage seepage pit has been cleaned out by the registrant or his or her employees or by others on his or her behalf and the date of each cleaning.

(2) The location where the cleanings are disposed of and by whom.

(3) Discharges of waste that may result in violation of laws or ordinances required to be known by the registrant pursuant to Section 117420.

(b) The health officer may require the statement to be sworn to before a notary.

(c) Any and all persons registered with the health officer to clean septic tanks, cesspools, or sewage seepage pits, or to dispose of the cleanings therefrom, shall also provide a statement as required pursuant to paragraph (3) of subdivision (a) to a regional board as defined pursuant to Section 13050 of the Water Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117440.

A change of address of any registrant including a member of a partnership that is registered and of the place of business thereof shall be reported in writing by registered mail by the registrant within two days after the change of address.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117445.

Any registration issued under this article may be revoked by the issuing health officer for cause on 10 days™ notice to the applicant. The notice shall be served by registered mail or in person at the latest place of residence or of business reported by the applicant.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117450.

Violation of any of the provisions of this article or of any order or orders of a health officer made pursuant to this article for the protection of human health and comfort shall constitute a misdemeanor and shall be punishable by a fine of not less than two hundred dollars ($200) for each offense or by imprisonment for not less than thirty (30) days or by both the fine and imprisonment.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=13.&chapter=4.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 13. GARBAGE AND ONSITE SEWAGE DISPOSAL [117400 - 117590]__

(Part 13 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Waste and Waste Disposal [117400 - 117590]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Pollution of Navigable Waters with Garbage [117475 - 117500]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

117475.

For the purpose of this article the term garbage includes any or all of the following:

(a) Garbage.

(b) Swill.

(c) Refuse.

(d) Cans.

(e) Bottles.

(f) Paper.

(g) Vegetable matter.

(h) Carcass of any dead animal.

(i) Offal from any slaughter pen or butcher shop.

(j) Trash.

(k) Rubbish.

(l) Radioactive waste materials.

(m) Discarded, nonbiodegradable materials including plastics or damaged or broken marine equipment.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117480.

Every person who places, deposits, or dumps any garbage in or upon the navigable waters of this state, or who places, deposits, or loads it upon any vessel, with intent that it shall be dumped or deposited in or upon the navigable waters of this state, or at any point in the ocean within twenty miles of any point on the coast line of the state, is guilty of a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117485.

Every person in charge of any vessel who permits it to be loaded with any garbage with intent that it shall be dumped or deposited from the vessel in or upon any of the navigable waters of this state, or at any point in the ocean, within twenty miles of any point on the coast line of the state, is guilty of a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117490.

A vessel upon which any garbage has been loaded with the intent that it shall be dumped or deposited upon any of the waters of the ocean where permitted by this article, shall not leave any point within the state unless it shall carry for the entire trip an inspector appointed by the department, or where the point of departure is in a city, then by the city. The inspector shall enforce this article.

Every person in charge of a vessel that is required to have an inspector on board by this article, and that does not carry an inspector during the entire trip, is guilty of a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117495.

Every person in charge of a vessel that is to dump or deposit radioactive waste materials upon any of the waters of the ocean where permitted by this article shall notify the department in writing at least five days in advance of the dumping or depositing, specifying the intended date of departure and giving other information as may be required by the department. The department may permit the vessel to leave without the inspector required by Section 117490 if it determines that the public health and welfare will not be endangered thereby. If this permission is granted, the department may require the person in charge of the vessel to submit a certified statement to it, at a time as the department determines, setting forth the time, location, and manner of the dumping or disposal and other information as the department may require.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117500.

This article shall not be construed to affect the discharge of any sewer system.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=13.&chapter=4.&article=3.

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 13. GARBAGE AND ONSITE SEWAGE DISPOSAL [117400 - 117590]__

(Part 13 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Waste and Waste Disposal [117400 - 117590]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Vessel Sanitation [117505- 117505.]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

117505.

No person shall maintain or operate in or upon the navigable waters of any lake, reservoir, or fresh water impoundment of this state any vessel that is equipped with a toilet unless the toilet is sealed or otherwise rendered inoperable or designed so that no human excreta can be discharged into the waters.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=13.&chapter=4.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 13. GARBAGE AND ONSITE SEWAGE DISPOSAL [117400 - 117590]__

(Part 13 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Waste and Waste Disposal [117400 - 117590]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Pollution by Vessels [117510 - 117525]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

117510.

As used in this article:

(a) Vessel means every description of craft or other contrivance used, or capable of being used, as a means of transportation in or on water.

(b) Navigable waters means all public waters of the state in any river, stream, lake, reservoir, or other body of water, including all salt water bays, inlets, and estuaries within the jurisdiction of the state.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117515.

No person shall place, deposit, or dump any human excreta in or upon the navigable waters of this state, that are within any marina, yacht harbor, fresh water lake, or fresh water impoundment, from any vessel tied to any dock, slip, or wharf that has toilet facilities available for the use of persons on the vessel.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117520.

It is not the intent of the Legislature in enacting this article to preempt the field of pollution by vessels, and the provisions of this article do not prohibit the enactment or enforcement of any ordinance by any city, county, or district having the power to regulate pollution by vessels, that is stricter than the provisions of this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117525.

Any violation of this article is a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=13.&chapter=4.&article=5.

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 13. GARBAGE AND ONSITE SEWAGE DISPOSAL [117400 - 117590]__

(Part 13 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Waste and Waste Disposal [117400 - 117590]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 5. Violations [117530- 117530.]__

(Article 5 added by Stats. 1995, Ch. 415, Sec. 6.)

117530.

Violation of any provision of Article 2 (commencing with Section 117475), Article 3 (commencing with Section 117505), Article 4 (commencing with Section 117510), and Article 6 (commencing with Section 117550) is a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=13.&chapter=4.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 13. GARBAGE AND ONSITE SEWAGE DISPOSAL [117400 - 117590]__

(Part 13 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Waste and Waste Disposal [117400 - 117590]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 6. Prohibited Waste Disposal [117550 - 117560]__

(Heading of Article 6 amended by Stats. 2006, Ch. 416, Sec. 1.)

117550.

For purposes of this article, solid waste has the same meaning as that term is defined in Section 40191 of the Public Resources Code.

(Repealed and added by Stats. 2006, Ch. 416, Sec. 3. Effective January 1, 2007.)

117555.

A person who places, deposits, or dumps, or who causes to be placed, deposited, or dumped, or who causes or allows to overflow, sewage, sludge, cesspool or septic tank effluent, accumulation of human excreta, or

solid waste, in or upon a street, alley, public highway, or road in common use or upon a public park or other public property other than property designated or set aside for that purpose by the governing board or body having charge of the property, or upon private property without the ownersconsent, is guilty of a misdemeanor.

This section does not apply to the placing, depositing, or dumping of solid waste upon private property by the owner, or a person authorized by the owner, of the private property, except that the placing, depositing, or dumping of the solid waste shall not create a public health and safety hazard, nuisance, or a fire hazard, as determined by a local enforcement agency, as defined in Section 40130 of the Public Resources Code, local health department, local fire department or fire district, or the Department of Forestry and Fire Protection.

(Amended by Stats. 2006, Ch. 416, Sec. 4. Effective January 1, 2007.)

117560.

A state fish and game warden, police officer of a city, sheriff, deputy of a sheriff, person described in subdivision (i) of Section 830.7 of the Penal Code, and any other peace officer of the State of California, within their respective jurisdiction, shall enforce this article.

(Amended by Stats. 2021, Ch. 411, Sec. 2. (AB 483) Effective January 1, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=13.&chapter=4.&article=7.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 13. GARBAGE AND ONSITE SEWAGE DISPOSAL [117400 - 117590]__

(Part 13 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Waste and Waste Disposal [117400 - 117590]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 7. Solid Waste Handling and Disposal [117575 - 117590]__

(Article 7 added by Stats. 1995, Ch. 415, Sec. 6.)

117575.

Unless the context otherwise requires, the definitions in Article 2 (commencing with Section 66710) of Chapter 1 of Title 7.3 of the Government Code govern the construction of this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117580.

The department insofar as presently or hereafter provided by law, shall continue to be responsible for all aspects of solid waste management and resource recovery as they directly affect human health, including, but not limited to, the contamination of air, water, and land, propagation of vertebrates and invertebrates that may transmit disease to man, handling and disposal of hazardous wastes, and management practices that threaten the health of solid waste employees or the general public.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117585.

The department shall continue to administer and enforce the laws, other than matters covered by Title 7.3 (commencing with Section 66700) of the Government Code, that are within its jurisdiction as they apply directly to solid wastes. The department also, as it relates directly to human health, shall:

(a) Evaluate and study, as appropriate, the characteristics of solid wastes and methods for their handling and disposal for health protection.

(b) Render technical assistance to the board, local agencies, and others in the planning and operation of solid waste management programs and resources recovery programs.

(c) Formulate technical criteria and suggested guidelines for use by state and local agencies in development, planning, implementation, and operation of programs for the local handling of solid waste.

(d) Stimulate and participate in research and development projects conducted by other public or private agencies, especially those intended to reduce, effectively reuse, or decontaminate waste products.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117590.

The department, not later than January 1, 1975, shall prepare and shall submit minimum standards for solid waste handling and disposal for the protection of the public health to the board for inclusion in the state policy for solid waste management required to be adopted pursuant to Section 66770 of the Government Code. The department may adopt varying standards for different areas of the state depending on population density, climate, geology, and other factors relevant to solid waste handling and disposal, and may revise the standards when appropriate.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=14.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=14.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 14. MEDICAL WASTE [117600 - 118360]__

(Part 14 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 1. General Provisions [117600 - 117615]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 6.)

117600.

This part shall be known and may be cited as the Medical Waste Management Act.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117605.

(a)This part governs medical waste management at the facility where waste is generated, at transfer stations, and at treatment facilities. This part also governs the tracking of medical waste beyond what is required in federal shipping documents and regulates aspects of the transport of regulated medical waste.

(b)Sections 173.196 and 173.197 of Title 49 of the Code of Federal Regulations impose standards for the transportation of medical waste on public roads and highways while in transport, unless an affected person applies to, and receives a determination of any perceived conflict from, the United States Secretary of Transportation. Domestic Mail Manual 601.10.17.5 (Mailability: Hazardous Materials: Sharps and Other Mailable Regulated Medical Waste) imposes standards for the transportation of medical waste through the mail and approves medical waste mail back systems.

(c)The department shall submit to the Legislature by no later than January 1, 2016, a report describing the interaction of federal and state law for the transport of regulated medical waste. The department shall convene a stakeholder group that includes, but is not limited to, small and large quantity generators, haulers, transfer station operators, treatment facility operators, local enforcement agencies, retailers, and other affected entities for this purpose. The reporting requirement imposed by this subdivision shall expire as of January 1, 2016, or when the report is submitted to the Legislature. The report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(d)The department may, in its discretion, update standards related to the transportation of medical waste during transit through a guidance document provided to regulated entities and posted on the departmentsInternet Web site. This guidance document shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to the extent that the department finds that the updated standards are consistent with the standards of the United States Department of Transportation.

(e)If an affected person, including the department, seeks a preemption determination pursuant to Section 5125 of Title 49 of the United States Code or by a court of competent jurisdiction, the department may, in its discretion, temporarily waive the state transportation requirements under this part until that determination is made and shall provide notice of the waiver on its Internet Web site.

(f)During the period of temporary waiver described in subdivision (e), or if preemption is found, the federal requirements shall be deemed to be the law of this state and enforceable by the department. The department may enforce these federal requirements by providing an updated guidance document to interested parties and posting the updated guidance document on the departmentsInternet Web site.

(g)The Medical Waste Management Act does not preempt any local ordinance regulating infectious waste, as

that term was defined by Section 25117.5 as it read on December 31, 1990, if the ordinance was in effect on January 1, 1990, and regulated both large and small quantity generators. Any ordinance may be amended in a manner that is consistent with this part.

(Amended by Stats. 2014, Ch. 564, Sec. 1. (AB 333) Effective January 1, 2015.)

117610.

The department shall adopt regulations that will establish and ensure statewide standards for uniformity in the implementation and administration of this part and that will promote waste minimization and source reduction.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117615.

Notwithstanding Section 117605, with the approval of the director, and in the interest of public health, a local ordinance providing more stringent requirements than specified in this part may be implemented for a specified time period.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=14.&chapter=2.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 14. MEDICAL WASTE [117600 - 118360]__

(Part 14 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 2. Definitions [117625 - 117780]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 6.)

117625.

Unless the context requires otherwise, the definitions in this article govern the construction of this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117630.

(a)Biohazard bag means a disposable film bag used to contain medical waste. Notwithstanding subdivision (b) of Section 117605, the film bags that are used to line the United States Department of Transportation (USDOT)-approved shipping containers for transport from the generatorsfacility onto roadways and into commerce to a treatment and disposal facility shall be marked and certified by the manufacturer as having passed the tests prescribed for tear resistance in the American Society for Testing Materials (ASTM) D1922, Standard Test Method for Propagation Tear Resistance of Plastic Film and Thin Sheeting by Pendulum Method and for impact resistance in ASTM D1709, Standard Test Methods for Impact Resistance of Plastic Film by the Free-Falling Dart Method, as those documents were published on January 1, 2014. The film bag shall meet an impact resistance of 165 grams and a tearing resistance of 480 grams in both parallel and perpendicular planes with respect to the length of the bag.

(b)The biohazard bag that is used to collect medical waste within a facility shall be manufacturer certified to meet the ASTM D1709 dart drop test, provided that when the bag is prepared for transport offsite, it is placed into a USDOT-approved container lined with a biohazard bag that is ASTM D1709 and ASTM D1922 certified.

(c)The color of the bag shall be red, except when yellow bags are used to further segregate trace chemotherapy waste and white bags are used to further segregate pathology waste. The biohazard bag shall be marked with the international biohazard symbol and may be labeled by reference as authorized by the USDOT.

(Amended by Stats. 2015, Ch. 352, Sec. 1. (SB 225) Effective September 28, 2015.)

117636.

Chemotherapeutic agent means an agent that kills or prevents the reproduction of malignant cells. Chemotherapeutic agent excludes anti-inflammatory and antibiotic medications used to treat malignant cells in the practice of veterinary medicine.

(Added by Stats. 2014, Ch. 564, Sec. 6. (AB 333) Effective January 1, 2015.)

117637.

Common carrier means either of the following:

(a)A person or company that has a United States Department of Transportation number issued by the Federal Motor Carrier Safety Administration and is registered with the Federal Motor Carrier Safety Administration as a for-hire property carrier.

(b)A person or company that has a motor carrier of property permit issued by the Department of Motor Vehicles pursuant to the Motor Carriers of Property Permit Act (Division 14.85 (commencing with Section 34600) of the Vehicle Code) and, if applicable, a carrier identification number issued by the Department of the California Highway Patrol pursuant to Section 34507.5 of the Vehicle Code.

(Added by Stats. 2012, Ch. 689, Sec. 1. (AB 1442) Effective January 1, 2013.)

117640.

Common storage facility means any designated accumulation area that is onsite and is used by small quantity generators otherwise operating independently for the storage of medical waste for collection by a registered hazardous waste hauler.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117645.

Container means the rigid container in which the medical waste is placed prior to transporting for purposes of storage or treatment.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117647.

Empty means a condition achieved when tubing, a container, or inner liner removed from a container that previously contained liquid or solid material, including, but not limited to, a chemotherapeutic agent, is considered empty. The tubing, container, or inner liner removed from the container shall be considered empty if it has been emptied so that the following conditions are met:

(a)If the material that the tubing, container, or inner liner held is pourable, no material can be poured or drained from the tubing, container, or inner liner when held in any orientation, including, but not limited to, when tilted or inverted.

(b)If the material that the container or inner liner held is not pourable, no material or waste remains in the container or inner liner that can feasibly be removed by scraping.

(Added by Stats. 2014, Ch. 564, Sec. 7. (AB 333) Effective January 1, 2015.)

117650.

Enforcement agency means the department or the local agency administering this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117655.

Enforcement officer means the director, or agents or registered environmental health specialists appointed by the director, and all local health officers, directors of environmental health, and their duly authorized registered environmental health specialists and environmental health specialist trainees, or the designees of the director, local health officers, or the directors of environmental health.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117657.

Fund means the Medical Waste Management Fund created pursuant to Section 117885.

(Added by Stats. 1996, Ch. 1023, Sec. 347. Effective September 29, 1996.)

117660.

Hazardous waste hauler means a person registered as a hazardous waste hauler pursuant to Article 6 (commencing with Section 25160) and Article 6.5 (commencing with Section 25167.1) of Chapter 6.5 of Division 20 and Chapter 30 (commencing with Section 66001) of Division 4 of Title 22 of the California Code of Regulations.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117662.

Health care professional means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code; any person licensed pursuant to the Osteopathic Initiative Act, as set forth in Chapter 8 (commencing with Section 3600) of Division 2 of the Business and Professions Code, or pursuant to the Chiropractic Initiative Act, as set forth in Chapter 2 (commencing with Section 1000) of Division 2 of the Business and Professions Code; and any person certified pursuant to Division 2.5 (commencing with Section 1797).

(Added by renumbering Section 25021.9 by Stats. 1996, Ch. 536, Sec. 2. Effective January 1, 1997.)

117665.

Highly communicable diseases means diseases, such as those caused by organisms classified by the federal Centers for Disease Control and Prevention as risk group 3 organisms or higher.

(Amended by Stats. 2014, Ch. 564, Sec. 8. (AB 333) Effective January 1, 2015.)

117670.

Household waste means any material, including garbage, trash, and sanitary wastes in septic tanks and medical waste, that is derived from households, farms, or ranches. Household waste does not include trauma scene waste.

(Amended by Stats. 1997, Ch. 732, Sec. 1.5. Effective January 1, 1998.)

117671.

Home-generated sharps waste means hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications derived from a household, including a multifamily residence or household.

(Added by Stats. 2006, Ch. 64, Sec. 2. Effective January 1, 2007.)

117672.

Industrial hygienist means a person who has met the educational requirements of an industrial hygiene certification organization, as defined in subdivision (c) of Section 20700 of the Business and Professions Code, and who has had at least one year in the comprehensive practice of industrial hygiene, as defined in subdivision (a) of Section 20700 of the Business and Professions Code.

(Added by Stats. 1997, Ch. 732, Sec. 2. Effective January 1, 1998.)

117675.

Infectious agent means a type of microorganism, bacteria, mold, parasite, or virus, including, but not limited to, organisms managed as Biosafety Level II, III, or IV by the federal Centers for Disease Control and Prevention, that normally causes, or significantly contributes to the cause of, increased morbidity or mortality of human beings.

(Amended by Stats. 2006, Ch. 166, Sec. 1. Effective January 1, 2007.)

117680.

Large quantity generator means a medical waste generator, other than a trauma scene waste management practitioner, that generates 200 or more pounds of medical waste in any month of a 12-month period.

(Amended by Stats. 1997, Ch. 732, Sec. 3. Effective January 1, 1998.)

117685.

Local agency means the local health department, as defined in Section 101185, or the local comprehensive environmental agency established in accordance with Section 101275, of a county that has elected to adopt a local ordinance to administer and enforce this part, pursuant to Chapter 3 (commencing with Section 117800).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117690.

(a)Medical waste means any biohazardous, pathology, pharmaceutical, or trace chemotherapy waste not regulated by the federal Resource Conservation and Recovery Act of 1976 (Public Law 94-580), as amended; sharps and trace chemotherapy wastes generated in a health care setting in the diagnosis, treatment, immunization, or care of humans or animals; waste generated in autopsy or necropsy; waste generated during preparation of a body for final disposition such as cremation or interment; waste generated in research pertaining to the production or testing of microbiologicals; waste generated in research using human or animal pathogens; sharps and laboratory waste that poses a potential risk of infection to humans generated in the inoculation of animals in commercial farming operations; waste generated from the consolidation of home-generated sharps; and waste generated in the cleanup of trauma scenes. Biohazardous, pathology, pharmaceutical, sharps, and trace chemotherapy wastes that meet the conditions of this section are not subject to any of the hazardous waste requirements found in Chapter 6.5 (commencing with Section 25100) of Division 20.

(b)For purposes of this part the following definitions apply:

(1)Biohazardous waste includes all of the following:

(A)(i)Regulated medical waste, clinical waste, or biomedical waste that is a waste or reusable material derived from the medical treatment of a human or from an animal that is suspected by the attending veterinarian of being infected with a pathogen that is also infectious to humans, which includes diagnosis and immunization; or from biomedical research, which includes the production and testing of biological products.

(ii)Regulated medical waste or clinical waste or biomedical waste suspected of containing a highly communicable disease.

(B)Laboratory waste such as human specimen cultures or animal specimen cultures that are infected with pathogens that are also infectious to humans; cultures and stocks of infectious agents from research; wastes from the production of bacteria, viruses, spores, discarded live and attenuated vaccines used in human health care or research, discarded animal vaccines, including Brucellosis and Contagious Ecthyma, as defined by the department; culture dishes, devices used to transfer, inoculate, and mix cultures; and wastes identified by Section 173.134 of Title 49 of the Code of Federal Regulations as Category B once wasted for laboratory wastes.

(C)Waste that, at the point of transport from the generatorssite or at the point of disposal contains recognizable fluid human blood, fluid human blood products, containers, or equipment containing human blood that is fluid, or blood from animals suspected by the attending veterinarian of being contaminated with infectious agents known to be contagious to humans.

(D)Waste containing discarded materials contaminated with excretion, exudate, or secretions from humans or animals that are required to be isolated by the infection control staff, the attending physician and surgeon, the attending veterinarian, or the local health officer, to protect others from highly communicable diseases or diseases of animals that are communicable to humans.

(2)Pathology waste includes both of the following:

(A)Human body parts, with the exception of teeth, removed at surgery and surgery specimens or tissues removed at surgery or autopsy that are suspected by the health care professional of being contaminated with infectious agents known to be contagious to humans or having been fixed in formaldehyde or another fixative.

(B)Animal parts, tissues, fluids, or carcasses suspected by the attending veterinarian of being contaminated with infectious agents known to be contagious to humans.

(3)Pharmaceutical waste means a pharmaceutical, as defined in Section 117747, including trace chemotherapy waste, that is a waste, as defined in Section 25124. For purposes of this part, pharmaceutical waste does not include a pharmaceutical that meets either of the following criteria:

(A)The pharmaceutical is being sent out of the state to a reverse distributor, as defined in Section 4040.5 of the Business and Professions Code, that is licensed as a wholesaler of dangerous drugs by the California State Board of Pharmacy pursuant to Section 4161 of the Business and Professions Code.

(B)The pharmaceutical is being sent by a reverse distributor, as defined in Section 4040.5 of the Business and Professions Code, offsite for treatment and disposal in accordance with applicable laws, or to a reverse distributor that is licensed as a wholesaler of dangerous drugs by the California State Board of Pharmacy pursuant to Section 4160 of the Business and Professions Code and as a permitted transfer station if the reverse distributor is located within the state.

(4)Sharps waste means a device that has acute rigid corners, edges, or protuberances capable of cutting or piercing, including, but not limited to, hypodermic needles, hypodermic needles with syringes, blades, needles with attached tubing, acupuncture needles, root canal files, broken glass items used in health care such as Pasteur pipettes and blood vials contaminated with biohazardous waste, and any item capable of cutting or piercing from trauma scene waste.

(5)Trace chemotherapeutic waste means waste that is contaminated through contact with, or having previously contained, chemotherapeutic agents, including, but not limited to, gloves, disposable gowns, towels, and intravenous solution bags and attached tubing that are empty. A biohazardous waste that meets

the conditions of this paragraph is not subject to the hazardous waste requirements of Chapter 6.5 (commencing with Section 25100) of Division 20.

(6)Trauma scene waste means waste that is a regulated waste, as defined in Section 5193 of Title 8 of the California Code of Regulations, and that has been removed, is to be removed, or is in the process of being removed, from a trauma scene by a trauma scene waste management practitioner.

(Repealed and added by Stats. 2014, Ch. 564, Sec. 10. (AB 333) Effective January 1, 2015.)

117695.

Medical waste that has been treated in accordance with the provisions of the Medical Waste Management Act, Chapter 8 (commencing with Section 118215), and that is not otherwise hazardous, shall thereafter be considered solid waste as defined in Section 40191 of the Public Resources Code and not medical waste.

(Amended by Stats. 2014, Ch. 564, Sec. 11. (AB 333) Effective January 1, 2015.)

117700.

Medical waste does not include any of the following:

(a)Waste generated in food processing or biotechnology that does not contain an infectious agent, as defined in Section 117675, or an agent capable of causing an infection that is highly communicable, as defined in Section 117665.

(b)Waste generated in biotechnology that does not contain human blood or blood products or animal blood or blood products suspected of being contaminated with infectious agents known to be communicable to humans or a highly communicable disease.

(c)Urine, feces, saliva, sputum, nasal secretions, sweat, tears, or vomitus, unless it contains visible or recognizable fluid blood, as provided in subparagraph (C) of paragraph (1) of subdivision (b) of Section 117690.

(d)Waste which is not biohazardous, such as paper towels, paper products, articles containing nonfluid blood, and other medical solid waste products commonly found in the facilities of medical waste generators.

(e)Hazardous waste, radioactive waste, or household waste, including, but not limited to, home-generated sharps waste, as defined in Section 117671.

(f)Waste generated from normal and legal veterinarian, agricultural, and animal livestock management practices on a farm or ranch unless otherwise specified in law.

(Amended by Stats. 2014, Ch. 564, Sec. 12. (AB 333) Effective January 1, 2015.)

117705.

Medical waste generator means any person whose act or process produces medical waste and includes, but is not limited to, a provider of health care, as defined in Section 56.05 of the Civil Code. All of the following are examples of businesses that generate medical waste:

(a) Medical and dental offices, clinics, hospitals, surgery centers, laboratories, research laboratories, unlicensed health facilities, those facilities required to be licensed pursuant to Division 2 (commencing with Section 1200), chronic dialysis clinics, as regulated pursuant to Division 2 (commencing with Section 1200), and education and research facilities.

(b) Veterinary offices, veterinary clinics, and veterinary hospitals.

(c) Pet shops.

(d) Trauma scene waste management practitioners.

(Amended by Stats. 2013, Ch. 444, Sec. 12. (SB 138) Effective January 1, 2014.)

117710.

Medical waste management plan means a document that is completed by generators of medical waste that describes how the medical waste generated at their facility shall be segregated, handled, stored, packaged, treated, or shipped for treatment, as applicable, pursuant to Section 117935 for small quantity generators and Section 117960 for large quantity generators, on forms prepared by the enforcement agency, if those forms are provided by the enforcement agency.

(Amended by Stats. 2014, Ch. 564, Sec. 13. (AB 333) Effective January 1, 2015.)

117715.

Medical waste permit means a permit issued by the enforcement agency to a medical waste treatment facility.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117720.

Medical waste registration means a registration issued by the enforcement agency to a medical waste generator.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117725.

(a)Medical waste treatment facility means all land and structures, and other appurtenances or improvements on the land under the control of the treatment facility, used for treating medical waste offsite from a medical waste generator, including all associated handling and storage of medical waste as permitted by the department.

(b)For purposes of this section, land is under the control of the treatment facility if it is owned, rented, or controlled by contractual agreement.

(Amended by Stats. 2014, Ch. 564, Sec. 14. (AB 333) Effective January 1, 2015.)

117730.

Mixed waste means mixtures of medical and nonmedical waste. Mixed waste is medical waste, except for all of the following:

(a) Medical waste and hazardous waste is hazardous waste and is subject to regulation as specified in the statutes and regulations applicable to hazardous waste.

(b) Medical waste and radioactive waste is radioactive waste and is subject to regulation as specified in the statutes and regulations applicable to radioactive waste.

(c) Medical waste, hazardous waste, and radioactive waste is radioactive mixed waste and is subject to regulation as specified in the statutes and regulations applicable to hazardous waste and radioactive waste.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117735.

Offsite means any location that is not onsite.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117740.

(a) Onsite means a medical waste treatment facility, or common storage facility on the same or adjacent property as the generator of the medical waste being treated.

(b) Adjacent, for purposes of subdivision (a), means real property within 400 yards from the property boundary of the existing medical waste treatment facility.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117742.

Parent organization means an organization that employs or contracts with health care professionals who provide health care services at a location other than at a health care facility specified in subdivision (a) of Section 117705.

(Added by renumbering Section 25025.9 by Stats. 1996, Ch. 536, Sec. 7. Effective January 1, 1997.)

117745.

Person means an individual, trust, firm, joint stock company, business concern, partnership, association, limited liability company, and corporation, including, but not limited to, a government corporation. Person also includes any city, county, district, commission, the state or any department, agency, or political subdivision thereof, the Regents of the University of California, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117747.

(a)Pharmaceutical means a prescription or over-the-counter human or veterinary drug, including, but not limited to, a drug as defined in Section 109925 of the Federal Food, Drug, and Cosmetic Act, as amended, (21 U.S.C.A. Sec. 321(g)(1)).

(b)For purposes of this part, pharmaceutical does not include any pharmaceutical that is regulated pursuant to either of the following:

(1)The federal Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C.A. Sec. 6901 et seq.). This waste stream shall be handled as a hazardous waste under the authority of Chapter 6.5 (commencing with Section 25100) of Division 20.

(2)The Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9).

(Amended by Stats. 2014, Ch. 564, Sec. 15. (AB 333) Effective January 1, 2015.)

117750.

(a)Sharps container means a rigid puncture-resistant container used in patient care or research activities meeting the standards of, and receiving approval from, the United States Food and Drug Administration as a medical device used for the collection of discarded medical needles or other sharps.

(b)Sharps containers, including those used to containerize trace chemotherapeutic wastes, shall not be lined with a plastic bag or inner liner.

(Repealed and added by Stats. 2014, Ch. 564, Sec. 18. (AB 333) Effective January 1, 2015.)

117760.

Small quantity generator means a medical waste generator, other than a trauma scene waste management practitioner, that generates less than 200 pounds per month of medical waste.

(Amended by Stats. 1997, Ch. 732, Sec. 7. Effective January 1, 1998.)

117765.

Storage means the holding of medical wastes, in compliance with the Medical Waste Management Act, including Chapter 9 (commencing with Section 118275), at a designated accumulation area, offsite point of consolidation, transfer station, other registered facility, or in a vehicle detached from its means of locomotion.

(Amended by Stats. 2014, Ch. 564, Sec. 20. (AB 333) Effective January 1, 2015.)

117770.

Tracking document means the medical waste tracking document specified in Section 118040.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117771.

Shipping document means the medical waste shipping document required by the United States Department of Transportation pursuant to Section 172.200 et seq. of Title 49 of the Code of Federal Regulations or the document required by the United States Postal Service pursuant to Domestic Mail Manual 601.10.17.5 (Mailability: Hazardous Materials: Sharps and Other Mailable Regulated Medical Waste).

(Added by Stats. 2014, Ch. 564, Sec. 21. (AB 333) Effective January 1, 2015.)

117775.

(a)Transfer station means an offsite location permitted by the department where medical waste is loaded, unloaded, stored, or consolidated by a registered hazardous waste hauler during the normal course of transportation of the medical waste.

(b)Transfer station does not include any onsite facility, including, but not limited to, common storage facilities, facilities of medical waste generators employed for the purpose of consolidation, or onsite treatment facilities.

(Amended by Stats. 2014, Ch. 564, Sec. 22. (AB 333) Effective January 1, 2015.)

117776.

(a) Trauma scene means a location soiled by, or contaminated with, human blood, human body fluids, or other residues from the scene of a serious human injury, illness, or death.

(b) For purposes of this section, a location may include, but is not limited to, a physical structure that is not fixed geographically, such as mobile homes, trailers, or vehicles.

(Added by Stats. 1997, Ch. 732, Sec. 8. Effective January 1, 1998.)

117778.

Trauma scene waste management practitioner means a person who undertakes as a commercial activity the removal of human blood, human body fluids, and other associated residues from the scene of a serious human injury, illness, or death, and who is registered with the department pursuant to Chapter 9.5 (commencing with Section 118321).

(Added by Stats. 1997, Ch. 732, Sec. 10. Effective January 1, 1998.)

117780.

Treatment means any method, technique, or process designed to change or destroy the biological character or composition of any medical waste so as to eliminate its potential for causing disease or creating public or environmental harm, as specified in Chapter 8 (commencing with Section 118215).

(Amended by Stats. 2014, Ch. 564, Sec. 24. (AB 333) Effective January 1, 2015.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=14.&chapter=3.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 14. MEDICAL WASTE [117600 - 118360]__

(Part 14 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 3. Powers and Duties [117800 - 117910]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 6.)

117800.

A local agency may implement a medical waste management program by the adoption of an ordinance or resolution by the local governing body, in accordance with this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117805.

A local agency that elects to implement a medical waste management program shall notify the department of its intent to do so.

(Amended by Stats. 2014, Ch. 564, Sec. 25. (AB 333) Effective January 1, 2015.)

117810.

(a) If a local agency does not elect to implement a medical waste management program, the local agency may elect to contract with another local agency to implement a medical waste management program or to implement it at a later date.

This election shall be made by the local governing body, that shall take effect 90 days after a notice of election is filed with the department.

(b) A local agency that elects to implement a medical waste management program shall continue to implement that program until the local governing body terminates the election by resolution or ordinance or the department revokes the authority of the local agency to administer a medical waste management program. The local agency shall file the notice of termination with the department at least 180 days prior to the termination date.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117815.

Any local agency that has elected to implement a medical waste management program shall maintain a program that is consistent with Section 117820 and the regulations adopted pursuant to that section. With the approval of the department, the local agency may administer or enforce this part with respect to any person.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117820.

A medical waste management program shall include, but not be limited to, all of the following:

(a)Issuing medical waste registrations and permits pursuant to the Medical Waste Management Act.

(b)Processing and reviewing the medical waste management plans and inspecting onsite treatment facilities in accordance with Chapter 4 (commencing with Section 117925) for all small quantity medical waste generators required to be registered.

(c)Conducting an evaluation, inspection, or records review for all facilities or persons issued a large quantity medical waste registration pursuant to Chapter 5 (commencing with Section 117950) or issued a permit for an onsite medical waste treatment facility pursuant to Chapter 7 (commencing with Section 118130).

(d)Inspecting medical waste generators in response to complaints or emergency incidents, or as part of an investigation or evaluation of the implementation of the medical waste management plan.

(e)Inspecting medical waste treatment facilities in response to a complaint or as part of an investigation or emergency incident.

(f)Taking enforcement action for the suspension or revocation of medical waste permits issued by the local agency pursuant to this part.

(g)Referring or initiating proceedings for civil or criminal prosecution of violations specified in Chapter 10 (commencing with Section 118335).

(h)Reporting in a manner determined by the department so that the statewide effectiveness of the program can be determined.

(Amended by Stats. 2014, Ch. 564, Sec. 26. (AB 333) Effective January 1, 2015.)

117825.

Each local enforcement agency that elects to implement the medical waste management program may prescribe, by resolution or ordinance, the registration and permit fees necessary to pay its reasonable expenses to administer the program.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117830.

(a) A local agency electing to implement a medical waste management program is the enforcement agency for the jurisdiction where it is located and so designated by the department.

(b) In any local jurisdiction where the local agency does not elect to implement a medical waste management program, the department is the enforcement agency.

(c) Nothing in this chapter shall prevent a district attorney, city attorney, or city prosecutor from bringing any enforcement action for violation of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117835.

The department shall establish and maintain a database of persons registered as small quantity generators and as large quantity generators for whom the department is the enforcement agency under Chapter 4 (commencing with Section 117925) and Chapter 5 (commencing with Section 117950).

(Amended by Stats. 2014, Ch. 564, Sec. 27. (AB 333) Effective January 1, 2015.)

117840.

It is the intent of the Legislature that the program carried out pursuant to this part be fully supported from the fees received pursuant to this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117845.

The department shall implement this part so as to maximize the funds that may be received from the federal government.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117850.

Information may be shared between the department and the Environmental Protection Agency.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117855.

If the department finds that a local enforcement agency is not consistently fulfilling its responsibilities, the department shall notify the agency of the particular reasons for finding that the agency is not fulfilling its responsibilities and of the departmentsintention to withdraw its designation if, within a time to be specified in that notification, but in no event less than 30 days, the agency does not take the corrective action specified by the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117860.

If the department withdraws its designation of a local enforcement agency, the department shall become the enforcement agency within the jurisdiction of the local enforcement agency.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117870.

If the department identifies significant violations of minimum requirements that were not identified and resolved through previous inspections by the local enforcement agency, the department shall do all of the following:

(a) Conduct a performance review of the agency within 120 days.

(b) Prepare a written performance report within 60 days of the review.

(c) Require the submission of a plan of correction by the agency within 90 days of receiving the report.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117875.

The department shall withdraw a local enforcement agencysdesignation pursuant to Section 117860 if it determines that the enforcement agency has failed to submit an adequate plan of correction or has failed to implement the plan.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117880.

If the department becomes the enforcement agency, it may charge the fees specified in this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117885.

(a)There is in the State Treasury the Medical Waste Management Fund, that shall be administered by the director. Money deposited in the fund shall be available to the department, upon appropriation by the Legislature, for the purposes of this part.

(b)In addition to any other funds transferred by the Legislature to the Medical Waste Management Fund, the following shall be deposited in the fund:

(1)Fees, penalties, interest earned, and fines collected by, or on behalf of, the department pursuant to this part.

(2)Funds granted by the federal government for purposes of carrying out this part.

(Amended by Stats. 2014, Ch. 564, Sec. 28. (AB 333) Effective January 1, 2015.)

117890.

(a)No large quantity generator shall generate medical waste unless the large quantity generator is registered with the enforcement agency pursuant to this part.

(b)Registration pursuant to this part shall also allow the large quantity generator to generate medical waste at temporary events, including, but not limited to, health fairs, vaccination clinics, and veteran stand downs, without further registration or permitting required. The large quantity generator shall notify the local enforcement agency of their intended participation in a temporary event at least 72 hours before the event, unless the sponsor of the temporary event previously notified the local enforcement agency of the event.

(Amended by Stats. 2014, Ch. 564, Sec. 29. (AB 333) Effective January 1, 2015.)

117895.

Registration pursuant to this part shall allow a small quantity generator to generate medical waste at temporary events, including, but not limited to, health fairs, vaccination clinics, and veteran stand downs, without further registration or permitting required. The small quantity generator shall notify the local enforcement agency of their intended participation in a temporary event at least 72 hours before the event, unless the sponsor of the temporary event previously notified the local enforcement agency of the event.

(Repealed and added by Stats. 2014, Ch. 564, Sec. 31. (AB 333) Effective January 1, 2015.)

117900.

No person shall haul medical waste unless the person is one of the following:

(a)A registered hazardous waste hauler pursuant to the requirements of Chapter 6.5 (commencing with Section 25100) of Division 20.

(b)A mail-back system approved by the United States Postal Service.

(c)A common carrier allowed to haul pharmaceutical waste pursuant to Section 118029 or 118032.

(d)A small quantity generator or a large quantity generator transporting limited quantities of medical waste with an exemption granted pursuant to either Section 117946 or Section 117976, respectively.

(e)A registered trauma scene waste practitioner hauling trauma scene waste pursuant to Section 118321.5.

(Amended by Stats. 2014, Ch. 564, Sec. 32. (AB 333) Effective January 1, 2015.)

117903.

No person shall treat medical waste unless the person is permitted by the enforcement agency as required by this part or unless the treatment is performed by a medical waste generator and is a treatment method approved pursuant to Chapter 8 (commencing with Section 118215).

(Amended by Stats. 2014, Ch. 564, Sec. 33. (AB 333) Effective January 1, 2015.)

117904.

(a)In addition to the consolidation points authorized pursuant to Section 118147, the enforcement agency may approve a location as a point of consolidation for the collection of home-generated sharps waste, which, after collection, shall be transported and treated as medical waste.

(b)A consolidation location approved pursuant to this section shall be known as a home-generated sharps consolidation point.

(c)A home-generated sharps consolidation point is not subject to the requirements of Chapter 9 (commencing with Section 118275), to the permit or registration requirements of this part, or to any permit or registration fees, with regard to the activity of consolidating home-generated sharps waste pursuant to this section.

(d)A home-generated sharps consolidation point shall comply with all of the following requirements:

(1)All sharps waste shall be placed in sharps containers.

(2)Sharps containers ready for disposal shall not be held for more than seven days without the written approval of the enforcement agency.

(e)An operator of a home-generated sharps consolidation point approved pursuant to this section shall not be considered the generator of that waste, but shall be listed on the tracking documents in compliance with the United States Postal Service requirements for waste shipped through mail back and on the tracking documents as required by the department.

(f)The medical waste treatment facility which treats the sharps waste subject to this section shall maintain the tracking document required by Sections 118040 and 118165 with regard to that sharps waste.

(Amended by Stats. 2015, Ch. 352, Sec. 2. (SB 225) Effective September 28, 2015.)

117905.

The department is the enforcement agency for offsite treatment facilities.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117908.

The accumulated medical waste of more than one medical waste generator shall not be stored in a common storage facility unless that facility is registered with the enforcement agency.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117910.

The department shall provide ongoing technical assistance and guidance to local enforcement agencies to assist them in their decisionmaking processes. This assistance shall include, but is not limited to, providing all of the following:

(a) Technical studies and reports.

(b) Copies of innovative facility operation plans.

(c) Investigative findings and analysis of new waste management practices and procedures.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=14.&chapter=4.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 14. MEDICAL WASTE [117600 - 118360]__

(Part 14 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Small Quantity Generator Requirements [117915 - 117946]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

117915.

Containment and storage of medical waste shall be in accordance with Chapter 9 (commencing with Section 118275).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117918.

Medical waste shall be treated using treatment technologies in accordance with Chapter 8 (commencing with Section 118215).

(Amended by Stats. 2014, Ch. 564, Sec. 35. (AB 333) Effective January 1, 2015.)

117920.

The fee schedule specified in Section 117923 shall be for the issuance of medical waste registrations and for conducting inspections pursuant to this chapter when the department serves as the enforcement agency for small quantity generators. This fee schedule shall be adjusted annually in accordance with Section 100425, or as provided in the regulations adopted by the department, not to exceed the reasonable regulatory costs of the department. Local enforcement agencies shall set fees that shall be sufficient to cover their costs in

implementing this part with regard to small quantity generators required to be registered pursuant to Section 117925.

(Amended by Stats. 2014, Ch. 564, Sec. 36. (AB 333) Effective January 1, 2015.)

117923.

(a) The registration and inspection fee for small quantity generators using onsite treatment, including an autoclave, incinerator, or microwave technology, to treat medical waste is one hundred dollars ($100), that shall be paid once every two years.

(b) The annual permit fee for a common storage facility permitted pursuant to Section 117928 is the amount specified in the following schedule:

(1) For storage facilities serving 10 or fewer generators, the permit fee is one hundred dollars ($100).

(2) For storage facilities serving 11 or more generators, but not more than 50 generators, the permit fee is two hundred fifty dollars ($250).

(3) For storage facilities serving more than 50 generators, the permit fee is five hundred dollars ($500).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117924.

(a)When the department is the enforcement agency, the department shall impose and cause the collection of an annual medical waste generator fee in an amount not to exceed twenty-five dollars ($25) on small quantity generators of medical waste, except for those small quantity generators that are required to register pursuant to Section 117925 and those generators generating only pharmaceutical waste as defined in paragraph (3) of subdivision (b) of Section 117690. Nothing in this part shall prevent the department from contracting with entities other than the department for these fee collection activities or from entering into agreements with medical waste transporters for the collection of these fees, if the department determines that such a fee collection arrangement would be cost effective.

(b)If the department determines to enter into a contract with a medical waste transporter for the collection of the fees, the department shall do all of the following:

(1)Establish that not more than 7.5 percent of the fees collected may be recovered by the medical waste transporter as administrative costs for the collection of those fees.

(2)Establish that the administrative costs for the collection of the fees shall be the same for all medical waste transporters.

(3)Prohibit any medical waste transporter from waiving the generator fee without the written approval of the department and only if the medical waste generator has made a written request for the waiver.

(4)Require the medical waste transporter to report the fees collected pursuant to subdivision (a) to the

department.

(5)Prohibit the medical waste transporter from assuming the role of the department as an enforcement agent for purposes of collecting the medical waste generator fees.

(6)Require medical waste transporters to include the following language in at least 12-point type on their invoices to medical waste generators:

Pursuant to Section 117924 of the California Health and Safety Code, the State Department of Public Health has contracted with us to collect your annual medical waste generator fee. The department may offset our costs of collection and administration in an amount that may not exceed 7.5 percent of the fee collected. We may not waive the fee without written approval of the department, and only if you have made a written request for the waiver.

(7)Ensure that generators subject to this section are required to pay the fee only once per year.

(Amended by Stats. 2014, Ch. 564, Sec. 37. (AB 333) Effective January 1, 2015.)

117925.

(a) Each small quantity generator using onsite steam sterilization, incineration, or microwave technology to treat medical waste shall register with the enforcement agency. Small quantity generators owning or operating a medical waste treatment facility shall also apply for a permit for that treatment facility pursuant to Chapter 7 (commencing with Section 118130).

(b) Small quantity generators using onsite treatment, as specified in subdivision (a), that operate as a business in the same building, or that are associated with a group practice in the same building, may register as one generator.

(c) Small quantity generators using onsite treatment, as specified in subdivision (a), as specified in subdivision (b), operating in different buildings on the same or adjacent property, or as approved by the enforcement agency, may register as one generator.

(d) Adjacent, for purposes of subdivision (c), means real property within 400 yards from the property boundary of the primary registration site.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117928.

(a) Any common storage facility for the collection of medical waste produced by small quantity generators operating independently, but sharing common storage facilities, shall have a permit issued by the enforcement agency prior to the commencement of storage of medical waste in the common storage facility.

(b) A permit for any common storage facility specified in subdivision (a) may be obtained by any one of the following:

(1) A provider of health care as defined in Section 56.05 of the Civil Code.

(2) The registered hazardous waste transporter.

(3) The property owner.

(4) The property management firm responsible for providing tenant services to the medical waste generators.

(Amended by Stats. 2014, Ch. 564, Sec. 38. (AB 333) Effective January 1, 2015.)

117930.

Small quantity generators that treat waste onsite, pursuant to subdivision (a) of Section 117925, shall register with the enforcement agency prior to the commencement of treatment.

(Added by renumbering Section 25041 by Stats. 1996, Ch. 536, Sec. 11. Effective January 1, 1997.)

117935.

A small quantity generator required to register with the enforcement agency pursuant to Section 117930 shall file with the enforcement agency a medical waste management plan on forms prescribed by the enforcement agency, if provided. The plans shall contain, but are not limited to, all of the following:

(a)The name of the person.

(b)The business address of the person.

(c)The type of business.

(d)The types, and the estimated average monthly quantity, of medical waste generated.

(e)The type of treatment used onsite.

(f)The name and business address of the registered hazardous waste hauler used by the generator for backup treatment and disposal, for waste when the onsite treatment method is not appropriate due to the hazardous or radioactive characteristics of the waste.

(g)The name of the registered hazardous waste hauler used by the generator to have untreated medical waste removed for treatment and disposal, if applicable.

(h)The name of the common carrier used by the generator to transport pharmaceutical waste offsite for treatment and disposal pursuant to Section 118032, if applicable.

(i)If applicable, the steps taken to categorize the pharmaceutical wastes generated at the facility to ensure that the wastes are properly disposed of as follows:

(1)Pharmaceutical wastes classified by the federal Drug Enforcement Agency (DEA) as controlled substances

are disposed of in compliance with DEA requirements.

(2)The name and business address of the registered hazardous waste hauler used by the generator to have wastes that are not regulated pursuant to the federal Resource Conservation and Recovery Act of 1976 and nonradioactive pharmaceutical wastes regulated as medical waste safely removed for treatment in compliance with subdivision (b) of Section 118222 as waste requiring specific methods.

(j)A closure plan for the termination of treatment at the facility using, at a minimum, one of the methods of decontamination specified in subdivision (a) or (b) of Section 118295, thereby rendering the property to an acceptable sanitary condition following the completion of treatment services at the site.

(k)A statement certifying that the information provided is complete and accurate.

(Amended by Stats. 2014, Ch. 564, Sec. 40. (AB 333) Effective January 1, 2015.)

117938.

(a)Small quantity generators using onsite steam sterilization, incineration, or microwave technology to treat medical waste are subject to biennial inspection of that onsite treatment facility by the enforcement agency and may be subject to the permitting requirements for onsite medical waste treatment facilities as determined by the enforcement agency.

(b)(1)The operators of the treatment equipment specified in subdivision (a) shall be required to receive training in the operation of the treatment equipment, proper protective equipment to wear, if any, how to clean up spills, and other information required to operate the treatment equipment in a safe and effective manner.

(2)Annual training for the operators shall be provided after the initial training has been completed.

(3)The training shall be documented for each treatment operator and retained on file at the generator facility for a minimum of two years. Training shall comply with applicable federal Occupational Safety and Health Administration regulations, including those found in Section 1910 of Title 29 of the Code of Federal Regulations.

(Amended by Stats. 2014, Ch. 564, Sec. 41. (AB 333) Effective January 1, 2015.)

117940.

(a)Each enforcement agency shall follow procedures consistent with this chapter in registering medical waste generators.

(b)Each medical waste generator registration for small quantity generators issued by the enforcement agency shall be valid for two years.

(c)An application for renewal of the registration for small quantity generators shall be filed with the enforcement agency on or before the expiration date.

(d)Generators shall submit an updated application form when any of the information specified in their medical waste management plan, created pursuant to Section 117935, changes. The updated application form shall be submitted within 30 days of the change.

(Amended by Stats. 2014, Ch. 564, Sec. 42. (AB 333) Effective January 1, 2015.)

117943.

(a)A medical waste generator required to register pursuant to this chapter shall maintain for a minimum of three years individual treatment operating records, and if applicable, the tracking document for all untreated medical waste shipped offsite for treatment, and shall report or submit to the enforcement agency, upon request, all of the following:

(1)Treatment operating records. Operating records shall be maintained in written or electronic form.

(2)An emergency action plan complying with regulations adopted by the department.

(3)Tracking documents or electronically archived tracking documents maintained by the facility and medical waste hauler of all untreated medical waste shipped offsite for treatment.

(b)Documentation shall be made available to the enforcement agency onsite.

(Amended by Stats. 2015, Ch. 352, Sec. 3. (SB 225) Effective September 28, 2015.)

117945.

(a)A small quantity generator who is not required to register pursuant to this chapter shall maintain on file in its office all of the following:

(1)An information document stating how the generator contains, stores, treats, and disposes of any medical waste generated through any act or process of the generator.

(2)Records required by the United States Postal Service of any medical waste shipped offsite for treatment and disposal. The small quantity generator shall maintain, or have available electronically at the facility or from the medical waste hauler or common carrier, these records, for not less than three years.

(b)Documentation shall be made available to the enforcement agency onsite.

(Amended by Stats. 2016, Ch. 86, Sec. 197. (SB 1171) Effective January 1, 2017.)

117946.

(a)A small quantity medical waste generator or parent organization that employs health care professionals who generate medical waste may transport medical waste generated in limited quantities up to 35.2 pounds to the central location of accumulation, provided that all of the following are met:

(1)The principal business of the generator is not to transport or treat regulated medical waste.

(2)The generator shall adhere to the conditions and requirements set forth in the materials of trade exception, as specified in Section 173.6 of Title 49 of the Code of Federal Regulations.

(3)A person transporting medical waste pursuant to this section shall provide a form or log to the receiving facility, and the receiving facility shall maintain the form or log for a period of two years, containing all of the following information:

(A)The name of the person transporting the medical waste.

(B)The number of containers of medical waste transported.

(C)The date the medical waste was transported.

(b)A generator transporting medical waste pursuant to this section shall not be regulated as a hazardous waste hauler pursuant to Section 117660.

(Added by Stats. 2014, Ch. 564, Sec. 45. (AB 333) Effective January 1, 2015.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=14.&chapter=5.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 14. MEDICAL WASTE [117600 - 118360]__

(Part 14 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Large Quantity Generator Requirements [117950 - 117995]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

117950.

(a)Each large quantity generator, except as specified in subdivisions (b) and (c), shall register with the enforcement agency prior to commencement of the generation of medical waste.

(b)Large quantity generators operating as a business in the same building, or that are associated with a group practice in the same building, may register as one generator.

(c)Large quantity generators as specified in subdivision (a), operating in different buildings on the same or adjacent property, or as approved by the enforcement agency, may register as one generator.

(d)Adjacent, for purposes of subdivision (c), means real property within 400 yards from the property boundary of the primary registration site. All federal transportation requirements specified in Section 173.6 of Part 49 of the Code of Federal Regulations shall apply for purposes of transporting medical waste from adjacent properties.

(Amended by Stats. 2014, Ch. 564, Sec. 46. (AB 333) Effective January 1, 2015.)

117960.

A large quantity generator required to register with the enforcement agency shall file with the enforcement agency a medical waste management plan, on forms prescribed by the enforcement agency, if provided. The plans shall contain, but are not limited to, all of the following:

(a)The name of the person.

(b)The business address of the person.

(c)The type of business.

(d)The types, and the estimated average monthly quantity, of medical waste generated.

(e)The type of treatment used onsite, if applicable. For generators with onsite medical waste treatment facilities, the treatment capacity of the onsite treatment facility.

(f)The name and business address of the registered hazardous waste hauler used by the generator to have untreated medical waste removed for treatment, if applicable, and, if applicable, the name and business address of the common carrier transporting pharmaceutical waste pursuant to Section 118032.

(g)The name and business address of the offsite medical waste treatment facility to which the medical waste is being hauled, if applicable.

(h)An emergency action plan complying with regulations adopted by the department.

(i)If applicable, the steps taken to categorize the pharmaceutical wastes generated at the facility to ensure that the wastes are properly disposed of as follows:

(1)Pharmaceutical wastes classified by the federal Drug Enforcement Agency (DEA) as controlled substances

are disposed of in compliance with DEA requirements.

(2)The name and business address of the hazardous waste hauler used by the generator to have wastes that are not regulated pursuant to the federal Resource Conservation and Recovery Act of 1976 and nonradioactive pharmaceutical wastes regulated as medical wastes safely removed for treatment in compliance with subdivision (b) of Section 118222, as waste requiring specific methods.

(j)A closure plan for the termination of treatment at the facility using, at a minimum, one of the methods of decontamination specified in subdivision (a) or (b) of Section 118295, thereby rendering the property to an acceptable sanitary condition following the completion of treatment services at the site.

(k)A statement certifying that the information provided is complete and accurate.

(Amended by Stats. 2014, Ch. 564, Sec. 48. (AB 333) Effective January 1, 2015.)

117965.

Large quantity generators shall be subject to at least annual inspection by the enforcement agency.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117967.

(a)Large quantity generators that treat medical waste onsite using steam sterilization, incineration, microwave technology, or other department approved treatment technology to treat medical waste shall train the operators of the equipment in its use, proper protective equipment to wear, if necessary, and how to clean up spills to ensure that the equipment is being operated in a safe and effective manner.

(b)Annual training for the operators shall be provided after the initial training has been completed.

(c)The training shall be documented and the documentation shall be retained at the facility for a minimum of two years. Training shall comply with applicable federal Occupational Safety and Health Administration regulations, including those found in Section 1910 of Title 29 of the Code of Federal Regulations.

(Added by Stats. 2014, Ch. 564, Sec. 49. (AB 333) Effective January 1, 2015.)

117970.

(a)Each enforcement agency shall follow procedures consistent with this chapter in registering medical waste generators.

(b)Each medical waste registration issued by the enforcement agency for large quantity generators shall be valid for one year.

(c)An application for renewal of the registration shall be filed with the enforcement agency not less than 90

days prior to the expiration date. Failure to meet this requirement shall result in an assessment of a late fee.

(d)Generators shall update their medical waste management plan, established pursuant to Section 117960, when any of the information in the plan changes and shall have the plan on file for review during an inspection or upon request. The updated plan shall be submitted within 30 days of the change.

(Amended by Stats. 2014, Ch. 564, Sec. 50. (AB 333) Effective January 1, 2015.)

117971.

In addition to the fees collected pursuant to Section 117995, the department, in the implementation of this part, shall recover its actual costs for services related to large quantity medical waste generator followup inspections and enforcement activities necessary to ensure compliance with this part. In no event shall the department charge more than the actual costs incurred by the department.

(Added by Stats. 2006, Ch. 74, Sec. 38. Effective July 12, 2006.)

117975.

(a)A large quantity medical waste generator required to register pursuant to this chapter shall maintain for a minimum of two years individual treatment records and the tracking document for all untreated medical waste shipped offsite for treatment. The generator shall report or submit to the enforcement agency, upon request, all of the following:

(1)Treatment operating records. Operating records shall be maintained in written or electronic form.

(2)An emergency action plan in accordance with regulations adopted by the department.

(3)Tracking documents or electronically archived tracking documents maintained by the facility or medical waste hauler of all untreated medical wastes shipped offsite for treatment.

(b)Documentation shall be made available to the enforcement agency onsite as soon as feasible, but no more than two business days following the request.

(Amended by Stats. 2015, Ch. 352, Sec. 5. (SB 225) Effective September 28, 2015.)

117976.

(a)A large quantity medical waste generator or parent organization that employs health care professionals who generate medical waste may transport medical waste generated in limited quantities up to 35.2 pounds to the central location of accumulation, provided that all of the following are met:

(1)The principal business of the generator is not to transport or treat regulated medical waste.

(2)The generator shall adhere to the conditions and requirements set forth in the materials of trade

exception, as specified in Section 173.6 of Title 49 of the Code of Federal Regulations.

(3)A person transporting medical waste pursuant to this section shall provide a form or log to the receiving facility, and the receiving facility shall maintain the form or log for a period of two years, containing all of the following information:

(A)The name of the person transporting the medical waste.

(B)The number of containers of medical waste transported.

(C)The date the medical waste was transported.

(b)A generator transporting medical waste pursuant to this section shall not be regulated as a hazardous waste hauler pursuant to Section 117660.

(Added by Stats. 2014, Ch. 564, Sec. 53. (AB 333) Effective January 1, 2015.)

117980.

Containment and storage of medical waste shall be in accordance with Chapter 9 (commencing with Section 118275).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

117985.

Medical waste shall be treated using treatment technologies approved in accordance with Chapter 8 (commencing with Section 118215).

(Amended by Stats. 2014, Ch. 564, Sec. 54. (AB 333) Effective January 1, 2015.)

117990.

The fee schedule specified in Section 117995 shall be for the issuance of medical waste registrations and onsite medical waste treatment facility permits when the department serves as the enforcement agency for large quantity generators. This fee schedule shall be adjusted annually in accordance with Section 100425, or as provided in the regulations adopted by the department, not to exceed the reasonable regulatory costs of the department. Local enforcement agencies shall set fees that shall be sufficient to cover their costs in implementing this part with regard to large quantity generators.

(Amended by Stats. 2014, Ch. 564, Sec. 55. (AB 333) Effective January 1, 2015.)

117995.

The registration and annual permit fee for large quantity generators shall be set in following amounts:

(a)(1)A general acute care hospital, as defined in subdivision (a) of Section 1250, that has one or more beds, but not more than 99 beds, shall pay six hundred dollars ($600), a facility with 100 or more beds, but not more than 199 beds, shall pay eight hundred sixty dollars ($860), a facility with 200 or more beds, but not more than 250 beds shall pay one thousand one hundred dollars ($1,100), and a facility with 251 or more beds shall pay one thousand four hundred dollars ($1,400).

(2)In addition to the fees specified in paragraph (1), a general acute care hospital which is providing onsite treatment of medical waste shall pay an annual medical waste treatment facility inspection and permit fee of three hundred dollars ($300), if the facility has one or more beds but not more than 99 beds, five hundred dollars ($500), if the facility has 100 or more beds but not more than 250 beds, and one thousand dollars ($1,000), if the facility has 251 or more beds.

(b)A specialty clinic, providing surgical, dialysis, or rehabilitation services, as defined in subdivision (b) of Section 1204, shall pay three hundred fifty dollars ($350).

(c)A skilled nursing facility, as defined in subdivision (c) of Section 1250, that has one or more beds, but not more than 99 beds shall pay two hundred seventy-five dollars ($275), a facility with 100 or more beds, but not more than 199 beds shall pay three hundred fifty dollars ($350), and a facility with 200 or more beds shall pay four hundred dollars ($400).

(d)An acute psychiatric hospital, as defined in subdivision (b) of Section 1250, shall pay two hundred dollars ($200).

(e)An intermediate care facility, as defined in subdivision (d) of Section 1250, shall pay three hundred dollars ($300).

(f)A primary care clinic, as defined in Section 1200.1, shall pay three hundred fifty dollars ($350).

(g)A licensed clinical laboratory, as defined in paragraph (3) of subdivision (a) of Section 1206 of the Business and Professions Code, shall pay two hundred dollars ($200).

(h)A health care service plan facility, as defined in subdivision (f) of Section 1345, shall pay three hundred fifty dollars ($350).

(i)A veterinary clinic or veterinary hospital shall pay two hundred dollars ($200).

(j)A large quantity generator medical office shall pay two hundred dollars ($200).

(k)In addition to the fees specified in subdivisions (b) to (j), inclusive, a large quantity generator of medical waste which is providing onsite treatment of medical waste shall pay an annual medical waste treatment facility inspection and permit fee of three hundred dollars ($300).

(l)The department may collect annual fees and issue permits on a biennial basis.

(Amended by Stats. 2006, Ch. 74, Sec. 39. Effective July 12, 2006.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=14.&chapter=6.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 14. MEDICAL WASTE [117600 - 118360]__

(Part 14 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Medical Waste Haulers [118000 - 118045]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

118000.

(a)Medical waste shall only be transported to a permitted medical waste treatment facility, or to a transfer station or another registered generator for the purpose of consolidation before treatment and disposal.

(b)Facilities for the transfer of medical waste shall be annually inspected and issued permits in accordance with the regulations adopted pursuant to this part.

(c)Medical waste transported out of state shall be consigned to a permitted medical waste treatment facility in the receiving state. If there is no permitted medical waste treatment facility in the receiving state or if the medical waste is crossing an international border, the medical waste shall be treated in accordance with Chapter 8 (commencing with Section 118215) prior to being transported out of the state.

(Amended by Stats. 2014, Ch. 564, Sec. 56. (AB 333) Effective January 1, 2015.)

118025.

All medical waste shall be hauled by a registered hazardous waste hauler, the United States Postal Service, or by a person with an exception granted pursuant to Section 117946 for small quantity generators or pursuant to Section 117976 for large quantity generators.

(Amended by Stats. 2014, Ch. 564, Sec. 58. (AB 333) Effective January 1, 2015.)

118027.

A person who is authorized to collect solid waste, as defined in Section 40191 of the Public Resources Code, who unknowingly transports medical waste to a solid waste facility, as defined in Section 40194 of the Public Resources Code, incidental to the collection of solid waste, is exempt from the provisions of the Medical Waste Management Act with regard to that waste. If a solid waste transporter discovers that he or she has hauled untreated medical waste to a landfill or materials recovery facility, he or she shall contact the originating generator of the medical waste to respond to the landfill or recovery facility to provide ultimate proper disposal of the medical waste. The solid waste facility operator may, at its discretion and after contacting the generator, make arrangements for the proper treatment and disposal of the medical waste at a facility approved by the department. Title to the waste remains with the generator. Reimbursement costs for the proper management of discovered waste shall be the originating generatorsresponsibility.

(Amended by Stats. 2014, Ch. 564, Sec. 59. (AB 333) Effective January 1, 2015.)

118029.

(a)Haulers of medical waste in California, with the exception of those using a materials of trade exception as specified in Sections 117946 and 117976, and United States Department of Transportation licensed common carriers hauling pharmaceutical waste, shall meet all United States Department of Transportation requirements for transporting medical waste and shall be hazardous waste haulers in California. On or before July 1 of each year, a registered hazardous waste hauler that transports medical waste shall so notify the department, and provide, in a format that conforms to the protocol requirements for submission of data to the department, the following information:

(1)Business name, address, and telephone number.

(2)Name of owner, operator, and contact person.

(3)Hazardous waste transporter registration number.

(4)The number of vehicles and trailers transporting medical waste within the state as of that date.

(5)Types and quantities of medical waste collected, in pounds.

(6)The names of the generators whose waste has been transported by the hauler and the amounts of medical waste transported, by waste type category.

(b) Each registered hazardous waste hauler shall provide to the department a list of all medical waste generators serviced by that person during the previous 12 months. That list shall include the business name, business address, mailing address, telephone number, and other information as required by the department to collect annual fees pursuant to Section 117924. The list shall be provided to the department within 10 days of the close of the earliest calendar quarter ending September 30, December 31, March 31, or June 30, or as otherwise required by the department.

(Amended by Stats. 2014, Ch. 564, Sec. 60. (AB 333) Effective January 1, 2015.)

118032.

A pharmaceutical waste generator or parent organization that employs health care professionals who generate pharmaceutical waste is exempt from the requirements of subdivision (a) of Section 118000 if all of the following requirements are met:

(a)The generator or parent organization has on file one of the following:

(1)If the generator or parent organization is a small quantity generator required to register pursuant to Chapter 4 (commencing with Section 117925), a medical waste management plan prepared pursuant to Section 117935.

(2)If the generator or parent organization is a small quantity generator not required to register pursuant to Chapter 4 (commencing with Section 117925), the information document maintained pursuant to subdivision (a) of Section 117945.

(3)If the generator or parent organization is a large quantity generator, a medical waste management plan prepared pursuant to Section 117960.

(b)The generator or health care professional who generated the pharmaceutical waste transports the pharmaceutical waste himself or herself, or directs a member of his or her staff to transport the pharmaceutical waste to a parent organization or another health care facility for the purpose of consolidation before treatment and disposal, or contracts with a common carrier to transport the pharmaceutical waste to a permitted medical waste treatment facility or transfer station.

(c)Except as provided in subdivision (d), all of the following requirements are met:

(1)Prior to shipment of the pharmaceutical waste, the generator notifies the intended destination facility that it is shipping pharmaceutical waste to it and provides a copy of the tracking document, as specified in Section 118040.

(2)The generator and the facility receiving the pharmaceutical waste maintain the tracking document, as specified in Section 118040.

(3)The facility receiving the pharmaceutical waste notifies the generator of the receipt of the pharmaceutical waste shipment and any discrepancies between the items received and the tracking document, as specified in Section 118040, evidencing diversion of the pharmaceutical waste.

(4)The generator notifies the enforcement agency of any discrepancies between the items received and the tracking document, as specified in Section 118040, evidencing diversion of the pharmaceutical waste.

(d)(1)Notwithstanding subdivision (c), if a health care professional who generates pharmaceutical waste returns the pharmaceutical waste to the parent organization for the purpose of consolidation before treatment and disposal over a period of time, a single-page form or multiple entry log may be substituted for the tracking document, if the form or log contains all of the following information:

(A)The name of the person transporting the pharmaceutical waste.

(B)The number of containers of pharmaceutical waste. This clause does not require any generator to maintain a separate pharmaceutical waste container for every patient or to maintain records as to the specified source of the pharmaceutical waste in any container.

(C)The date that the pharmaceutical waste was returned.

(2)The form or log described in paragraph (1) shall be maintained in the files of the health care professional who generates the pharmaceutical waste and the parent organization or another health care facility that receives the pharmaceutical waste.

(3)This subdivision does not prohibit the use of a single document to verify the return of more than one container to a parent organization or another health care facility, provided the form or log meets the requirements specified in paragraphs (1) and (2).

(Amended by Stats. 2015, Ch. 352, Sec. 6. (SB 225) Effective September 28, 2015.)

118033.

The pharmaceutical waste that is separated from medical waste by the generator shall be maintained in a manner to secure the pharmaceutical waste contents from access by unauthorized individuals. Any suspected or confirmed tampering of, unauthorized access to, or loss of this pharmaceutical waste shall be reported to the appropriate state licensing authority.

(Added by Stats. 2012, Ch. 689, Sec. 8. (AB 1442) Effective January 1, 2013.)

118035.

For the purpose of transferring medical waste prior to reaching a permitted medical waste treatment facility, medical waste shall not be unloaded, reloaded, or transferred to another vehicle at any location, except at a permitted medical waste transfer station or in the case of a vehicle breakdown or other emergency.

(Added by renumbering Section 25062.5 by Stats. 1996, Ch. 536, Sec. 14. Effective January 1, 1997.)

118040.

(a) Except with regard to sharps waste consolidated by a home-generated sharps consolidation point approved pursuant to Section 117904, a hazardous waste transporter transporting medical waste shall maintain a completed tracking document in compliance with subdivision (b) for the purpose of tracking the medical waste from the point when the waste leaves the generator facility until it receives final treatment. At the time that the medical waste is received by a hazardous waste transporter, the transporter shall provide the medical waste generator with a copy of the tracking document. The transporter transporting medical waste shall maintain its copy of the tracking document for three years.

(b) The tracking document shall include, but not be limited to, all of the following information:

(1) The name, address, telephone number, and registration number of the transporter, unless transported pursuant to Section 117946 or 117976.

(2) The type of medical waste transported and the quantity or aggregate weight of medical waste transported.

(3) The name, address, and telephone number of the generator.

(4) The name, address, telephone number, permit number, and the signature of an authorized representative of the permitted facility receiving the medical waste.

(5) The date that the medical waste is collected or removed from the generatorsfacility, the date that the medical waste is received by the transfer station, the registered large quantity generator, or point of consolidation, if applicable, and the date that the medical waste is received by the treatment facility.

(c) A hazardous waste transporter transporting medical waste in a vehicle shall have the tracking document in his or her possession while transporting the medical waste. The tracking document shall be shown upon demand to any enforcement agency personnel or officer of the Department of the California Highway Patrol. If the medical waste is transported by rail, vessel, or air, the railroad corporation, vessel operator, or airline shall enter on the shipping papers any information concerning the medical waste that the enforcement agency may require.

(d) A hazardous waste transporter transporting medical waste shall provide the facility receiving the medical waste with the original tracking document.

(e) Each hazardous waste transporter and each medical waste treatment facility shall provide tracking data periodically and in a format as determined by the department.

(Amended by Stats. 2015, Ch. 352, Sec. 7. (SB 225) Effective September 28, 2015.)

118045.

(a)The department shall charge an application fee for a permit for a transfer station equal to one hundred dollars ($100) for each hour which the department spends on processing the application, but not more than ten thousand dollars ($10,000), or as provided in the regulations adopted by the department, not to exceed the reasonable regulatory costs of the department.

(b)In addition to the fee specified in subdivision (a), the annual permit fee for a transfer station is two thousand dollars ($2,000), or as provided in the regulations adopted by the department, not to exceed the reasonable regulatory costs of the department.

(Amended by Stats. 2014, Ch. 564, Sec. 64. (AB 333) Effective January 1, 2015.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=14.&chapter=7.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=104.&title=&part=14.&chapter=7.&article=)

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 14. MEDICAL WASTE [117600 - 118360]__

(Part 14 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Medical Waste Treatment Facility Permits [118130 - 118210]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 6.)

118130.

All offsite medical waste treatment facilities and transfer stations shall be permitted and inspected by the department. All onsite medical waste treatment facilities shall be permitted and inspected by the enforcement agency.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118135.

Each person operating an offsite medical waste treatment facility shall obtain a permit pursuant to this chapter from the department prior to commencement of the treatment facilitysoperation.

(Amended by Stats. 2014, Ch. 564, Sec. 65. (AB 333) Effective January 1, 2015.)

118140.

A health care facility accepting medical waste for treatment from the physicians and surgeons who are on the staff of the facility and who are small quantity generators shall be classified as an onsite treatment facility and shall be permitted and inspected by the enforcement agency.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118145.

A health care facility accepting medical waste for treatment from small quantity generators that are adjacent to the facility shall be classified as an onsite treatment facility and shall be permitted and inspected by the enforcement agency.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118147.

Notwithstanding any other provision of this chapter, a registered medical waste generator, which is a facility specified in subdivisions (a) and (b) of Section 117705, may accept home-generated sharps waste, to be consolidated with the facilitysmedical waste stream, subject to all of the following conditions:

(a) The generator of the sharps waste, a member of the generatorsfamily, or a person authorized by the enforcement agency transports the sharps waste to the medical waste generatorsfacility.

(b) The sharps waste is accepted at a central location at the medical waste generatorsfacility.

(c) A reference to, and a description of, the actions taken pursuant to this section are included in the facilitysmedical waste management plan adopted pursuant to Section 117960.

(Added by renumbering Section 25070.4 by Stats. 1996, Ch. 536, Sec. 16. Effective January 1, 1997.)

118150.

Each enforcement agency shall follow procedures that are consistent with the Medical Waste Management Act and the regulations adopted pursuant to this chapter, when issuing medical waste permits.

(Amended by Stats. 2014, Ch. 564, Sec. 66. (AB 333) Effective January 1, 2015.)

118155.

A person required to obtain an offsite medical waste treatment facility permit pursuant to this part shall file with the enforcement agency an application containing, but not limited to, all of the following:

(a)The name of the applicant.

(b)The business address of the applicant.

(c)The type of treatment provided, the treatment capacity of the facility, a characterization of the waste treated at this facility and the estimated average monthly quantity of waste treated at the facility.

(d)A disclosure statement, as provided in Section 25112.5, except for onsite medical waste treatment facilities.

(e)A plan for closure of the facility using, at minimum, one of the methods of decontamination specified in subdivision (a) or (b) of Section 118295, thereby rendering the property to an acceptable sanitary condition following the ending of treatment services at the site.

(f)Any other information required by the enforcement agency for the administration or enforcement of this part or the regulations adopted pursuant to this part.

(Amended by Stats. 2014, Ch. 564, Sec. 67. (AB 333) Effective January 1, 2015.)

118160.

(a)Prior to issuing or renewing a permit for an offsite medical waste treatment facility, the department shall review the compliance history of the applicant, under any local, state, or federal law or regulation governing the control of medical waste or pollution.

(b)The department shall, pursuant to this section, deny a permit, or specify additional permit conditions, to ensure compliance with applicable regulations, if the department determines that in the three-year period preceding the date of application the applicant has violated laws or regulations identified in subdivision (a) at a facility owned or operated by the applicant, and the violations demonstrate a recurring pattern of noncompliance or pose, or have posed, a significant risk to public health and safety or to the environment.

(c)In making the determination of whether to deny a permit or to specify additional permit conditions, the department shall take both of the following into consideration:

(1)Whether a permit denial or permit condition is appropriate or necessary given the severity of the violation.

(2)Whether the violation has been corrected in a timely fashion.

(Amended by Stats. 2014, Ch. 564, Sec. 68. (AB 333) Effective January 1, 2015.)

118165.

On and after April 1, 1991, all persons operating a medical waste treatment facility shall maintain individual records for a period of three years and shall report or submit to the enforcement agency upon request, all of the following information:

(a)The type of treatment facility and its capacity.

(b)All treatment facility operating records.

(c)Copies of the tracking documents for all medical waste it receives for treatment from offsite generators,

hazardous waste haulers, or, pursuant to Section 118032, common carriers.

(Amended by Stats. 2012, Ch. 689, Sec. 10. (AB 1442) Effective January 1, 2013.)

118170.

(a) A medical waste permit issued by the enforcement agency to a medical waste treatment facility shall be valid for five years.

(b) An application for renewal of the permit shall be filed with the enforcement agency not less than 90 days prior to the expiration date. If a permittee fails to make a timely application for renewal, the medical waste permit shall expire on the expiration date.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118175.

(a) A medical waste permit may be renewed if the enforcement agency finds the permittee has been in substantial compliance with this part and the regulations adopted pursuant to this part during the preceding permitted period or that the permittee corrected previous violations in a timely manner.

(b) Upon approval of the enforcement agency, a permit may be transferred from one subsidiary to another subsidiary of the same corporation, from a parent corporation to one of its subsidiaries, or from a subsidiary to a parent corporation.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118180.

A person required to obtain a medical waste permit shall, at all times, possess a valid permit for each facility in operation. A medical waste permit shall terminate prior to its expiration date if suspended or revoked pursuant to Section 118350 or, notwithstanding Section 118355, if either of the following occurs:

(a) The permittee sells or otherwise transfers the facility, except as specified in subdivision (b) of Section 118175.

(b) The permittee surrenders the permit to the enforcement agency because the permittee ceases operation.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118185.

The enforcement agency shall issue a medical waste permit upon evaluation, inspection, or records review of

the applicant if the applicant is in substantial compliance with this part and the regulations adopted pursuant to this part and the applicant has corrected any previous violations. A decision to issue or not to issue the permit shall be made by the enforcement agency within 180 days of the time that the application is deemed complete, unless waived by the applicant.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118190.

When issuing, renewing, or revising any treatment facility permit, the enforcement agency may prohibit or condition the handling or treatment of medical waste to protect the public health and safety.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118195.

An enforcement agency shall inform an applicant for a medical waste permit, in writing, upon the denial of any application for the permit. Within 20 days after the enforcement agency mails the notice, the applicant may present a written petition for a hearing to the enforcement agency. Upon receipt by the enforcement agency of the petition in proper form, the petition shall be set for hearing.

If the department is the enforcement agency, the proceedings shall commence with the filing of a statement of issues and shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department has all the powers granted to a department in that chapter.

If the department is not the enforcement agency, the hearings shall be held in accordance with the ordinance adopting the medical waste management program.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118200.

The enforcement agency shall evaluate, inspect, and review the records of medical waste treatment facilities for compliance with this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118205.

The fee schedule specified in Section 118210 shall cover the issuance of medical waste treatment facility permits and an inspection program, when the department serves as the enforcement agency. This fee schedule shall be adjusted annually in accordance with Section 100425. The department may adjust by

regulation the fees specified in Section 118210 to reflect the actual costs of implementing this chapter. Local enforcement agencies shall set fees that shall be sufficient to cover their costs in implementing this part with regard to large quantity generators.

(Amended by Stats. 2014, Ch. 564, Sec. 69. (AB 333) Effective January 1, 2015.)

118210.

(a)The department shall charge an annual permit fee for an offsite medical waste treatment facility equal to either one hundred twenty-seven ten thousandths of a cent ($0.0127) for each pound of medical waste treated or twelve thousand dollars ($12,000), whichever is greater. The department may collect annual fees and issue permits on a biennial basis.

(b)The department shall charge an initial application fee for each type of treatment technology at an offsite medical waste treatment facility equal to one hundred dollars ($100) for each hour the department spends processing the application, but not more than fifty thousand dollars ($50,000), or as provided in the regulations adopted by the department.

(Amended by Stats. 2006, Ch. 74, Sec. 40. Effective July 12, 2006.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=14.&chapter=8.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 14. MEDICAL WASTE [117600 - 118360]__

(Part 14 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Treatment [118215 - 118245]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 6.)

118215.

(a)Except as provided in subdivisions (b) and (c), a person generating or treating medical waste shall ensure that the medical waste is treated by one of the following methods, thereby rendering it solid waste, as defined in Section 40191 of the Public Resources Code, prior to disposal:

(1)(A)Incineration at a permitted medical waste treatment facility in a controlled-air, multichamber incinerator, or other method of incineration approved by the department which provides complete combustion of the waste into carbonized or mineralized ash.

(B)Treatment with an alternative technology approved pursuant to paragraph (3), which, due to the extremely high temperatures of treatment in excess of 1300 degrees Fahrenheit, has received express approval from the department.

(2)Steam sterilization at a permitted medical waste treatment facility or by other sterilization, in accordance with all of the following operating procedures for steam sterilizers or other sterilization:

(A)Standard written operating procedures shall be established for biological indicators, or for other indicators of adequate sterilization approved by the department, for each steam sterilizer, including time, temperature, pressure, type of waste, type of container, closure on container, pattern of loading, water content, and maximum load quantity.

(B)Recording or indicating thermometers shall be checked during each complete cycle to ensure the attainment of 121Â° Centigrade (250Â° Fahrenheit) for at least one-half hour, depending on the quantity and density of the load, to achieve sterilization of the entire load. Thermometers, thermocouples, or other monitoring devices identified in the facility operating plan shall be checked for calibration annually. Records of the calibration checks shall be maintained as part of the facilitysfiles and records for a period of two years or for the period specified in the regulations.

(C)Heat-sensitive tape, or another method acceptable to the enforcement agency, shall be used on each biohazard bag or sharps container that is processed onsite to indicate that the waste went through heat treatment. If the biohazard bags or sharps containers are placed in a large liner bag within the autoclave for treatment, heat-sensitive tape or another method acceptable to the enforcement agency only needs to be placed on the liner bag and not on every hazardous waste bag or sharps container being treated.

(D)The biological indicator Geobacillus stearothermophilus, or other indicator of adequate sterilization as approved by the department, shall be placed at the center of a load processed under standard operating conditions at least monthly to confirm the attainment of adequate sterilization conditions.

(E)Records of the procedures specified in subparagraphs (A), (B), and (D) shall be maintained for a period of not less than two years.

(3)(A)Other alternative medical waste treatment methods which are both of the following:

(i)Approved by the department.

(ii)Result in the destruction of pathogenic micro-organisms.

(B)Any alternative medical waste treatment method proposed to the department shall be evaluated by the

department and either approved or rejected pursuant to the criteria specified in this subdivision.

(b)Fluid blood or fluid blood products may be discharged to a public sewage system without treatment if its discharge is consistent with waste discharge requirements placed on the public sewage system by the California regional water quality control board with jurisdiction.

(c)(1)A medical waste that is a biohazardous laboratory waste, as defined in subparagraph (B) of paragraph (1) of subdivision (b) of Section 117690, may be treated by a chemical disinfection if the waste is liquid or semiliquid and the chemical disinfection method is recognized by the National Institutes of Health, the Centers for Disease Control and Prevention, or the American Biological Safety Association, and if the use of chemical disinfection as a treatment method is identified in the sitesmedical waste management plan.

(2)If the waste is not treated by chemical disinfection, in accordance with paragraph (1), the waste shall be treated by one of the methods specified in subdivision (a).

(3)Following treatment by chemical disinfection, the medical waste may be discharged to the public sewage system if the discharge is consistent with waste discharge requirements placed on the public sewage system by the California regional water control board, and the discharge is in compliance with the requirements imposed by the owner or operator of the public sewage system. If the chemical disinfection of the medical waste causes the waste to become a hazardous waste, the waste shall be managed in accordance with the requirements of Chapter 6.5 (commencing with Section 25100) of Division 20.

(Amended by Stats. 2014, Ch. 564, Sec. 70. (AB 333) Effective January 1, 2015.)

118220.

Pathology waste of a human nature, as defined in subparagraph (A) of paragraph (2) of subdivision (b) of Section 117690, shall be disposed of by interment, incineration, or alternative treatment technologies approved to treat this type of waste, pursuant to paragraph (1) or paragraph (3) of subdivision (a) of Section 118215.

(Amended by Stats. 2014, Ch. 564, Sec. 71. (AB 333) Effective January 1, 2015.)

118222.

(a)Pathology waste that meets the conditions of paragraph (2) of subdivision (b) of Section 117690 and trace chemotherapy waste that meets the conditions of paragraph (5) of subdivision (b) of Section 117690 shall be treated by incineration or alternative treatment technologies approved to treat that waste pursuant to paragraph (1) or paragraph (3) of subdivision (a) of Section 118215 prior to disposal.

(b)Pharmaceutical waste from health care settings that meets the conditions specified in paragraph (3) of subdivision (b) of Section 117690 shall be treated by incineration or alternative treatment technologies approved to treat that waste pursuant to paragraph (1) or paragraph (3) of subdivision (a) of Section 118215 prior to disposal.

(Amended by Stats. 2014, Ch. 564, Sec. 72. (AB 333) Effective January 1, 2015.)

118225.

(a) Sharps waste shall be rendered noninfectious prior to disposal by one of the following methods:

(1) Incineration.

(2) Steam sterilization.

(3) Disinfection using an alternative treatment method approved by the department.

(b) Sharps waste rendered noninfectious pursuant to this section may be disposed of as solid waste if the waste is not otherwise hazardous.

(c) Onsite medical waste treatment facilities treating sharps waste pursuant to paragraph (2) or (3) of subdivision (a) shall ensure that, prior to disposal, the treated sharps waste is destroyed or that public access to the treated sharps waste is prevented.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118230.

An operator of a hazardous waste incinerator permitted pursuant to Section 25200 may also accept medical waste for incineration.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118235.

Each medical waste treatment facility issued a medical waste permit shall provide the enforcement agency with an emergency action plan that the facility shall follow to ensure the proper disposal of medical waste in the event of equipment breakdowns, natural disasters, or other occurrences.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118240.

Notwithstanding Section 9141 of the Food and Agricultural Code, animals that die from infectious diseases or that are euthanized because they are suspected of having been exposed to infectious disease shall be treated with a treatment technology approved by the department for that use if, in the opinion of the attending veterinarian or local health officer, the carcass presents a danger of infection to humans.

(Amended by Stats. 2014, Ch. 564, Sec. 73. (AB 333) Effective January 1, 2015.)

118245.

The department shall charge an application fee for evaluation of an alternative treatment technology of two thousand five hundred dollars ($2,500) and shall charge an additional fee equal to one hundred dollars ($100) per hour for each hour which the department spends on processing the application, but not more than a total of five thousand dollars ($5,000), or as provided in the regulations adopted by the department, not to exceed the reasonable regulatory costs of the department.

(Amended by Stats. 2014, Ch. 564, Sec. 74. (AB 333) Effective January 1, 2015.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=14.&chapter=9.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 14. MEDICAL WASTE [117600 - 118360]__

(Part 14 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Containment and Storage [118275 - 118320]__

(Chapter 9 added by Stats. 1995, Ch. 415, Sec. 6.)

118275.

(a)To containerize or store medical waste, at the point of generation and while collected in that room, a person shall do all of the following:

(1)Medical waste, as defined in Section 117690, shall be contained separately from other waste at the point of origin in the producing facility. Sharps containers may be placed in biohazard bags or in containers with biohazard bags.

(2)Biohazardous waste, as defined in paragraph (1) of subdivision (b) of Section 117690, shall be placed in a biohazard bag and labeled in compliance with Section 117630.

(3)Sharps waste, as defined in paragraph (4) of subdivision (b) of Section 117690, including sharps and pharmaceutical waste containerized pursuant to paragraph (7), shall be contained in a United States Food and Drug Administration (USFDA) approved sharps container that meets USFDA labeling requirements and is handled pursuant to Section 118285.

(4)Trace chemotherapy waste, as defined in paragraph (5) of subdivision (b) of Section 117690, shall be segregated for storage, and, when placed in a secondary container, that container shall be labeled with the words Chemotherapy Waste, CHEMO, or other label approved by the department on the lid and sides, so as to be visible from any lateral direction, to ensure treatment of the biohazardous waste pursuant to Section 118222. Sharps waste that is contaminated through contact with, or having previously contained, chemotherapeutic agents, shall be placed in sharps containers labeled in accordance with the industry standard with the words Chemotherapy Waste, CHEMO, or other label approved by the department, and shall be segregated to ensure treatment of the sharps waste pursuant to Section 118222.

(5)Pathology waste, as defined in paragraph (2) of subdivision (b) of Section 117690, shall be segregated for storage and, when placed in a secondary container, that container shall be labeled with the words Pathology Waste, PATH, or other label approved by the department on the lid and sides, so as to be visible from any lateral direction, to ensure treatment of the waste pursuant to Section 118222.

(6)Pharmaceutical waste, as defined in paragraph (3) of subdivision (b) of Section 117690, shall be segregated for storage in accordance with the facilitysmedical waste management plan. When this waste is prepared for shipment offsite for treatment, it shall be properly containerized for shipment in compliance with United States Department of Transportation and the United States Drug Enforcement Administration (DEA) requirements.

(A)Pharmaceutical wastes classified by the DEA as controlled substances shall be disposed of in compliance with DEA requirements.

(B)Nonradioactive pharmaceutical wastes that are not subject to the federal Resource Conservation and Recovery Act of 1976 (Public Law 94-580), as amended, and that are regulated as medical waste are placed in a container or secondary container labeled with the words HIGH HEAT or INCINERATION ONLY, or with another label approved by the department, on the lid and sides, so as to be visible from any lateral direction, to ensure treatment of the biohazardous waste pursuant to Section 118222.

(7)A person may consolidate into a common container, which may be reusable, sharps waste, as defined in paragraph (4) of subdivision (b) of Section 117690, and pharmaceutical wastes, as defined in paragraph (3) of subdivision (b) of Section 117690, provided that both of the following apply:

(A)The consolidated waste is treated by incineration or alternative treatment technologies approved to treat that waste pursuant to paragraph (1) or (3) of subdivision (a) of Section 118215 prior to disposal. That alternative treatment shall render the waste unrecoverable and nonhazardous.

(B)The container meets the requirements of Section 118285. The container shall be labeled with the biohazardous waste symbol and the words HIGH HEAT or INCINERATION ONLY, or with another label approved by the department, on the lid and sides, so as to be visible from any lateral direction, to ensure treatment of the waste pursuant to this subdivision.

(b)To containerize medical waste being held for shipment offsite for treatment, the waste shall be labeled, as outlined in subdivision (a), on the lid and sides of the container.

(c)When medical waste is containerized pursuant to subdivisions (a) and (b) there is no requirement to label the containers with the date that the waste started to accumulate.

(Amended by Stats. 2015, Ch. 352, Sec. 8. (SB 225) Effective September 28, 2015.)

118280.

To containerize biohazard bags, a person shall do all of the following:

(a)The bags shall be tied to prevent leakage or expulsion of contents during all future storage and handling. When containers are prepared for transport offsite from the facility, they shall be prepared in compliance with United States Department of Transportation requirements.

(b)(1)Medical waste may be placed into a biohazard bag not to exceed three pounds or one gallon and tied, as required in subdivision (a), in a patient room and shall be immediately transported upon completion of the procedure directly from the point of generation and placed into a biohazard container stored in a soiled utility room or other biohazardous waste storage area without having first been placed into a secondary container in the patient room.

(2)Medical waste may be placed into a biohazard bag hung on a hamper stand in a surgery suite and the bag removed from the hamper stand after completion of the procedure, taken out of the surgery suite, and placed into a biohazard container stored in a soiled utility room or other biohazard waste storage area.

(c)Biohazardous waste, except as provided in subdivision (b), shall be bagged in accordance with subdivision (b) of Section 118275 and placed for storage, handling, or transport in a rigid container that may be disposable, reusable, or recyclable. Containers shall be leak resistant, have tight-fitting covers, and be kept clean and in good repair. Containers may be recycled with the approval of the enforcement agency. Containers may be of any color and shall be labeled with the words Biohazardous Waste or with the international biohazard symbol and the word BIOHAZARD on the lid and sides so as to be visible from any lateral direction. Containers shall comply with United States Department of Transportation requirements when prepared for transport offsite from the facility.

(d)Biohazardous waste shall not be removed from the biohazard bag until treatment as prescribed in Chapter 8 (commencing with Section 118215) is completed, except to eliminate a safety hazard, or by the enforcement officer in performance of an investigation pursuant to Section 117820. Biohazardous waste shall not be disposed of before being treated as prescribed in Chapter 8 (commencing with Section 118215).

(e)(1)Except as provided in paragraph (5), a person generating biohazardous waste shall comply with the following requirements:

(A)If the person generates 20 or more pounds of biohazardous waste per month, the person shall not contain or store that waste above 0Â° Centigrade (32Â° Fahrenheit) at an onsite location for more than seven days without obtaining prior written approval of the enforcement agency.

(B)If a person generates less than 20 pounds of biohazardous waste per month, the person shall not contain or store that waste above 0Â° Centigrade (32Â° Fahrenheit) at an onsite location for more than 30 days.

(2)A person may store biohazardous waste at or below 0Â° Centigrade (32Â° Fahrenheit) at an onsite location for not more than 90 days without obtaining prior written approval of the enforcement agency.

(3)A person may store biohazardous waste at a permitted transfer station at or below 0Â° Centigrade (32Â° Fahrenheit) for not more than 30 days without obtaining prior written approval of the enforcement agency.

(4)A person shall not store biohazardous waste above 0Â° Centigrade (32Â° Fahrenheit) at a location or facility that is offsite from the generator for more than seven days before treatment.

(5)Notwithstanding paragraphs (1) to (4), inclusive, if the odor from biohazardous or sharps waste stored at a facility poses a nuisance, the enforcement agency may require more frequent removal.

(f)Waste that meets the definition of pharmaceutical waste in paragraph (3) of subdivision (b) of Section 117690 shall not be subject to the limitations on storage time prescribed in subdivision (e). A person may store that pharmaceutical waste at an onsite location for not longer than 90 days when the container is ready for disposal, unless prior written approval from the enforcement agency is obtained. The container shall be emptied at least once per year, unless prior written approval from the enforcement agency is obtained. A person may store that pharmaceutical waste at a permitted transfer station for not longer than 30 days without obtaining prior written approval from the enforcement agency. A person shall not store pharmaceutical waste at a location or facility that is offsite from the generator for more than 30 days before treatment.

(g)The containment and storage time for wastes consolidated in a common container pursuant to paragraph (7) of subdivision (a) of Section 118275 shall not exceed the storage time for any category of waste set forth in this section.

(Amended by Stats. 2014, Ch. 564, Sec. 76. (AB 333) Effective January 1, 2015.)

118285.

To containerize sharps waste, a person shall do all of the following:

(a)Place all sharps waste into a sharps container.

(b)Tape closed or tightly lid full sharps containers ready for disposal to preclude loss of contents.

(c)Store sharps containers ready for disposal for not more than thirty days without the written approval of the enforcement agency.

(d)Label sharps containers with the words sharps waste or with the international biohazard symbol and the word BIOHAZARD.

(Amended by Stats. 2006, Ch. 166, Sec. 6. Effective January 1, 2007.)

118286.

(a)A person shall not knowingly place home-generated sharps waste in any of the following containers:

(1)Any container used for the collection of solid waste, recyclable materials, or greenwaste.

(2)Any container used for the commercial collection of solid waste or recyclable materials from business establishments.

(3)Any roll-off container used for the collection of solid waste, construction, and demolition debris, greenwaste, or other recyclable materials.

(b)Home-generated sharps waste shall be transported only in a sharps container, or other containers approved by the enforcement agency, and shall only be managed at any of the following:

(1)A household hazardous waste facility pursuant to Section 25218.13.

(2)A home-generated sharps consolidation point as defined in subdivision (b) of Section 117904.

(3)A medical waste generatorsfacility pursuant to Section 118147.

(4)A facility through the use of a medical waste mail-back container approved by the United States Postal Service.

(Amended by Stats. 2014, Ch. 564, Sec. 77. (AB 333) Effective January 1, 2015.)

118290.

Any small quantity generator who has properly containerized the medical waste according to the requirements of this article may store the waste in a permitted common storage facility.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118295.

A person shall thoroughly wash and decontaminate reusable rigid containers for medical waste by a method approved by the enforcement agency each time they are emptied, unless the surfaces of the containers have been completely protected from contamination by disposable liners, bags, or other devices removed with the waste. These containers shall be maintained in a clean and sanitary manner. Approved methods of decontamination include, but are not limited to, agitation to remove visible soil combined with one of the following procedures:

(a) Exposure to hot water of at least 82Â° Centigrade (180Â° Fahrenheit) for a minimum of 15 seconds.

(b) Exposure to chemical sanitizer by rinsing with, or immersion in, one of the following for a minimum of three minutes:

(1) Hypochlorite solution (500 ppm available chlorine).

(2) Phenolic solution (500 ppm active agent).

(3) Iodoform solution (100 ppm available iodine).

(4) Quaternary ammonium solution (400 ppm active agent).

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118300.

Any leak or spill of a medical waste by a medical waste generator, hazardous waste hauler, or treatment facility shall be decontaminated by procedures adopted by the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118305.

A person shall not use reusable pails, drums, dumpsters, or bins used for medical waste for the containment of solid waste, or for other purposes, except after being decontaminated by the procedures specified in Section 118295 and removal of all medical waste labels.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118307.

Medical waste that is stored in an area prior to transfer to the designated accumulation area, as defined in Section 118310, shall be stored in an area that is either locked or under direct supervision or surveillance. Intermediate storage areas shall be marked with the international biohazard symbol or the signage described in Section 118310. These warning signs shall be readily legible from a distance of five feet. This section does not apply to the rooms in which medical waste is generated.

(Amended by Stats. 2014, Ch. 564, Sec. 78. (AB 333) Effective January 1, 2015.)

118310.

A designated accumulation area used for the storage of medical waste containers prior to transportation or treatment shall be secured so as to deny access to unauthorized persons and shall be marked with warning signs on, or adjacent to, the exterior of entry doors, gates, or lids. The storage area may be secured by use of locks on entry doors, gates, or receptacle lids.

The wording of warning signs shall be in English, CAUTION"BIOHAZARDOUS WASTE STORAGE AREA" UNAUTHORIZED PERSONS KEEP OUT,□ and in Spanish, CUIDADO"ZONA DE RESIDUOS"BIOLOGICOS PELIGROSOS"PROHIBIDA LA ENTRADA A PERSONAS NO AUTORIZADAS,□ or in another language, in

addition to English, determined to be appropriate by the infection control staff or enforcement agency. A warning sign concerning infectious waste, as that term was defined by Section 25117.5 as it read on December 31, 1990, that sign having been installed before April 1, 1991, meets the requirements of this section, until the sign is changed and as long as the sign is not moved. Warning signs shall be readily legible during daylight from a distance of at least 25 feet.

Any enclosure or designated accumulation area shall provide medical waste protection from animals and natural elements and shall not provide a breeding place or a food source for insects or rodents.

(Amended by Stats. 2006, Ch. 166, Sec. 8. Effective January 1, 2007.)

118315.

A person shall not use a trash chute to transfer medical waste.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118320.

(a) Except as provided in subdivision (b), compactors or grinders shall not be used to process medical waste until after the waste has been treated pursuant to Chapter 8 (commencing with Section 118215) and rendered solid waste.

(b) (1) Grinding or compacting may be used when it is an integral part of an alternative treatment method approved by the department.

(2) A compactor may be used to compact medical waste if the type of medical waste compactor proposed to be used is evaluated by the department, and approved by the department prior to its use pursuant to the following criteria:

(A) The compactor operates without the release of liquids or pathogenic microorganisms from the medical waste during placement of the medical waste into, or removal of the medical waste from, the compactor units, and during the compaction process.

(B) The compacted medical waste will not release liquids or pathogens during any subsequent handling and no residual waste will be left in the compactor unit after the process is completed.

(C) Compactor operations and maintenance personnel will not be at any substantial increased risk of exposure to pathogens.

(D) The compactor has been demonstrated not to have any adverse effects on any treatment method. If only specific treatment methods are compatible with the compaction process, the department shall condition its approval of the compactor for use only in conjunction with treatment methods, with regard to which no adverse effects have been demonstrated.

(c) Medical waste in bags or other containers shall not be subject to compaction by any compacting device and shall not be placed for storage or transport in a portable or mobile trash compactor, except as allowed

pursuant to subdivision (b).

(Added by renumbering Section 25088 by Stats. 1996, Ch. 536, Sec. 19. Effective January 1, 1997.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=14.&chapter=9.5.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 14. MEDICAL WASTE [117600 - 118360]__

(Part 14 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9.5. Trauma Scene Waste Management [118321 - 118321.6]__

(Chapter 9.5 added by Stats. 1997, Ch. 732, Sec. 12.)

118321.

(a) This chapter shall be known, and may be cited, as the Trauma Scene Waste Management Act.

(b) The Legislature hereby finds and declares that it is in the interests of the health and safety of the public and the solid waste industry to regulate the handling and treatment of waste that, but for contamination with large quantities of human blood or body fluids as a result of death, serious injury, or illness, would be solid waste.

(c) The Legislature further finds and declares that, in the interest of safe and uniform management of trauma scene waste, practitioners of trauma scene management should be subject to regulation by the department.

(Added by Stats. 1997, Ch. 732, Sec. 12. Effective January 1, 1998.)

118321.1.

(a)A trauma scene waste management practitioner shall register with the department on forms provided by the department.

(b)The department shall register a trauma scene waste management practitioner and issue a trauma scene waste hauling permit to a trauma scene waste management practitioner who submits a completed application form and the registration fee, upon approval of the application by the department.

(c)A registered trauma scene waste management practitioner is exempt from the registration requirements imposed pursuant to Chapter 6 (commencing with Section 118025) or Article 6.5 (commencing with Section 25167.1) of Chapter 6.5 of Division 20 upon haulers of medical waste.

(d)Registered trauma scene waste management practitioners shall pay an annual fee of two hundred dollars ($200) to the department for deposit in the fund. The fee revenues deposited in the fund pursuant to this subdivision may be expended by the department, upon appropriation by the Legislature, for the implementation of this chapter.

(Amended by Stats. 2014, Ch. 564, Sec. 79. (AB 333) Effective January 1, 2015.)

118321.2.

(a) The department shall maintain an inventory of registered trauma scene waste management practitioners.

(b) The department shall submit a list of registered trauma scene waste management practitioners to all local agency health officers and directors of environmental health, county administrators, and county sheriffs, and shall make the list available, upon request, to other public agencies and to the public.

(Added by Stats. 1997, Ch. 732, Sec. 12. Effective January 1, 1998.)

118321.3.

(a) Notwithstanding Section 117650, the department shall be the sole enforcement agency with regard to the management of trauma scene waste.

(b) The department, working with the trauma scene waste management industry and the health care industry, shall establish the following standards:

(1) Documentation of personal protection required to be provided for, and used by, workers in accordance with the California Occupational and Safety Administrationsbloodborne pathogen standards.

(2) Technologies and chemicals appropriate to the task of cleanup and disinfecting.

(c) The department may adopt regulations pursuant to which trauma scene waste management practitioners shall document both of the following:

(1) Identification of trauma scene waste within the scope of this chapter.

(2) Compliance with disposal requirements, including, but not limited to, tracking the transportation of trauma scene waste.

(d) The department shall adopt procedures to provide information to trauma scene waste management practitioners recommending procedures for removing trauma scene waste from trauma scenes.

(Added by Stats. 1997, Ch. 732, Sec. 12. Effective January 1, 1998.)

118321.4.

As specified in Section 117705, a trauma scene waste management practitioner who transports trauma scene waste shall be deemed the generator of the trauma scene waste for purposes of this part.

(Added by Stats. 1997, Ch. 732, Sec. 12. Effective January 1, 1998.)

118321.5.

(a) Trauma scene waste shall be removed from the trauma scene immediately upon completion of the removal phase of a trauma scene waste removal operation.

(b)Trauma scene waste shall be transported to a permitted medical waste transfer station or treatment facility pursuant to subdivision (a) of Section 118000, or may be stored in a dedicated freezer at the business location of the trauma scene waste management practitioner for a period of not more than 14 days, or as otherwise approved by the department.

(Amended by Stats. 2014, Ch. 564, Sec. 80. (AB 333) Effective January 1, 2015.)

118321.6.

(a) This chapter does not limit or abridge the jurisdiction of the Division of Occupational Safety and Health of the Department of Industrial Relations.

(b) This chapter does not prohibit a business from employing or contracting with a person to provide cleanup or consultative services, including those services provided by an industrial hygienist, with respect to trauma scene waste if those services are incidental to the principal course and scope of services provided by the person.

(Added by Stats. 1997, Ch. 732, Sec. 12. Effective January 1, 1998.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=14.&chapter=10.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 14. MEDICAL WASTE [117600 - 118360]__

(Part 14 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 10. Enforcement [118325 - 118345]__

(Chapter 10 added by Stats. 1995, Ch. 415, Sec. 6.)

118325.

(a)(1)An enforcement agency, district attorney, county counsel, city attorney, or city prosecutor may bring an action to enjoin the violation, or threatened violation, of this part or the regulations adopted pursuant to this part, in the superior court in the county where the violation occurred or is about to occur. Any proceeding under this section shall be in accordance with Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the enforcement agency, district attorney, county counsel, city attorney, or city prosecutor is not required to allege facts necessary to show or tending to show the lack of an adequate remedy at law or irreparable damage or loss.

(2)If a county counsel or the district attorney brings an action pursuant to paragraph (1), the county counsel or the district attorney shall, within seven days of the filing of the action, notify the district attorney or county counsel, as applicable, of the county where the violation occurred or is about to occur.

(b)With respect to any action brought pursuant to this section alleging actual violation of this part or the regulations adopted pursuant to this part, the court shall, if it finds the allegations to be true, issue its order enjoining the continuance of the violation.

(Amended by Stats. 2023, Ch. 154, Sec. 15. (SB 642) Effective January 1, 2024.)

118330.

(a)Whenever the enforcement agency determines that a violation or threatened violation of this part or the

regulations adopted pursuant to this part has resulted, or is likely to result, in a release of medical waste into the environment, the agency may issue an order to the responsible person specifying a schedule for compliance or imposing an administrative penalty of not more than five thousand dollars ($5,000) per violation. A person who, after notice and an opportunity for hearing, violates an order issued pursuant to this section is guilty of a misdemeanor.

(1)If the department is the enforcement agency, the department shall provide notice, issue the order, and conduct the administrative hearing pursuant to subdivisions (d) and (f).

(2)If the department is not the enforcement agency, the provisions of subdivisions (b) to (e), inclusive, apply.

(b)(1)In establishing the amount of the administrative penalty and ordering that the violation be corrected pursuant to this section, the enforcement agency shall take into consideration the nature, circumstances, extent, and gravity of the violation, the violatorspast and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety or the environment, the violatorsability to pay the penalty, and the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.

(2)If the amount of the administrative penalty is set after the person is served with the order pursuant to subdivision (c) or after the order becomes final, the person may request a hearing to dispute the amount of the administrative penalty and is entitled to the same process as provided in subdivision (c), whether or not the person disputed the facts of the violation through that process.

(3)An administrative penalty assessed pursuant to this section shall be in addition to any other penalties or sanctions imposed by law.

(c)(1)An order issued pursuant to this section shall be served by personal service or certified mail and shall inform the person served of the right to a hearing.

(2)A person served with an order pursuant to paragraph (1) and who has been unable to resolve the violation with the enforcement agency may, within 15 days after service of the order, request a hearing by filing with the enforcement agency a notice of defense. The notice shall be filed with the agency that issued the order. A notice of defense shall be deemed filed within the 15-day period if it is postmarked within that 15-day period. If no notice of defense is filed within the 15-day time period, the order shall become final.

(3)Except as otherwise provided in paragraph (4), a person requesting a hearing on an order issued pursuant to this section may select the hearing officer specified in either subparagraph (A) or (B) of paragraph (4) in the notice of defense filed with the enforcement agency pursuant to paragraph (2). If a notice of defense is filed, but no hearing officer is selected, the enforcement agency may select the hearing officer.

(4)Within 90 days of receipt of the notice of defense by the enforcement agency, the hearing shall be scheduled using one of the following:

(A)An administrative law judge of the Office of Administrative Hearings of the Department of General Services, who shall conduct the hearing in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, and the enforcement agency shall have all the authority granted to an agency by those provisions.

(B)(i)A hearing officer designated by the enforcement agency, who shall conduct the hearing in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, and the enforcement agency shall have all the authority granted to an agency by those provisions. When a

hearing is conducted by an enforcement agency hearing officer pursuant to this clause, the enforcement agency shall issue a decision within 60 days after the hearing is conducted. Each hearing officer designated by an enforcement agency shall meet the requirements of Section 11425.30 of the Government Code and any other applicable restriction.

(ii)An enforcement agency, or a person requesting a hearing on an order issued by an enforcement agency, may select the hearing process specified in this subparagraph in a notice of defense filed pursuant to paragraph (2) only if the enforcement agency has selected a designated hearing officer and established a program for conducting a hearing in accordance with this paragraph.

(5)The hearing decision issued pursuant to this subdivision shall be effective and final upon issuance by the enforcement agency. A copy of the decision shall be served by personal service or by certified mail upon the party served with the order, or their representative, if any.

(6)The person has a right to appeal the hearing decision if, within 30 days of the date of receipt of the final decision pursuant to paragraph (5), the person files a written notice of appeal with the enforcement agency. The appeal shall be in accordance with the Administrative Procedure Act (Chapters 4.5 (commencing with Section 11400) and 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(7)A decision issued pursuant to paragraph (6) may be reviewed by a court pursuant to Section 11523 of the Government Code. In all proceedings pursuant to this subdivision, the court shall uphold the decision of the enforcement agency if the decision is based upon substantial evidence in the record as a whole. The filing of a petition for writ of mandate shall not stay an action required pursuant to this chapter or the accrual of any penalties assessed pursuant to this chapter. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(d)A provision of an order issued under this section, except the imposition of an administrative penalty, shall take effect upon issuance of the order by the enforcement agency if the enforcement agency finds that the violation or violations of law associated with that provision may pose an imminent and substantial danger to the public health or safety or the environment. A request for a hearing or appeal, as provided in subdivision (c) or (f) shall not stay the effect of that provision of the order pending a hearing decision. If the enforcement agency determines that any or all provisions of the order are so related that the public health or safety or the environment can be protected only by immediate compliance with the order as a whole, the order as a whole, except the imposition of an administrative penalty, shall take effect upon issuance by the enforcement agency. A request for a hearing shall not stay the effect of the order as a whole pending a hearing decision.

(e)The enforcement agency shall consult with the district attorney, county counsel, or city attorney on the development of policies to be followed in exercising the authority delegated pursuant to this section as it relates to the authority of the enforcement agency to issue orders.

(f)(1)The department shall serve an order issued pursuant to this section by personal service or certified mail and shall inform the person served of the right to a hearing.

(2)A person served with an order pursuant to paragraph (1) may appeal the order by sending a written request for hearing to the department within 20 days after service of the order. If a request for hearing is not made within the 20-day time period, the order shall become final. Payments of any administrative penalty shall be made within 30 days of the date the order becomes final.

(3)Any hearings conducted by the department pursuant to this section shall be conducted pursuant to the

procedures specified in Section 131071.

(Amended by Stats. 2016, Ch. 86, Sec. 198. (SB 1171) Effective January 1, 2017.)

118335.

(a)In order to carry out the purpose of this part, any authorized representative of the enforcement agency may do any of the following:

(1)Enter and inspect a facility for which a medical waste permit or registration has been issued, for which a medical waste permit or registration application has been filed, or that is subject to registration or permitting requirements pursuant to this part. Enter and inspect a vehicle for which a hazardous waste hauler registration has been issued, for which an application has been filed for a hazardous waste hauler registration, or that is subject to registration requirements pursuant to this part.

(2)Inspect and copy any records, reports, test results, or other information related to the requirements of this part or the regulations adopted pursuant to this part.

(b)The inspection shall be made with the consent of the owner or possessor of the facilities or, if consent is refused, with a warrant duly issued pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be made without consent or the issuance of a warrant.

(c)Any traffic officer, as defined in Section 625 of the Vehicle Code, and any peace officer, as defined in Section 830.1 or 830.2 of the Penal Code, may enforce Chapter 6 (commencing with Section 118000) and this chapter, and for purposes of enforcing these chapters, traffic officers and these peace officers are authorized representatives of the department.

(Amended by Stats. 2014, Ch. 564, Sec. 81. (AB 333) Effective January 1, 2015.)

118340.

(a) No person shall, transport, store, treat, dispose, or cause the treatment or disposal of medical waste in a manner not authorized by his or her permit or registration, this part, or the regulations adopted pursuant to this part.

(b) Any person who stores, treats, disposes, or causes the treatment or disposal of medical waste in violation of this part or the regulations adopted pursuant to this part is guilty of a public offense as follows:

(1) For a small quantity generator, a first offense is an infraction and is punishable by a fine of not more than one thousand dollars ($1,000).

(2) For a person other than a small quantity generator, a first offense is a misdemeanor punishable by a fine of not less than two thousand dollars ($2,000), or by up to one year in county jail, or by both the fine and imprisonment.

(c) A person who is convicted of a second or subsequent violation of subdivision (a) within three years of the

prior conviction shall be punished by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for one, two, or three years, or by a fine of not less than five thousand dollars ($5,000), or more than twenty-five thousand dollars ($25,000), or by both that fine and imprisonment. This section shall not apply unless any prior conviction is charged in the accusatory pleading and admitted by the defendant or found to be true by the trier of fact. If the defendant is a corporation that operates medical facilities in more than one geographic location, this subdivision shall apply only if the offense involves an adjacent facility involved in the prior conviction.

(d) Any person who knowingly treats or disposes, or causes the treatment or disposal of, medical waste in violation of this part shall be punished by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for one, two, or three years, or by a fine of not less than five thousand dollars ($5,000), or more than twenty-five thousand dollars ($25,000), or by both that fine and imprisonment.

(e) This section does not apply to a person transporting medical waste who is required to be a registered hazardous waste transporter. Those persons are subject to penalties for violations pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5 of Division 20.

(Amended by Stats. 2011, Ch. 15, Sec. 203. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

118345.

(a)Any person who intentionally makes any false statement or representation in any application, label, tracking document, record, report, permit, registration, or other document filed, maintained, or used for purposes of compliance with this part that materially affects the health and safety of the public is liable for a civil penalty of not more than ten thousand dollars ($10,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(b)Any person who fails to register or fails to obtain a medical waste permit in violation of this part, or otherwise violates any provision of this part, any order issued pursuant to Section 118330, or any regulation adopted pursuant to this part, is liable for a civil penalty of not more than ten thousand dollars ($10,000) for each violation of a separate provision of this part or, for continuing violations, for each day that the violation continues.

(Amended by Stats. 2015, Ch. 352, Sec. 9. (SB 225) Effective September 28, 2015.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=14.&chapter=11.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 14. MEDICAL WASTE [117600 - 118360]__

(Part 14 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 11. Suspension or Revocation [118350 - 118360]__

(Chapter 11 added by Stats. 1995, Ch. 415, Sec. 6.)

118350.

The enforcement agency may suspend, amend, or revoke any medical waste permit issued by the enforcement agency for any of the following reasons:

(a) Violation by the permittee of any of the provisions of this part or any regulation adopted pursuant to this part.

(b) Violation of any term or condition of the permit.

(c) Aiding, abetting, or permitting the violation specified in subdivision (a) or (b) or interference in the performance of the duty of the enforcement officer.

(d) Proof that the permittee has intentionally made false statements, or failed to disclose fully all relevant facts, in any material regard, on the application for a medical waste permit.

(e) The conviction of a permittee, or the person in charge of the activity subject to the medical waste permit, of any crime that is substantially related to the qualifications or duties of the permittee or the person in charge of the activity, or that is substantially related to the functions that are subject to the medical waste permit.

For purposes of this section, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action to revoke or suspend the medical waste permit may be taken when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal. That action may also be taken when an order granting probation is made suspending the imposition of sentence, notwithstanding any subsequent order pursuant to Section 1203.4 of the Penal Code. The enforcement agency shall take into account all competent evidence of rehabilitation furnished by the permittee or person in charge of the permitted activity.

(f) A change in any condition that requires either a temporary or permanent modification, reduction, or termination of the permitted operation to bring it into compliance with the requirements of this part and the regulations adopted pursuant to this part.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118355.

Proceedings conducted by the department for the suspension or revocation of a medical waste permit shall commence with the filing of any accusation and shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted to a department in that chapter.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118360.

The enforcement agency may temporarily suspend a medical waste permit prior to any hearing, when it has determined that this action is necessary to protect the public welfare. The enforcement agency shall notify the permittee of the temporary suspension and the effective date thereof and, at the same time, shall serve the permittee with an accusation.

Upon receipt of a notice of defense by the permittee, the matter shall, within 15 days, be set for hearing. The hearing shall be held as soon as possible, but not later than 30 days after receipt of the notice.

The temporary suspension shall remain in effect until the hearing is completed and the enforcement agency has made a final determination on the merits. However, the temporary suspension is vacated if the enforcement agency fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=15.&chapter=&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=15.&chapter=1.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=1.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 1. Articles of Common Use [118375 - 118490]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Common Drinking Cups [118375 - 118395]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

118375.

No person conducting, having charge of, or control of, any hotel, restaurant, saloon, soda fountain, store, theater, public hall, public or private school, church, hospital, club, office building, park, playground, lavatory or washroom, barber shop, railroad train, boat, or any other public place, building, room, or conveyance, shall provide or expose for common use, or permit to be so provided or exposed, or allow to be used in common, any cup, glass, or other receptacle used for drinking purposes.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118380.

For the purposes of this article the term common use when applied to a drinking receptacle is defined as its use for drinking purposes by, or for, more than one person without its being thoroughly cleansed and sterilized between consecutive uses thereof by methods prescribed by or acceptable to the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118385.

No cask, water cooler, or other receptacle shall be used for storing or supplying drinking water to the public or to employees unless it is covered and protected so as to prevent persons from dipping the water therefrom or contaminating the water. All the containers shall be provided with a faucet or other suitable device for drawing the water.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118390.

(a) The state department and all health officers of counties, cities, and health districts shall enforce this article.

(b) Pursuant to their enforcement of this article, those officers shall also enforce Section 2441 of the Labor Code. This section shall not be construed to abridge or limit in any manner the jurisdiction of the Division of Occupational Safety and Health of the Department of Industrial Relations pursuant to Division 5 (commencing with Section 6300) of the Labor Code.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118395.

Violation of any provision of this article is a misdemeanor punishable by a fine not exceeding fifty dollars ($50) for each offense.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=1.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 1. Articles of Common Use [118375 - 118490]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Infected Packing Material [118400 - 118415]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

118400.

For the purpose of this article the term filthy, contaminated, or unsanitary packing material includes any or all of the following:

(a) Packing material that has been exposed to contagious or infectious disease.

(b) Material that is contaminated with vermin.

(c) Material that is generally filthy.

(d) Filthy or used wood excelsior.

(e) Excelsior made from filthy or used paper.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118405.

Unsanitary packing material shall not be used until it has been cleaned and disinfected to the satisfaction of the Department of Food and Agriculture, the department, or the agents of either or both, or by a county health officer.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118410.

The person having the material cleaned and disinfected shall pay the costs of the inspection.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118415.

Every person who knowingly packs any goods intended for delivery to other parties or for transportation by common carriers with unsanitary packing material is guilty of a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=1.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 1. Articles of Common Use [118375 - 118490]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 3. Common Towels [118425 - 118440]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 6.)

118425.

No person conducting, operating, or having charge or control of, any hotel, restaurant, factory, store, barber shop, office building, school, public hall, railroad train, railway station, boat, or any other public place, room, or conveyance, shall maintain or keep in or about any such place any towel for common use.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118430.

For the purpose of this article the term common use when applied to a towel means its use by, or for, more than one person without its being laundered between consecutive uses of the towel by methods prescribed by or acceptable to the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118435.

The department and all health officers of counties, cities, and health districts shall enforce this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118440.

Violation of any provision of this article is a misdemeanor punishable by a fine not exceeding fifty dollars ($50) for each offense.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=1.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 1. Articles of Common Use [118375 - 118490]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 4. Wiping Rags [118450 - 118490]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 6.)

118450.

Wiping rags, as used in this article means cloths and rags, other than reusable rental cloths or towels, used for any or all of the following purposes:

(a) Wiping and cleaning the surfaces of machinery, machines, tools, locomotives, engines, motor cars, automobiles, cars, carriages, windows, furniture, and surfaces of articles, appliances, and engines in factories, shops, steamships, and steamboats.

(b) Generally for cleaning in industrial employment.

(c) Used by mechanics and workmen for wiping from their hands and bodies soil incident to their employment.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118455.

No person shall supply or furnish to his or her employees for wiping rags, or sell or offer for sale for wiping rags, any soiled wearing apparel, underclothing, bedding, or parts of soiled or used underclothing, wearing apparel, bedclothes, bedding, or soiled rags or cloths unless they have been sanitized by methods prescribed by or acceptable to the department.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118460.

Every local health officer or registered sanitarian, upon proper demand and notice of his or her authority, may, during business hours, enter any place where wiping rags are used, are kept for sale, or offered for sale, and inspect the wiping rags. No person shall refuse to permit the inspection, or impede or obstruct the officer during the inspection.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118465.

On and after July 1, 1975, it shall be unlawful for any person to operate any business of laundering, sanitizing, or selling wiping rags unless, in addition to any other permit that may be required, he or she has a valid permit issued by the local health officer pursuant to an ordinance of the local governing body.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118470.

A permit to operate any business of laundering, sanitizing, or selling wiping rags shall be issued by the local health officer if the applicant complies with the provisions of this article and any regulations adopted thereunder. The governing body of each city and county shall determine the amount of any fee for the issuance of a permit pursuant to provisions of this article for any business within the territory under its jurisdiction. The amount of the fee shall not exceed the amount necessary to defray the costs of administering this article. The permit for operation shall be posted in a conspicuous place in the business establishment for which the permit is issued. Any permit issued pursuant to this article may be suspended or revoked for any violation of any of the provisions of this article, the regulations adopted thereunder, or any condition of the permit required by the ordinance of the local governing body. Nothing in this article shall preempt local regulation of the business of laundering, sanitizing, or selling wiping rags, and any local governing body may adopt an ordinance containing requirements more restrictive than those contained in regulations adopted pursuant to this article.

The local health officer shall issue and serve upon the permit holder a notice setting forth in clear and concise language the act or omission upon which the violation is based, when the permit holder is charged with any violation and shall inform the permit holder of his or her rights to a hearing prior to suspension or revocation. At any time within the 15 days after service of the notice, the permit holder may request a hearing before the local health officer to show cause why his or her permit should not be suspended or

revoked. A failure to request a hearing within 15 days shall be deemed a waiver of a right to a hearing.

The local health officer may call a hearing for the purpose of investigating any violations of this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118475.

The local health officer authorized to issue permits to launder, sanitize, or sell wiping rags shall keep a record of suspension or revocation of permits and a register of:

(a) The names and places of business of persons to whom permits are issued.

(b) The date of issue and number of each permit.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118480.

Before being sold or offered for sale, each package or parcel of wiping rags shall be plainly marked sanitized wiping rags, and in addition it shall be plainly marked with the name and location of the laundry where the rags were laundered and sanitized.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118485.

No machinery or appliances used for laundering clothing and articles for personal wear or household use shall be used for laundering soiled rags or soiled cloth material for wiping rags.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118490.

Every person who violates any provision of this article is guilty of a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=15.&chapter=2.&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.

&title=&part=15.&chapter=2.&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=2.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 2. Restrooms [118500 - 118703]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. Public Restrooms [118500 - 118507]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

118500.

Every public agency that conducts an establishment serving the public or open to the public and that maintains therein restroom facilities for the public, shall make every water closet for each sex maintained within the facilities available without cost or charge to the patrons, guests, or invitees of the establishment. Public agency as used in this section means only the state and any agency of the state and a city, a county, and a city and county.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118505.

(a) Publicly and privately owned facilities where the public congregates shall be equipped with sufficient temporary or permanent restrooms to meet the needs of the public at peak hours.

(b) In conformity with the State Plumbing Code, and except as otherwise provided in this section, standards shall be adopted in order to enforce this section, as follows:

(1) The State Building Standards Commission shall adopt standards with respect to all state-owned or state-occupied facilities where the public congregates and over which it has jurisdiction pursuant to Section 18934.5.

(2) The Office of the State Architect shall adopt standards with respect to all facilities where the public congregates and that are not covered by paragraph (1), unless exempt from coverage pursuant to this section.

(c) The standards adopted pursuant to subdivision (b) shall be published in the State Building Standards Code contained in Title 24 of the California Code of Regulations.

(d) This section shall apply to facilities where the public congregates that commence construction, or that undertake structural alterations, repairs, or improvements exceeding 50 percent of the entire facility, on or after January 1, 1989.

(e) For the purposes of this section, facilities where the public congregates means sports and entertainment arenas, stadiums, community and convention halls, specialty event centers, amusement facilities, and ski resorts.

For purposes of this section, facilities where the public congregates also means specialty event centers in public parks.

(f) This section shall not apply to the following:

(1) Any hotel. For purposes of this section, hotel means an establishment in which there exists the relationship of guests and innkeeper between the occupants and the owner or operator of the establishment. The existence of some other legal relationship between the occupants and owner or operator shall be immaterial.

(2) Any restaurant or food facility, as defined in Section 113785.

(3) Any public or private elementary or secondary school facility.

(4) Any qualified historic building, defined as qualifying under provisions in the State Historical Building Code contained in Part 8 (commencing with Section 8-100) of Title 24 of the California Code of Regulations.

(g) It is the intent of the Legislature that, in order to ensure that standards are both viable and efficacious, the Office of the State Architect and the State Building Standards Commission hold a series of public

meetings with representatives of affected industries and state and local agencies prior to adopting standards under this section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118506.

(a)(1)A theater or movie house, grocery store, health facility, convention center, sports arena, auditorium, cultural complex, exhibition hall, library, passenger terminal, permanent amusement park structure, restaurant with an occupancy of at least 60 persons, as determined by the State Fire Marshal, shopping center of more than 25,000 square feet, tourist attraction, or retail store of more than 5,000 square feet shall install and maintain at least one baby diaper changing station if the facility is open to the public. There shall be at least one safe, sanitary, convenient, and publicly accessible baby diaper changing station that is accessible to women entering a restroom provided for use by women and one that is accessible to men entering a restroom provided for use by men, or at least one safe, sanitary, convenient, and publicly accessible baby diaper changing station that is accessible to both men and women.

(2)This section does not apply to an industrial building or to a nightclub or bar that does not permit anyone who is under 18 years of age to enter the premises. This section also does not apply to a restroom located in a health facility if the restroom is intended for the use of one patient or resident at a time.

(b)This section shall not be enforceable by a private right of action.

(c)(1)Subdivision (a) applies to all new construction, and, except as otherwise provided in paragraph (2), to all renovations of bathrooms for which a permit has been obtained, in which the estimated cost of the new construction or renovation is ten thousand dollars ($10,000) or more. If an entity subject to subdivision (a) is already in compliance with that subdivision at the time of new construction or renovation, additional restrooms equipped with baby diaper changing stations are not required.

(2)Subdivision (a) does not apply to a renovation if a local building permitting entity or building inspector determines that the installation of a baby diaper changing station is not feasible or would result in a failure to comply with applicable building standards governing the right of access for persons with disabilities. The permitting entity or building inspector may grant an exemption from the requirements of subdivision (a) under those circumstances.

(d)For purposes of this section, the following definitions shall apply:

(1)Health facility has the meaning set forth in Section 1250.

(2)Restaurant with an occupancy of at least 60 persons does not apply to a restaurant if there is a centrally located facility with a baby diaper changing station that is open to the public and located within 300 feet of the entrance to the restaurant.

(Added by Stats. 2017, Ch. 755, Sec. 3. (AB 1127) Effective January 1, 2018.)

118507.

(a)Notwithstanding Chapter 4 (commencing with Section 401.0) of the California Plumbing Code (Part 5 of Title 24 of the California Code of Regulations), a city, county, or city and county may require new or renovated public toilet facilities within its jurisdiction to be designed, constructed, and identified for use by all genders instead of the design standards for separate facilities for men and women found in the applicable provisions in Chapter 4 of the California Plumbing Code.

If a city, county, or city and county exercises the authority provided in this subdivision, it shall do so by adopting an ordinance or resolution.

(b)(1)Signs in compliance with Title 24 of the California Code of Regulations shall identify the restrooms for use by all genders.

(2)Single-user toilet facilities shall comply with the requirements of Part 5 of Title 24 of the California Code of Regulations.

(3)In multiuser toilet facilities, lavatories shall be located either in toilet rooms or grouped in an immediately adjacent common use area accessible to all users.

(c)This section shall become inoperative on the date that standards that address all-gender, multiuser facilities take effect in the California Building Standards Code (Title 24 of the California Code of Regulations) and as of that date this section is repealed.

(Added by Stats. 2022, Ch. 839, Sec. 1. (SB 1194) Effective January 1, 2023. Conditionally repealed as prescribed by its own provisions.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=15.&chapter=2.&article=2.] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=15.&chapter=2.&article=2.)

Code:Section:
Keyword(s):

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=15.&chapter=2.&article=3.] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=15.&chapter=2.&article=3.)

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=15.&chapter=2.&article=4.

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=2.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 2. Restrooms [118500 - 118703]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 5. Single-User Restrooms [118600- 118600.]__

(Article 5 added by Stats. 2016, Ch. 818, Sec. 1.)

118600.

(a)All single-user toilet facilities in any business establishment, place of public accommodation, or state or local government agency shall be identified as all-gender toilet facilities by signage that complies with Title

24 of the California Code of Regulations, and designated for use by no more than one occupant at a time or for family or assisted use.

(b)During any inspection of a business or a place of public accommodation by an inspector, building official, or other local official responsible for code enforcement, the inspector or official may inspect for compliance with this section.

(c)For the purposes of this section, single-user toilet facility means a toilet facility with no more than one water closet and one urinal with a locking mechanism controlled by the user.

(d)This section shall become operative on March 1, 2017.

(e)This section does not apply to construction jobsites, as described in subdivision (a) of Section 6722 of the Labor Code.

(Amended by Stats. 2023, Ch. 529, Sec. 2. (AB 521) Effective January 1, 2024.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=2.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 2. Restrooms [118500 - 118703]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 6. Restroom Access for Medical Conditions [118700 - 118703]__

(Article 6 added by Stats. 2022, Ch. 893, Sec. 1.)

118700.

For purposes of this article, the following definitions apply:

(a)Department means the State Department of Public Health, unless otherwise specified.

(b)Eligible medical condition means Crohnsdisease, ulcerative colitis, other inflammatory bowel disease, irritable bowel syndrome, or another medical condition that requires immediate access to a toilet facility.

(Added by Stats. 2022, Ch. 893, Sec. 1. (AB 1632) Effective January 1, 2023.)

118701.

(a)The State Department of Public Health shall implement this article, in consultation with the Department of Consumer Affairs.

(b)This article shall be implemented only to the extent that it is neither in conflict with nor construed to limit rights under the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), the Unruh Civil Rights Act (Section 51 of the Civil Code), or any other civil rights law, as applicable.

(c)An employee toilet facility, as accessed pursuant to this article, shall not be construed as a place of public accommodation for purposes of state law.

(Added by Stats. 2022, Ch. 893, Sec. 1. (AB 1632) Effective January 1, 2023.)

118702.

(a)A place of business that is open to the general public for the sale of goods and that has a toilet facility for its employees shall allow any individual who is lawfully on the premises of that place of business to use that toilet facility during normal business hours, even if the place of business does not normally make the employee toilet facility available to the general public, if all of the following conditions are met:

(1)The individual requesting use of the employee toilet facility has an eligible medical condition, as defined in Section 118700, or uses an ostomy device. The place of business may require the individual to present reasonable evidence that the individual meets the condition in this paragraph, as described in subdivision (b).

(2)Three or more employees of the place of business are working onsite at the time that the individual requests use of the employee toilet facility.

(3)The employee toilet facility is not located in an employee changing area or an area where providing access would create an obvious health or safety risk to the requesting individual or would create an obvious security risk to the place of business.

(4)Use of the employee toilet facility would not create an obvious health or safety risk to the requesting individual.

(5)A public restroom is not immediately accessible to the requesting individual.

(b)If the place of business requires the requesting individual to present reasonable evidence that the individual has an eligible medical condition or uses an ostomy device, the individual may present a signed statement issued to the individual by a physician, nurse practitioner, or physician assistant, licensed under the Business and Professions Code, on a form developed by the department pursuant to Section 118703. The signed statement is sufficient for purposes of presenting reasonable evidence, if required by the place of business.

(c)(1)Subject to paragraphs (2) to (4), inclusive, a violation of subdivision (a) is subject to a civil penalty not exceeding one hundred dollars ($100) for each violation.

(2)A place of business is not civilly liable for a violation of subdivision (a) unless the violation is willful or grossly negligent.

(3)An employee of a place of business is not civilly liable, and shall not be subject to paragraph (1), for a violation of subdivision (a). The employee shall not be subject to discharge or any other disciplinary action by their employer for a violation of subdivision (a), unless the employeesaction is contrary to an expressed policy developed by their employer pursuant to this section.

(4)This section does not create or imply a private right of action for a violation of subdivision (a).

(d)A place of business is not required to make any physical changes to an employee toilet facility for purposes of this section.

(Added by Stats. 2022, Ch. 893, Sec. 1. (AB 1632) Effective January 1, 2023.)

118703.

(a)The department shall develop a standard electronic form that may be signed by a health care provider, as specified in subdivision (b) of Section 118702, to serve as reasonable evidence of the existence of an eligible medical condition or use of an ostomy device. The department shall post the form, in a printable format, on the departmentsinternet website.

(b)The form shall include all of the following components:

(1)Space for the requesting individualsname.

(2)Space for the requesting individualsaddress.

(3)Space for the requesting individualsdate of birth.

(4)Space for the health care providersname, signature, and statement confirming the eligible medical condition or use of an ostomy device.

(5)Both of the following statements:

(A)MEDICAL ALERT: RESTROOM ACCESS REQUIRED.

(B)The holder of this form uses an ostomy device or suffers from Crohnsdisease, ulcerative colitis, other inflammatory bowel disease, irritable bowel syndrome, or another medical condition that requires immediate access to a toilet facility.

(6)A reference to this article and to any regulations adopted to implement this article.

(Added by Stats. 2022, Ch. 893, Sec. 1. (AB 1632) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=3.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 3. Miscellaneous Noise Control [118825 - 118830]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 6.)

118825.

The Legislature, recognizing the growing problem of noise pollution throughout the state and that we are daily assaulted with increased noise from advancing technology, machines, vehicles, and human clamor, declares that excessive noise must be considered a degradation of our environment and a health hazard to our citizens.

The Legislature further declares that it is particularly concerned that the proposed supersonic transport aircraft may significantly increase the noise level in the areas surrounding our statesairports unless

preventive legal sanctions are invoked.

The Legislature is compelled to enact a noise limit for aircraft landing in the state, as a necessary and proper function of its police powers, in order to protect the health and welfare of the citizens of this state.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118830.

(a) Except in an emergency situation, no private or commercial aircraft entering commercial service after the effective date of this section may land or take off within the state if it produces noise in excess of the federal certification limits for subsonic jet transport aircraft as set forth in Title 14, Code of Federal Regulations, Part 36.

(b) The prohibition contained in this section shall not apply in the case of an aircraft of a type or class manufactured or in production on or before the effective date of this section where the manufacture of the aircraft is ordered and the aircraft is delivered for commercial service no later than three years after the effective date of this section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=15.&chapter=4.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=4.&article=1.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Indoor Air Quality [118875 - 118950]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 1. California Indoor Clean Air Act of 1976 [118875 - 118915]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 6.)

118875.

This article and Article 2 (commencing with Section 118920) shall be known and may be cited as the California Indoor Clean Air Act of 1976.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118880.

The Legislature finds and declares that tobacco smoke is a hazard to the health of the general public.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118885.

Within indoor rooms, indoor chambers, or indoor places of public assembly in publicly owned buildings in which public business is conducted requiring or providing direct participation or observation by the general public there shall be a contiguous area of not less than 50 percent of the total area of the room, chamber, or place designated and posted by signs of sufficient number and posted in locations as to be readily seen by persons within the area, where the smoking of tobacco is prohibited while a public meeting is in progress. A public body, commission, agency, or other entity conducting a public meeting may waive the requirements of this section with respect to its own members, provided that the rights of nonsmoking members are not adversely affected.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118890.

Every health facility, as defined in Section 1250, and clinic, as defined in Section 1200, shall comply with the following:

(a) Shall make every reasonable effort to assign patients to rooms according to the patientsindividual nonsmoking or smoking preference.

(b) Shall designate and post by signs of sufficient number and posted in locations as to be readily seen by persons within the area, a contiguous area of not less than 20 percent of every cafeteria or other dining area whose occupied capacity is 50 or more persons as a nonsmoking section.

(c) This section shall not prevent any health facility or clinic from banning smoking in any area that it may designate and post by sign or in all areas of the facility or clinic.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118895.

Within every publicly owned building open to the general public for the primary purpose of exhibiting any motion picture, stage drama, music recital, or any other performance, with the exception of any indoor sporting event, signs shall be posted in sufficient number and in locations as to be readily seen by persons within the area, that shall designate that the smoking of tobacco is prohibited in any area other than that commonly known as the lobby. This prohibition shall not apply except during those times when the building is actually open to the public.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118900.

Within every restaurant in a publicly owned building serving food or alcoholic beverages in rooms whose occupied capacity is 50 or more persons there shall be designated and posted by signs of sufficient number and posted in locations as to be readily seen by persons within the area, a contiguous area of not less than 20 percent of the serving area where the smoking of tobacco is prohibited.

(a) This section shall not apply to banquet rooms in use for private functions.

(b) This section shall not apply to premises under lease as a restaurant for the time as the lessee of record on January 1, 1977, has a lease as the operator of the restaurant.

(c) As used in this section, restaurant means any place designated as a restaurant by Section 28522.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118905.

Any person may apply for a writ of mandate to compel compliance by any public entity that has not complied with the requirements of this article and Article 3 (commencing with Section 118920) for the designating or posting of nonsmoking areas or areas where the smoking of tobacco is prohibited. If judgment is given for the applicant, he or she may recover all reasonable costs of the suit, including reasonable attorney fees, reasonableness to be determined by the court.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118910.

(a)The Legislature declares its intent not to preempt the field of regulation of the smoking of tobacco products. A local governing body may ban completely the smoking of tobacco products, or may regulate smoking of tobacco products in any manner not inconsistent with this article and Article 3 (commencing with Section 118920) or any other provision of state law.

(b)For purposes of this section, smoking has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.

(c)For purposes of this section, tobacco product means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 18. (SB 5 2x) Effective June 9, 2016.)

118915.

(a) Except as provided in subdivision (b), no person shall smoke any tobacco product in any retail food production and marketing establishment, as defined in Section 28802, during the hours the establishment is open to the public.

(b) The provisions of subdivision (a) shall not apply to that portion of an establishment subject to Section 118900 nor to an area of an establishment set aside for employee smoking and not open to the public.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=4.&article=1.5.

118916.

(a)(1)The Legislature finds and declares that the use of smokeless tobacco products by professional baseball players is a matter of statewide interest and concern. It is the intent of the Legislature in enacting this section to prohibit the use of smokeless tobacco products by professional baseball players in stadiums in this state.

(2)The Legislature further finds that there is a high level of smokeless tobacco use by Major League Baseball players, as well as a well-established role-model effect between professional baseball players and youth. A ban on the use of smokeless tobacco in professional baseball takes aim at the use of smokeless tobacco by professional baseball players at stadiums throughout California with the goal that impressionable youth never begin to use smokeless tobacco products or associate smokeless tobacco with the sport of baseball.

(3)To promote a healthy and active lifestyle and to set a better example for youth, the Legislature urges Major League Baseball and the Major League Baseball Players Association to adopt a nationwide ban on the use of smokeless tobacco by players, managers, and coaches in public stadiums. Since 1993, minor league baseball has prohibited the use or possession of smokeless tobacco by players, coaches, and umpires on ballpark premises and during club travel.

(b)A person shall not use or possess a smokeless tobacco product at any time on the playing field of a baseball stadium.

(c)For purposes of this section, the following definitions shall apply:

(1)Baseball stadium means the physical area in which a professional baseball game or practice is occurring.

(2)Playing field means the area in which a baseball game is played, including a dugout, bullpen, and team bench area.

(3)Professional baseball means baseball games played in connection with Major League Baseball or minor league baseball.

(4)Smokeless tobacco means a product that contains cut, ground, powdered, or leaf tobacco and is intended to be placed in the oral or nasal cavity, including, but not limited to, snuff, chewing tobacco, dipping tobacco, dissolvable tobacco products, and snus.

(d)This section sets forth minimum state restrictions on the use or possession of smokeless tobacco in a baseball stadium and does not preempt or otherwise prohibit the adoption of a local ordinance that imposes a more restrictive or complete ban on smokeless tobacco use and possession in a baseball stadium. A local ordinance that imposes a more restrictive or complete ban on smokeless tobacco use or possession in a baseball stadium shall control in the event of an inconsistency between this section and the local ordinance.

(e)The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(f)This section shall become operative on December 1, 2016.

(Added by Stats. 2015, Ch. 779, Sec. 1. (AB 768) Effective January 1, 2016. Section operative December 1, 2016, by its own provisions.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.

&title=&part=15.&chapter=4.&article=2.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=4.&article=2.)

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Indoor Air Quality [118875 - 118950]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2. Smoking in Private and Public Transportation [118920 - 118945]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 6.)

118920.

(a) The Legislature hereby finds and declares that the United States Surgeon Generals1986 Report on the Health Consequences of Involuntary Smoking conclude all of the following:

(1) Involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers.

(2) The children of parents who smoke compared with the children of nonsmoking parents have an increased frequency of respiratory infections, increased respiratory symptoms, and slightly smaller rates of increase in lung function as the lungs mature.

(3) The simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke.

(b) The Legislature further finds and declares the following:

(1) Nonsmokers have no adequate means to protect themselves from the damage inflicted upon them when

they involuntarily inhale tobacco smoke.

(2) Regulation of smoking in public places is necessary to protect the health, safety, welfare, comfort, and environment of nonsmokers.

(c) It is, therefore, the intent of the Legislature, in enacting this article, to eliminate smoking on public transportation vehicles.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118925.

(a)(1)It is unlawful for any person to smoke a tobacco product in any vehicle of a passenger stage corporation, the National Railroad Passenger Corporation (Amtrak) except to the extent permitted by federal law, in any aircraft except to the extent permitted by federal law, on a public transportation system, as defined by Section 99211 of the Public Utilities Code, or in any vehicle of an entity receiving any transit assistance from the state.

(2)(A)For purposes of this subdivision, smoke has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.

(B)For purposes of this subdivision, tobacco product means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

(b)It is unlawful for any person to smoke any plant product other than a tobacco product in any vehicle of a passenger stage corporation, the National Railroad Passenger Corporation (Amtrak) except to the extent permitted by federal law, in any aircraft except to the extent permitted by federal law, on a public transportation system, as defined by Section 99211 of the Public Utilities Code, or in any vehicle of an entity receiving any transit assistance from the state.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 19. (SB 5 2x) Effective June 9, 2016.)

118930.

A notice prohibiting smoking, displayed as a symbol and in English, shall be posted in each vehicle or aircraft subject to this article.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118935.

(a) Every person and public agency providing transportation services for compensation, including, but not limited to, the National Railroad Passenger Corporation (Amtrak) to the extent permitted by federal law, passenger stage corporations, and local agencies that own or operate airports, shall designate and post, by signs of sufficient number and posted in locations that may be readily seen by persons within the area, a

contiguous area of not less than 75 percent of any area made available by the person or public agency as a waiting room for these passengers where the smoking of tobacco is prohibited. Not more than 25 percent of any given area may be set aside for smokers.

(b) Every person or public agency subject to subdivision (a) shall also post, by sign of sufficient number and posted in locations as to be readily seen by persons within the area of any building where tickets, tokens, or other evidences that a fare has been paid for transportation services that are provided by the person or public agency, a notice that the smoking of tobacco by persons waiting in line to purchase the tickets, tokens, or other evidences that a fare has been paid is prohibited.

(c) It is unlawful for any person to smoke in an area posted pursuant to this section.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118940.

This article does not preempt any local ordinance on the same subject where a local ordinance is more restrictive to the benefit of the nonsmoker.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

118945.

Any violation of this article is an infraction punishable by a fine not exceeding one hundred dollars ($100) for a first violation, by a fine not exceeding two hundred dollars ($200) for a second violation within one year, or by a fine not exceeding five hundred dollars ($500) for a third and for each subsequent violation within one year.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=4.&article=2.5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 4. Indoor Air Quality [118875 - 118950]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 6.)

__ARTICLE 2.5. Smoking in Motor Vehicles [118947 - 118949]__

(Article 2.5 added by Stats. 2007, Ch. 425, Sec. 1.)

118947.

This act shall be known, and may be cited, as the Marco Firebaugh Memorial ChildrensHealth and Safety Act of 2007.

(Added by Stats. 2007, Ch. 425, Sec. 1. Effective January 1, 2008.)

118948.

(a)It is unlawful for a person to smoke a tobacco product in a motor vehicle, whether in motion or at rest, in which there is a minor.

(b)For purposes of this section, smoke has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.

(c)For purposes of this section, tobacco product means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

(d)A violation of this section is an infraction punishable by a fine not exceeding one hundred dollars ($100) for each violation.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 20. (SB 5 2x) Effective June 9, 2016.)

118949.

A law enforcement officer shall not stop a vehicle for the sole purpose of determining whether the driver is in violation of this article.

(Added by Stats. 2007, Ch. 425, Sec. 1. Effective January 1, 2008.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=4.&article=3.

118950.

(a)The Legislature hereby finds and declares the following:

(1)Smoking is the single most important source of preventable disease and premature death in California.

(2)Smoking is responsible for one-quarter of all death caused by fire.

(3)Tobacco-related disease places a tremendous financial burden upon the persons with the disease, their families, the health care delivery system, and society as a whole.

(4)Despite laws in at least 44 states prohibiting the sale of tobacco products to minors, each day 3,000 children start using tobacco products in this nation. Children under the age of 18 years consume 947 million packages of cigarettes in this country yearly.

(5)The earlier a child begins to use tobacco products, the more likely it is that the child will be unable to quit.

(6)More than 60 percent of all smokers begin smoking by the age of 14 years, and 90 percent begin by the age of 19 years.

(7)Use of smokeless tobacco products among minors in this state is increasing.

(8)Smokeless tobacco or chewing tobacco is harmful to the health of individuals and may cause gum disease, mouth or oral cancers, increased tooth decay and leukoplakia.

(9)Tobacco product advertising and promotion are an important cause of tobacco use among children. More money is spent advertising and promoting tobacco products than any other consumer product.

(10)Distribution of tobacco product samples, coupons, coupon offers, gift certificates, gift cards, or other similar offers is a recognized source by which minors obtain tobacco products, beginning the addiction process.

(11)It is the intent of the Legislature that keeping children from beginning to use tobacco products in any form and encouraging all persons to quit tobacco use shall be among the highest priorities in disease prevention for the State of California.

(b)It is unlawful for any person, agent, or employee of a person in the business of selling or distributing smokeless tobacco or cigarettes to engage in the nonsale distribution of any smokeless tobacco or cigarettes to any person in any public building, park or playground, or on any public sidewalk, street, or other public grounds, or on any private property that is open to the general public.

(c)For purposes of this section:

(1)Nonsale distribution means to give smokeless tobacco or cigarettes to the general public at no cost, or at nominal cost, or to give coupons, coupon offers, gift certificates, gift cards, or other similar offers, or rebate offers for smokeless tobacco or cigarettes to the general public at no cost or at nominal cost. Distribution of tobacco products, coupons, coupon offers, gift certificates, gift cards, or other similar offers, or rebate offers in connection with the sale of another item, including tobacco products, cigarette lighters, magazines, or newspapers shall not constitute nonsale distribution.

(2) Smokeless tobacco means (A) a loose or flat, compressed cake form of tobacco that may be chewed or held in the mouth or (B) a shredded, powdered, or pulverized form of tobacco that may be inhaled through the nostrils, chewed, or held in the mouth.

(3)Public building, park, playground, sidewalk, street, or other public grounds means any structure or outdoor area that is owned, operated, or maintained by any public entity, including, but not limited to: city and county streets and sidewalks, parade grounds, fair grounds, public transportation facilities and terminals, public reception areas, public health facilities, public recreational facilities, and public office buildings.

(4)Private property that is open to the general public means any structure or outdoor area that is owned, operated, or maintained by any private entity and that is open for entry or use by the general public, whether or not a fee or charge is imposed for entry or use.

(d)Any person who violates this section shall be liable for a civil penalty of not less than two hundred dollars ($200) for one act, five hundred dollars ($500) for two acts, and one thousand dollars ($1,000) for each subsequent act constituting a violation. Each distribution of a single package, coupon, coupon offer, gift certificates, gift cards, or other similar offers, or rebate offer to an individual member of the general public in violation of this section shall be considered a separate violation.

(e)Neither this section nor any other provision of law shall invalidate an ordinance of, or prohibit the adoption of an ordinance by, a city or county regulating distribution of smokeless tobacco or cigarette samples within its boundaries that is more restrictive than this section. An ordinance that imposes greater restrictions on the sale or distribution of tobacco than this section shall govern, to the extent of any inconsistency between it and this section.

(f)Subdivisions (a) to (e), inclusive, do not apply to any public building, park, playground, sidewalk, street, or other public grounds, or any private property that is open to the general public where minors are prohibited by law. Subdivisions (a) to (e), inclusive, do not apply to any public building, park, playground, sidewalk, street, or other public grounds open to the general public and leased for private functions where minors are denied access by a peace officer or licensed security guard on the premises.

(g)Subdivisions (a) to (e), inclusive, do not apply to any private property that is open to the general public where minors are denied access to a separate nonsale distribution area by a peace officer or licensed security guard stationed at the entrance of the separate nonsale distribution area and the separate nonsale distribution area is enclosed so as to prevent persons outside the separate nonsale distribution area from seeing the nonsale distribution unless they undertake unreasonable efforts to see inside the area.

(Amended by Stats. 2007, Ch. 445, Sec. 2. Effective January 1, 2008.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=5.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 5. Electrical Hazards [119075 - 119090]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.)

119075.

(a) The Legislature intends to prevent electricity generated by permanent or portable electric generators from backfeeding into a utility electrical distribution system by the enactment of this chapter.

(b) Any portable electrical generator that is capable of being connected temporarily to a customerselectrical system, that is normally supplied by an electrical corporation or state or local public agency, shall be connected only after opening the customersmain switch so as to isolate the customerselectrical system from that of the electrical corporation or state or local agency.

(c) Any electrical generator, other than a generator designed to run in parallel with the system of the serving utility and approved by that utility, that is capable of being permanently connected to a customerselectrical system shall be connected only by means of a double throw switch so as to isolate the customerselectrical system from that of the electrical corporation or state or local agency.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

119080.

(a) Every manufacturer of a portable or permanent electrical generator that is capable of being connected

either permanently or temporarily to a commercial, industrial, or residential structureselectrical system, shall include a warning statement in the generatorsinstruction manual and a legible warning label on the generator that states the requirement of Section 119075 and explains the electrical hazards of backfeed into a utilitysdistribution system. The same warning information shall be included in all advertisements offering portable electric generators.

(b) No person or public agency shall sell, rent to another person or public agency, or offer for sale or rent to another person or public agency a portable electrical generator unless the legible warning label is on a visible surface of the generator.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

119085.

(a) Every public utility or utility district shall notify all electrical service customers of the electrical backfeed hazards of portable and permanent electric generators.

(b) Any owner, renter, or lessee who possesses and operates an electric generator, when the generator is connected to a commercial, industrial, or residential structureselectrical system that is connected to the service of a public utility or utility district, shall notify the utility of the location of the generator.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

119090.

(a) Any person who violates Sections 119075 to 119085, inclusive, is guilty of a misdemeanor, and subject to a fine of not more than five hundred dollars ($500) or not more than six months™ imprisonment.

(b) For purposes of this section, person shall not include public agencies, officers or employees of public agencies, or public utilities.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=6.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 6. Chlorofluorocarbons [119150 - 119160]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 6.)

119150.

(a) On and after October 15, 1978, no person shall manufacture in this state a saturated chlorofluorocarbon not containing hydrogen for use as an aerosol propellant in a can, canister, or other container.

(b) On and after December 15, 1978, no person shall manufacture in this state any can, canister, or other container that is intended to utilize an aerosol propellant chemically composed, in whole or in part, of a saturated chlorofluorocarbon not containing hydrogen.

(c) On and after April 15, 1979, no person shall sell in this state any can, canister, or other container that utilizes an aerosol propellant chemically composed, in whole or in part, of a saturated chlorofluorocarbon not containing hydrogen.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

119155.

Notwithstanding the foregoing provisions of this chapter, nothing in this chapter shall preclude the manufacture or sale of saturated chlorofluorocarbons not containing hydrogen for any of the uses exempted in currently proposed federal regulations, to be modified as the federal regulations are modified.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

119160.

Subdivisions (a) and (b) of Section 119150 shall be superseded by the enactment or adoption of any federal law or regulation prohibiting the manufacture of any aerosol product utilizing saturated chlorofluorocarbons not containing hydrogen and prohibiting the manufacture of saturated chlorofluorocarbons not containing hydrogen for use as an aerosol propellant in a can, canister, or other container.

(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=104.&title=&part=15.&chapter=7.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=7.&article=1.

119301.

For purposes of this chapter, the following definitions shall apply:

(a)Antiseptic solution means a liquid or semiliquid substance that is approved by the federal Food and Drug Administration to reduce the number of microorganisms present on the skin and on mucosal surfaces.

(b)Bloodborne pathogen means a disease-causing microorganism that, when present in the blood, can be transmitted to humans, including, but not limited to, hepatitis B virus (HBV), hepatitis C virus (HCV), and human immunodeficiency virus (HIV).

(c)Body art means body piercing, tattooing, branding, or application of permanent cosmetics.

(d)Body art facility means the specified building, section of a building, or vehicle in which a practitioner performs, or demonstrates for the purpose of instruction, body art, including reception areas, the procedure area, and the decontamination and sterilization area. Body art facility does not include a facility that only pierces the ear with a disposable, single-use, presterilized clasp and stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

(e)Body piercing means the creation of an opening in a human body for the purpose of inserting jewelry or other decoration. Body piercing includes, but is not limited to, the piercing of an ear, including the tragus, lip, tongue, nose, or eyebrow. Body piercing does not include the piercing of an ear, except for the tragus, with a disposable, single-use, presterilized stud and clasp or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

(f)Branding means the process in which a mark or marks are burned into human skin tissue with a hot iron or other instrument, with the intention of leaving a permanent scar.

(g)Client means an individual upon whom a practitioner performs body art.

(h)Decontamination and sterilization area means a room, or specific section of a room, that is set apart and used only to decontaminate and sterilize instruments.

(i)Department means the State Department of Public Health.

(j)Decontamination means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where the pathogens are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.

(k)Disinfectant means a product that is registered by the federal Environmental Protection Agency and the Department of Pesticide Regulation, as indicated on the label, to reduce or eliminate the presence of disease-causing microorganisms, including human immunodeficiency virus (HIV) and hepatitis B virus (HBV) for use in decontaminating work surfaces.

(l)Enforcement officer means all local health officers, directors of environmental health, and duly authorized registered environmental health specialists and environmental health specialist trainees.

(m)Hand hygiene means either of the following:

(1)Thoroughly washing all surfaces of the hands and under the fingernails with soap and warm water.

(2)In the absence of contamination with blood or other bodily fluids, or obvious soiling, applying an antiseptic solution to all the surfaces of the hands and underneath the fingernails.

(n)Instrument means a nonmedical application device used in performing body art, including, but not limited to, needles, needle bars, needle tubes, forceps, hemostats, tweezers, razors, or razor blades.

(o)Local enforcement agency means the local health agency of the county, city, or city and county. In jurisdictions where the local health agency and the environmental health agency are separate departments, the jurisdiction shall specify which entity will be the local enforcement agency for purposes of this chapter.

(p)Mucosal surface means the moisture-secreting membrane lining of all body cavities or passages that communicates with the exterior, including, but not limited to, the nose, mouth, vagina, and urethra.

(q)Owner means either of the following:

(1)The person or persons whose name or names appear on the health permit, business license, property deed, or rental agreement of the body art facility.

(2)A person, acting as a principal of a corporation or partnership, who employs practitioners to perform body art or other activity regulated by this chapter.

(r)Permanent cosmetics means the application of pigments in human skin tissue for the purpose of permanently changing the color or other appearance of the skin. This includes, but is not limited to, permanent eyeliner, eyebrow, or lip color.

(s)Potable water means water that complies with the standards for transient noncommunity water systems pursuant to the California Safe Drinking Water Act (Chapter 4 (commencing with Section 116275) of Part 12).

(t)Practitioner means a person who performs body art on a client.

(u)Procedure area means a room, or designated portion of a room, that is set apart and only used to perform body art.

(v)Procedure site means the area or location on the human body selected for the placement of body art.

(w)Sharps waste means a device or instrument that has acute, rigid corners, edges, or protuberances capable of cutting or piercing the skin, that has been used in the performance of body art, and has not been disinfected or sterilized following use, including, but not limited to, any of the following:

(1)Tattooing needles and needle bars.

(2)Disposable piercing needles.

(3)Disposable razors.

(x)Sharps waste container means a rigid, puncture resistant, commercial container that, when sealed, is leak resistant and cannot be reopened without great difficulty. Sharps containers shall be designed and constructed specifically for the proper containment of sharps waste.

(y)Sponsor means an individual or business entity, including an event coordinator or manager, responsible for the organization of a convention, trade show, or other temporary event that includes a body art demonstration booth. A sponsor may also be a body art practitioner.

(z)Sterilization means the complete destruction of all microbial life forms, including spores.

(aa)Tattooing means the insertion of pigment in human skin tissue by piercing with a needle.

(ab)Vehicle means a vehicle that has been fitted or designed to perform body art.

(ac)Warm water means water that is supplied through a mixing valve or combination faucet at a temperature of at least 100 degrees Fahrenheit.

(ad)Workstation means the area within a procedure area where a practitioner performs body art. The workstation includes, but is not limited to, the client chair or table, counter, mayo stand, instrument tray, storage drawer, and practitionerschair.

(Amended by Stats. 2013, Ch. 555, Sec. 2. (AB 1168) Effective January 1, 2014.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=7.&article=2.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Body Art [119300 - 119328]__

(Chapter 7 repealed and added by Stats. 2011, Ch. 638, Sec. 2.)

__ARTICLE 2. Restrictions on the Performance of Body Art [119302 - 119304]__

(Article 2 added by Stats. 2011, Ch. 638, Sec. 2.)

119302.

(a)Pursuant to Section 653 of the Penal Code, a client shall be at least 18 years of age to be offered or to receive a tattoo or permanent cosmetics application, regardless of parental consent.

(b)Pursuant to Section 652 of the Penal Code, persons under 18 years of age shall not be offered or receive a body piercing unless the piercing is performed in the presence of his or her parent or guardian.

(c)A client shall be at least 18 years of age to be offered or to receive a branding, regardless of parental consent.

(d)The piercing or application of permanent cosmetics to the nipples or genitals of a minor is prohibited. The application of permanent cosmetics to the nipples of a minor is authorized when applied by a registered permanent cosmetic technician with the consent of the minorsparent or guardian and as directed by a physician.

(e)A body art facility may refuse to perform body piercing on a minor, regardless of parental or guardian consent.

(Repealed and added by Stats. 2011, Ch. 638, Sec. 2. (AB 300) Effective January 1, 2012. Operative July 1, 2012, by Sec. 3 of Ch. 638.)

119303.

(a)Prior to the performance of body art, the client shall read, complete, and sign an informed consent form that shall include, but not be limited to, all of the following information:

(1)A description of the procedure.

(2)A description of what the client should expect following the procedure, including suggested care and any medical complications that may occur as a result of the procedure.

(3)A statement regarding the permanent nature of body art.

(4)Notice that tattoo inks, dyes, and pigments have not been approved by the federal Food and Drug Administration and that the health consequences of using these products are unknown.

(5)Postprocedure instructions that include all of the following:

(A)Information on the care of the procedure site.

(B)Restrictions on physical activities such as bathing, recreational water activities, gardening, or contact with animals, and the duration of the restrictions.

(C)Signs and symptoms of infection, including, but not limited to, redness, swelling, tenderness of the procedure site, red streaks going from the procedure site towards the heart, elevated body temperature, or purulent drainage from the procedure site.

(D)Signs and symptoms that indicate the need to seek medical care.

(b)Prior to the performance of body art, the client shall receive, complete, and sign a questionnaire that includes all of the following information:

(1)Whether the client may be pregnant.

(2)Whether the client has a history of herpes infection at the proposed procedure site, diabetes, allergic reactions to latex or antibiotics, hemophilia or other bleeding disorder, or cardiac valve disease.

(3)Whether the client has a history of medication use or is currently using medication, including being prescribed antibiotics prior to dental or surgical procedures.

(4)Other risk factors for bloodborne pathogen exposure.

(c)All information gathered from the client that is personal medical information and that is subject to the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) or similar state laws shall be maintained or disposed of in compliance with those provisions.

(Amended by Stats. 2013, Ch. 555, Sec. 3. (AB 1168) Effective January 1, 2014.)

119304.

This chapter does not restrict the activities of a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or a physician assistant

licensed under Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code. Nothing in this chapter authorizes a practitioner to perform activities that are restricted under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(Repealed and added by Stats. 2011, Ch. 638, Sec. 2. (AB 300) Effective January 1, 2012. Operative July 1, 2012, by Sec. 3 of Ch. 638.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=7.&article=3.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Body Art [119300 - 119328]__

(Chapter 7 repealed and added by Stats. 2011, Ch. 638, Sec. 2.)

__ARTICLE 3. Practitioner Registration [119306 - 119311]__

(Article 3 added by Stats. 2011, Ch. 638, Sec. 2.)

119306.

(a)A person shall not perform body art at any location other than a permitted permanent or temporary body art facility.

(b)A person shall not perform body art if he or she is not registered with the local enforcement agency.

(c)As a condition of registration, the applicant shall provide all of the following:

(1)Evidence of current hepatitis B vaccination, including applicable boosters, unless the practitioner can demonstrate hepatitis B immunity or has complied with current federal OSHA hepatitis B vaccination declination requirements.

(2)Evidence of completion of OSHA Bloodborne Pathogen Training consistent with Section 119307 and pursuant to paragraph (2) of subdivision (g) of Section 5193 of Title 8 of the California Code of Regulations or its successor.

(3)Proof that he or she is 18 years of age or older.

(4)Self-certification of, knowledge of, and commitment to meet state law and relevant local regulations pertaining to body art safety.

(5)His or her business address and the address at which he or she will perform any activity regulated by this chapter.

(6)Payment of a registration fee directly to the local enforcement agency. The local enforcement agency shall set the fee at an amount not to exceed the amount necessary but that is sufficient to cover the actual costs of administering the program.

(d)A practitioner shall display, in a place readily visible to the public at the body art facility where the practitioner is performing body art, the certificate confirming registration with the local enforcement agency in the jurisdiction in which that practice is conducted.

(e)A valid and current registration issued by a local enforcement agency shall be valid in any other jurisdiction for no more than five consecutive days, or 15 days total, in any one calendar year.

(f)Practitioner registration shall be renewed annually by a process to be determined by the local enforcement agency.

(g)A practitioner shall obtain all necessary permits to conduct business, including, but not limited to, being registered with the local enforcement agency. In addition to the penalties available pursuant to Article 6 (commencing with Section 119320), a practitioner who violates this subdivision shall be subject to suspension and a penalty not to exceed three times the cost of registration.

(Amended by Stats. 2013, Ch. 555, Sec. 4. (AB 1168) Effective January 1, 2014.)

119307.

(a)Prior to registering with the local enforcement agency, a practitioner shall complete a Bloodborne Pathogens Exposure Control Training program that is specific to his or her practice.

(b)An owner shall provide Bloodborne Pathogens Exposure Control Training pursuant to the requirements of paragraph (2) of subdivision (g) of Section 5193 of Title 8 of the California Code of Regulations, or its successor, for all employees, practitioners, and volunteers who perform duties within the decontamination and sterilization area or procedure area.

(c)The Bloodborne Pathogens Exposure Control Training shall meet all of the following criteria:

(1)Training shall be conducted by a person or persons who are knowledgeable in exposure control and infection prevention in the body art setting and who are approved by the local enforcement agency in accordance with the provisions of this section.

(2)Training and training materials shall be specific to performing body art.

(3)Training shall consist of not less than two hours of instruction that includes all of the following:

(A)A copy and explanation of the Division of Occupational Safety and Health, Bloodborne Pathogens Standard, contained in Section 5193 of Title 8 of the California Code of Regulations, or its successor.

(B)A copy and explanation of applicable county, city, or city and county ordinances that pertain to bloodborne pathogen transmission control in body art.

(C)Discussion of transmission, control, and symptoms of the diseases caused by bloodborne pathogens.

(D)Discussion of tasks involved in performing body art and how those tasks may lead to exposure to bloodborne pathogens for the client or practitioner.

(E)Discussion of the types and uses of personal protective equipment, such as disposable gloves, including an explanation of the limitations of the equipment.

(F)Discussion of the types of tasks, proper task technique, and order of tasks before and after putting on and removing personal protective equipment, to avoid contamination.

(G)Discussion of the importance of hand hygiene and a demonstration of proper hand hygiene techniques.

(H)Discussion of choice, use, and storage of disinfectants and antiseptics.

(I)Information on the signage required for biohazard materials and the importance of properly labeling chemicals and supplies.

(J)Information on hepatitis B vaccine, including safety and accessibility.

(K)Discussion of what constitutes a bloodborne pathogen exposure incident, including all of the following:

(i)Examples of bloodborne pathogen exposure, how the exposure occurred, and what actions to take to prevent or minimize future exposures.

(ii)Risk of infection following a bloodborne pathogen exposure incident.

(iii)Procedures to be followed after an exposure incident, including medical followup.

(L)Opportunities for interactive questions and answers with the instructor.

(d)Each person required to complete a Bloodborne Pathogens Exposure Control Training program pursuant to this section shall annually complete a minimum of two hours of Bloodborne Pathogens Exposure Control Training update presented by a trainer eligible pursuant to paragraph (1) of subdivision (c).

(e)Records of training required pursuant to this section shall be maintained for three years and shall be available for inspection upon request of the enforcement officer.

(Amended by Stats. 2013, Ch. 555, Sec. 5. (AB 1168) Effective January 1, 2014.)

119308.

(a)Before performing body art, the practitioner shall do all of the following:

(1)Wash and dry his or her hands consistent with sound hygienic practices.

(2)Put on a clean apron, bib, or lap pad over clean, dry clothing.

(3)Put on personal protective equipment that is appropriate for the task.

(4)Don clean, previously unused, disposable examination gloves on both hands just prior to the procedure. Gloves shall be worn throughout the procedure. If gloves come into contact with an object or surface other than the clientsprepared skin or material to be used for the procedure, or if a glove is torn or punctured, both gloves shall be removed, hand hygiene performed, and new, clean, previously unused, disposable examination gloves shall be donned. If gloves are removed for any reason during a procedure, hand hygiene shall be performed prior to donning new, clean, previously unused, disposable examination gloves.

(5)If the skin at the procedure site is to be shaved, the skin shall be first washed with soap and water. A single-use, disposable razor shall be used to shave the procedure site and then discarded into a sharps container.

(6)Immediately prior to performing the body art, the clientsskin shall be prepared with an antiseptic solution, antimicrobial, or microbicide, according to manufacturersinstructions. The item used for application shall be discarded after use.

(b)At the completion of the procedure, the practitioner shall do all of the following:

(1)Answer questions regarding the procedure site.

(2)Provide postprocedure instructions.

(3)When covering a procedure site, use a sterile dressing.

(4)Place all used or discarded sharps waste in a sharps waste container.

(5)Wash and disinfect reusable instruments as provided in subdivisions (d) and (e) of Section 119309.

(6)Package and sterilize reusable instruments that may have come in contact with nonintact skin or mucosal surfaces.

(7)Clean and decontaminate the workstation and procedure area.

(Amended by Stats. 2013, Ch. 555, Sec. 6. (AB 1168) Effective January 1, 2014.)

119309.

(a)The practitioner shall maintain a clean and sanitary environment.

(b)All solid surfaces and objects in the procedure area and the decontamination and sterilization area that have come into contact with the client or the materials used in performing the body art, including, but not limited to, chairs, armrests, tables, countertops, and trays, shall be immediately cleaned and decontaminated after each use by application of a disinfectant, used according to manufacturersdirections.

(c)The surfaces and objects in the procedure area shall be disinfected again before use if the area has been used for any activity following its previous disinfection.

(d)The practitioner shall wear disposable gloves on both hands when touching, decontaminating, or handling a surface, object, instrument, or jewelry that is soiled or that is potentially soiled with human blood.

(e)An instrument or other reusable item that comes into contact with nonintact skin or mucosal surfaces shall either be single use or be cleaned, decontaminated, packaged, and sterilized after each procedure. Sterilization shall be accomplished pursuant to the procedures established in Section 119315 by steam autoclave.

(f)An instrument or reusable item that does not come into contact with nonintact skin or mucosal surfaces shall be washed with a solution of soap and water, using a brush that is small enough to clean the interior surfaces, and decontaminated after each procedure.

(g)A reusable item that cannot be immediately washed, disinfected, and sterilized following completion of the body art procedure shall be placed in a basin of water with or without detergent.

(h)Sterile instrument packs shall be evaluated before use, and if the integrity of a pack is compromised in any way, including, but not limited to, being torn, punctured, wet, or having evidence of potential moisture contamination, the instrument pack shall be discarded or reprocessed before use.

(i)No food, drink, tobacco product, or personal effects are permitted in the procedure area. The practitioner shall not eat, drink, or smoke while performing a procedure. If a client requests to eat, drink, or smoke, the procedure shall be stopped and the procedure site shall be protected from possible contamination while the client leaves the procedure area to eat, drink, or smoke.

(j)Branding shall not be done with another client in the procedure area. During the procedure, the practitioner and the client shall wear appropriate protective face filter masks.

(Amended by Stats. 2013, Ch. 555, Sec. 7. (AB 1168) Effective January 1, 2014.)

119310.

(a)Jewelry placed in newly pierced skin shall be sterilized prior to piercing as specified in Section 119315 or shall be purchased presterilized. Sterile jewelry packs shall be evaluated before use and, if the integrity of a pack is compromised, including, but not limited to, being torn, wet, or punctured, the pack shall be discarded or reprocessed before use.

(b)Only jewelry made of ASTM F138, ISO 5832-1, and AISI 316L or AISI 316LVM implant grade stainless steel, solid 14-karat through 18-karat yellow or white gold, niobium, ASTM F 136 6A4V titanium, platinum, or other materials found to be equally biocompatible shall be placed in newly pierced skin.

(c)Ear piercing equipment with a disposable, single-use, presterilized stud and clasp may be used only for piercing the ear pursuant to Article 7 (commencing with Section 119325).

(d)If measuring the body piercing site is necessary, clean calipers shall be used and the skin marked using clean toothpicks and ink or a single-use marking pen.

(Amended by Stats. 2013, Ch. 555, Sec. 8. (AB 1168) Effective January 1, 2014.)

119311.

(a)A product applied to the skin prior to tattooing or application of permanent cosmetics, including, but not limited to, stencils and marking and transfer agents, including pens, shall be single use and discarded into a waste container at the end of the procedure unless the product can be disinfected for reuse.

(b)Only commercially manufactured inks, dyes, and pigments shall be used.

(c)Inks, pigments, soaps, and other products in multiple-use containers shall be dispensed in a manner to prevent contamination of the storage container and its remaining contents through the use of a single-use receptacle.

(d)Inks and pigments shall be placed into a clean, single-use receptacle. The inks and pigments remaining in the receptacle shall be discarded immediately upon completion of the procedure.

(e)If a tray is used for inks or pigments, it shall be decontaminated after each procedure.

(f)Only single-use needles and needle bars shall be used in tattooing and the application of permanent cosmetics. Needles and needle bars that are purchased in a nonsterilized state, shall be sterilized, pursuant to the process required by Section 119315.

(g)Needles, needle bars, grommets, and razors shall be discarded into a sharps waste container immediately upon completion of the procedure.

(h)Any part of a tattooing machine that may be touched by the practitioner during the procedure shall be covered with a disposable plastic sheath that is discarded upon completion of the procedure, and the machine shall be decontaminated upon completion of the procedure.

(i)A machine used to insert pigments shall be designed with removable tip parts between the tip and motor housing, and in a manner that will prevent backflow into enclosed parts of the motor housing.

(j)A hand tool used to insert pigment shall be disposed of in a sharps container, with the sharps intact, unless the needle can be mechanically ejected from the hand tool.

(Added by Stats. 2011, Ch. 638, Sec. 2. (AB 300) Effective January 1, 2012. Operative July 1, 2012, by Sec. 3 of Ch. 638.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=7.&article=4.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Body Art [119300 - 119328]__

(Chapter 7 repealed and added by Stats. 2011, Ch. 638, Sec. 2.)

__ARTICLE 4. Permanent Body Art Facilities [119312 - 119315]__

(Article 4 added by Stats. 2011, Ch. 638, Sec. 2.)

119312.

(a)A body art facility shall not conduct business without a valid health permit.

(b)No body art facility shall allow a practitioner who does not possess a valid practitioner registration to perform body art procedures at the facility.

(c)An owner of a body art facility shall notify the local enforcement agency in writing within 30 days of the resignation, termination, or new hire of a body art practitioner at the body art facility.

(d)The application for a health permit for a body art facility shall include all of the following:

(1)A copy of the facilitysinfection prevention control plan, as required by Section 119313.

(2)A fee, as set by the local enforcement agency at an amount not to exceed the amount necessary but that is sufficient to cover the actual costs of administration of the program. Fees established by this section shall be used exclusively in support of activities pursuant to this chapter.

(e)The local enforcement agency shall issue a health permit after an investigation has determined that the proposed body art facility and its method of operation meets the specifications of the approved plans or conforms to the requirements of this article.

(f)A health permit is valid only for the location of the facility and the time period indicated on the permit and may not be transferred to another owner or facility.

(g)The health permit shall be posted in a conspicuous place at the body art facility. Certificates of registration for all practitioners performing body art in that facility shall also be prominently displayed either near the health permit or at the individual practitionersprocedure area if each practitioner has a designated area.

(h)A person proposing to construct a practice site or mobile practice site, other than a temporary body art event booth, shall submit plans to the Plan Review Unit of the local enforcement agency. The plans shall be approved in advance of the issuance of a building, plumbing, or electrical permit. All required corrections must be made and the body art facility approved to open before body art can be performed in the facility.

(i)Health permits shall be renewed annually through a process to be determined by the local enforcement agency.

(j)The county may suspend or revoke the permit of a body art facility if a person who does not possess a valid practitioner registration is allowed to perform body art.

(k)An owner who operates a body art facility shall obtain all necessary permits to conduct business, including, but not limited to, a permit issued by a local enforcement agency. In addition to the penalties available pursuant to Article 6 (commencing with Section 119320), an owner who violates this subdivision shall be subject to the closure of the facility and a penalty not to exceed three times the cost of the permit.

(Amended by Stats. 2013, Ch. 555, Sec. 9. (AB 1168) Effective January 1, 2014.)

119313.

(a)A body art facility shall maintain and follow a written Infection Prevention and Control Plan, provided by the owner or established by the practitioners, specifying the procedures to achieve compliance with each applicable requirement of this chapter.

(b)The Infection Prevention and Control Plan shall include all of the following:

(1)Procedures for cleaning and decontaminating environmental surfaces.

(2)Procedures for cleaning, decontaminating, packaging, sterilizing, and storing reusable instruments.

(3)Procedures for protecting clean instruments and sterile instrument packs from exposure to dust and moisture during storage.

(4)A setup and teardown procedure for any form of body art performed at the body art facility.

(5)Techniques to prevent the contamination of instruments or the procedure site during the performance of body art.

(6)Procedures for safe handling and disposal of sharps waste.

(c)The Infection Prevention and Control Plan shall be revised when changes are made in infection prevention practices, procedures, or tasks.

(d)Onsite training on the facilitysInfection Prevention and Control Plan shall take place when tasks where occupational exposure may occur are initially assigned, any time there are changes in the procedures or tasks, and when new technology is adopted for use in the facility, but not less than once each year.

(e)Records of training required pursuant to this section shall be maintained for three years and shall be available for inspection upon request of the enforcement officer.

(Amended by Stats. 2013, Ch. 555, Sec. 10. (AB 1168) Effective January 1, 2014.)

119314.

(a)With the exception of a temporary demonstration booth, as specified in Sections 119317 and 119318, a body art facility shall comply with all of the following:

(1)Have floors, walls, and ceilings.

(2)Have floors and walls that are smooth, nonabsorbent, free of open holes, and washable.

(3)Be free of insect and rodent infestation.

(4)Be separate from any residential areas used for sleeping, bathing, or meal preparation. A body art facility associated with a residential dwelling shall have a separate entrance and toilet facility, and shall not have a door allowing direct access between the body art facility and the residential dwelling.

(5)Have adequate toilet facilities, in accordance with the specifications of the State Building Standards Code, local building standard codes, and any other local ordinance. The sink shall be supplied with hot and cold running water, containerized liquid soap, and single-use paper towels that are dispensed from a wall-mounted, touchless dispenser.

(b)Procedure areas in a body art facility shall meet all of the following standards:

(1)Be equipped with a light source that provides adequate light at the procedure area.

(2)Be separated, by a wall or ceiling-to-floor partition, from nail and hair activities.

(3)Be separated from all business not related to body art, at the discretion of the local enforcement agency.

(4)Be equipped with a sink supplied with hot and cold running water, containerized liquid soap, and single-use paper towels that are dispensed from a wall-mounted, touchless dispenser that is accessible to the

practitioner.

(5)All sinks shall be permanently plumbed and meet local building and plumbing codes. Facilities that were issued a permit prior to January 1, 2014, shall have until July 1, 2014, to comply with this section.

(6)All counter surfaces and service trays shall have a smooth, durable, and nonabsorbent finish.

(c)Decontamination and sterilization areas within a body art facility shall meet all of the following requirements:

(1)Be separated from procedure areas by a space of at least five feet or by a cleanable barrier.

(2)Be equipped with a sink, hot and cold running water, containerized liquid soap, and single-use paper towels dispensed from a wall-mounted, touchless dispenser that is readily accessible to the practitioner.

(d)Each procedure area shall have lined waste containers.

(e)Each procedure area shall have a sharps waste container that meets the following requirements:

(1)The sharps waste container shall be portable, if portability is necessary to ensure that the sharps waste container is within armsreach of the practitioner.

(2)The sharps waste container shall be labeled with the words sharps waste or with the international biohazard symbol and the word BIOHAZARD.

(3)All sharps waste produced during the process of tattooing, body piercing, or the application of permanent cosmetics shall be disposed by either of the following methods:

(A)Removal and disposal by a licensed waste hauler. Materials shall be disposed of at a licensed treatment facility or removed and transported through a mail-back system authorized by the State Department of Public Health.

(B)As solid waste, after being disinfected by a method approved by the department pursuant to paragraph (3) of subdivision (a) of Section 118215.

(4)Documentation of proper disposal of sharps waste shall be maintained for three years and shall be available for inspection at the request of the enforcement officer.

(f)No animals shall be allowed in the procedure area or the decontamination and sterilization area except service animals, as defined by the federal Americans with Disabilities Act.

(Amended by Stats. 2013, Ch. 555, Sec. 11. (AB 1168) Effective January 1, 2014.)

119315.

A body art facility shall conform to the following sterilization procedures:

(a)Clean instruments to be sterilized shall first be sealed in sterilization packaging that contain either a sterilizer indicator or process indicator, unless instruments are being processed for immediate use. The

outside of the pack shall be labeled with the name of the instrument if not immediately identifiable, the date sterilized, and the initials of the person operating the sterilizing equipment unless instruments are being sterilized for immediate use.

(b)Sterilizers shall be loaded, operated, decontaminated, and maintained according to manufacturersdirections, and shall meet all of the following standards:

(1)Only equipment manufactured for the sterilization of medical instruments shall be used.

(2)Sterilization equipment shall be tested using a commercial biological indicator monitoring system after the initial installation, after any major repair, and at least once per month. The expiration date of the monitor shall be checked prior to each use.

(3)Each sterilization load shall be monitored with mechanical indicators for time, temperature, and pressure. Each sterilization load shall include, at a minimum, a Class V integrator.

(4)Biological indicator monitoring test results shall be recorded in a log that shall be kept on site for three years after the date of the results.

(5)A written log of each sterilization cycle shall be maintained for three years, shall be available for inspection by the enforcement officer, and shall include all of the following information:

(A)The date of the load.

(B)A list of the contents of the load.

(C)The exposure time and temperature.

(D)The results of the Class V integrator.

(E)For cycles where the results of the biological indicator monitoring test are positive, how the items were cleaned, and proof of a negative test before reuse.

(c)Clean instruments and sterilized instrument packs shall be placed in clean, dry, labeled containers, or stored in a labeled cabinet that is protected from dust and moisture.

(d)Sterilized instruments shall be stored in the intact sterilization packaging or in the sterilization equipment cartridge until time of use.

(e)Sterile instrument packs shall be evaluated at the time of storage and before use. If the integrity of a pack is compromised, including, but not limited to, cases where the pack is torn, punctured, wet, or displaying any evidence of moisture contamination, the pack shall be discarded or reprocessed before use.

(f)A body art facility that does not afford access to a decontamination and sterilization area that meets the standards of subdivision (c) of Section 119314 or that does not have sterilization equipment shall use only purchased disposable, single-use, presterilized instruments. In place of the requirements for maintaining sterilization records, the following records shall be kept and maintained for a minimum of 90 days following the use of the instruments at the site of practice for the purpose of verifying the use of disposable, single-use, presterilized instruments:

(1)A record of purchase and use of all single-use instruments.

(2)A log of all procedures, including the names of the practitioner and client and the date of the procedure.

(3)Written proof on company or laboratory letterhead showing that the presterilized instruments have undergone a sterilization process. Written proof shall clearly identify the instruments sterilized by name or item number and shall identify the lot or batch number of the sterilizer run.

(Amended by Stats. 2013, Ch. 555, Sec. 12. (AB 1168) Effective January 1, 2014.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=7.&article=4.5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Body Art [119300 - 119328]__

(Chapter 7 repealed and added by Stats. 2011, Ch. 638, Sec. 2.)

__ARTICLE 4.5. Mobile Body Art Facilities [119316 - 119316.5]__

(Article 4.5 added by Stats. 2013, Ch. 555, Sec. 14.)

119316.

(a)A mobile body art facility shall meet all the applicable requirements in Article 1 (commencing with Section 119300) to Article 4 (commencing with Section 119312), inclusive, and Article 6 (commencing with Section 119319), unless specifically exempted by this article.

(b)A mobile body art facility that is either a special purpose commercial modular and coach, as defined by Section 18012.5, or a commercial modular coach, as defined by Section 18001.8, shall be certified by the Department of Housing and Community Development, consistent with Chapter 4 (commencing with Section 18025) of Part 2 of Division 13, and regulations promulgated pursuant to that chapter.

(c)The Department of Motor Vehicles occupational licensing requirements, Division 5 (commencing with Section 11100) of the Vehicle Code, also apply to these mobile body art facilities.

(d)The local enforcement agency shall approve all equipment installation prior to operation.

(Amended by Stats. 2015, Ch. 303, Sec. 346. (AB 731) Effective January 1, 2016.)

119316.1.

A mobile body art facility shall have all of the following:

(a)A fixed hand wash sink in the procedure area for the exclusive use of the practitioner that meets all of the following requirements:

(1)Availability of containerized liquid soap and single-use paper towels that are dispensed from a wall-mounted, touchless dispenser.

(2)A pressurized supply of at least five gallons of potable water.

(3)Warm water.

(4)The sink measures at least nine inches wide, nine inches long, and five inches deep.

(b)All counter surfaces and service trays shall have a smooth, durable, and nonabsorbent finish.

(c)A waste water tank that shall be sized to be a minimum of 1.5 times the size of the potable water tank.

(Added by Stats. 2013, Ch. 555, Sec. 14. (AB 1168) Effective January 1, 2014.)

119316.2.

(a)All body art procedures shall be completed inside the mobile body art facility.

(b)The mobile body art facilitysdoors and windows shall remain closed during procedures.

(c)Notwithstanding subdivision (b), a mobile body art facility may keep doors or windows open during a procedure only if the openings are covered by a screen constructed to cover the entirety of the opening that is the equivalent of a 16 mesh per square inch screen or better.

(Added by Stats. 2013, Ch. 555, Sec. 14. (AB 1168) Effective January 1, 2014.)

119316.3.

A mobile body art facility shall use only purchased disposable, single-use, presterilized instruments.

(Added by Stats. 2013, Ch. 555, Sec. 14. (AB 1168) Effective January 1, 2014.)

119316.4.

A mobile body art facility shall only be operated within 200 feet of an accessible restroom.

(Added by Stats. 2013, Ch. 555, Sec. 14. (AB 1168) Effective January 1, 2014.)

119316.5.

A mobile body art facility shall be used exclusively for performing body art and shall not be used as a living space or residence.

(Added by Stats. 2013, Ch. 555, Sec. 14. (AB 1168) Effective January 1, 2014.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=7.&article=5.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Body Art [119300 - 119328]__

(Chapter 7 repealed and added by Stats. 2011, Ch. 638, Sec. 2.)

__ARTICLE 5. Temporary Body Art Facilities [119317 - 119318]__

(Article 5 added by Stats. 2011, Ch. 638, Sec. 2.)

119317.

A practitioner may, in the local jurisdiction of registration, practice in a temporary demonstration booth for no more than seven days in a 90-day period. The demonstration booth shall meet all of the following requirements:

(a)Be located within a building that has hand washing facilities with hot and cold running water, soap, and single-use paper towels to which practitioners have direct access.

(b)Constructed with a partition of at least three feet in height separating the procedure area from the public.

(c)Have floor space of at least 50 square feet for each practitioner.

(d)Be free of insect or rodent infestation.

(e)Used exclusively for performing body art.

(f)Equipped with adequate light available at the level where the practitioner is performing body art.

(g)(1)For temporary body art events consisting of one demonstration booth, the booth shall be equipped with hand washing equipment that, at a minimum, consists of containerized liquid soap, single-use paper towels, a five-gallon or larger container of potable water accessible via spigot, and a wastewater collection and holding tank of corresponding size. Potable water shall be refilled and the holding tank evacuated frequently to provide uninterrupted use, or as determined by the local enforcement agency.

(2)For temporary body art events consisting of two or more demonstration booths, practitioner hand wash areas shall be provided throughout the event. The hand wash areas shall be located within a booth with partitions at least three feet in height separating the hand wash area from the public. The area shall be equipped with a commercial, self-contained hand wash station that consists of containerized liquid soap, single-use paper towels, a storage capacity of five gallons or more of potable water, and a trash receptacle. The sponsor shall provide one hand wash area for every two demonstration booths at the event.

(h)Have smooth, cleanable flooring.

(i)No food, drink, or tobacco products are permitted in the demonstration booth.

(j)Not allow animals within the confines of the demonstration booth.

(k)Be operating with all necessary permits to conduct business. In addition to the penalties available pursuant to Article 6 (commencing with Section 119320), a sponsor or practitioner who violates this subdivision shall

be subject to closure of the temporary body art event or a penalty not to exceed three times the cost of the permit or both closure and the penalty.

(Amended by Stats. 2013, Ch. 555, Sec. 15. (AB 1168) Effective January 1, 2014.)

119317.5.

A local enforcement agency may establish a fee not to exceed the amount necessary, but that is sufficient to cover, the actual costs of the administration of Section 119317.

(Added by Stats. 2011, Ch. 638, Sec. 2. (AB 300) Effective January 1, 2012. Operative July 1, 2012, by Sec. 3 of Ch. 638.)

119318.

(a)The sponsor of a temporary body art event shall obtain all necessary permits to conduct business in the jurisdiction where the event will be held. The sponsor shall submit a complete temporary facility permit application to the local enforcement agency a minimum of 30 days prior to the date of the scheduled event. A local enforcement agency may establish a fee not to exceed the amount necessary, but that is sufficient to cover, the actual costs of the administration of this section. In addition to the penalties available pursuant to Article 6 (commencing with Section 119320), a sponsor who violates this subdivision shall be subject to closure of the temporary body art event and a penalty not to exceed three times the cost of the permit.

(b)The sponsor shall not allow a person to perform body art procedures at the event unless the person has a valid body art practitioner registration.

(c)The sponsor of a temporary body art event shall be responsible for ensuring the availability of support facilities and supplies for practitioners and vendors, including, but not limited to:

(1)A demonstration booth that meets the requirements of subdivisions (a) to (k), inclusive, of Section 119317.

(2)Restrooms that have flush toilets supplied with toilet paper, and hand wash sinks supplied with hot and cold potable running water, soap, and single-use paper towels to which practitioners have direct access.

(3)Sharps waste containers for each demonstration booth.

(4)The use of a licensed medical waste disposal company for removal of all sharps waste containers used during the body art event.

(5)Frequent trash pickup from demonstration booths.

(6)Wastewater removal and potable water recharge for hand wash areas at a frequency that will provide uninterrupted use, or as determined by the local enforcement agency.

(7)When applicable, decontamination and sterilization area that is separated from a procedure area by at least five feet or by a cleanable barrier.

(8)Adequate backup supplies that have been stored in compliance with subdivision (d) of Section 119315 and that can be purchased by practitioners, including, but not limited to:

(A)Presterilized tattoo needles.

(B)Presterilized needle tubes.

(C)Presterilized piercing instruments, including, but not limited to, needles, receiving tubes, corks, marking tools, and forceps.

(D)Plastic bags, barrier film, clip cord covers, and plastic wrap.

(E)Ink cups.

(F)Nitrile and latex gloves.

(G)Single-use tubes of water-based and petroleum-based lubricants.

(H)Absorbent dressing materials.

(I)All forms and documents required to perform body art, including, but not limited to, client consent forms, medical history forms, aftercare instructions, and single-use instrument logs.

(d)The name, telephone number, and directions to an emergency room near the temporary body art event shall be posted in a conspicuous location.

(e)Each practitioner working in a booth at a temporary body art event shall display his or her certificate of registration, or keep the certificate in a folder that is available for inspection upon request of the enforcement officer or a client.

(Amended by Stats. 2013, Ch. 555, Sec. 16. (AB 1168) Effective January 1, 2014.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=7.&article=6.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Body Art [119300 - 119328]__

(Chapter 7 repealed and added by Stats. 2011, Ch. 638, Sec. 2.)

__ARTICLE 6. Enforcement [119319 - 119324.5]__

(Article 6 added by Stats. 2011, Ch. 638, Sec. 2.)

119319.

(a)An enforcement officer may enter a body art facility during the facilityshours of operation and other reasonable times to do any of the following:

(1)Conduct inspections, issue citations, and secure samples, photographs, or other evidence from a body art facility, or any facility suspected of being a body art facility.

(2)Check the Infection Prevention and Control Plan, required pursuant to Section 119313, to determine if persons working in the facility are following the plan, and to determine if the plan is in compliance with this chapter.

(3)Secure as evidence documents, or copies of documents, including the Infection Prevention and Control Plan, or any record, file, paper, process, invoice, or receipt for the purpose of determining compliance with this chapter.

(b)A written report shall be made and a copy shall be supplied or mailed to the owner or practitioner at the completion of an inspection or investigation.

(c)Based upon inspection findings or other evidence, an enforcement officer may impound instruments that are found to be unsafe to use, used in an unapproved manner, or used in an unapproved location. Within 30 days, the local enforcement agency that has impounded the equipment shall commence proceedings to release the instrument or to seek administrative or legal remedy for its disposal.

(d)It is a violation of this chapter for the owner or a person working in a body art facility to do any of the following:

(1)Conceal records or evidence, or to withhold evidence.

(2)Interfere with the performance of the duties of an enforcement officer.

(3)Make a false statement, representation, certification, record, report, or otherwise falsify information required to be submitted or maintained pursuant to this chapter.

(Amended by Stats. 2013, Ch. 555, Sec. 17. (AB 1168) Effective January 1, 2014.)

119320.

(a)A certificate of registration or a health permit may be suspended by a local enforcement agency for a violation of this chapter.

(b)A body art facility or practitioner whose certificate of registration or health permit has been suspended shall cease doing business until the certificate or permit has been reinstated. Suspension of the registration of one practitioner in a body art facility does not affect the status of other practitioners in the facility unless the violation or violations are for conditions or equipment that affects the ability of all the practitioners in the facility to comply with the provisions of this chapter.

(c)A body art facility for which the health permit has been revoked shall close and remain closed until a new health permit has been issued.

(d)Whenever an enforcement officer finds that a practitioner or body art facility is not in compliance with the requirements of this chapter, the enforcement officer shall issue a notice to comply or a notice of violation to the registrant or permitholder setting forth the acts or omissions with which the registrant or permitholder is charged, and informing him or her of a right to a hearing, if requested, to show cause why the registration or permit should not be suspended or revoked.

(e)(1)A written request for a hearing shall be made by the registrant or permitholder within 15 calendar days after receipt of the notice.

(2)The hearing shall be held within 15 calendar days of the receipt of a request for a hearing. Upon written request of the registrant or permitholder, the hearing officer may postpone a hearing date, if circumstances warrant the action.

(f)A failure to request a hearing within 15 calendar days after receipt of the notice shall be deemed a waiver of the right to a hearing.

(g)The hearing officer shall issue a written notice of decision to the registrant or permitholder within five working days following the hearing. In the event of a suspension or revocation, the notice shall specify the acts or omissions with which the registrant or permitholder is charged, and shall state the terms of the suspension or that the registration or health permit has been revoked.

(h)A certificate of registration or health permit may be reinstated or a new certificate of registration or health permit issued if the local enforcement agency determines that the conditions that prompted the suspension or revocation no longer exist.

(Added by Stats. 2011, Ch. 638, Sec. 2. (AB 300) Effective January 1, 2012. Operative July 1, 2012, by Sec. 3 of Ch. 638.)

119321.

If an imminent health hazard is found, the enforcement officer may suspend a registration temporarily and order the practitioner to cease operation if the hazard is not corrected. If the hazard affects the entire body art facility, then the entire facility may be closed immediately. Whenever a registration or health permit is suspended as the result of an imminent health hazard, the enforcement officer shall issue to the registrant or permitholder a notice setting forth the acts or omissions being charged, specifying the pertinent code section, and informing the registrant or permitholder of the right to a hearing.

(Added by Stats. 2011, Ch. 638, Sec. 2. (AB 300) Effective January 1, 2012. Operative July 1, 2012, by Sec. 3 of Ch. 638.)

119322.

The local enforcement agency may, after providing opportunity for a hearing, modify, suspend, or revoke a certificate of registration or a health permit for serious or repeated violations of any requirement of this chapter or for interference in the performance of the duty of the enforcement officer.

(Added by Stats. 2011, Ch. 638, Sec. 2. (AB 300) Effective January 1, 2012. Operative July 1, 2012, by Sec. 3 of Ch. 638.)

119323.

Performing body art without being registered, performing body art at an unpermitted location, operating a body art facility without a health permit, or operating a temporary body art event without a permit shall be a misdemeanor. The local enforcement agency may also assess an administrative penalty in an amount not less than twenty-five dollars ($25) and not more than one thousand dollars ($1,000) for violation of any provision of this chapter. All fines are to be retained by the local enforcement agency for enforcement of the provisions of this chapter.

(Amended by Stats. 2013, Ch. 555, Sec. 18. (AB 1168) Effective January 1, 2014.)

119324.

A city, county, or city and county may adopt regulations or ordinances that do not conflict with, or are more stringent than, the provisions of this chapter as they relate to body art.

(Added by Stats. 2011, Ch. 638, Sec. 2. (AB 300) Effective January 1, 2012. Operative July 1, 2012, by Sec. 3 of Ch. 638.)

119324.5.

The local fees imposed pursuant to this chapter shall not exceed the reasonable costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing orders, and the administrative enforcement and adjudication thereof.

(Added by Stats. 2011, Ch. 638, Sec. 2. (AB 300) Effective January 1, 2012. Operative July 1, 2012, by Sec. 3 of Ch. 638.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=7.&article=7.

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 7. Body Art [119300 - 119328]__

(Chapter 7 repealed and added by Stats. 2011, Ch. 638, Sec. 2.)

__ARTICLE 7. Mechanical Stud and Clasp Ear Piercing [119325 - 119328]__

(Article 7 added by Stats. 2011, Ch. 638, Sec. 2.)

119325.

(a)The piercing of the ear with a mechanical stud and clasp device does not constitute body art or body piercing as defined in this chapter. It is the intent of the Legislature, in enacting this article, to provide uniform and statewide requirements for the performance of ear piercing with a mechanical stud and clasp device. The piercing of an ear with a mechanical stud and clasp device shall only be subject to the requirements in this article.

(b)The area within a facility where mechanical stud and clasp ear piercing is conducted shall be safe and sanitary and shall not constitute a threat to the public health and safety, as reasonably determined by the

local enforcement agency.

(c)The mechanical stud and clasp device that is used to pierce an ear pursuant to this article shall be single-use, presterilized, stud and clasp only.

(d)The single-use mechanical stud and clasp device used to pierce an ear pursuant to this article shall meet the jewelry requirements in subdivision (e).

(e)Only jewelry made of ASTM F138, ISO 5832-1, and AISI 316L or AISI 316LVM implant grade stainless steel, solid 14-karat through 18-karat yellow or white gold, niobium, ASTM F136 6A4V titanium, platinum, or other materials found to be equally biocompatible shall be placed in newly pierced skin.

(Amended by Stats. 2013, Ch. 555, Sec. 19. (AB 1168) Effective January 1, 2014.)

119326.

(a)The local enforcement agency may require a facility that provides mechanical stud and clasp ear piercing services to submit a notification form, which shall be provided by the local enforcement agency in the jurisdiction in which the facility is located. If the local enforcement agency requires this notification form, the form shall include all of the following information:

(1)The address of all facilities within the jurisdiction where mechanical stud and clasp ear piercing will be performed.

(2)A statement that the mechanical stud and clasp ear piercing will be conducted in compliance with the requirements of this article.

(3)The contact information for the person responsible for compliance with this article and who the local enforcement agency should contact regarding complaints from the public regarding mechanical stud and clasp ear piercing at a facility listed in paragraph (1).

(b)Information for more than one location within a single jurisdiction with the same owner or operator may be included on a single notification form. If the local enforcement agency requires notification, it shall provide a notification form that allows the owner or operator of more than one facility in the jurisdiction to provide the required notification for all of its facilities in a single form designed for that purpose.

(c)No person shall be required to provide notification until and unless the local enforcement agency makes a form for this purpose available. Facilities performing mechanical stud and clasp ear piercing on the date the local enforcement agency makes the form available shall have five months from that date in which to complete and submit the form. Facilities that begin performing mechanical stud and clasp ear piercing after the form is made available shall be required to submit the form prior to offering services.

(Added by Stats. 2011, Ch. 638, Sec. 2. (AB 300) Effective January 1, 2012. Operative July 1, 2012, by Sec. 3 of Ch. 638.)

119327.

(a)A person piercing an ear with a mechanical stud and clasp piercing device shall meet the following requirements before providing mechanical stud and clasp ear piercing services:

(1)Is at least 18 years of age.

(2)Received one hour of training that covers all of the following topics:

(A)Proper use of the mechanical stud and clasp ear piercing device.

(B)Types of bloodborne pathogens and the prevention of the transmission of bloodborne communicable diseases.

(C)Proper hand hygiene.

(D)The safe and sanitary use of single-use equipment, including, but not limited to, gloves, towels, and disinfectant wipes.

(3)If the person will also be piercing the cartilage of the upper ear, that person shall also receive training on proper techniques for this type of piercing.

(b)The training requirements of subdivision (a) shall not apply to an individual who was employed to perform mechanical stud and clasp ear piercing prior to the effective date of this article.

(Added by Stats. 2011, Ch. 638, Sec. 2. (AB 300) Effective January 1, 2012. Operative July 1, 2012, by Sec. 3 of Ch. 638.)

119328.

(a)A local enforcement agency may charge a one-time facility notification fee in an amount between twenty-five dollars ($25) and forty-five dollars ($45) for each facility operating pursuant to this article. The fee charged shall not exceed the amount reasonably necessary to cover the actual costs of administering and enforcing the provisions of this article.

(b)After December 31, 2015, a county may charge a different fee, set by local ordinance, provided that the increased fee is necessary to cover the actual costs of administering and enforcing the provisions of this article.

(c)The local enforcement agency may not charge a different fee for facilities based on what part of the ear is being pierced.

(Added by Stats. 2011, Ch. 638, Sec. 2. (AB 300) Effective January 1, 2012. Operative July 1, 2012, by Sec. 3 of Ch. 638.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=8.&article=

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 8. Drug Marketing Practices [119400 - 119402]__

(Chapter 8 added by Stats. 2004, Ch. 927, Sec. 2.)

119400.

The following definitions shall apply for purposes of this chapter:

(a)Dangerous drug means any drug that is unsafe for self-use and includes either of the following:

(1)Any drug that bears the legend Caution: federal law prohibits dispensing without prescription, Rx only, or words of similar import.

(2)Any drug or device that, pursuant to federal or state law, may be dispensed only by prescription, or that is furnished pursuant to Section 4006 of the Business and Professions Code. Dangerous drug does not include labeled veterinary drugs.

(b)Medical or health professional means any of the following:

(1)A person licensed by state law to prescribe drugs for human patients.

(2)A medical student.

(3)A member of a drug formulary committee.

(c)Pharmaceutical company means an entity that is engaged in the production, preparation, propagation, compounding, conversion, or processing of dangerous drugs, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. Pharmaceutical company also means an entity engaged in the packaging, repackaging, labeling, relabeling, or distribution of dangerous drugs. Pharmaceutical company

also includes a person who engages in pharmaceutical detailing, promotional activities, or other marketing of a dangerous drug in this state on behalf of a pharmaceutical company. Pharmaceutical company does not include a licensed pharmacist.

(Added by Stats. 2004, Ch. 927, Sec. 2. Effective January 1, 2005.)

119402.

(a)Every pharmaceutical company shall adopt a Comprehensive Compliance Program that is in accordance with the April 2003 publication Compliance Program Guidance for Pharmaceutical Manufacturers, which was developed by the United States Department of Health and Human Services Office of Inspector General (OIG). A pharmaceutical company shall make conforming changes to its Comprehensive Compliance Program within six months of any update or revision to the Compliance Program Guidance for Pharmaceutical Manufacturers.

(b)Every pharmaceutical company shall include in its Comprehensive Compliance Program policies for compliance with the Pharmaceutical Research and Manufacturers of America (PhRMA) Code on Interactions with Health Care Professionals, dated July 1, 2002. The pharmaceutical company shall make conforming changes to its Comprehensive Compliance Program within six months of any update or revision of the Code on Interactions with Health Care Professionals.

(c)Each pharmaceutical company shall include in its Comprehensive Compliance Program limits on gifts or incentives provided to medical or health professionals, in accordance with this chapter.

(d)(1)Each pharmaceutical company shall establish explicitly in its Comprehensive Compliance Program a specific annual dollar limit on gifts, promotional materials, or items or activities that the pharmaceutical company may give or otherwise provide to an individual medical or health care professional in accordance with the Compliance Program Guidance for Pharmaceutical Manufacturers and with the Code on Interactions with Health Care Professionals.

(2)Notwithstanding paragraph (1), drug samples given to physicians and healthcare professionals intended for free distribution to patients, financial support for continuing medical education forums, and financial support for health educational scholarships are exempt from any limits if that support is provided in a manner that conforms to the Compliance Program Guidance for Pharmaceutical Manufacturers and the Code on Interactions with Health Care Professionals.

(3)Payments made for legitimate professional services provided by a health care or medical professional, including, but not limited to, consulting, are exempt from any limits, provided that the payment does not exceed the fair market value of the services rendered, and those payments are provided in a manner that conforms to the Compliance Program Guidance for Pharmaceutical Manufacturers and with the Code on Interactions with Health Care Professionals.

(e)The pharmaceutical company shall annually declare, in writing, that it is in compliance with both its Comprehensive Compliance Program and this chapter. The pharmaceutical company shall make its Comprehensive Compliance Program and its annual written declaration of compliance with the program available to the public on the pharmaceutical companysWeb site and shall also provide a toll-free telephone number where a copy or copies of the Comprehensive Compliance Program and written declaration of compliance may be obtained.

(f)This section shall become operative on July 1, 2005.

(Added by Stats. 2004, Ch. 927, Sec. 2. Effective January 1, 2005. Section operative July 1, 2005, by its own provisions.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=15.&chapter=9.&article=

Code Text

__Health and Safety Code - HSC__

__DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]__

(Division 104 added by Stats. 1995, Ch. 415, Sec. 6.)

__PART 15. MISCELLANEOUS REQUIREMENTS [118375 - 119406]__

(Part 15 added by Stats. 1995, Ch. 415, Sec. 6.)

__CHAPTER 9. Electronic Cigarettes [119406- 119406.]__

(Chapter 9 added by Stats. 2010, Ch. 312, Sec. 2.)

119406.

(a)Commencing October 1, 2016, all cartridges for electronic cigarettes and solutions for filling or refilling an electronic cigarette shall be in child-resistant packaging.

(b)Child-resistant packaging means packaging that meets the specifications in Section 1700.15(b) of, and is tested by the method described in Section 1700.20 of, Title 16 of the Code of Federal Regulations.

(Added by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 22. (SB 5 2x) Effective June 9, 2016.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?

tocCode=HSC&division=105.&title=&part=&chapter=&article=]
(https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=105.
&title=&part=&chapter=&article=)

Code:Section:
Keyword(s):

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?
tocCode=HSC&division=105.&title=&part=1.&chapter=&article=]
(https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=105.
&title=&part=1.&chapter=&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.
&title=&part=1.&chapter=1.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?
lawCode=HSC&division=105.&title=&part=1.&chapter=1.&article=)

120100.

Health officer,□ as used in the Communicable Disease Prevention and Control Act (Section 27) includes county, city, and district health officers, and city and district health boards, but does not include advisory health boards.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120105.

Whenever in the Communicable Disease Prevention and Control Act (Section 27), service or notice of any order or demand is provided for, it shall be sufficient to do so by registered or certified mail if a receipt therefor signed by the person to be served or notified is obtained. The receipt shall be prima facie evidence of the service or notice in any civil or criminal action.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120110.

As used in the Communicable Disease Prevention and Control Act (Section 27) a person has active tuberculosis disease when either one of the following occur:

(a) A smear or culture taken from any source in the personsbody has tested positive for tuberculosis and the person has not completed the appropriate prescribed course of medication for active tuberculosis disease.

(b) There is radiographic, current clinical, or laboratory evidence sufficient to support a medical diagnosis of tuberculosis for which treatment is indicated.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120115.

As used in the Communicable Disease Prevention and Control Act (Section 27) the following terms have the following meanings, unless the context indicates otherwise:

(a) Infectious tuberculosis disease means active or suspected active tuberculosis disease in an infectious state.

(b) Tuberculosis infection means the latent phase of tuberculosis, during which the infected person cannot spread tuberculosis to others.

(c) Heightened risk of tuberculosis exposure means likely exposure to persons with infectious tuberculosis disease.

(d) The appropriate prescribed course of medication for tuberculosis disease means that course recommended by the health officer, the most recent guidelines of the department, the most recent guidelines of the Centers for Disease Control and Prevention, or the most recent guidelines of the American Thoracic Society.

(e) Directly observed therapy means the appropriately prescribed course of treatment for tuberculosis disease in which the prescribed antituberculosis medications are administered to the person or taken by the person under direct observation of a health care provider or a designee of the health care provider approved by the local health officer.

(f) An examination for tuberculosis infection or disease means conducting tests, including, but not limited to, Mantoux tuberculin skin tests, laboratory examination, and X-rays, as recommended by any of the following:

(1) The local health officer.

(2) The most recent guidelines of the state department.

(3) The most recent guidelines of the Centers for Disease Control and Prevention.

(4) The most recent guidelines of the American Thoracic Society.

(g) State correctional institution means a prison, institution, or other facility under the jurisdiction of the

Department of Corrections or the Department of the Youth Authority.

(h) Local detention facility is defined in Section 6031.4 of the Penal Code.

(i) Penal institution means either a state correctional institution or a local detention facility.

(j) Health facility means a licensed health facility as defined in Sections 1250, 1250.2, and 1250.3.

(k) Health officer or local health officer includes his or her designee.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=1.&chapter=1.5.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 1. ADMINISTRATION OF COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 120305]__

(Part 1 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 1.5. COVID-19-Related Public Health Orders or Mandatory Guidance [120120 - 120123]__

(Chapter 1.5 added by Stats. 2021, Ch. 487, Sec. 1.)

120120.

As used in this chapter, COVID-19 means the 2019 novel coronavirus disease.

(Added by Stats. 2021, Ch. 487, Sec. 1. (SB 336) Effective October 4, 2021. Conditionally inoperative as prescribed by Section 120123. Repealed on January 1 following inoperative date pursuant to Section 120123.)

120121.

Notwithstanding any other law, including Sections 120130, 120140, and 120145, when the department issues a statewide order or mandatory guidance related to preventing the spread of COVID-19 or protecting public health against a threat of COVID-19, the department shall do both of the following:

(a)Publish, on its internet website, the order or mandatory guidance and the date that the order or mandatory guidance takes effect.

(b)Create an opportunity for local communities, businesses, nonprofit organizations, individuals, and others to sign up for an email distribution list relative to changes to the departmentsorder or mandatory guidance.

(Added by Stats. 2021, Ch. 487, Sec. 1. (SB 336) Effective October 4, 2021. Conditionally inoperative as prescribed by Section 120123. Repealed on January 1 following inoperative date pursuant to Section 120123.)

120122.

Notwithstanding any other law, including Section 120175, when a local health officer issues a jurisdictionwide local order, not in conflict with state law or with orders or mandatory guidance issued pursuant to Section 120121, related to preventing the spread of COVID-19 or protecting public health against a threat of COVID-19, the local health officer shall do both of the following:

(a)Publish, on their internet website, the order and the date that the order takes effect.

(b)Create an opportunity for local communities, businesses, nonprofit organizations, individuals, and others to sign up for an email distribution list relative to changes to the local health officersorder.

(Added by Stats. 2021, Ch. 487, Sec. 1. (SB 336) Effective October 4, 2021. Conditionally inoperative as prescribed by Section 120123. Repealed on January 1 following inoperative date pursuant to Section 120123.)

120123.

This chapter shall remain operative while an order or mandatory guidance issued by the department or a local health officer as described in this chapter is in effect, and this chapter shall be repealed as of January 1 following the date that no order or mandatory guidance described in this chapter is in effect.

(Added by Stats. 2021, Ch. 487, Sec. 1. (SB 336) Effective October 4, 2021. Repealed on January 1 following inoperative date as prescribed by its own provisions. Note: Repeal affects Chapter 1.5, commencing with Section 120120.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=1.&chapter=2.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 1. ADMINISTRATION OF COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 120305]__

(Part 1 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 2. Functions and Duties of the State Department of Health Services [120125 - 120163]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 7.)

120125.

The department shall examine into the causes of communicable disease in man and domestic animals occurring or likely to occur in this state.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120130.

(a)The department shall establish a list of reportable diseases and conditions. For each reportable disease and condition, the department shall specify the timeliness requirements related to the reporting of each disease and condition, and the mechanisms required for, and the content to be included in, reports made pursuant to this section. The list of reportable diseases and conditions may include both communicable and noncommunicable diseases. The list may include those diseases that are either known to be, or suspected of being, transmitted by milk or milk-based products. The list may be modified at any time by the department, after consultation with the California Conference of Local Health Officers. Modification of the list shall be exempt from the administrative regulation and rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall be implemented without being adopted as a regulation, except that the revised list shall be filed with the Secretary of State and

printed in the California Code of Regulations as required pursuant to subdivision (e). Those diseases listed as reportable shall be properly reported as required to the department by the health officer.

(b)The department shall establish a list of communicable diseases and conditions for which clinical laboratories shall submit a culture or a specimen to the local public health laboratory. The list shall set forth the conditions under which the culture and specimen shall also be submitted to the State Public Health Laboratory. The list may be modified at any time by the department, in consultation with appropriate local public health stakeholders, including, but not limited to, local health officers and public health laboratory directors. Both establishment and modification of the list shall be exempt from the administrative regulation and rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall be implemented without being adopted as a regulation, except that the initial list and any modifications shall be filed with the Secretary of State and printed in the California Code of Regulations as required pursuant to subdivision (e).

(c)The department may from time to time adopt and enforce regulations requiring strict or modified isolation, or quarantine, for any of the contagious, infectious, or communicable diseases, if in the opinion of the department the action is necessary for the protection of the public health.

(d)The health officer may require strict or modified isolation, or quarantine, for any case of contagious, infectious, or communicable disease, when this action is necessary for the protection of the public health.

(e)The lists established pursuant to subdivisions (a) and (b) and any subsequent modifications shall be published in Title 17 of the California Code of Regulations.

(f)Notwithstanding any other provision of law, no civil or criminal penalty, fine, sanction, or finding, or denial, suspension, or revocation of licensure for any person or facility may be imposed based upon a failure to provide the notification of a reportable disease or condition or to provide the submission of a culture or specimen that is required under this section, unless the name of the disease or condition that is required to be reported, or for which a culture or specimen is required to be submitted, was printed in the California Code of Regulations and the department notified the person or facility of the disease or condition at least six months prior to the date of the claimed failure to report or submit.

(g)Commencing July 1, 2009, or within one year of the establishment of a state electronic laboratory reporting system, whichever is later, a report generated pursuant to this section, or Section 121022, by a laboratory shall be submitted electronically in a manner specified by the department. The department shall allow laboratories that receive incomplete patient information to report the name of the provider who submitted the request to the local health officer.

(h)The department may, through its Internet Web site and via electronic mail, advise out-of-state laboratories that are known to the department to test specimens from California residents of the new reporting requirements.

(Amended by Stats. 2011, Ch. 540, Sec. 2. (AB 186) Effective January 1, 2012.)

120135.

The department may establish and maintain places of quarantine or isolation.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120140.

Upon being informed by a health officer of any contagious, infectious, or communicable disease the department may take measures as are necessary to ascertain the nature of the disease and prevent its spread. To that end, the department may, if it considers it proper, take possession or control of the body of any living person, or the corpse of any deceased person.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120142.

(a) The state director may order examinations for tuberculosis infection in the following persons for the purpose of directing preventive measures:

(1) Persons in close contact with persons with infectious tuberculosis disease.

(2) Other persons for whom the state director has reasonable grounds to determine are at heightened risk of tuberculosis exposure.

(b) An order for examination for tuberculosis infection shall be in writing and shall include other terms and conditions as may be necessary to protect the public health.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120145.

The department may quarantine, isolate, inspect, and disinfect persons, animals, houses, rooms, other property, places, cities, or localities, whenever in its judgment the action is necessary to protect or preserve the public health.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120150.

The department may destroy such objects as bedding, carpets, household goods, furnishings, materials, clothing, or animals, when ordinary means of disinfection are considered unsafe, and when the property is in its judgment, an imminent menace to the public health.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120155.

Pursuant to Section 11158 of the Government Code, the sheriff of each county, or city and county, may enforce within the county, or the city and county, all orders of the State Department of Public Health issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease. Every peace officer of every political subdivision of the county, or city and county, may enforce within the area subject to his or her jurisdiction all orders of the State Department of Public Health issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease. This section is not a limitation on the authority of peace officers or public officers to enforce orders of the State Department of Public Health. When deciding whether to request this assistance in enforcement of its orders, the State Department of Public Health may consider whether it would be necessary to advise the enforcement agency of any measures that should be taken to prevent infection of the enforcement officers.

(Added by renumbering Section 100106 by Stats. 2006, Ch. 241, Sec. 15. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

120160.

(a)Any manufacturer or distributor of the influenza vaccine, or nonprofit health care service plan that exclusively contracts with a single medical group in a specified geographic area to provide, or to arrange for the provision of, medical services to its enrollees, shall report the information described in subdivision (c) relating to the supply of the influenza vaccine to the department upon notice from the department.

(b)Within each county or city health jurisdiction, entities that have possession of, or have a legal right to obtain possession of, the influenza vaccine, or entities that are conducting or intend to conduct influenza clinics for the public, their residents, or their employees, except those entities described in subdivision (a), shall cooperate with the local health officer in determining local inventories of influenza vaccine, including providing inventory, orders, and distribution lists in a timely manner, when necessary.

(c)The information reported pursuant to subdivision (a) shall include, but is not limited to, the amount of the influenza vaccine that has been shipped, and the name, address, and, if applicable, the telephone number of the recipient.

(d)Subdivisions (a), (b), and (c) do not apply to a physician and surgeon practice, unless the practice is an occupational health provider who conducts influenza vaccination campaigns on behalf of a corporation.

(e)It is the intent of the Legislature in enacting this section to assist small physician and surgeon practices, nursing facilities, and other health care providers that provide care for patients at risk of illness or death from influenza by facilitating the sharing of vaccine supplies, if necessary, between providers within a local jurisdiction.

(f)If a business believes that the information required by this section involves the release of a trade secret, the business shall nevertheless disclose the information to the department, and shall notify the department in writing of that belief at the time of disclosure. As used in this section, trade secret has the meanings given to it by Section 7924.510 of the Government Code and Section 1061 of the Evidence Code. Any information, including identifying information, including, but not limited to, the name of the agent or contact person of an entity that receives the influenza vaccine from a manufacturer or distributor, or nonprofit health care service plan described in subdivision (a), and the receiving entitysaddress and telephone number, that is reported pursuant to this section shall not be disclosed by the department to anyone, except to an officer or

employee of the county, city, city and county, or the state in connection with the official duties of that officer or employee to protect the public health.

(Amended by Stats. 2021, Ch. 615, Sec. 282. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

120161.

If the department receives a report of a case of coccidioidomycosis after the departmentsreporting deadline for a specified year, the department shall include the case in its data collection for the next year and attribute it to the year of diagnosis in future data reporting.

(Added by Stats. 2018, Ch. 229, Sec. 1. (AB 1787) Effective January 1, 2019.)

120162.

By April 15 of each year, the department shall collect data on coccidioidomycosis cases from both of the following:

(a)The California Reportable Disease Information Exchange (CalREDIE).

(b)Any other electronic data system used by a local health department, a coccidioidomycosis case report submitted to the department by a local health officer, or both.

(Added by Stats. 2018, Ch. 229, Sec. 2. (AB 1787) Effective January 1, 2019.)

120163.

(a)If the department collects data on coccidioidomycosis cases from a local health officer and removes discrepant data from its internal dataset for any reason, including, but not limited to, to delete duplicate cases reported by multiple counties, the department shall report in a timely manner sufficient information about its removal of the discrepant data to the local health officer and the local health officer may remove the discrepant data from the countysdataset.

(b)If the department publishes provisional data on coccidioidomycosis cases, the department shall include in its publication an explanation for likely data changes between initial and final publication, and an explanation for discrepancies between data reported by a local health officer and data reported by the department.

(c)If the department publishes data on coccidioidomycosis cases, the department shall include in its publication the date range of the dataset published and the date on which the published data set was updated.

(Added by Stats. 2018, Ch. 229, Sec. 3. (AB 1787) Effective January 1, 2019.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=1.&chapter=3.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 1. ADMINISTRATION OF COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 120305]__

(Part 1 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 3. Functions and Duties of Local Health Officers [120175 - 120255]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 7.)

120175.

Each health officer knowing or having reason to believe that any case of the diseases made reportable by regulation of the department, or any other contagious, infectious or communicable disease exists, or has recently existed, within the territory under his or her jurisdiction, shall take measures as may be necessary to prevent the spread of the disease or occurrence of additional cases.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120175.5.

(a)During an outbreak of a communicable disease, or upon the imminent and proximate threat of a communicable disease outbreak or epidemic that threatens the publicshealth, a local health officer shall do both of the following:

(1)Promptly notify and update governmental entities within the local health officersjurisdiction about communicable diseases listed in Section 2500 of Title 17 of the California Code of Regulations that may affect them, if, in the opinion of the local health officer, action or inaction on the part of the governmental

entity might affect outbreak response efforts.

(2)Make any relevant information available to governmental entities, including, but not limited to, the locations of concentrations of cases, the number of residents affected, and the measures that the governmental entities should take to assist with outbreak response efforts.

(b)In addition to the actions required under subdivision (a), the local health officer may issue orders to other governmental entities within the local health officersjurisdiction to take any action the local health officer deems necessary to control the spread of the communicable disease.

(c)A local health officer that provides the notification and information to a governmental entity pursuant to subdivision (a), and the governmental entity that receives the notification and information, shall comply with all applicable state and federal privacy laws.

(Added by Stats. 2019, Ch. 798, Sec. 1. (AB 262) Effective January 1, 2020.)

120176.

During an outbreak of communicable disease, or upon the imminent and proximate threat of communicable disease outbreak or epidemic that threatens the publicshealth, all health care providers, clinics, health care service plans, pharmacies, their suppliers, distributors, and other for-profit and nonprofit entities shall, upon request of the local health officer, disclose to the local health officer inventories of, critical medical supplies, equipment, pharmaceuticals, vaccines, or other products that may be used for the prevention of, or may be implicated in the transmission of communicable disease. The local health officer shall keep this proprietary information confidential.

(Added by Stats. 2006, Ch. 874, Sec. 6. Effective January 1, 2007.)

120180.

If the health officer of any county having a population of 5,000,000 or more employs personnel as inspectors or investigators in the enforcement of the Communicable Disease Prevention and Control Act (Section 27), who are not otherwise licensed, registered, nor certified by this state, the personnel shall meet any one of the following minimum standards and qualifications:

(a) Possess a bachelorsdegree in public health from an institution on the list of accredited colleges of the United States Office of Education.

(b) Possess a bachelorsdegree with a minimum of 30 semester units of basic sciences from an institution on the list of accredited colleges of the United States Office of Education; or a statement from an accredited institution that the applicant has successfully completed a minimum of 16 semester units distributed among at least the following fields: public health and administration, epidemiology, public health statistics, public health microbiology, and communicable disease control.

(c) Possess a bachelorsdegree from an institution on the list of accredited colleges of the United States Office of Education; and have had at least one year of full-time experience or the equivalent in investigation or inspection work in public health or law enforcement.

(d) Be employed as an inspector or investigator in communicable disease prevention and control by a county health department in the State of California, and have passed an official civil service examination therefor prior to the effective date of this section.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120185.

In the case of a local epidemic of disease, the health officer shall report at those times as are requested by the department all facts concerning the disease, and the measures taken to abate and prevent its spread.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120190.

Each health officer shall immediately report by telegraph or telephone to the department every discovered or known case or suspect case of those diseases designated for immediate reporting by the department. Within 24 hours after investigation each health officer shall make reports as the department may require.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120195.

Each health officer shall enforce all orders, rules, and regulations concerning quarantine or isolation prescribed or directed by the department.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120200.

Each health officer, whenever required by the department, shall establish and maintain places of quarantine or isolation that shall be subject to the special directions of the department.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120205.

No quarantine shall be established by a county or city against another county or city without the written consent of the department.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120210.

Whenever in the judgment of the department it is necessary for the protection or preservation of the public health, each health officer shall, when directed by the department, do the following:

(a) Quarantine or isolate and disinfect persons, animals, houses or rooms, in accordance with general and specific instructions of the department.

(b) Destroy bedding, carpets, household goods, furnishings, materials, clothing, or animals, when ordinary means of disinfection are considered unsafe, and when the property is, in the judgment of the department, an imminent menace to the public health.

When the property is destroyed pursuant to this section, the governing body of the locality where the destruction occurs may make adequate provision for compensation in proper cases for those injured thereby.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120215.

Upon receiving information of the existence of contagious, infectious, or communicable disease for which the department may from time to time declare the need for strict isolation or quarantine, each health officer shall:

(a) Ensure the adequate isolation of each case, and appropriate quarantine of the contacts and premises.

(b) Follow local rules and regulations, and all general and special rules, regulations, and orders of the department, in carrying out the quarantine or isolation.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120220.

When quarantine or isolation, either strict or modified, is established by a health officer, all persons shall obey his or her rules, orders, and regulations.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120225.

A person subject to quarantine or strict isolation, residing or in a quarantined building, house, structure, or

other shelter, shall not go beyond the lot where the building, house, structure, or other shelter is situated, nor put himself or herself in immediate communication with any person not subject to quarantine, other than the physician, the health officer or persons authorized by the health officer.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120230.

No instructor, teacher, pupil, or child who resides where any contagious, infectious, or communicable disease exists or has recently existed, that is subject to strict isolation or quarantine of contacts, shall be permitted by any superintendent, principal, or teacher of any college, seminary, or public or private school to attend the college, seminary, or school, except by the written permission of the health officer.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120235.

No quarantine shall be raised until every exposed room, together with all personal property in the room, has been adequately treated, or, if necessary, destroyed, under the direction of the health officer; and until all persons having been under strict isolation are considered noninfectious.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120240.

If, pursuant to Section 120130, a modified isolation order is issued, and the order is not complied with, the local health officer may, in that instance, issue a strict isolation order.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120245.

Each health officer, other than a county health officer, in the county shall transmit to the county health officer at least weekly in writing a report showing the number and character of infectious, contagious, or communicable diseases reported, and their location.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120250.

All physicians, nurses, clergymen, attendants, owners, proprietors, managers, employees, and persons living

with, or visiting any sick person, in any hotel, lodginghouse, house, building, office, structure, or other place where any person is ill of any infectious, contagious, or communicable disease, shall promptly report that fact to the health officer, together with the name of the person, if known, the place where he or she is confined, and the nature of the disease, if known.

(Amended by Stats. 1996, Ch. 1023, Sec. 350.5. Effective September 29, 1996.)

120255.

(a)Any electronic tool used by a health officer, as defined by subdivision (a) of Section 2500 of Title 17 of the California Code of Regulations, for the purpose of reporting cases of communicable disease to the State Department of Public Health, as required by Sections 2500 and 2502 of Title 17 of the California Code of Regulations, shall include the capacity to collect and report data relating to sexual orientation and gender identity as reported pursuant to subdivision (b).

(b)In addition to the information required to be reported pursuant to Section 2500 of Title 17 of the California Code of Regulations, a health care provider, as defined by subdivision (a) of Section 2500 of Title 17 of the California Code of Regulations, that knows of or is in attendance on a case or suspected case of any of the diseases or conditions listed in subdivision (j) of Section 2500 of Title 17 of the California Code of Regulations shall report to the health officer for the jurisdiction in which the patient resides, the patientssexual orientation and gender identity, if known.

(Added by Stats. 2020, Ch. 183, Sec. 1. (SB 932) Effective September 26, 2020.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=1.&chapter=3.5.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 1. ADMINISTRATION OF COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 120305]__

(Part 1 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 3.5. Communicable Diseases Exposure Notification Act [120260 - 120263]__

(Chapter 3.5 added by Stats. 2002, Ch. 342, Sec. 1.)

120260.

(a) The Legislature finds and declares all of the following:

(1) Early knowledge of infection with communicable disease is important in order to permit exposed persons to make informed health care decisions as well as to take measures to reduce the likelihood of transmitting the infection to others.

(2) Individual health care providers, agents and employees of health care facilities and individual health care providers, and first responders, including police, firefighters, rescue personnel, and other persons who provide the first response to emergencies, frequently come into contact with the blood and other potentially infectious materials of individuals whose communicable disease infection status is not known.

(3) Even if these exposed individuals use universal infection control precautions to prevent transmission of communicable diseases, there will be occasions when they experience significant exposure to the blood or other potentially infectious materials of patients.

(b) Therefore, it is the intent of the Legislature to provide a narrow exposure notification and information mechanism to permit individual health care providers, the employees or contracted agents of health care facilities and individual health care providers, and first responders, who have experienced a significant exposure to the blood or other potentially infectious materials of a patient, to learn of the communicable disease infection status of the patient.

(Added by Stats. 2002, Ch. 342, Sec. 1. Effective January 1, 2003.)

120260.5.

The communicable disease testing and notification procedures provided for in this chapter are in addition to the notification to which prehospital emergency medical care persons or personnel are entitled under Section 1797.188.

(Added by Stats. 2006, Ch. 102, Sec. 2. Effective January 1, 2007.)

120261.

For the purposes of this chapter, the following definitions apply:

(a) Attending physician of the source patient means any physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code and any person licensed pursuant to the Osteopathic Initiative Act, who provides health care services to the source

patient. Notwithstanding any other provision of this subdivision to the contrary, the attending physician of the source patient shall include any of the following persons:

(1) The private physician of the source patient.

(2) The physician primarily responsible for the patient who is undergoing inpatient treatment in a hospital.

(3) A registered nurse or licensed nurse practitioner who has been designated by the attending physician of the source patient.

(b) Available blood or patient sample means blood or other tissue or material that was legally obtained in the course of providing health care services, and is in the possession of the physician or other health care provider of the source patient prior to the release of the source patient from the physiciansor health care providersfacility.

(c) Certifying physician means any physician consulted by the exposed individual for the exposure incident. A certifying physician shall have demonstrated competency and understanding of the then applicable guidelines or standards of the Division of Occupational Safety and Health.

(d) Communicable disease means any disease that was transferable through the exposure incident, as determined by the certifying physician.

(e) Exposed individual means any individual health care provider, first responder, or any other person, including, but not limited to, any employee, volunteer, or contracted agent of any health care provider, who is exposed, within the scope of his or her employment, to the blood or other potentially infectious materials of a source patient.

(f) Health care provider means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, any person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act, any person certified pursuant to Division 2.5 (commencing with Section 1797), any clinic, health dispensary, or health facility licensed or exempt from licensure pursuant to Division 2 (commencing with Section 1200), any employee, volunteer, or contracted agent of any group practice prepayment health care service plan regulated pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2), and any professional student of one of the clinics, health dispensaries, or health care facilities or health care providers described in this subdivision.

(g) First responder means a police officer, firefighter, rescue worker, or any other person who provides emergency response, first aid care, or other medically related assistance either in the course of the personsoccupational duties or as a volunteer.

(h) Other potentially infectious materials means those body fluids identified by the Division of Occupational Safety and Health as potentially capable of transmitting a communicable disease.

(i) Significant exposure means direct contact with blood or other potentially infectious materials of a patient in a manner that, according to the then applicable guidelines of the Division of Occupational Safety and Health, is capable of transmitting a communicable disease.

(j) Source patient means any person receiving health care services whose blood or other potentially infectious material has been the source of a significant exposure to an exposed individual.

(Added by Stats. 2002, Ch. 342, Sec. 1. Effective January 1, 2003.)

120262.

Notwithstanding Chapter 7 (commencing with Section 120975) or any other law, the blood or other tissue or material of a source patient may be tested, and an exposed individual may be informed whether the patient has tested positive or negative for a communicable disease if the exposed individual and the health care facility, if any, have substantially complied with the then applicable guidelines of the Division of Occupational Safety and Health and the State Department of Health Services and if the following procedure is followed:

(a) (1) If a person becomes an exposed individual by experiencing an exposure to the blood or other potentially infectious material of a patient during the course of rendering health care-related services or occupational services, the exposed individual may request an evaluation of the exposure by a physician to determine if it is a significant exposure, as defined in subdivision (h) of Section 120261. A physician or other exposed individual shall not certify his or her own significant exposure. However, an employing physician may certify the exposure of one of his or her employees. Requests for certification shall be made in writing within 72 hours of the exposure.

(2) A written certification by a physician of the significance of the exposure shall be obtained within 72 hours of the request. The certification shall include the nature and extent of the exposure.

(b) (1) The exposed individual shall be counseled regarding the likelihood of transmission, the limitations of the testing performed, the need for followup testing, and the procedures that the exposed individual must follow regardless of whether the source patient has tested positive or negative for a communicable disease. The exposed individual may be tested in accordance with the then applicable guidelines or standards of the Division of Occupational Safety and Health. The result of this test shall be confirmed as negative before available blood or other patient samples of the source patient may be tested for evidence of infection to a communicable disease, without the consent of the source patient pursuant to subdivision (d).

(2) Within 72 hours of certifying the exposure as significant, the certifying physician shall provide written certification to an attending physician of the source patient that a significant exposure to an exposed individual has occurred, and shall request information on whether the source patient has tested positive or negative for a communicable disease, and the availability of blood or other patient samples. An attending physician shall respond to the request for information within three working days.

(c) If test results of the source patient are already known to be positive for a communicable disease then, except as provided in subdivisions (b) and (c) of Section 121010, when the exposed individual is a health care provider or an employee or agent of the health care provider of the source patient, an attending physician and surgeon of the source patient shall attempt to obtain the consent of the source patient to disclose to the exposed individual the testing results of the source patient regarding communicable diseases. If the source patient cannot be contacted or refuses to consent to the disclosure, then the exposed individual may be informed of the test results regarding communicable diseases of the source patient by an attending physician of the source patient as soon as possible after the exposure has been certified as significant, notwithstanding Section 120980 or any other law.

(d) If the communicable disease status of the source patient is unknown to the certifying physician or an attending physician, if blood or other patient samples are available, and if the exposed individual has tested negative on a baseline test for communicable diseases, the source patient shall be given the opportunity to give informed consent to a test for communicable diseases in accordance with the following:

(1) Within 72 hours after receiving a written certification of significant exposure, an attending physician of the source patient shall do all of the following:

(A) Make a good faith effort to notify the source patient or the authorized legal representative of the source patient about the significant exposure. A good faith effort to notify includes, but is not limited to, a documented attempt to locate the source patient by telephone or by first-class mail with a certificate of mailing. An attempt to locate the source patient and the results of that attempt shall be documented in the medical record of the source patient. An inability to contact the source patient, or legal representative of the source patient, after a good faith effort to do so as provided in this subdivision, shall constitute a refusal of consent pursuant to paragraph (2). An inability of the source patient to provide informed consent shall constitute a refusal of consent pursuant to paragraph (2), provided all of the following conditions are met:

(i) The source patient has no authorized legal representative.

(ii) The source patient is incapable of giving consent.

(iii) In the opinion of the attending physician, it is likely that the source patient will be unable to grant informed consent within the 72-hour period during which the physician is required to respond pursuant to paragraph (1).

(B) Attempt to obtain the voluntary informed consent of the source patient or the authorized legal representative of the source patient to perform a test for a communicable disease, on the source patient or on any available blood or patient sample of the source patient. The voluntary informed consent shall be in writing. The source patient shall have the option not to be informed of the test result. An exposed individual shall be prohibited from attempting to obtain directly informed consent for testing for communicable diseases from the source patient.

(C) Provide the source patient with medically appropriate pretest counseling and refer the source patient to appropriate posttest counseling and followup, if necessary. The source patient shall be offered medically appropriate counseling whether or not he or she consents to testing.

(2) If the source patient or the authorized legal representative of the source patient refuses to consent to test for a communicable disease after a documented effort has been made to obtain consent, any available blood or patient sample of the source patient may be tested. The source patient or authorized legal representative of the source patient shall be informed that an available blood sample or other tissue or material will be tested despite his or her refusal, and that the exposed individual shall be informed of the test results regarding communicable diseases.

(3) If the informed consent of the source patient cannot be obtained because the source patient is deceased, consent to perform a test for a communicable disease on any blood or patient sample of the source patient legally obtained in the course of providing health care services at the time of the exposure event shall be deemed granted.

(4) A source patient or the authorized legal representative of a source patient shall be advised that he or she shall be informed of the results of the test for communicable diseases only if he or she wishes to be so informed. If a patient refuses to provide informed consent to testing for communicable diseases and refuses to learn the results of the testing, he or she shall sign a form documenting this refusal. The source patientsrefusal to sign this form shall be construed to be a refusal to be informed of the test results regarding communicable diseases. Test results for communicable diseases shall only be placed in the medical record when the patient has agreed in writing to be informed of the results.

(5) Notwithstanding any other law, if the source patient or authorized legal representative of a source patient refuses to be informed of the results of the test, the test results regarding communicable diseases of that source patient shall only be provided to the exposed individual in accordance with the then applicable regulations established by the Division of Occupational Safety and Health.

(6) The source patientsidentity shall be encoded on the communicable disease test result record.

(e) If an exposed individual is informed of the status of a source patient with regard to a communicable disease pursuant to this section, the exposed individual shall be informed that he or she is subject to existing confidentiality protections for any identifying information about the communicable disease test results, and that medical information regarding the communicable disease status of the source patient shall be kept confidential and may not be further disclosed, except as otherwise authorized by law. The exposed individual shall be informed of the penalties for which he or she would be personally liable for violation of Section 120980.

(f) The costs for the test and counseling for communicable diseases of the exposed individual, or the source patient, or both, shall be borne by the employer of the exposed individual, if any. An employer who directs and controls the exposed individual shall provide the postexposure evaluation and followup required by the Division of Occupational Safety and Health as well as the testing and counseling for source patients required under this chapter. If an exposed individual is a volunteer or a student, then the health care provider or first responder that assigned a task to the volunteer or student may pay for the costs of testing and counseling as if that volunteer or student were an employee. If an exposed individual, who is not an employee of a health facility or of another health care provider, chooses to obtain postexposure evaluation or followup counseling, or both, or treatment, he or she shall be financially responsible for the costs thereof and shall be responsible for the costs of the testing and counseling for the source patient.

(g) This section does not authorize the disclosure of the source patientsidentity.

(h) This section does not authorize a health care provider to draw blood or other body fluids except as otherwise authorized by law.

(i) The provisions of this section are cumulative only and shall not preclude testing of source patients for a communicable disease, as authorized by any other law.

(j) Except as otherwise provided under this section, all confidentiality requirements regarding medical records that are provided for under existing law apply to this section.

(Amended by Stats. 2015, Ch. 303, Sec. 348. (AB 731) Effective January 1, 2016.)

120263.

(a)No health care provider, as defined in this chapter, shall be subject to civil or criminal liability or professional disciplinary action for performing tests for a communicable disease on the available blood or patient sample of a source patient, or for disclosing the communicable disease status of a source patient to the source patient, an attending physician of the source patient, the certifying physician, the exposed individual, or any attending physician of the exposed individual, if the health care provider has acted in good faith in complying with this chapter.

(b)Any health care provider or first responder, or any exposed individual, who willfully performs or permits the performance of a test for a communicable disease on a source patient, that results in economic, bodily, or psychological harm to the source patient, without adhering to the procedure set forth in this chapter is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period not to exceed one year, or a fine not to exceed ten thousand dollars ($10,000), or by both.

(Added by renumbering Section 121140 by Stats. 2003, Ch. 62, Sec. 195. Effective January 1, 2004.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=1.&chapter=4.&article=

120290.

(a)(1)A defendant is guilty of intentional transmission of an infectious or communicable disease if all of the following apply:

(A)The defendant knows that he or she or a third party is afflicted with an infectious or communicable disease.

(B)The defendant acts with the specific intent to transmit or cause an afflicted third party to transmit that disease to another person.

(C)The defendant or the afflicted third party engages in conduct that poses a substantial risk of transmission to that person.

(D)The defendant or the third party transmits the infectious or communicable disease to the other person.

(E)If exposure occurs through interaction with the defendant and not a third party, the person exposed to the disease during voluntary interaction with the defendant did not know that the defendant was afflicted with the disease. A personsinteraction with the defendant is not involuntary solely on the basis of his or her lack of knowledge that the defendant was afflicted with the disease.

(2)A defendant is guilty of willful exposure to an infectious or communicable disease if a health officer, or the health officersdesignee, acting under circumstances that make securing a quarantine or health officer order infeasible, has instructed the defendant not to engage in particularized conduct that poses a substantial risk of transmission of an infectious or communicable disease, and the defendant engages in that conduct within 96 hours of the instruction. A health officer, or the health officersdesignee, may issue a maximum of two instructions to a defendant that may result in a violation of this paragraph.

(b)The defendant does not act with the intent required pursuant to subparagraph (B) of paragraph (1) of subdivision (a) if the defendant takes, or attempts to take, practical means to prevent transmission.

(c)Failure to take practical means to prevent transmission alone is insufficient to prove the intent required pursuant to subparagraph (B) of paragraph (1) of subdivision (a).

(d)Becoming pregnant while infected with an infectious or communicable disease, continuing a pregnancy

while infected with an infectious or communicable disease, or declining treatment for an infectious or communicable disease during pregnancy does not constitute a crime for purposes of this section.

(e)For purposes of this section, the following definitions shall apply:

(1)Conduct that poses a substantial risk of transmission means an activity that has a reasonable probability of disease transmission as proven by competent medical or epidemiological evidence. Conduct posing a low or negligible risk of transmission as proven by competent medical or epidemiological evidence does not meet the definition of conduct posing a substantial risk of transmission.

(2)Infectious or communicable disease means a disease that spreads from person to person, directly or indirectly, that has significant public health implications.

(3)Practical means to prevent transmission means a method, device, behavior, or activity demonstrated scientifically to measurably limit or reduce the risk of transmission of an infectious or communicable disease, including, but not limited to, the use of a condom, barrier protection or prophylactic device, or good faith compliance with a medical treatment regimen for the infectious or communicable disease prescribed by a health officer or physician.

(f)This section does not preclude a defendant from asserting any common law defense.

(g)(1)A violation of paragraph (1) of subdivision (a) or paragraph (2) of subdivision (a) is a misdemeanor, punishable by imprisonment in a county jail for not more than six months.

(2)A person who attempts to intentionally transmit an infectious or communicable disease by engaging in the conduct described in subparagraphs (A), (B), (C), and (E) of paragraph (1) of subdivision (a) is guilty of a misdemeanor punishable by imprisonment in a county jail for not more than 90 days.

(h)(1)When alleging a violation of subdivision (a), the prosecuting attorney or the grand jury shall substitute a pseudonym for the true name of a complaining witness. The actual name and other identifying characteristics of a complaining witness shall be revealed to the court only in camera, unless the complaining witness requests otherwise, and the court shall seal the information from further disclosure, except by counsel as part of discovery.

(2)Unless the complaining witness requests otherwise, all court decisions, orders, petitions, and other documents, including motions and papers filed by the parties, shall be worded so as to protect the name or other identifying characteristics of the complaining witness from public disclosure.

(3)Unless the complaining witness requests otherwise, a court in which a violation of this section is filed shall, at the first opportunity, issue an order that prohibits counsel, their agents, law enforcement personnel, and court staff from making a public disclosure of the name or any other identifying characteristic of the complaining witness.

(4)Unless the defendant requests otherwise, a court in which a violation of this section is filed, at the earliest opportunity, shall issue an order that counsel and their agents, law enforcement personnel, and court staff, before a finding of guilt, not publicly disclose the name or other identifying characteristics of the defendant, except by counsel as part of discovery or to a limited number of relevant individuals in its investigation of the specific charges under this section. In any public disclosure, a pseudonym shall be substituted for the true name of the defendant.

(5)For purposes of this subdivision, identifying characteristics includes, but is not limited to, the name or

any part of the name, address or any part of the address, city or unincorporated area of residence, age, marital status, relationship of the defendant and complaining witness, place of employment, or race or ethnic background.

(i)(1)A court, upon a finding of probable cause that an individual has violated this section, shall order the production of the individualsmedical records or the attendance of a person with relevant knowledge thereof, so long as the return of the medical records or attendance of the person pursuant to the subpoena is submitted initially to the court for an in-camera inspection. Only upon a finding by the court that the medical records or proffered testimony are relevant to the pleading offense, the information produced pursuant to the courtsorder shall be disclosed to the prosecuting entity and admissible if otherwise permitted by law.

(2)A defendantsmedical records, medications, prescriptions, or medical devices shall not be used as the sole basis of establishing the specific intent required pursuant to subparagraph (B) of paragraph (1) of subdivision (a).

(3)Surveillance reports and records maintained by state and local health officials shall not be subpoenaed or released for the purpose of establishing the specific intent required pursuant to subparagraph (B) of paragraph (1) of subdivision (a).

(4)A court shall take judicial notice of any fact establishing an element of the offense upon the defendantsmotion or stipulation.

(5)A defendant is not prohibited from submitting medical evidence to show the absence of the stated intent required pursuant to subparagraph (B) of paragraph (1) of subdivision (a).

(j)Before sentencing, a defendant shall be assessed for placement in one or more community-based programs that provide counseling, supervision, education, and reasonable redress to the victim or victims.

(k)(1)This section does not apply to a person who donates an organ or tissue for transplantation or research purposes.

(2)This section does not apply to a person, whether a paid or volunteer donor, who donates breast milk to a medical center or breast milk bank that receives breast milk for purposes of distribution.

(Repealed and added by Stats. 2017, Ch. 537, Sec. 5. (SB 239) Effective January 1, 2018.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=105.&title=&part=2.&chapter=&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=105.&title=&part=2.&chapter=&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.

&title=&part=2.&chapter=1.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=2.&chapter=1.&article=)

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 2. IMMUNIZATIONS [120325 - 120480]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 1. Educational and Child Care Facility Immunization Requirements [120325 - 120380]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 7.)

120325.

In enacting this chapter, but excluding Section 120380, and in enacting Sections 120400, 120405, 120410, and 120415, it is the intent of the Legislature to provide:

(a)A means for the eventual achievement of total immunization of appropriate age groups against the following childhood diseases:

(1)Diphtheria.

(2)Hepatitis B.

(3)Haemophilus influenzae type b.

(4)Measles.

(5)Mumps.

(6)Pertussis (whooping cough).

(7)Poliomyelitis.

(8)Rubella.

(9)Tetanus.

(10)Varicella (chickenpox).

(11)Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(b)That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the department and that a record of the immunization is made in accordance with the regulations.

(c)Exemptions from immunization for medical reasons.

(d)For the keeping of adequate records of immunization so that health departments, schools, and other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups of children in schools or other institutions.

(e)Incentives to public health authorities to design innovative and creative programs that will promote and achieve full and timely immunization of children.

(Amended by Stats. 2015, Ch. 35, Sec. 1. (SB 277) Effective January 1, 2016.)

120330.

The department, in consultation with the Department of Education, shall adopt and enforce all regulations necessary to carry out Chapter 1 (commencing with Section 120325, but excluding Section 120380) and to carry out Sections 120400, 120405, 120410, and 120415.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120335.

(a)As used in this chapter, governing authority means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b)The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless, prior to his or her first admission to that institution, he or she has been fully immunized. The following are the diseases for which immunizations shall be documented:

(1)Diphtheria.

(2)Haemophilus influenzae type b.

(3)Measles.

(4)Mumps.

(5)Pertussis (whooping cough).

(6)Poliomyelitis.

(7)Rubella.

(8)Tetanus.

(9)Hepatitis B.

(10)Varicella (chickenpox).

(11)Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians.

(c)Notwithstanding subdivision (b), full immunization against hepatitis B shall not be a condition by which the governing authority shall admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school.

(d)The governing authority shall not unconditionally admit or advance any pupil to the 7th grade level of any private or public elementary or secondary school unless the pupil has been fully immunized against pertussis, including all pertussis boosters appropriate for the pupilsage.

(e)The department may specify the immunizing agents that may be utilized and the manner in which immunizations are administered.

(f)This section does not apply to a pupil in a home-based private school or a pupil who is enrolled in an independent study program pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of the Education Code and does not receive classroom-based instruction.

(g)(1)A pupil who, prior to January 1, 2016, submitted a letter or affidavit on file at a private or public elementary or secondary school, child day care center, day nursery, nursery school, family day care home, or development center stating beliefs opposed to immunization shall be allowed enrollment to any private or public elementary or secondary school, child day care center, day nursery, nursery school, family day care home, or development center within the state until the pupil enrolls in the next grade span.

(2)For purposes of this subdivision, grade span means each of the following:

(A)Birth to preschool.

(B)Kindergarten and grades 1 to 6, inclusive, including transitional kindergarten.

(C)Grades 7 to 12, inclusive.

(3)Except as provided in this subdivision, on and after July 1, 2016, the governing authority shall not unconditionally admit to any of those institutions specified in this subdivision for the first time, or admit or advance any pupil to 7th grade level, unless the pupil has been immunized for his or her age as required by this section.

(h)This section does not prohibit a pupil who qualifies for an individualized education program, pursuant to federal law and Section 56026 of the Education Code, from accessing any special education and related services required by his or her individualized education program.

(Amended by Stats. 2015, Ch. 35, Sec. 2. (SB 277) Effective January 1, 2016.)

120336.

(a)Pupils in the state are advised, as described in subdivision (b), to adhere to current immunization guidelines, as recommended by the Advisory Committee on Immunization Practices (ACIP) of the federal Centers for Disease Control and Prevention (CDC), the American Academy of Pediatrics, and the American Academy of Family Physicians, regarding full human papillomavirus (HPV) immunization before admission or advancement to the eighth grade level of any private or public elementary or secondary school.

(b)Upon a pupilsadmission or advancement to the sixth grade level, the governing authority of any private or public elementary or secondary school shall submit to the pupil and their parent or guardian a notification containing a statement about the statespublic policy described in subdivision (a) and advising that the pupil adhere to current HPV immunization guidelines, as described in subdivision (a), before admission or advancement to the eighth grade level, in compliance with the notification requirements of Article 4 (commencing with Section 48980) of Chapter 6 of Part 27 of Division 4 of Title 2 of the Education Code.

(c)The notification sent pursuant to subdivision (b) shall also include a statement, as determined by the department, summarizing the recommended ages for the HPV vaccine and scientific rationale for vaccination at those ages, based on guidance issued by ACIP of the CDC, the American Academy of Pediatrics, and the American Academy of Family Physicians. The notification shall further state the following:

HPV vaccination can prevent over 90 percent of cancers caused by HPV. HPV vaccines are very safe, and scientific research shows that the benefits of HPV vaccination far outweigh the potential risks.

(d)This section does not apply to a pupil in a home-based private school.

(Added by Stats. 2023, Ch. 809, Sec. 4. (AB 659) Effective January 1, 2024.)

120338.

Notwithstanding Sections 120325 and 120335, any immunizations deemed appropriate by the department pursuant to paragraph (11) of subdivision (a) of Section 120325 or paragraph (11) of subdivision (b) of Section 120335, may be mandated before a pupilsfirst admission to any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, only if exemptions are allowed for both medical reasons and personal beliefs.

(Added by Stats. 2015, Ch. 35, Sec. 3. (SB 277) Effective January 1, 2016.)

120340.

A person who has not been fully immunized against one or more of the diseases listed in Section 120335 may be admitted by the governing authority on condition that within time periods designated by regulation of the department he or she presents evidence that he or she has been fully immunized against all of these diseases.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120341.

(a)The governing authority shall admit a foster child, as defined in subdivision (a) of Section 48853.5 of the Education Code, whose immunization records are not available or are missing.

(b)This section shall not alter the obligation of the governing authority to obtain a foster childsimmunization records pursuant to Section 48853.5 of the Education Code or to ensure the immunization of a foster child pursuant to this chapter.

(Added by Stats. 2011, Ch. 463, Sec. 3. (AB 709) Effective January 1, 2012.)

120345.

The immunizations required by Chapter 1 (commencing with Section 120325, but excluding Section 120380) and required by Sections 120400, 120405, 120410, and 120415 may be obtained from any private or public source desired if the immunization is administered and records are made in accordance with regulations of the department.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120350.

The county health officer of each county shall organize and maintain a program to make immunizations available to all persons required by Chapter 1 (commencing with Section 120325, but excluding Section 120380) and required by Sections 120400, 120405, 120410, and 120415 to be immunized. The county health officer shall also determine how the cost of the program is to be recovered. To the extent that the cost to the county is in excess of that sum recovered from persons immunized, the cost shall be paid by the county in the same manner as other expenses of the county are paid.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120355.

Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or guardian, with a written record of immunization given in a form prescribed by the department.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120360.

The requirements of Chapter 1 (commencing with Section 120325, but excluding Section 120380) and of Sections 120400, 120405, 120410, and 120415 shall not apply to any person 18 years of age or older, or to any person seeking admission to a community college.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120370.

(a)(1)Prior to January 1, 2021, if the parent or guardian files with the governing authority a written statement by a licensed physician and surgeon to the effect that the physical condition of the child is such, or medical circumstances relating to the child are such, that immunization is not considered safe, indicating the specific nature and probable duration of the medical condition or circumstances, including, but not limited to, family medical history, for which the physician and surgeon does not recommend immunization, that child shall be exempt from the requirements of this chapter, except for Section 120380, and exempt from Sections 120400, 120405, 120410, and 120415 to the extent indicated by the physician and surgeonsstatement.

(2)Commencing January 1, 2020, a child who has a medical exemption issued before January 1, 2020, shall be allowed continued enrollment to any public or private elementary or secondary school, child care center, day nursery, nursery school, family day care home, or developmental center within the state until the child enrolls in the next grade span.

For purposes of this subdivision, grade span means each of the following:

(A)Birth to preschool, inclusive.

(B)Kindergarten and grades 1 to 6, inclusive, including transitional kindergarten.

(C)Grades 7 to 12, inclusive.

(3)Except as provided in this subdivision, on and after July 1, 2021, the governing authority shall not unconditionally admit or readmit to any of those institutions specified in this subdivision, or admit or advance any pupil to 7th grade level, unless the pupil has been immunized pursuant to Section 120335 or the parent or guardian files a medical exemption form that complies with Section 120372.

(b)If there is good cause to believe that a child has been exposed to a disease listed in subdivision (b) of Section 120335 and the childsdocumentary proof of immunization status does not show proof of

immunization against that disease, that child may be temporarily excluded from the school or institution until the local health officer is satisfied that the child is no longer at risk of developing or transmitting the disease.

(Amended by Stats. 2019, Ch. 281, Sec. 1. (SB 714) Effective January 1, 2020.)

120372.

(a)(1)By January 1, 2021, the department shall develop and make available for use by licensed physicians and surgeons an electronic, standardized, statewide medical exemption certification form that shall be transmitted directly to the departmentsCalifornia Immunization Registry (CAIR) established pursuant to Section 120440. Pursuant to Section 120375, the form shall be printed, signed, and submitted directly to the school or institution at which the child will attend, submitted directly to the governing authority of the school or institution, or submitted to that governing authority through the CAIR where applicable. Notwithstanding Section 120370, commencing January 1, 2021, the standardized form shall be the only documentation of a medical exemption that the governing authority may accept.

(2)At a minimum, the form shall require all of the following information:

(A)The name, California medical license number, business address, and telephone number of the physician and surgeon who issued the medical exemption, and of the primary care physician of the child, if different from the physician and surgeon who issued the medical exemption.

(B)The name of the child for whom the exemption is sought, the name and address of the childsparent or guardian, and the name and address of the childsschool or other institution.

(C)A statement certifying that the physician and surgeon has conducted a physical examination and evaluation of the child consistent with the relevant standard of care and complied with all applicable requirements of this section.

(D)Whether the physician and surgeon who issued the medical exemption is the childsprimary care physician. If the issuing physician and surgeon is not the childsprimary care physician, the issuing physician and surgeon shall also provide an explanation as to why the issuing physician and not the primary care physician is filling out the medical exemption form.

(E)How long the physician and surgeon has been treating the child.

(F)A description of the medical basis for which the exemption for each individual immunization is sought. Each specific immunization shall be listed separately and space on the form shall be provided to allow for the inclusion of descriptive information for each immunization for which the exemption is sought.

(G)Whether the medical exemption is permanent or temporary, including the date upon which a temporary medical exemption will expire. A temporary exemption shall not exceed one year. All medical exemptions shall not extend beyond the grade span, as defined in Section 120370.

(H)An authorization for the department to contact the issuing physician and surgeon for purposes of this section and for the release of records related to the medical exemption to the department, the Medical Board of California, and the Osteopathic Medical Board of California.

(I)A certification by the issuing physician and surgeon that the statements and information contained in the form are true, accurate, and complete.

(3)An issuing physician and surgeon shall not charge for either of the following:

(A)Filling out a medical exemption form pursuant to this section.

(B) A physical examination related to the renewal of a temporary medical exemption.

(b)Commencing January 1, 2021, if a parent or guardian requests a licensed physician and surgeon to submit a medical exemption for the parentsor guardianschild, the physician and surgeon shall inform the parent or guardian of the requirements of this section. If the parent or guardian consents, the physician and surgeon shall examine the child and submit a completed medical exemption certification form to the department. A medical exemption certification form may be submitted to the department at any time.

(c)By January 1, 2021, the department shall create a standardized system to monitor immunization levels in schools and institutions as specified in Sections 120375 and 120440, and to monitor patterns of unusually high exemption form submissions by a particular physician and surgeon.

(d)(1)The department, at a minimum, shall annually review immunization reports from all schools and institutions in order to identify medical exemption forms submitted to the department and under this section that will be subject to paragraph (2).

(2)A clinically trained immunization department staff member, who is either a physician and surgeon or a registered nurse, shall review all medical exemptions from any of the following:

(A)Schools or institutions subject to Section 120375 with an overall immunization rate of less than 95 percent.

(B)Physicians and surgeons who have submitted five or more medical exemptions in a calendar year beginning January 1, 2020.

(C)Schools or institutions subject to Section 120375 that do not provide reports of vaccination rates to the department.

(3)(A)The department shall identify those medical exemption forms that do not meet applicable CDC, ACIP, or AAP criteria for appropriate medical exemptions. The department may contact the primary care physician and surgeon or issuing physician and surgeon to request additional information to support the medical exemption.

(B)Notwithstanding subparagraph (A), the department, based on the medical discretion of the clinically trained immunization staff member, may accept a medical exemption that is based on other contraindications or precautions, including consideration of family medical history, if the issuing physician and surgeon provides written documentation to support the medical exemption that is consistent with the relevant standard of care.

(C)A medical exemption that the reviewing immunization department staff member determines to be inappropriate or otherwise invalid under subparagraphs (A) and (B) shall also be reviewed by the State Public Health Officer or a physician and surgeon from the departmentsimmunization program designated by the State Public Health Officer. Pursuant to this review, the State Public Health Officer or physician and surgeon designee may revoke the medical exemption.

(4)Medical exemptions issued prior to January 1, 2020, shall not be revoked unless the exemption was issued by a physician or surgeon that has been subject to disciplinary action by the Medical Board of California or the Osteopathic Medical Board of California.

(5)The department shall notify the parent or guardian, issuing physician and surgeon, the school or institution, and the local public health officer with jurisdiction over the school or institution of a denial or revocation under this subdivision.

(6)If a medical exemption is revoked pursuant to this subdivision, the child shall continue in attendance. However, within 30 calendar days of the revocation, the child shall commence the immunization schedule required for conditional admittance under Chapter 4 (commencing with Section 6000) of Division 1 of Title 17 of the California Code of Regulations in order to remain in attendance, unless an appeal is filed pursuant to Section 120372.05 within that 30-day time period, in which case the child shall continue in attendance and shall not be required to otherwise comply with immunization requirements unless and until the revocation is upheld on appeal.

(7)(A)If the department determines that a physiciansand surgeonspractice is contributing to a public health risk in one or more communities, the department shall report the physician and surgeon to the Medical Board of California or the Osteopathic Medical Board of California, as appropriate. The department shall not accept a medical exemption form from the physician and surgeon until the physician and surgeon demonstrates to the department that the public health risk no longer exists, but in no event shall the physician and surgeon be barred from submitting these forms for less than two years.

(B)If there is a pending accusation against a physician and surgeon with the Medical Board of California or the Osteopathic Medical Board of California relating to immunization standards of care, the department shall not accept a medical exemption form from the physician and surgeon unless and until the accusation is resolved in favor of the physician and surgeon.

(C)If a physician and surgeon licensed with the Medical Board of California or the Osteopathic Medical Board of California is on probation for action relating to immunization standards of care, the department and governing authority shall not accept a medical exemption form from the physician and surgeon unless and until the probation has been terminated.

(8)The department shall notify the Medical Board of California or the Osteopathic Medical Board of California, as appropriate, of any physician and surgeon who has five or more medical exemption forms in a calendar year that are revoked pursuant to this subdivision.

(9)Notwithstanding any other provision of this section, a clinically trained immunization program staff member who is a physician and surgeon or a registered nurse may review any exemption in the CAIR or other state database as necessary to protect public health.

(e)The department, the Medical Board of California, and the Osteopathic Medical Board of California shall enter into a memorandum of understanding or similar agreement to ensure compliance with the requirements of this section.

(f)In administering this section, the department and the independent expert review panel created pursuant to Section 120372.05 shall comply with all applicable state and federal privacy and confidentiality laws. The department may disclose information submitted in the medical exemption form in accordance with Section 120440, and may disclose information submitted pursuant to this chapter to the independent expert review panel for the purpose of evaluating appeals.

(g)The department shall establish the process and guidelines for review of medical exemptions pursuant to this section. The department shall communicate the process to providers and post this information on the departmentswebsite.

(h)If the department or the California Health and Human Services Agency determines that contracts are required to implement or administer this section, the department may award these contracts on a single-source or sole-source basis. The contracts are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, or Sections 4800 to 5180, inclusive, of the State Administrative Manual as they relate to approval of information technology projects or approval of increases in the duration or costs of information technology projects.

(i)Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer this section through provider bulletins, or similar instructions, without taking regulatory action.

(j)For purposes of administering this section, the department and the California Health and Human Services Agency appeals process shall be exempt from the rulemaking and administrative adjudication provisions in the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(Amended by Stats. 2020, Ch. 370, Sec. 212. (SB 1371) Effective January 1, 2021.)

120372.05.

(a)A medical exemption revoked pursuant to Section 120372 may be appealed by a parent or guardian to the Secretary of California Health and Human Services. Parents, guardians, or the physician who issued the medical exemption may provide necessary information for purposes of the appeal.

(b)The secretary shall establish an independent expert review panel, consisting of three licensed physicians and surgeons who have relevant knowledge, training, and experience relating to primary care or immunization to review appeals. The agency shall establish the process and guidelines for the appeals process pursuant to this section, including the process for the panel to contact the issuing physician and surgeon, parent, or guardian. The agency shall post this information on the agencysinternet website. The agency shall also establish requirements, including conflict-of-interest standards, consistent with the purposes of this chapter, that a physician and surgeon shall meet in order to qualify to serve on the panel.

(c)The independent expert review panel shall evaluate appeals consistent with the federal Centers for Disease Control and Prevention, federal Advisory Committee on Immunization Practices, or American Academy of Pediatrics guidelines or the relevant standard of care, as applicable.

(d)The independent expert review panel shall submit its determination to the secretary. The secretary shall adopt the determination of the independent expert review panel and shall promptly issue a written decision to the childsparent or guardian. The decision shall not be subject to further administrative review.

(e)A child whose medical exemption revocation pursuant to subdivision (d) of Section 120372 is appealed

under this section shall continue in attendance and shall not be required to commence the immunization required for conditional admittance under Chapter 4 (commencing with Section 6000) of Division 1 of Title 17 of the California Code of Regulations, provided that the appeal is filed within 30 calendar days of revocation of the medical exemption.

(f)For purposes for administering this section, the department and the California Health and Human Services Agency appeals process shall be exempt from the rulemaking and administrative adjudication provisions in the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(Amended by Stats. 2020, Ch. 370, Sec. 213. (SB 1371) Effective January 1, 2021.)

120375.

(a)The governing authority of each school or institution included in Section 120335 shall require documentary proof of each entrantsimmunization status. The governing authority shall record the immunizations of each new entrant in the entrantspermanent enrollment and scholarship record on a form provided by the department. The immunization record of each new entrant admitted conditionally shall be reviewed periodically by the governing authority to ensure that within the time periods designated by regulation of the department the entrant has been fully immunized against all of the diseases listed in Section 120335, and immunizations received after entry shall be added to the pupilsimmunization record.

(b)The governing authority of each school or institution included in Section 120335 shall prohibit from further attendance any pupil admitted conditionally who failed to obtain the required immunizations within the time limits allowed in the regulations of the department until that pupil has been fully immunized against all of the diseases listed in Section 120335, unless the pupil is exempted under Section 120370 or 120372.

(c)The governing authority shall file a written report, on at least an annual basis, on the immunization status of new entrants to the school or institution under their jurisdiction with the department and the local health department on forms prescribed by the department. As provided in paragraph (4) of subdivision (a) of Section 49076 of the Education Code, the local health department shall have access to the complete health information as it relates to immunization of each student in the schools or other institutions listed in Section 120335 in order to determine immunization deficiencies.

(d)The governing authority shall cooperate with the county health officer in carrying out programs for the immunization of persons applying for admission to any school or institution under its jurisdiction. The governing board of any school district may use funds, property, and personnel of the district for that purpose. The governing authority of any school or other institution may permit any licensed physician or any qualified registered nurse to administer immunizing agents to any person seeking admission to any school or institution under its jurisdiction.

(Amended by Stats. 2019, Ch. 278, Sec. 5. (SB 276) Effective January 1, 2020.)

120380.

It is the intent of the Legislature that the administration of immunizing agents by registered nurses in school

immunization programs under the direction of a supervising physician and surgeon as provided in Sections 49403 and 49426 of the Education Code shall be in accordance with accepted medical procedure. To implement this intent, the department may adopt written regulations specifying the procedures and circumstances under which a registered nurse, acting under the direction of a supervising physician and surgeon, may administer an immunizing agent pursuant to Sections 49403 and 49426 of the Education Code.

However, nothing in this section shall be construed to prevent any registered nurse from administering an immunizing agent in accordance with Sections 49403 and 49426 of the Education Code in the absence of written regulations as the department is authorized to adopt under this section.

(Amended by Stats. 1997, Ch. 97, Sec. 6. Effective July 21, 1997.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=2.&chapter=1.1.&article=

__CHAPTER 1.1. Meningococcal Disease Strategic Prevention Act of 2001 [120381- 120381.]__

(Chapter 1.1 added by Stats. 2001, Ch. 374, Sec. 3.)

120381.

(a) The State Department of Health Services, in consultation with the State Department of Education, local public health agencies, and postsecondary educational institutions, shall develop a Meningococcal Disease Strategic Prevention Plan.

(b) The plan shall include, but not be limited to, a review of all of the following:

(1) The current scientific literature on meningococcal disease.

(2) Experiences of other state and local governmental jurisdictions in the prevention of meningococcal disease and in prevention programs for similarly infectious diseases, such as tuberculosis and hepatitis.

(3) The possible role of age-specific vaccination programs for meningococcal disease.

(4) The availability of vaccines for meningococcal disease.

(5) The application and roles of other governmental programs.

(6) Current health plan coverages and other health insurance products.

(c) The victims of meningococcal disease and their families shall be involved and have input in the development of the plan.

(d) The department shall encourage public and private medical entities to cooperate with each other to make

meningococcus vaccines and vaccinations accessible and provide any currently available vaccines to families that desire that their children be inoculated.

(e) The plan shall be completed and made available to the Legislature on or before June 30, 2002.

(Added by Stats. 2001, Ch. 374, Sec. 3. Effective October 1, 2001.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=2.&chapter=1.5.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 2. IMMUNIZATIONS [120325 - 120480]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 1.5. Immunization of College-Age Students [120390 - 120390.7]__

(Chapter 1.5 added by Stats. 1999, Ch. 146, Sec. 5.5.)

120390.

The department, in consultation with the Trustees of the California State University, the Regents of the University of California, and the Board of Governors of the California Community Colleges, as applicable, shall adopt and enforce all regulations necessary to carry out this chapter.

(Amended by Stats. 2023, Ch. 809, Sec. 5. (AB 659) Effective January 1, 2024.)

120390.5.

(a) Except as provided in subdivisions (b), (c), and (d), on or after January 1, 2000, the Trustees of the

California State University, and the Regents of the University of California shall require the first-time enrollees at those institutions who are 18 years of age or younger to provide proof of full immunization against the hepatitis B virus prior to enrollment.

(b) A person who has not been fully immunized against the hepatitis B virus, as required by subdivision (a), may be admitted by the governing body of any of the institutions of higher education to which subdivision (a) is applicable on condition that, within a designated time period, the person will provide proof of full immunization against hepatitis B.

(c) Immunization of a person shall not be required for admission to an institution of higher education to which subdivision (a) is applicable if any of the following persons files with the governing body of the educational institution a letter or affidavit stating that the immunization is contrary to the beliefs of either of the following:

(1) The parent, guardian, or adult who has assumed responsibility for the care and custody of the person seeking admission, if that applicant is a minor who is not emancipated or who is 17 years of age or younger.

(2) The person seeking admission, if that applicant is an emancipated minor or is 18 years of age.

(d) If a person seeking enrollment in an institution of higher education to which subdivision (a) is applicable, or the parent or guardian of a person seeking enrollment, files with the governing body a written statement by a physician and surgeon that the physical condition of the person or medical circumstances relating to the person are such that immunization is not considered safe, indicating the specific nature and probable duration of the medical condition or circumstances that contraindicate immunization, that person shall be exempt from the requirements of subdivision (a).

(Added by Stats. 1999, Ch. 146, Sec. 5.5. Effective July 22, 1999.)

120390.6.

It is the public policy of the state that students who are 26 years of age or younger are advised to adhere to current immunization guidelines, as recommended by the Advisory Committee on Immunization Practices of the federal Centers for Disease Control and Prevention, the American Academy of Pediatrics, and the American Academy of Family Physicians, regarding full human papillomavirus (HPV) immunization before first-time enrollment at an institution of the California State University, the University of California, or the California Community Colleges.

(Added by Stats. 2023, Ch. 809, Sec. 6. (AB 659) Effective January 1, 2024.)

120390.7.

No provision of this chapter shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make that provision applicable.

(Added by Stats. 1999, Ch. 146, Sec. 5.5. Effective July 22, 1999.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=2.&chapter=1.6.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 2. IMMUNIZATIONS [120325 - 120480]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 1.6. Influenza and Pneumococcal Immunizations [120392 - 120393]__

(Chapter 1.6 added by Stats. 2004, Ch. 36, Sec. 1.)

120392.

For purposes of this chapter, the following definitions apply:

(a)Health care facility means a skilled nursing facility as defined in subdivision (c) of Section 1250, an intermediate care facility as defined in subdivision (d) of Section 1250, or a nursing facility as defined in subdivision (k) of Section 1250. This chapter shall not apply to hospital-based skilled nursing facilities.

(b)Medically contraindicated means that the administration of the influenza or pneumococcal vaccines to a person, because of a medical condition of that person, would be detrimental to the personshealth if the person receives either or both of the vaccines.

(Added by Stats. 2004, Ch. 36, Sec. 1. Effective January 1, 2005.)

120392.2.

(a)Each year, commencing October 1 to the following April 1, inclusive, every health care facility, as defined in subdivision (a) of Section 120392, shall offer, pursuant to Section 120392.4, immunizations for influenza and pneumococcal disease to residents, aged 65 years or older, receiving services at the facility, based upon the

latest recommendations of the Advisory Committee on Immunization Practices (ACIP) of the Centers for Disease Control and Prevention, and the latest recommendations of appropriate entities for the prevention, detection, and control of influenza outbreaks in California long-term care facilities.

(b)Each health care facility, as defined in subdivision (a) of Section 120392, shall offer, pursuant to Section 120392.4, pneumococcal vaccine to all new admittees to the health care facility, based on the latest recommendations of the ACIP.

(c)The facility shall be reimbursed the standard Medi-Cal rate for an immunization provided to a Medi-Cal recipient, unless he or she is also a Medicare recipient whose coverage includes reimbursement for the immunization.

(Added by Stats. 2004, Ch. 36, Sec. 1. Effective January 1, 2005.)

120392.3.

(a)The department shall provide appropriate flu vaccine to local governmental or private, nonprofit agencies at no charge in order that the agencies may provide the vaccine, at a minimal cost, at accessible locations. The department and the California Department of Aging shall prepare, publish, and disseminate information regarding the availability of the vaccine and the effectiveness of the vaccine in protecting the health of older persons.

(b)In administering this section, the department may provide guidance to local agencies as to whether one or more population groups shall have priority for the flu vaccine offered through this program. In developing this guidance, the department shall consider the influenza recommendations of the federal Centers for Disease Control and PreventionsAdvisory Committee on Immunization Practices (ACIP) or other criteria in order to ensure that the vaccination program is efficient and effective in meeting public health goals. Any guidance issued pursuant to this subdivision shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). In the absence of guidance from the department, local agencies shall be guided by the influenza recommendations of the ACIP.

(c)The department may provide appropriate vaccine that prevents other respiratory infections to local governmental or private, nonprofit agencies at no charge in order that the agencies may provide the vaccine, at a minimal cost, at accessible locations for groups identified as high risk by the ACIP.

(d)The program shall be designed to use voluntary assistance from public or private sectors in administering the vaccines. However, local governmental or private, nonprofit agencies may charge and retain a fee not exceeding two dollars ($2) per person to offset administrative operating costs.

(e)Except when the department determines that it is not feasible to use federal funds due to excessive administrative costs, the department shall seek and use available federal funds to the maximum extent possible for the cost of the vaccine, the cost of administering the vaccine, and the minimal fee charged under this section, including reimbursement under the Medi-Cal program for persons eligible therefor to the extent permitted by federal law.

(f)A private, nonprofit volunteer agency whose involvement with an immunization program governed by this section is limited to the provision of a clinic site or promotional and logistical support pursuant to subdivision (c), or any employee or member thereof, shall not be liable for any injury caused by an act or

omission in the administration of the vaccine or other immunizing agent, if the immunization is performed pursuant to this section in conformity with applicable federal, state, or local governmental standards and the act or omission does not constitute willful misconduct or gross negligence. As used in this subdivision, injury includes the residual effects of the vaccine or other immunizing agent. It is the intent of the Legislature in adding this subdivision to affect only the liability of private, nonprofit volunteer agencies and their members that are not health facilities, as defined in Section 1250.

(g)This section shall not be construed to require the physical presence of a directing or supervising physician, or the examination by a physician of persons to be tested or immunized.

(Added by Stats. 2012, Ch. 443, Sec. 3. (AB 2009) Effective January 1, 2013.)

120392.4.

(a)A resident who receives services at a health care facility during the period of October 1 to April 1 shall have his or her status for influenza and pneumococcal immunization determined by his or her physician or facility medical director, and, if appropriate, the facility shall offer to make the immunizations available, unless the facility, through written policies and procedures and using standardized nursing procedures, offers to make the immunizations available without limitation as to the period when the residents receive services at the facility.

(b)A health care facility shall obtain from a resident who requests immunization services, or, if the person lacks the capacity to make medical decisions, from the person legally authorized to make medical decisions on the residentsbehalf, informed consent for the resident to be immunized by vaccination against influenza or pneumococcal disease, or both, to be conducted by the facility while the resident is receiving services at the facility.

(c)A health care facility shall comply with Section 1418.8 with respect to a resident who lacks the capacity to make health care decisions, and there is no person with legal authority to make these decisions on behalf of the resident.

(d)The health care facility shall document in a residentsmedical record whether the resident has been offered the influenza vaccine or the pneumococcal vaccine.

(Added by Stats. 2004, Ch. 36, Sec. 1. Effective January 1, 2005.)

120392.6.

No person who has been offered the vaccine as required under this chapter may receive either an influenza vaccine or pneumococcal vaccine pursuant to this chapter if any of the following conditions exists:

(a)The vaccine is medically contraindicated, as described in the product labeling approved by the federal Food and Drug Administration or by the recommendations established by the Advisory Committee on Immunization Practice (ACIP) of the Centers for Disease Control and Prevention that are in effect at the time of vaccination.

(b)Receipt of the vaccine is against the residentspersonal beliefs.

(c)Receipt of the vaccine is against the residentswishes, or, if the person lacks the capacity to make medical decisions, is against the wishes of the person legally authorized to make medical decisions on the residentsbehalf.

(Added by Stats. 2004, Ch. 36, Sec. 1. Effective January 1, 2005.)

120392.8.

(a)Notwithstanding any other provision of this chapter, a health care facility shall not be required to offer immunizations for influenza and pneumococcal disease under either of the following circumstances:

(1)The facility is unable to obtain the vaccine due to a shortage of the supply of vaccine.

(2)The resident refuses to pay for the vaccine and there is no other funding source available to pay for the cost of the vaccine.

(b)If a health care facility, as defined in subdivision (a) of Section 120392, fails to offer an immunization pursuant to this chapter due to lack of availability of vaccine, a physiciansrefusal to assess the resident or cooperate with the recommendations of the provisions of this chapter, or lack of resident cooperation, the failure shall not be the basis for issuing a deficiency or citation against the facilityslicense.

(c)This chapter is intended to encourage immunizations for residents in health care facilities, and the department shall consider a facilitysefforts to prevent a violation of this chapter prior to issuing a deficiency or citation. The department may issue a deficiency or citation for failure to comply with Section 120392.4.

(Added by Stats. 2004, Ch. 36, Sec. 1. Effective January 1, 2005.)

120392.9.

Pursuant to its standardized procedures and if it has the vaccine in its possession, each year, commencing October 1 to the following April 1, inclusive, a general acute care hospital, as defined in subdivision (a) of Section 1250, shall offer, prior to discharge, immunizations for influenza and pneumococcal disease to inpatients, aged 65 years or older, based upon the adult immunization recommendations of the Advisory Committee on Immunization Practices of the federal Centers for Disease Control and Prevention, and the recommendations of appropriate entities for the prevention, detection, and control of influenza outbreaks in California general acute care hospitals.

(Added by Stats. 2007, Ch. 378, Sec. 1. Effective January 1, 2008.)

120393.

(a)The State Department of Public Health shall post educational information, in accordance with the latest recommendations of the federal Centers for Disease Control and Prevention, regarding influenza disease and the availability of influenza vaccinations on the departmentsInternet Web site. It is the intent of the

Legislature to increase the average number of Californians who receive an influenza vaccination.

(b)The educational information posted on the departmentsInternet Web site pursuant to subdivision (a) shall include, but not be limited to, all of the following:

(1)The health benefits of an influenza vaccination.

(2)That the influenza vaccination may be a covered benefit for those with health insurance coverage.

(3)That influenza vaccinations may be available for a minimal fee to those individuals who do not have health insurance coverage.

(4)The locations where free or low-cost vaccinations are available.

(c)The department may use additional available resources to educate the public about the information described in subdivision (b), including public service announcements, media events, public outreach to individuals and groups who are susceptible to influenza, and any other preventive and wellness education efforts recommended by public health officials.

(Amended by Stats. 2015, Ch. 303, Sec. 349. (AB 731) Effective January 1, 2016.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=2.&chapter=1.7.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 2. IMMUNIZATIONS [120325 - 120480]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 1.7. Meningococcal Immunization [120395 - 120399]__

(Chapter 1.7 added by Stats. 2001, Ch. 372, Sec. 1.)

120395.

(a)The State Department of Public Health shall, no later than April 1, 2010, develop information about meningococcal disease, including information pertaining to children who are between 11 and 18 years of age. The information may include a recommendation that children between 11 and 18 years of age be vaccinated. The information shall include:

(1)Information about meningococcal disease, including symptoms, risks, and treatment.

(2)Notice of the availability, benefits, risks, and limitations of a meningococcus vaccination, with specific information as to those persons at higher risk for the disease.

(b)The department shall make available to each degree-granting public and private postsecondary institution, upon the request of that institution, information developed by the department on meningococcal disease.

(c)The department shall also send an information notice to each school district advising each school district of the availability of information developed by the department, and shall make the information available to any school district upon the request of that school district.

(d)The department may also use the information developed to design and implement a public awareness campaign about meningococcal disease to reach members of the population identified as being at high risk for contracting the disease.

(e)The State Department of Education may add the above-described information about meningococcal disease to any health education material that is sent home to parents of students who are at least 11 years of age.

(Amended by Stats. 2009, Ch. 176, Sec. 2. (SB 249) Effective January 1, 2010.)

120396.

Each degree-granting public postsecondary educational institution that provides on-campus housing in the state shall, beginning with the 2002“03 school year, do all of the following:

(a) Provide information on meningococcal disease developed pursuant to Section 120395 to each incoming freshman who has been accepted for admission to the postsecondary educational institution and who will be residing in on-campus housing. The information shall include a response form with space in which to indicate that the incoming freshman has received the information about meningococcal disease and the availability of the vaccine to prevent one from contracting the disease. The form shall include space for the incoming freshman to indicate whether or not he or she has chosen to receive the vaccination, and a space for his or her signature.

(b) Require each incoming freshman to return to the postsecondary educational institution a form with a response as to whether the person received the information, and whether or not the person chooses to receive the vaccination.

(c) Maintain the completed forms received from students in accord with the institutionshealth care records

policy.

(d) Nothing in this section shall be construed to require the postsecondary educational institution to provide the vaccination to the students.

(Added by Stats. 2001, Ch. 372, Sec. 1. Effective January 1, 2002.)

120397.

Each degree-granting private postsecondary educational institution that provides on-campus housing in the state shall adopt a policy to notify all incoming students about meningococcal disease and the availability of the vaccination, beginning with the 2002"03 school year. The Legislature encourages those institutions to consider all of the following in adopting the policy:

(a) Providing information on meningococcal disease developed pursuant to Section 120395 to each prospective student who has been accepted for admission to the postsecondary institution prior to the studentsmatriculation into the institution. The information may include a response form with space in which to indicate that the prospective student has received the information about meningococcal disease and the availability of the vaccine to prevent one from contracting the disease. The form shall include space for the prospective student to indicate whether or not he or she has chosen to receive the vaccination, and a space for his or her signature.

(b) Requiring each prospective student to return to the postsecondary educational institution a form with a response as to whether or not the person received the information, and whether or not the person chooses to receive the vaccination.

(c) Maintaining the completed forms received from students in accordance with the institutionshealth care records policy.

(d) Nothing in this section shall be construed to require the postsecondary educational institution to provide the vaccination to students.

(Added by Stats. 2001, Ch. 372, Sec. 1. Effective January 1, 2002.)

120398.

Each public and private postsecondary educational institution shall maintain the confidentiality of information obtained pursuant to Section 120396 or 120397 in the same manner as other confidential student information is maintained by the institution. Each institution is subject to civil action and criminal penalties for the wrongful disclosure of the information, in accordance with other provisions of law.

(Added by Stats. 2001, Ch. 372, Sec. 1. Effective January 1, 2002.)

120399.

No provision of this chapter shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make applicable the provision of the chapter.

(Added by Stats. 2001, Ch. 372, Sec. 1. Effective January 1, 2002.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=2.&chapter=2.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 2. IMMUNIZATIONS [120325 - 120480]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 2. Department of Health Services Provision of Funds, Immunibiologics, and Access to Immunibiologics [120400 - 120435]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 7.)

120400.

The department may establish an immunization outreach program.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120405.

(a) A local health officer, or consortium of local health officers, may establish permanent, temporary, or mobile sites and programs, for the purpose of immunizing children, or performing outreach to refer parents to other programs that provide immunizations and comprehensive health services. These sites for referral or immunization may include, but are not limited to, the following:

(1) Public places where parents of children at high risk of remaining unimmunized reside, shop, worship, or recreate.

(2) School grounds, either during regular hours, or evening hours or on weekends.

(3) On or adjacent to sites of public- or community-based agencies or programs that either provide or refer persons to public assistance programs or services.

(b) Outreach programs shall, to the extent feasible, include referral components intended to link immunized children with available public or private primary care providers, in order to increase access to continuing pediatric care, including subsequent immunization services as necessary.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120410.

The population to be targeted by the program shall include children who do not receive immunizations through private third-party sources or other public sources with priority given to infants and children from birth up to age three. Outreach programs shall include information to the families of children being immunized about possible reactions to the vaccine and about followup referral sources.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120415.

The Health and Welfare Agency may waive state administrative, eligibility, and billing requirements that apply to other public assistance programs through which immunization and comprehensive health services outreach and vaccination are offered, for counties that establish streamlined administrative, eligibility, billing, and referral procedures between those public assistance programs, and the immunization and comprehensive health services programs established pursuant to Sections 120400 through 120415, inclusive.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120420.

The department shall provide financial assistance to county and areawide immunization campaigns under the direction of local health officers for the prevention of rubella.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120425.

All moneys appropriated to the department for the purposes of this section and Section 120420 shall be made available to local health departments, as defined in Section 101185, or to areawide associations of local health departments. All moneys received by the local departments or areawide associations shall be utilized only for the purchase of rubella vaccines, other necessary supplies and equipment for rubella immunization campaigns, and promotional costs of these campaigns. No moneys appropriated for the purpose of this section and Section 120420 shall be used by the department or by any local department or areawide association for administrative purposes, and these moneys may not be used to supplant or support local health department clinics and programs already regularly operated by the departments, but may be used only for additional county or areawide rubella immunization campaigns. All moneys appropriated for the purposes of this section and Section 120420 shall be expended by March 31, 1971.

(Amended by Stats. 2006, Ch. 538, Sec. 438. Effective January 1, 2007.)

120430.

(a) The Legislature finds and declares that 1990 marks one of the worst measles epidemics in recent history and that this epidemic threatens the health and safety of our schoolaged children.

The Legislature finds and declares that, according to the Center for Disease Control and the American Academy of Pediatrics, current medical technology suggests that in order to be fully immunized against measles, children should receive two doses of the immunization agent for measles before the age of seven years.

It is the intent of the Legislature to ensure that all possible steps are taken to combat the spread of any disease through California schools.

(b) The department, in consultation with the State Department of Education, shall develop and adopt regulations to ensure that every student in any private or public elementary or secondary school, child care center, day nursery, nursery school, or development center shall have access to full immunization against measles, as determined by the Center for Disease Control, to the extent funds are available.

Priority shall be given to children who have not received any type of measles immunization.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120435.

The department shall purchase or prepare, and distribute free of cost, under any regulations as may be necessary, anti-rabic virus to be used in the treatment of persons exposed to rabies when they declare that it would be a hardship for them to pay for anti-rabic treatment.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=2.&chapter=2.5.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=105.&title=&part=2.&chapter=2.5.&article=)

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 2. IMMUNIZATIONS [120325 - 120480]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 2.5. Disclosure of Immunization Status [120440- 120440.]__

(Heading of Chapter 2.5 renamed from Article 3 (and relocated from Chapter 7 of Division 4) by Stats. 1996, Ch. 1023, Sec. 180.)

120440.

(a)For the purposes of this chapter, the following definitions shall apply:

(1)Health care provider means any person licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or a clinic or health facility licensed pursuant to Division 2 (commencing with Section 1200).

(2)Schools, childcare facilities, and family childcare homes means those institutions referred to in subdivision (b) of Section 120335, regardless of whether they directly provide immunizations to patients or clients.

(3)WIC service provider means any public or private nonprofit agency contracting with the department to provide services under the California Special Supplemental Food Program for Women, Infants, and Children, as provided for in Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106.

(4)Health care plan means a health care service plan as defined in subdivision (f) of Section 1345, a government-funded program the purpose of which is paying the costs of health care, or an insurer as described in Sections 10123.5 and 10123.55 of the Insurance Code, regardless of whether the plan directly provides immunizations to patients or clients.

(5)County human services agency means a county welfare agency administering the California Work Opportunity and Responsibility to Kids (CalWORKs) program, pursuant to Chapter 2 (commencing with

Section 11200.5) of Part 3 of Division 9 of the Welfare and Institutions Code.

(6)Foster care agency means any of the county and state social services agencies providing foster care services in California.

(7)Tuberculosis screening means an approved intradermal tuberculin test or any other test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention and licensed by the federal Food and Drug Administration.

(b)(1)Local health officers may operate immunization information systems pursuant to their authority under Section 120175, in conjunction with the Immunization Branch of the State Department of Public Health. Local health officers and the State Department of Public Health may operate these systems in either or both of the following manners:

(A)Separately within their individual jurisdictions.

(B)Jointly among more than one jurisdiction.

(2)This subdivision does not preclude local health officers from sharing the information set forth in paragraphs (1) to (12), inclusive, of subdivision (c) with other health officers jointly operating the system.

(c)Notwithstanding Sections 49075 and 49076 of the Education Code, Chapter 5 (commencing with Section 10850) of Part 2 of Division 9 of the Welfare and Institutions Code, or any other provision of law, unless a refusal to permit recordsharing is made pursuant to subdivision (e), health care providers, and other agencies, including, but not limited to, schools, childcare facilities, service providers for the California Special Supplemental Food Program for Women, Infants, and Children (WIC), health care plans, foster care agencies, and county human services agencies, shall disclose the information set forth in paragraphs (1) to (12), inclusive, from the patientsmedical record, or the clientsrecord, to local health departments operating countywide or regional immunization information and reminder systems and the State Department of Public Health. Local health departments and the State Department of Public Health may disclose the information set forth in paragraphs (1) to (12), inclusive, to each other and, upon a request for information pertaining to a specific person, to health care providers taking care of the patient and to the Medical Board of California and the Osteopathic Medical Board of California. Local health departments and the State Department of Public Health may disclose the information in paragraphs (1) to (7), inclusive, and paragraphs (9) to (12), inclusive, to schools, childcare facilities, county human services agencies, and family childcare homes to which the person is being admitted or in attendance, foster care agencies in assessing and providing medical care for children in foster care, and WIC service providers providing services to the person, health care plans arranging for immunization services for the patient, and county human services agencies assessing immunization histories of dependents of CalWORKs participants, upon request for information pertaining to a specific person. Determination of benefits based upon immunization of a dependent CalWORKs participant shall be made pursuant to Section 11265.8 of the Welfare and Institutions Code. The following information shall be subject to this subdivision:

(1)The name of the patient or client and names of the parents or guardians of the patient or client.

(2)Date of birth of the patient or client.

(3)Types and dates of immunizations received by the patient or client.

(4)Manufacturer and lot number for each immunization received.

(5)Adverse reaction to immunizations received.

(6)Other nonmedical information necessary to establish the patientsor clientsunique identity and record.

(7)Results of tuberculosis screening.

(8)Current address and telephone number of the patient or client and the parents or guardians of the patient or client.

(9)Patientsor clientsgender.

(10)Patientsor clientsplace of birth.

(11)Patientsor clientsrace and ethnicity.

(12)Patientsor clientsinformation needed to comply with Chapter 1 (commencing with Section 120325), but excluding Section 120380.

(d)(1)Health care providers, local health departments, and the State Department of Public Health shall maintain the confidentiality of information listed in subdivision (c) in the same manner as other medical record information with patient identification that they possess. These providers, departments, and contracting agencies are subject to civil action and criminal penalties for the wrongful disclosure of the information listed in subdivision (c), in accordance with existing law. They shall use the information listed in subdivision (c) only for the following purposes:

(A)To provide immunization services to the patient or client, including issuing reminder notifications to patients or clients or their parents or guardians when immunizations are due.

(B)To provide or facilitate provision of third-party payer payments for immunizations.

(C)To compile and disseminate statistical information of immunization status on groups of patients or clients or populations in California, without identifying information for these patients or clients included in these groups or populations.

(D)In the case of health care providers only, as authorized by Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(2)Schools, childcare facilities, family childcare homes, WIC service providers, foster care agencies, county human services agencies, and health care plans shall maintain the confidentiality of information listed in subdivision (c) in the same manner as other client, patient, and pupil information that they possess. These institutions and providers are subject to civil action and criminal penalties for the wrongful disclosure of the information listed in subdivision (c), in accordance with existing law. They shall use the information listed in subdivision (c) only for those purposes provided in subparagraphs (A) to (D), inclusive, of paragraph (1) and as follows:

(A)In the case of schools, childcare facilities, family childcare homes, and county human services agencies, to carry out their responsibilities regarding required immunization for attendance or participation benefits, or both, as described in Chapter 1 (commencing with Section 120325), and in Section 11265.8 of the Welfare and Institutions Code.

(B)In the case of WIC service providers, to perform immunization status assessments of clients and to refer

those clients found to be due or overdue for immunizations to health care providers.

(C)In the case of health care plans, to facilitate payments to health care providers, to assess the immunization status of their clients, and to tabulate statistical information on the immunization status of groups of patients, without including patient-identifying information in these tabulations.

(D)In the case of foster care agencies, to perform immunization status assessments of foster children and to assist those foster children found to be due or overdue for immunization in obtaining immunizations from health care providers.

(E)(i)In the case of schools, childcare facilities, family childcare homes, and county human services agencies, for the COVID-19 public health emergency, to perform immunization status assessments of pupils, adults, and clients to ensure health and safety.

(ii)In the case of schools, this subparagraph only applies if the schoolsgoverning board or body has adopted a policy mandating COVID-19 immunization for school attendance and the school limits the use of the data to verifying immunization status for this purpose.

(e)A patient or a patientsparent or guardian may refuse to permit recordsharing. The health care provider administering immunization and any other agency possessing any patient or client information listed in subdivision (c), if planning to provide patient or client information to an immunization system, as described in subdivision (b), shall inform the patient or client, or the parent or guardian of the patient or client, of the following:

(1)The information listed in subdivision (c) shall be shared with local health departments and the State Department of Public Health. The health care provider or other agency shall provide the name and address of the State Department of Public Health or of the immunization registry with which the provider or other agency will share the information.

(2)Any of the information shared with local health departments and the State Department of Public Health shall be treated as confidential medical information and shall be used only to share with each other, and, upon request, with health care providers, schools, childcare facilities, family childcare homes, WIC service providers, county human services agencies, foster care agencies, and health care plans. These providers, agencies, and institutions shall, in turn, treat the shared information as confidential, and shall use it only as described in subdivision (d).

(3)The patient or client, or parent or guardian of the patient or client, has the right to examine any immunization-related information or tuberculosis screening results shared pursuant to this section and to correct any errors in it.

(4)The patient or client, or the parent or guardian of the patient or client, may refuse to allow this information to be shared pursuant to this section or to receive immunization reminder notifications at any time, or both. After refusal, the patientsor clientsphysician may maintain access to this information for the purposes of patient care or protecting the public health. After refusal, the local health department and the State Department of Public Health may maintain access to this information for the purpose of protecting the public health pursuant to Sections 100325, 120140, and 120175, as well as Sections 2500 to 2643.20, inclusive, of Title 17 of the California Code of Regulations.

(f)(1)The health care provider administering the immunization or tuberculosis screening and any other agency possessing any patient or client information listed in subdivision (c), may inform the patient or client, or the parent or guardian of the patient or client, by ordinary mail, of the information in paragraphs (1) to (4),

inclusive, of subdivision (e). The mailing shall include a reasonable means for refusal, such as a return form or contact telephone number.

(2)The information in paragraphs (1) to (4), inclusive, of subdivision (e) may also be presented to the parent or guardian of the patient or client during any hospitalization of the patient or client.

(g)If the patient or client, or parent or guardian of the patient or client, refuses to allow the information to be shared, pursuant to paragraph (4) of subdivision (e), the health care provider or other agency may not share this information in the manner described in subdivision (c), except as provided in subparagraph (D) of paragraph (1) of subdivision (d).

(h)(1)Upon request of the patient or client, or the parent or guardian of the patient or client, in writing or by other means acceptable to the recipient, a local health department or the State Department of Public Health that has received information about a person pursuant to subdivision (c) shall do all of the following:

(A)Provide the name and address of other persons or agencies with whom the recipient has shared the information.

(B)Stop sharing the information in its possession after the date of the receipt of the request.

(2)After refusal, the patientsor clientsphysician may maintain access to this information for the purposes of patient care or protecting the public health. After refusal, the local health department and the State Department of Public Health may maintain access to this information for the purpose of protecting the public health pursuant to Sections 100325, 120140, and 120175, as well as Sections 2500 to 2643.20, inclusive, of Title 17 of the California Code of Regulations.

(i)Upon notification, in writing or by other means acceptable to the recipient, of an error in the information, a local health department or the State Department of Public Health that has information about a person pursuant to subdivision (c) shall correct the error. If the recipient is aware of a disagreement about whether an error exists, information to that effect may be included.

(j)(1)Any party authorized to make medical decisions for a patient or client, including, but not limited to, those authorized by Section 6922, 6926, or 6927 of, Part 1.5 (commencing with Section 6550), Chapter 2 (commencing with Section 6910) of Part 4, or Chapter 1 (commencing with Section 7000) of Part 6, of Division 11 of, the Family Code, Section 1530.6 of the Health and Safety Code, or Sections 727 and 1755.3 of, and Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code, may permit sharing of the patientsor clientsrecord with any of the immunization information systems authorized by this section.

(2)For a patient or client who is a dependent of a juvenile court, the court or a person or agency designated by the court may permit this recordsharing.

(3)For a patient or client receiving foster care, a person or persons licensed to provide residential foster care, or having legal custody, may permit this recordsharing.

(k)For purposes of supporting immunization information systems, the State Department of Public Health shall assist the Immunization Branch of the State Department of Public Health in both of the following:

(1)Providing department records containing information about publicly funded immunizations.

(2)Supporting efforts for the reporting of publicly funded immunizations into immunization information

systems by health care providers and health care plans.

(l)Subject to any other provisions of state and federal law or regulation that limit the disclosure of health information and protect the privacy and confidentiality of personal information, local health departments and the State Department of Public Health may share the information listed in subdivision (c) with a state, local health departments, health care providers, immunization information systems, or any representative of an entity designated by federal or state law or regulation to receive this information. The State Department of Public Health may enter into written agreements to exchange confidential immunization information with other states for the purposes of patient care, protecting the public health, entrance into school, childcare and other institutions requiring immunization prior to entry, and the other purposes described in subdivision (d). The written agreement shall provide that the state that receives confidential immunization information must maintain its confidentiality and may only use it for purposes of patient care, protecting the public health, entrance into school, childcare and other institutions requiring immunization prior to entry, and the other purposes described in subdivision (d). Information shall not be shared pursuant to this subdivision if a patient or client, or parent or guardian of a patient or client, refuses to allow the sharing of immunization information pursuant to subdivision (e).

(m)This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

(Amended by Stats. 2022, Ch. 582, Sec. 1. (AB 1797) Effective January 1, 2023. Repealed as of January 1, 2026, by its own provisions. See later operative version added by Sec. 2 of Stats. 2022, Ch. 582.)

120440.

(a)For the purposes of this chapter, the following definitions shall apply:

(1)Health care provider means any person licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or a clinic or health facility licensed pursuant to Division 2 (commencing with Section 1200).

(2)Schools, childcare facilities, and family childcare homes means those institutions referred to in subdivision (b) of Section 120335, regardless of whether they directly provide immunizations to patients or clients.

(3)WIC service provider means any public or private nonprofit agency contracting with the department to provide services under the California Special Supplemental Food Program for Women, Infants, and Children, as provided for in Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106.

(4)Health care plan means a health care service plan as defined in subdivision (f) of Section 1345, a government-funded program the purpose of which is paying the costs of health care, or an insurer as described in Sections 10123.5 and 10123.55 of the Insurance Code, regardless of whether the plan directly provides immunizations to patients or clients.

(5)County human services agency means a county welfare agency administering the California Work Opportunity and Responsibility to Kids (CalWORKs) program, pursuant to Chapter 2 (commencing with Section 11200.5) of Part 3 of Division 9 of the Welfare and Institutions Code.

(6)Foster care agency means any of the county and state social services agencies providing foster care services in California.

(7)Tuberculosis screening means an approved intradermal tuberculin test or any other test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention and licensed by the federal Food and Drug Administration.

(b)(1)Local health officers may operate immunization information systems pursuant to their authority under Section 120175, in conjunction with the Immunization Branch of the State Department of Public Health. Local health officers and the State Department of Public Health may operate these systems in either or both of the following manners:

(A)Separately within their individual jurisdictions.

(B)Jointly among more than one jurisdiction.

(2)This subdivision does not preclude local health officers from sharing the information set forth in paragraphs (1) to (12), inclusive, of subdivision (c) with other health officers jointly operating the system.

(c)Notwithstanding Sections 49075 and 49076 of the Education Code, Chapter 5 (commencing with Section 10850) of Part 2 of Division 9 of the Welfare and Institutions Code, or any other provision of law, unless a refusal to permit recordsharing is made pursuant to subdivision (e), health care providers, and other agencies, including, but not limited to, schools, childcare facilities, service providers for the California Special Supplemental Food Program for Women, Infants, and Children (WIC), health care plans, foster care agencies, and county human services agencies, shall disclose the information set forth in paragraphs (1) to (12), inclusive, from the patientsmedical record, or the clientsrecord, to local health departments operating countywide or regional immunization information and reminder systems and the State Department of Public Health. Local health departments and the State Department of Public Health may disclose the information set forth in paragraphs (1) to (12), inclusive, to each other and, upon a request for information pertaining to a specific person, to health care providers taking care of the patient and to the Medical Board of California and the Osteopathic Medical Board of California. Local health departments and the State Department of Public Health may disclose the information in paragraphs (1) to (7), inclusive, and paragraphs (9) to (12), inclusive, to schools, childcare facilities, county human services agencies, and family childcare homes to which the person is being admitted or in attendance, foster care agencies in assessing and providing medical care for children in foster care, and WIC service providers providing services to the person, health care plans arranging for immunization services for the patient, and county human services agencies assessing immunization histories of dependents of CalWORKs participants, upon request for information pertaining to a specific person. Determination of benefits based upon immunization of a dependent CalWORKs participant shall be made pursuant to Section 11265.8 of the Welfare and Institutions Code. The following information shall be subject to this subdivision:

(1)The name of the patient or client and names of the parents or guardians of the patient or client.

(2)Date of birth of the patient or client.

(3)Types and dates of immunizations received by the patient or client.

(4)Manufacturer and lot number for each immunization received.

(5)Adverse reaction to immunizations received.

(6)Other nonmedical information necessary to establish the patientsor clientsunique identity and record.

(7)Results of tuberculosis screening.

(8)Current address and telephone number of the patient or client and the parents or guardians of the patient or client.

(9)Patientsor clientsgender.

(10)Patientsor clientsplace of birth.

(11)Patientsor clientsrace and ethnicity.

(12)Patientsor clientsinformation needed to comply with Chapter 1 (commencing with Section 120325), but excluding Section 120380.

(d)(1)Health care providers, local health departments, and the State Department of Public Health shall maintain the confidentiality of information listed in subdivision (c) in the same manner as other medical record information with patient identification that they possess. These providers, departments, and contracting agencies are subject to civil action and criminal penalties for the wrongful disclosure of the information listed in subdivision (c), in accordance with existing law. They shall use the information listed in subdivision (c) only for the following purposes:

(A)To provide immunization services to the patient or client, including issuing reminder notifications to patients or clients or their parents or guardians when immunizations are due.

(B)To provide or facilitate provision of third-party payer payments for immunizations.

(C)To compile and disseminate statistical information of immunization status on groups of patients or clients or populations in California, without identifying information for these patients or clients included in these groups or populations.

(D)In the case of health care providers only, as authorized by Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(2)Schools, childcare facilities, family childcare homes, WIC service providers, foster care agencies, county human services agencies, and health care plans shall maintain the confidentiality of information listed in subdivision (c) in the same manner as other client, patient, and pupil information that they possess. These institutions and providers are subject to civil action and criminal penalties for the wrongful disclosure of the information listed in subdivision (c), in accordance with existing law. They shall use the information listed in subdivision (c) only for those purposes provided in subparagraphs (A) to (D), inclusive, of paragraph (1) and as follows:

(A)In the case of schools, childcare facilities, family childcare homes, and county human services agencies, to carry out their responsibilities regarding required immunization for attendance or participation benefits, or both, as described in Chapter 1 (commencing with Section 120325), and in Section 11265.8 of the Welfare and Institutions Code.

(B)In the case of WIC service providers, to perform immunization status assessments of clients and to refer those clients found to be due or overdue for immunizations to health care providers.

(C)In the case of health care plans, to facilitate payments to health care providers, to assess the immunization status of their clients, and to tabulate statistical information on the immunization status of groups of

patients, without including patient-identifying information in these tabulations.

(D)In the case of foster care agencies, to perform immunization status assessments of foster children and to assist those foster children found to be due or overdue for immunization in obtaining immunizations from health care providers.

(e)A patient or a patientsparent or guardian may refuse to permit recordsharing. The health care provider administering immunization and any other agency possessing any patient or client information listed in subdivision (c), if planning to provide patient or client information to an immunization system, as described in subdivision (b), shall inform the patient or client, or the parent or guardian of the patient or client, of the following:

(1)The information listed in subdivision (c) shall be shared with local health departments and the State Department of Public Health. The health care provider or other agency shall provide the name and address of the State Department of Public Health or of the immunization registry with which the provider or other agency will share the information.

(2)Any of the information shared with local health departments and the State Department of Public Health shall be treated as confidential medical information and shall be used only to share with each other, and, upon request, with health care providers, schools, childcare facilities, family childcare homes, WIC service providers, county human services agencies, foster care agencies, and health care plans. These providers, agencies, and institutions shall, in turn, treat the shared information as confidential, and shall use it only as described in subdivision (d).

(3)The patient or client, or parent or guardian of the patient or client, has the right to examine any immunization-related information or tuberculosis screening results shared pursuant to this section and to correct any errors in it.

(4)The patient or client, or the parent or guardian of the patient or client, may refuse to allow this information to be shared pursuant to this section or to receive immunization reminder notifications at any time, or both. After refusal, the patientsor clientsphysician may maintain access to this information for the purposes of patient care or protecting the public health. After refusal, the local health department and the State Department of Public Health may maintain access to this information for the purpose of protecting the public health pursuant to Sections 100325, 120140, and 120175, as well as Sections 2500 to 2643.20, inclusive, of Title 17 of the California Code of Regulations.

(f)(1)The health care provider administering the immunization or tuberculosis screening and any other agency possessing any patient or client information listed in subdivision (c), may inform the patient or client, or the parent or guardian of the patient or client, by ordinary mail, of the information in paragraphs (1) to (4), inclusive, of subdivision (e). The mailing shall include a reasonable means for refusal, such as a return form or contact telephone number.

(2)The information in paragraphs (1) to (4), inclusive, of subdivision (e) may also be presented to the parent or guardian of the patient or client during any hospitalization of the patient or client.

(g)If the patient or client, or parent or guardian of the patient or client, refuses to allow the information to be shared, pursuant to paragraph (4) of subdivision (e), the health care provider or other agency may not share this information in the manner described in subdivision (c), except as provided in subparagraph (D) of paragraph (1) of subdivision (d).

(h)(1)Upon request of the patient or client, or the parent or guardian of the patient or client, in writing or by

other means acceptable to the recipient, a local health department or the State Department of Public Health that has received information about a person pursuant to subdivision (c) shall do all of the following:

(A)Provide the name and address of other persons or agencies with whom the recipient has shared the information.

(B)Stop sharing the information in its possession after the date of the receipt of the request.

(2)After refusal, the patientsor clientsphysician may maintain access to this information for the purposes of patient care or protecting the public health. After refusal, the local health department and the State Department of Public Health may maintain access to this information for the purpose of protecting the public health pursuant to Sections 100325, 120140, and 120175, as well as Sections 2500 to 2643.20, inclusive, of Title 17 of the California Code of Regulations.

(i)Upon notification, in writing or by other means acceptable to the recipient, of an error in the information, a local health department or the State Department of Public Health that has information about a person pursuant to subdivision (c) shall correct the error. If the recipient is aware of a disagreement about whether an error exists, information to that effect may be included.

(j)(1)Any party authorized to make medical decisions for a patient or client, including, but not limited to, those authorized by Section 6922, 6926, or 6927 of, Part 1.5 (commencing with Section 6550), Chapter 2 (commencing with Section 6910) of Part 4, or Chapter 1 (commencing with Section 7000) of Part 6, of Division 11 of, the Family Code, Section 1530.6 of the Health and Safety Code, or Sections 727 and 1755.3 of, and Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code, may permit sharing of the patientsor clientsrecord with any of the immunization information systems authorized by this section.

(2)For a patient or client who is a dependent of a juvenile court, the court or a person or agency designated by the court may permit this recordsharing.

(3)For a patient or client receiving foster care, a person or persons licensed to provide residential foster care, or having legal custody, may permit this recordsharing.

(k)For purposes of supporting immunization information systems, the State Department of Public Health shall assist the Immunization Branch of the State Department of Public Health in both of the following:

(1)Providing department records containing information about publicly funded immunizations.

(2)Supporting efforts for the reporting of publicly funded immunizations into immunization information systems by health care providers and health care plans.

(l)Subject to any other provisions of state and federal law or regulation that limit the disclosure of health information and protect the privacy and confidentiality of personal information, local health departments and the State Department of Public Health may share the information listed in subdivision (c) with a state, local health departments, health care providers, immunization information systems, or any representative of an entity designated by federal or state law or regulation to receive this information. The State Department of Public Health may enter into written agreements to exchange confidential immunization information with other states for the purposes of patient care, protecting the public health, entrance into school, childcare and other institutions requiring immunization prior to entry, and the other purposes described in subdivision (d). The written agreement shall provide that the state that receives confidential immunization information must maintain its confidentiality and may only use it for purposes of patient care, protecting the public health,

entrance into school, childcare and other institutions requiring immunization prior to entry, and the other purposes described in subdivision (d). Information shall not be shared pursuant to this subdivision if a patient or client, or parent or guardian of a patient or client, refuses to allow the sharing of immunization information pursuant to subdivision (e).

(m)This section shall become operative on January 1, 2026.

(Repealed (in Sec. 1) and added by Stats. 2022, Ch. 582, Sec. 2. (AB 1797) Effective January 1, 2023. Operative January 1, 2026, by its own provisions.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=2.&chapter=3.&article=

Code Text

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 2. IMMUNIZATIONS [120325 - 120480]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 3. Immunization Reactions [120455- 120455.]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 7.)

120455.

No person shall be liable for any injury caused by an act or omission in the administration of a vaccine or other immunizing agent to a minor, including the residual effects of the vaccine or immunizing agent, if the immunization is either required by state law, or given as part of an outreach program pursuant to Sections 120400 through 120415, inclusive, and the act or omission does not constitute willful misconduct or gross negligence.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=2.&chapter=4.&article=

Code Text

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 2. IMMUNIZATIONS [120325 - 120480]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 4. Reports [120475- 120475.]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 7.)

120475.

On or before March 15 on a biennial basis, the department shall submit a report to the Legislature on all of the following issues:

(a) The immunization status of young children in the state, based on available data.

(b) The steps taken to strengthen immunization efforts.

(c) The steps taken to improve immunization levels among currently underserved minority children, young children in family day care and other child care settings, and children with no health insurance coverage.

(d) The improvements made in ongoing methods of immunization outreach and education in communities where immunization levels are disproportionately low.

(e) Its recommendations for a comprehensive strategy for fully immunizing all California children and its

analysis of the funding necessary to implement the strategy.

(Amended by Stats. 2022, Ch. 47, Sec. 13. (SB 184) Effective June 30, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=2.&chapter=5.&article=

__CHAPTER 5. Vaccine Development [120480- 120480.]__

(Chapter 5 added by Stats. 1998, Ch. 709, Sec. 3.)

120480.

(a) Funds appropriated in the Budget Act of 1998, and any other appropriations, to the State Department of Health Services for the purpose of valley fever (coccidioidomycosis) vaccine research shall be used to continue and expand the current research effort being conducted by the Valley Fever Vaccine Project.

(b) The department shall augment and amend the existing contract to support research into the development of a vaccine to protect against valley fever. The department may contract on a sole source basis with a nonprofit organization that has provided funding for vaccine research on valley fever. The contract shall require the organization to distribute research grants to support research efforts that are likely to advance the effort to develop a vaccine. This contract shall not be subject to review by the Department of General Services.

(c) The contractor shall establish an advisory group consisting of persons with relevant expertise in the fields of mycology and vaccine development and a representative from the department. The advisory group shall approve grants for those whose research is likely to advance the effort to develop a safe and effective vaccine. The contractor shall seek advice from the appropriate agencies in the National Institutes of Health and other federal agencies with experience in supporting vaccine research when reviewing the research of those receiving funds under this section. Funding awards shall be made so as to complement financial support provided by the federal government.

(d) The contractor shall provide the department with periodic status reports on the progress of the researchers receiving funds pursuant to this section. The department shall review progress reports from the contractor describing the research progress and plans for future funding.

(e) The contract shall require that funding is provided on the condition that, if a valley fever vaccine is developed and successfully marketed, the state shall be reimbursed for the cost of grants made under this section in proportion to the statescontribution to the research and development effort.

(Amended by Stats. 2001, Ch. 751, Sec. 1.5. Effective January 1, 2002.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=105.&title=&part=3.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=3.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 3. SEXUALLY TRANSMITTED DISEASE [120500 - 120750]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 1. Prevention and Control [120500 - 120605]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 7.)

120500.

As used in the Communicable Disease Prevention and Control Act (Section 27) venereal diseases means syphilis, gonorrhea, chancroid, lymphopathia venereum, granuloma inguinale, and chlamydia.

(Amended by Stats. 2000, Ch. 835, Sec. 4. Effective January 1, 2001.)

120505.

The department shall develop and review plans and provide leadership and consultation for, and participate in, a program for the prevention and control of venereal disease.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120510.

The department shall cooperate in the prevention, control, and cure of venereal diseases with physicians and surgeons; medical schools; public and private hospitals, dispensaries, and clinics; public and private school, college and university authorities; penal and charitable institutions; reform and industrial schools; detention homes; federal, state, local and district health officers, and boards of health, and all other health authorities; institutions caring for the mentally ill; and with any other persons, institutions, or agencies.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120511.

(a)The department shall allocate funds to local health jurisdictions for sexually transmitted disease prevention and control activities in accordance, to the extent possible, with the following:

(1)Local health jurisdictions shall be prioritized based on population and incidence of sexually transmitted diseases.

(2)Funds shall be allocated to prioritized local health jurisdictions in a manner that balances the need to spread funding to as many local health jurisdictions, community-based organizations, and nonprofit health care providers as possible and the need to provide meaningful activities to each recipient. No less than 50 percent of the funds allocated to local health jurisdictions shall be provided to, or used to support activities in partnership with, community-based organizations or nonprofit health care providers, provided that there are community-based organizations or nonprofit health care providers in the jurisdiction that can conduct the activities and provide these services consistent with this section.

(3)Each local health jurisdiction shall demonstrate to the department that the community-based organization or nonprofit health care provider that receives funding under this section has done all of the following:

(A)Identified priority target populations.

(B)Satisfactorily described its outreach protocols.

(C)Included community resources for prevention and control activities.

(D)Engaged representatives from impacted communities in the development of outreach activities.

(4)Local health jurisdiction shall use these funds to facilitate expanded access to sexually transmitted infection (STI) clinical services, including, but not limited to, LBGTQ+ populations, including those who face confidentiality barriers in using their health coverage to receive STI testing, treatment, and related care.

(5)The department shall develop measures for each local health jurisdiction funded pursuant to this section to demonstrate accountability.

(b)In awarding funds pursuant to subdivision (a), the department shall authorize local health jurisdictions to include innovative and impactful prevention and control activities, including, but not limited to, the following:

(1)Voluntary screening for sexually transmitted diseases among inmates and wards of county adult and juvenile correctional facilities. The department may provide assistance or guidance to the local health jurisdiction if necessary to secure participation by other county agencies.

(2)Technology, telehealth, and digital platforms and applications to enhance immediate access to screening, testing, and treatment, as well as partner activities in order to speed activities and to reduce administrative costs.

(3)State-of-the-art testing modalities that ensure swift and accurate screening for, and diagnosis of, sexually transmitted diseases.

(4)Community-based testing and disease investigation.

(5)Integrated services for STIs, viral hepatitis, human immunodeficiency virus (HIV) infection, and drug overdose, to the extent they improve health outcomes for people living with, or at risk for, STIs.

(6)Material support, including, but not limited to, sleeping bags, tarps, shelter, clothing items, and hygiene kits, to people living with, or at risk for, STIs for purposes consistent with this section.

(c)The department may use funds to support capacity building assistance for purposes consistent with this section, including integrated services for STIs, viral hepatitis, HIV, and drug overdose, to the extent they improve health outcomes for people living with, or at risk for, STIs.

(d)The department shall monitor activities in funded local health jurisdictions, based on the accountability measures required under paragraph(5) of subdivision (a), in order to assess the effectiveness of prevention and control activities efforts.

(e)It is the intent of the Legislature that the activities identified in this section are to enhance the activities that are already provided. Therefore, nothing in this section shall be construed to require the department to replace existing activities with the activities provided for in subdivision (a) or to prevent the department from adding new activities as may be appropriate.

(f)This section shall be operative only if funds are explicitly appropriated in the annual Budget Act specifically for purposes of this section.

(Amended by Stats. 2022, Ch. 47, Sec. 14. (SB 184) Effective June 30, 2022. Section conditionally operative by its own provisions.)

120515.

The department shall investigate conditions affecting the prevention and control of venereal diseases and approved procedures for prevention and control, and shall disseminate educational information relative

thereto.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120520.

The department shall conduct educational and publicity work as it may deem necessary; and, from time to time, shall cause to be issued, free of charge, copies of regulations, pamphlets, and other literature as it deems reasonably necessary.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120525.

The department may provide medical, advisory, financial, or other assistance to organizations funded pursuant to Section 120511.

(Repealed and added by Stats. 2019, Ch. 38, Sec. 21. (SB 78) Effective June 27, 2019.)

120530.

The department may furnish treatment for a case or for a group of cases in rural counties or cities upon the recommendation of the local health officer if adequate facilities for the treatment are not available in the county or city.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120535.

Any state agency conducting a public hospital shall admit acute venereal disease cases, when, in the opinion of the department or the local health officer having jurisdiction, persons infected with venereal disease may be a menace to public health.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120540.

The department may require any physician in attendance on a person infected or suspected of being infected with a venereal disease infection to submit specimens as may be designated for examination, when in its opinion the procedure is reasonably necessary to carry out the provisions and purposes of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120545.

The examination may be made in the state laboratory or in a local public health laboratory designated by the department or in a clinical laboratory that is under the immediate supervision and direction of a clinical laboratory technologist or a licensed physician and surgeon.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120550.

Nothing in this chapter limits any personsfreedom to have additional examinations made elsewhere than specified in this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120555.

Every diseased person shall give all information required by this chapter, including the name and address of any person from whom the disease may have been contracted and to whom the disease may have been transmitted.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120560.

Every diseased person shall from time to time submit to approved examinations to determine the condition of the disease.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120565.

If any person subject to proper venereal disease control measures discontinues any control procedure required by this chapter, the agency administering the procedure prior to the discontinuance shall make reasonable efforts to determine whether the person is continuing to comply with the procedure elsewhere.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120570.

If it appears reasonably likely that the person is not complying with the procedure elsewhere, the agency that was administering the procedure prior to the discontinuance shall make all reasonable efforts to induce the person to comply; and if it thereafter appears reasonably likely that he or she has failed to comply, shall report his or her name and address to the local health officer or board of health, or to the department where there is no local health officer or board.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120575.

It is the duty of the local health officers to use every available means to ascertain the existence of cases of infectious venereal diseases within their respective jurisdictions, to investigate all cases that are not, or probably are not, subject to proper control measures approved by the board, to ascertain so far as possible all sources of infection, and to take all measures reasonably necessary to prevent the transmission of infection.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120580.

Notwithstanding any other provision of law, a person employed by a public health department may perform venipuncture or skin puncture for the purpose of withdrawing blood for test purposes, upon specific authorization from a licensed physician and surgeon, even though he or she is not otherwise licensed to withdraw blood; provided that the person meets all of the following requirements:

(1) He or she works under the direction of a licensed physician and surgeon.

(2) He or she has been trained by a licensed physician and surgeon or by a licensed clinical laboratory scientist or bioanalyst in the proper procedures to be employed when withdrawing blood, in accordance with training requirements established by the department, and has a statement signed by the instructing physician and surgeon that the training has been successfully completed.

(b) Any person employed by a public health department to perform venipuncture or skin puncture shall hold a valid and current certification after the effective date of the regulations adopted pursuant to Section 1246 of the Business and Professions Code.

(Amended by Stats. 1999, Ch. 695, Sec. 5. Effective January 1, 2000.)

120582.

(a)Notwithstanding any other law, a physician and surgeon who diagnoses a sexually transmitted chlamydia, gonorrhea, or other sexually transmitted infection, as determined by the department, or recommended in

the most recent federal Centers for Disease Control and Prevention guidelines for the prevention or treatment of sexually transmitted diseases, in an individual patient may prescribe, dispense, furnish, or otherwise provide, including in a standing order, prescription antibiotic drugs to that patientssexual partner or partners without examination of that patientspartner or partners. This practice shall be known as expedited partner therapy (EPT). The department may adopt regulations to implement this section.

(b)Notwithstanding any other law, a nurse practitioner pursuant to Section 2836.1 of the Business and Professions Code, a certified nurse-midwife pursuant to Section 2746.51 of the Business and Professions Code, and a physician assistant pursuant to Section 3502.1 of the Business and Professions Code may include EPT in their practice by dispensing, furnishing, or otherwise providing, including through a standing order, prescription antibiotic drugs to the sexual partner or partners of a patient with a diagnosed sexually transmitted chlamydia, gonorrhea, or other sexually transmitted infection, as determined by the department, or recommended in the most recent federal Centers for Disease Control and Prevention guidelines for the prevention or treatment of sexually transmitted diseases, without examination of the patientssexual partner or partners.

(c)If a health care provider does not have the name of a patientssexual partner for a drug prescribed pursuant to subdivision (a) or (b), the prescription shall include the words expedited partner therapy or the letters EPT.

(d)A health care provider shall not be liable in a medical malpractice action or professional disciplinary action if the health care providersuse of EPT is in compliance with this section, except in cases of intentional misconduct, gross negligence, or wanton or reckless activity.

(e)Medi-Cal coverage of expedited partner therapy pursuant to this section shall be implemented only to the extent that the State Department of Health Care Services obtains any necessary federal approvals and federal financial participation is available and not jeopardized.

(Amended by Stats. 2021, Ch. 486, Sec. 4. (SB 306) Effective January 1, 2022.)

120585.

Local health officers may inspect and quarantine any place or person when the procedure is necessary to enforce the regulations of the board or the department.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120590.

It is the duty of the district attorney of the county where a violation of this chapter may occur to prosecute the person accused of the violation.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120595.

In any prosecution for a violation of any provision of this chapter, or any rule or regulation of the board made pursuant to this chapter, or in any quarantine proceeding authorized by this chapter, or in any habeas corpus or other proceeding in which the legality of the quarantine is questioned, any physician, health officer, spouse, or other person shall be competent and may be required to testify against any person against whom the prosecution or other proceeding was instituted, and the privileges provided by Sections 970, 971, 980, 994, and 1014 of the Evidence Code are not applicable to or in any such prosecution or proceeding.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120600.

Any person who refuses to give any information to make any report, to comply with any proper control measure or examination, or to perform any other duty or act required by this chapter, or who violates any provision of this chapter or any rule or regulation of the state board issued pursuant to this chapter, or who exposes any person to or infects any person with any venereal disease; or any person infected with a venereal disease in an infectious state who knows of the condition and who marries or has sexual intercourse, is guilty of a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120605.

Nothing in this chapter shall be construed to interfere with the freedom of any adherent of teachings of any well-recognized religious sect, denomination, or organization to depend exclusively upon prayer for healing in accordance with the teachings of the religious sect, denomination, or organization. Any such person, along with any person treating him or her, shall be exempt from all provisions of this chapter regarding venereal diseases, except that the provisions of this code and the regulations of the board regarding compulsory reporting of communicable diseases and the quarantine of those diseases, and regarding callings that a person with venereal disease may not engage, shall apply.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=3.&chapter=2.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 3. SEXUALLY TRANSMITTED DISEASE [120500 - 120750]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 2. Prenatal Syphilis Tests [120675 - 120715]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 7.)

120675.

Approved laboratory as used in this chapter means a laboratory approved by the department, or any other laboratory whose director is licensed by the department according to law.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120680.

Standard laboratory blood test as used in this chapter means a test for syphilis approved by the department.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120685.

(a)Every licensed health care professional engaged in providing prenatal care or attending a birthing patient at the time of delivery, shall provide syphilis screening and testing as outlined in the most recent guidelines published by the State Department of Public Health.

(b)This section does not limit a local health jurisdictionsability to provide additional recommendations or guidelines for syphilis screening and testing, nor does it limit the ability of a health care professional to follow other existing clinical guidelines for syphilis screening and testing recommendations, including guidelines issued by local health authorities, as long as, at minimum, the health care professional complies with subdivision (a).

(Amended by Stats. 2021, Ch. 486, Sec. 5. (SB 306) Effective January 1, 2022.)

120690.

The blood specimen thus obtained shall be submitted to an approved laboratory for a standard laboratory test for syphilis.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120695.

In submitting a specimen to a laboratory the physician shall designate it as a prenatal test or a test following recent delivery.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120700.

The laboratory shall submit the laboratory reports of records to the department as are required by regulation of the department. The health officer may destroy any copies of reports that have been retained by him or her pursuant to this section for a period of two years.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120705.

All laboratory reports are confidential, and are not open to public inspection.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120710.

In case of question concerning the accuracy of a test required by this chapter, it is mandatory upon the department to accept specimens for checking purposes from any district in the state.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120715.

Any licensed physician and surgeon, or other person engaged in attendance upon a pregnant woman or a recently delivered woman, or any representative of a laboratory who violates any provision of this chapter, is guilty of a misdemeanor. However, a licensed physician and surgeon, or other person engaged in attendance

upon a pregnant or recently delivered woman, whose request for a specimen is refused, is not guilty of a misdemeanor for failure to obtain it.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=3.&chapter=3.&article=

Code Text

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 3. SEXUALLY TRANSMITTED DISEASE [120500 - 120750]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 3. Information on Venereal Disease Materials [120750- 120750.]__

(Heading of Chapter 3 amended by Stats. 1996, Ch. 1023, Sec. 350.7.)

120750.

The department shall develop and prepare posters and leaflets that inform the public of venereal disease and make the posters and leaflets available to the California State Board of Pharmacy for distribution.

The department may determine the size, shape, and materials of the posters and leaflets so as to adequately fulfill the purposes of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?

tocCode=HSC&division=105.&title=&part=4.&chapter=&article=]
(https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=105.
&title=&part=4.&chapter=&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.
&title=&part=4.&chapter=1.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?
lawCode=HSC&division=105.&title=&part=4.&chapter=1.&article=)

Code Text

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 1. Definitions [120775- 120775.]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 7.)

120775.

As used in this code:

(a) AIDS means acquired immune deficiency syndrome.

(b) Human immunodeficiency virus or HIV means the etiologic virus of AIDS.

(c) HIV test means any clinical test, laboratory or otherwise, used to identify HIV, a component of HIV, or

antibodies or antigens to HIV.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=1.5.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 1.5. State HIV Prevention and Education Funds [120780 - 120780.5]__

(Chapter 1.5 added by Stats. 2007, Ch. 707, Sec. 2.)

120780.

For purposes of this chapter, public entity includes the state, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state.

(Added by Stats. 2007, Ch. 707, Sec. 2. Effective January 1, 2008.)

120780.1.

A public entity that receives General Fund money from the State Department of Public Health for HIV prevention and education may use that money to support clean needle and syringe exchange programs authorized pursuant to existing law. The money may be used for, but is not limited to, the purchase of sterile hypodermic needles and syringes as part of a clean needle and syringe exchange program only if all of the following conditions are met:

(a)The General Fund money used for purchasing the sterile hypodermic needles and syringes does not supplant any other public or private funds or other resources for this purpose.

(b)The amount of the General Fund money used for purchasing the sterile hypodermic needles and syringes does not exceed 7.5 percent of the total amount of the General Fund money received by the public entity for HIV prevention and education.

(c)Each dollar of General Fund money used for purchasing the sterile hypodermic needles and syringes is matched by forty-three cents ($0.43) of moneys from nonstate public funds or private funds.

(d)The allocation of General Fund money for the purchase of sterile hypodermic needles and syringes is based upon epidemiological data as reported by the health jurisdiction in its local HIV prevention plan submitted to the Office of AIDS within the department.

(Added by Stats. 2007, Ch. 707, Sec. 2. Effective January 1, 2008.)

120780.2.

In order to reduce the spread of HIV, hepatitis C, and other potentially deadly bloodborne pathogens, the State Department of Public Health may purchase sterile hypodermic needles and syringes, and other supplies, for distribution to syringe exchange programs authorized pursuant to law and support any costs associated with distribution of supplies. Supplies provided to programs, including those administered by local health departments, are not subject to the formulas and limits of Section 120780.1.

(Amended by Stats. 2021, Ch. 143, Sec. 22. (AB 133) Effective July 27, 2021.)

120780.5.

(a)Upon an appropriation in the annual Budget Act, the State Department of Public Health shall award funding, on a competitive basis, to community-based organizations or local health jurisdictions to provide comprehensive HIV prevention and control activities for the most vulnerable and underserved individuals living with, or at high risk for, HIV infection. Applicants may include individual community-based organizations and local health jurisdictions, as well as collaborations between community-based organizations and local health jurisdictions.

(b)Entities located in any county are eligible to receive grant funding.

(c)Comprehensive HIV prevention and control activities may include, but are not limited to, any of the following:

(1)HIV testing, including the purchase of HIV test kits.

(2)Linkage to and retention in care for people living with HIV.

(3)Pre-exposure prophylaxis (PrEP)-related and post-exposure prophylaxis (PEP)-related activities.

(4)Syringe services programs.

(d)The department shall determine the funding levels of each award based on scope and geographic area. Priority for grants shall be given to community-based organizations or local health jurisdictions that, through their applications, demonstrate expertise, history, and credibility at working successfully in engaging the most vulnerable and underserved individuals living with, or at high risk for, HIV infection.

(e)Funds shall be allocated in a manner that balances the need to spread funding to as many local health jurisdictions and community-based organizations as possible and the need to provide meaningful activities to each recipient. Not less than 50 percent of the funds allocated shall be provided to community-based organizations, for purposes consistent with this section.

(f)The department shall determine the application process, selection criteria, and any reporting requirements for the grant, consistent with this section.

(g)The department shall develop measures for each local health jurisdiction and community-based organization funded pursuant to this section to demonstrate accountability.

(h)This section shall be operative only if funds are explicitly appropriated in the annual Budget Act specifically for purposes of this section.

(Added by Stats. 2019, Ch. 38, Sec. 22. (SB 78) Effective June 27, 2019. Section conditionally operative by its own provisions.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=2.&article=

__CHAPTER 2. California Acquired Immune Deficiency Syndrome (AIDS) Program (CAP) [120800 - 120871]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 7.)

120800.

The intent of the Legislature in enacting this chapter is as follows:

(a) To fund specified pilot AIDS education programs.

(b) To fund pilot projects to demonstrate the value of noninstitutional health care services such as hospice, home health, and attendant care in controlling costs and providing humane care to people with AIDS and AIDS-related conditions.

(c) To fund clinical research.

(d) To fund the development of an AIDS Mental Health Project.

(e) To fund specified needs assessments, studies, and program evaluations.

(f) To authorize the use of funds appropriated by Section 6 of Chapter 23 of the Statutes of 1985 for preventive education for individuals who are seropositive as a result of antibody testing.

(g) To promote broad-based support for AIDS programs by encouraging community level networking and coordination of efforts among private sector, nonprofit, and public service agencies as well as health care professionals and providers of essential services.

(h) To promote an aggressive community-based HIV infection prevention program in all communities and areas where behaviors and prevalence indicate high risk of HIV infection, and to encourage local programs to involve racial and ethnic minorities in a leading role to plan the development, implementation, and evaluation of preventive education, HIV testing, delivery of care, and research activities that are necessary to the formation of a comprehensive, community-based, culturally sensitive HIV infection prevention strategy.

(i) To promote education of health care practitioners concerning new clinical manifestations of HIV, particularly among women and children.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120805.

(a) The department shall:

(1) Additionally, use funds appropriated by Section 6 of Chapter 23 of the Statutes of 1985 for purposes of making reimbursements to counties pursuant to Section 120895, for preventive education for individuals who are seropositive as a result of antibody testing.

(2) Issue contracts to evaluate the effectiveness of the AIDS information and education program conducted by the department.

(3) Issue contracts for development and implementation of pilot programs of professional education and training for hospital, home health agency, and attendant care workers.

(4) Issue contracts for the development and implementation of pilot programs to reduce the spread of AIDS through residential detoxification and outpatient detoxification and treatment services for intravenous drug users with AIDS or AIDS-related conditions.

(5) Monitor state and federal AIDS-related budget and policy development, and coordinate budget items to ensure that funding for matters related to AIDS is adequate and complete within the department each fiscal year.

(6) Develop and maintain an information clearinghouse within the department including periodic updates or releases to inform health professionals or community organizations providing services to people with AIDS

or AIDS-related conditions of the status of current or new clinical drug trials. These updates shall be compiled through review of scientific journals and in conjunction with the UC AIDS Task Force and researchers conducting clinical drug trials in California.

(7) Review, edit, and input summaries from scientific journals into the Computerized AIDS Information Network (CAIN), and do outreach about CAIN availability to health professionals.

(8) Develop and conduct a needs assessment of the availability of supportive services for people with AIDS or AIDS-related conditions. The needs assessment shall be conducted in conjunction with the statesAIDS education contractors and with any public or private agencies providing services to people with AIDS or AIDS-related conditions.

(9) Promote information and education programs for the general public to correct misinformation about AIDS. This shall include, but need not be limited to, periodic press releases to the printed and broadcast media and public service announcements.

(10) Establish, with the assistance of other state agencies as the department deems appropriate, centralized translation services to facilitate development of multilanguage, culturally relevant educational materials on HIV infection.

(11) Include, to the extent feasible, in its HIV surveillance and reporting practices, a breakdown of the major Asian-Pacific Islander subgroup populations. This breakdown shall be reflected in the surveillance and morbidity statistics issued by the director pursuant to Section 120825.

(12) Include, to the extent feasible with existing resources, in its HIV surveillance and reporting practices, information concerning newly identified clinical manifestations of HIV infection and available resources for health care practitioners to seek diagnostic and treatment information.

(b) The director shall contract for a prospective two-year study to accomplish the following objectives:

(1) Determine the medical costs of AIDS, comparing inpatient care, outpatient care, physician services, and community support services.

(2) The study shall include cost factors in the review of inpatient costs that may not be apparent in the analysis of charges, such as private rooms and social work.

(c) Notwithstanding Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, if the director determines that it is in the best interest of the state to enter into a contract for the purposes specified below without competitive bids, then the state director may, during the 1985“86 fiscal year, enter into a sole source contract for all of the following:

(1) Educational program evaluation.

(2) Education of hospital, home health agency, and attendant care workers.

(3) Drug education and treatment programs.

(4) The cost-of-care study.

(Amended by Stats. 2001, Ch. 745, Sec. 152. Effective October 12, 2001.)

120815.

(a) The department may provide supplemental funding to residential AIDS shelters in accordance with Section 120810, as long as that section is operative, and to residential care facilities for persons with a chronic, life-threatening illness, that are licensed in accordance with Chapter 3.01 (commencing with Section 1568.01) of Division 2.

(b) A residential AIDS shelter that receives a supplemental grant and subsequently is licensed as a residential care facility for persons with a chronic, life-threatening illness prior to the end of the grant period shall be entitled to the full amount of the supplemental grant.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120820.

(a) Personal data in any investigations, reports, and information relating thereto shall be kept confidential and be afforded protections provided by Section 100330, except as provided by Section 1603.1 or 1603.3.

(b) If patient-identifying information is subpoenaed from the department, the department shall seek and the court shall issue a protective order keeping this information confidential. The court order may require production, but limit the use and disclosure of, records, require production with names and identifying information deleted, provide sanctions for misuse of records or set forth other methods for assuring confidentiality.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120825.

The director shall:

(a) Be prepared to report to the Legislature on the amounts and recipients of contracts or block grant awards, and needs assessments conducted by the department.

(b) Issue once each month a public information release to the state contractors, local health departments, medical societies or organizations, nursing associations, hospital and hospital administrator associations, blood banks or centers, hemophilia associations and treatment centers, lesbian and gay health organizations, media outlets or community organizations, and other interested organizations or individuals, and the news media identifying research breakthroughs, new treatment protocols, infection control updates, surveillance and morbidity statistics, and other current and up-to-date information regarding AIDS education, treatment, or patient service programs.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120830.

(a)Pilot projects to demonstrate the cost effectiveness of home health, attendant, or hospice care shall be initiated through a block grant program, as described in this section.

(b)The state director shall designate the contractors and the amounts that contractors will receive for the block grant direct service demonstration projects.

(c)An amount of not more than 10 percent of the grant may be retained by contractors for administrative overhead. Contractors accepting block grant funds shall compile comparative cost data reports for transmission to the department and the Legislature. Reports shall be made semiannually until the conclusion of the project.

(d)Contractors receiving direct service block grants shall:

(1)Encourage broad-based community involvement and support for AIDS programs and involve charitable, other nonprofit, and other agencies as well as health care professionals as providers of essential services.

(2)Ensure the proposed services are not duplicated in the community and are based on the needs of people with AIDS or AIDS-related conditions, at-risk communities, their families, or others affected by AIDS.

(3)Make maximum use of other federal, state, and local funds and programs.

(4)Provide services that are culturally and linguistically appropriate to the population served.

(e)Counties with existing programs of demonstrated effectiveness in AIDS education or services shall receive equal consideration with other applicants and shall not be penalized when awarding funds pursuant to this chapter with respect to the proposed expansion of their programs.

(f)Contractors shall develop a comprehensive service system including, but not limited to, the following essential services, that can be provided either directly by the contractors or indirectly through a referral network arranged by the contractor:

(1)Provision for hospice, skilled nursing facility, home health care, and homemaker chore services.

(2)Individual consultation and health planning and assessment.

(3)Information for people with AIDS or AIDS-related conditions regarding death and dying.

(4)Evaluation and referral services for medical care.

(5)Referral services for mental health services, as appropriate.

(6)Assistance in applying for financial aid or social services that are available and for which clients qualify.

The system of essential services developed by a contractor shall offer maximum opportunity for involvement of family, friends, and domestic partners and of nonprofit and charitable organizations in preventing the severe, adverse health and social consequences that result from being diagnosed with AIDS or AIDS-related conditions.

(g)The direct service program for provision of essential services shall ensure both of the following:

(1)An ongoing quality assurance program.

(2)Confidentiality assurances and methods for developing interagency confidentiality agreements.

(Amended by Stats. 2006, Ch. 538, Sec. 439. Effective January 1, 2007.)

120835.

(a) The department shall amend the home health, hospice, and attendant care pilot projects funded pursuant to this chapter, to include, to the extent that it is cost-effective to the Medi-Cal program or the General Fund, the payment of private health insurance premiums for participants in the pilot projects prior to the participants becoming eligible for Medi-Cal.

(b) The director shall make a determination of cost-effectiveness, that shall be reviewed by the Department of Finance. The director may use existing budgeted resources for services provided for pursuant to subdivision (a).

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120840.

The State Department of Health Care Services shall establish an AIDS mental health project, as described in this section.

(a)The program should include, but need not be limited to, the following:

(1)The conduct of a statewide needs assessment of AIDS-related mental health issues.

(2)The conduct of education and training for mental health professionals throughout the state.

(3)The conduct, through the Office of Promotion, of a media campaign on such issues as the use of support groups, the relationship between stress and the immune system, and dealing with grief.

(b)The State Department of Health Care Services shall coordinate projects and resources directly with the department.

(c)The Director of Health Care Services may appoint advisory groups for this project as needed.

(d)Notwithstanding any provision of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, if the Director of Health Care Services determines that it is in the best interest of the state to enter into a contract for the purposes specified in this section without competitive bids, then the director may, during the 1985"86 fiscal year, enter into a sole source contract for these purposes.

(Amended by Stats. 2012, Ch. 34, Sec. 31. (SB 1009) Effective June 27, 2012.)

120845.

Pilot programs to reduce the spread of AIDS through residential detoxification and outpatient detoxification and treatment services for intravenous drug users, as described in paragraph (4) of subdivision (a) of Section 120805, shall be initiated through local agency operated AIDS-related substance abuser programs.

(a) The director shall designate the local agency contractors and the amounts that these contractors will receive for the AIDS-related substance abuser demonstration programs.

(b) The contractors shall develop a comprehensive service system including, but not limited to, the following essential services, that can be provided either directly by the contractors or through a referral network arranged by the contractors:

(1) Residential detoxification programs for intravenous drug users.

(2) Outpatient detoxification programs including health promotion and health assessment for intravenous drug users.

(3) AIDS and substance abuse information, consultation and resource referral to providers of services to AIDS patients and to drug treatment providers.

(4) Outreach, health promotion, health assessment, consultation and referrals for homeless youth substance abusers.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120846.

(a)It is the intent of the Legislature to increase the capacity of HIV test sites to screen more individuals by streamlining test site services.

(b)Publicly funded HIV test sites shall be permitted to do all of the following:

(1)Advise a person who has been tested before and is following appropriate public health risk reduction measures that the person does not need to receive further education services. This paragraph shall not apply to a person who engages in high-risk behaviors and is not following appropriate risk reduction measures.

(2)Determine whether a person should be allowed to self-administer any data collection form required by the department.

(3)As appropriate, provide prevention education through video, small group, individual interaction, or other methods and in small groups or couples.

(Added by Stats. 2008, Ch. 555, Sec. 1. Effective January 1, 2009.)

120850.

The amount of two million three hundred thousand dollars ($2,300,000), appropriated pursuant to Section 2 of Chapter 767 of the Statutes of 1985, shall be allocated to the University of California for research into AIDS. When expending these funds, the university shall solicit and consider proposals from within the University of California system and from universities and colleges outside the University of California system as well. In the expenditure of these funds, it is the preference of the Legislature that priority be given to viral cultures, clinical trials, and the administrative and laboratory support services necessary to conduct the trials.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120855.

(a) The department may use funds appropriated to it to pay the costs, including reimbursements to contractors for administrative costs, of providing home and community-based services to eligible persons with a diagnosis of acquired immune deficiency syndrome (AIDS) or AIDS related conditions (ARC) when the funds are appropriated for that purpose.

(b) To the extent that federal financial participation is available, each department within the Health and Welfare Agency, including departments designated as single state agencies for public social services programs, shall waive regulations and general policies and make resources available when necessary for the provision of home and community-based care services to eligible persons with a diagnosis of AIDS or ARC.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120860.

(a)The department shall, in coordination with the State Department of Health Care Services, develop a plan that assesses the need for, a program of acquired immune deficiency syndrome (AIDS) primary prevention, health education, testing, and counseling, specifically designed for women and children, that shall be integrated, as the department deems appropriate, into the following programs:

(1)The California Childrens Services Program provided for pursuant to Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106.

(2)Programs under the Maternal and Child Health Branch of the department.

(3)The Child Health Disability Prevention Program provided for pursuant to Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106.

(4)The Genetic Disease Program, provided for pursuant to Sections 125000 and 125005.

(5)The Family Planning Programs, provided for pursuant to Chapter 8.5 (commencing with Section 14500) of Part 3 of Division 9 of the Welfare and Institutions Code.

(6)The Rural and Community Health Clinics Program.

(7)The County Health Services Program, provided for pursuant to Part 4.5 (commencing with Section 16700)

of Division 9 of the Welfare and Institutions Code.

(8)The Sexually Transmitted Disease Program.

(9)Substance use disorder programs administered by the State Department of Health Care Services.

(b)The AIDS-related services that shall be addressed in the plan specified in this section shall include, but not be limited to, all of the following:

(1)A variety of educational materials that are appropriate to the cultural background and educational level of the program clientele.

(2)The availability of confidential HIV antibody testing and counseling either onsite or by referral.

(c)Pursuant to subdivision (a), the plan shall include a method to provide the educational materials specified in subdivision (b) and appropriate AIDS-related training programs for those persons who provide direct services to women and children receiving services under the programs specified in this section.

(d)In order that the AIDS-related services plan provided through the programs specified in this section be as effective as possible, the department shall ensure that the educational materials and training programs provided for each program specified in subdivision (a) are developed in coordination with, and with input from, each of the respective programs.

(e)Nothing in this section shall preclude the department from incorporating the plan requirements into the departmentsannual state AIDS plan, or any other reporting document relating to AIDS deemed appropriate by the department.

(Amended by Stats. 2013, Ch. 22, Sec. 70. (AB 75) Effective June 27, 2013. Operative July 1, 2013, by Sec. 110 of Ch. 22.)

120870.

(a) Every person who sells alkyl nitrites shall at the point of sale of the alkyl nitrites, post a sign measuring no less than five by seven inches to read as follows:
Warning: These products contain alkyl nitrites (›poppers™). Inhaling or swallowing alkyl nitrites may be harmful to your health. The use of alkyl nitrites may affect the immune system. Several studies have suggested that their use is associated with the development of Kaposissarcoma (an AIDS condition).

(b) The signs required by subdivision (a) shall be furnished by the manufacturers or distributors of alkyl nitrites in California in sufficient quantity with the shipments of alkyl nitrites to allow posting at all points of sale.

(c) Point of sale for purposes of this section is that place within close proximity of the shelves or other area where the alkyl nitrites are displayed for consumer purchase.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120871.

(a) The department shall authorize the establishment of training programs throughout the state for counselors for publicly funded HIV testing programs. These training programs shall be conducted by community-based, nonprofit organizations with demonstrated expertise in providing free, anonymous, or confidential HIV testing services. The programs may be offered at flexible times, so as to facilitate the training of volunteer and part-time counselors.

(b) All participating community-based organizations shall follow curriculum content and design approved by the department for training programs administered pursuant to this section.

(c) All counselors trained in programs authorized by this section shall be subject to existing state and local testing and successful completion of training.

(d) All costs associated with training programs administered pursuant to this section shall be absorbed by participating community-based organizations. This section shall not be construed to require or prohibit the funding of any training program administered pursuant to this section by the department, or by any local government administering a training program for HIV counselors.

(e) This section shall not be construed to prohibit or otherwise restrict community-based organizations from participating in existing local training programs.

(Added by Stats. 2002, Ch. 273, Sec. 1. Effective January 1, 2003.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=3.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 3. Acquired Immune Deficiency Syndrome (AIDS) Information [120875 - 120895]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 7.)

120875.

The State Department of Education shall provide information to school districts on acquired immune deficiency syndrome (AIDS), on AIDS-related conditions, and on Hepatitis B. This information shall include, but not be limited to, any appropriate methods school employees may employ to prevent exposure to AIDS and Hepatitis B, including information concerning the availability of a vaccine to prevent contraction of Hepatitis B, and that the cost of vaccination may be covered by the health plan benefits of the employees. This information shall be compiled and updated annually, or if there is new information, more frequently, by the State Department of Education in conjunction with the department and in consultation with the California Conference of Local Health Officers. In order to reduce costs, this information may be included as an insert with other regular mailings to the extent practicable, and the information required to be provided on Hepatitis B shall be provided in conjunction with the information required to be provided on AIDS.

(Amended by Stats. 2006, Ch. 538, Sec. 440. Effective January 1, 2007.)

120880.

School districts shall inform their employees annually, or if there is new information, more frequently, of the information compiled by the State Department of Education pursuant to Section 120875.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120885.

The Legislature finds and declares it is of great benefit to the public health and essential to the protection of safe blood and blood components available for transfusion to provide testing for the presence of antibodies to the probable causative agent of acquired immune deficiency syndrome (AIDS) as a function separate from the donation of blood or blood components.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120890.

The director shall, in order to protect the public health and in order to make blood and blood components safe for transfusion, designate counties that shall establish alternative testing sites, within the funds available, pursuant to this section and Sections 120885 and 120895. When designating a county pursuant to this section, the director may consider whether the county contains a permanent operational blood bank. All alternative test sites, established pursuant to this section and Sections 120885 and 120895, shall be under the supervision of a physician and surgeon or be a clinic or health facility licensed by the department.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120895.

(a)Each county, designated by the director, shall make the test available within its jurisdiction without charge, in an accessible manner and the tests shall be made available by the county on an anonymous basis through use of a coded system with no linking of individual identity with the test request or results. The number and location of sites in each county designated by the director shall be approved by the director. The test shall be made available by the county either directly or by contract with a physician and surgeon or with any clinic or health facility licensed by the department. Neither the county nor anyone else administering the test described in this section and Sections 120885 and 120890, shall ask for the name, social security number, or any other information that could reveal the identity of the individual who takes the test. Each alternative test site shall make available confidential information and referral services, within the funds available, to individuals who seek testing. A county may subcontract with individuals or entities to provide information and referral services.

All alternative test sites shall provide a referral list of physicians and surgeons or clinics knowledgeable about AIDS, to all persons who have any known risk factor for AIDS, especially those who have a reactive antibody test, for further information and explanation of the test results and for medical evaluation.

At a minimum, individuals seeking testing shall be informed about the validity and accuracy of the antibody test before the test is performed. All testing site personnel shall be required to attest to having provided the above information. Furthermore, all individuals who are tested at the sites established by this section and Sections 120885 and 120890 shall be given the results of this test in person. All sites providing antibody testing pursuant to this section and Sections 120885 and 120890 shall have a protocol for referral for 24-hour inpatient and mental health services. All individuals awaiting test results and all persons to whom results are reported shall be informed of available crisis services and shall be directly referred, if necessary.

Each county, designated by the director, shall be required to submit a plan to the department within 45 days after the effective date of this section that details where testing and pretest and posttest information and referral will be provided and the qualifications of the staff who will be performing the services required by this section and Sections 120885 and 120890. The department shall make training available, especially to smaller counties.

(b)The department shall establish a reimbursement process for counties within 30 days after the effective date of this section for the following services:

(1)Informing test applicants on the testsreliability and validity.

(2)Administration of tests, analysis of test samples, and costs associated with the laboratory work required by this antibody test.

(3)Short-term information and referral sessions, of no more than one visit per person tested for the purpose of transmitting the personstest results and, as requested, for referral to available followup services.

The department shall establish the amounts to be reimbursed for each of these services, but the amounts shall be established at a level to ensure that the purposes of this section and Sections 120885 and 120890 are carried out. Reimbursements shall be made for each service provided.

(c)The department may replace the test for the antibody to the probable causative agent for AIDS with

another type of HIV test, as the department deems appropriate.

(d)The director may grant a waiver to a county from the requirements of this section and Sections 120885 and 120890 if the county petitions the director for the waiver and the director determines that the waiver is consistent with the purposes of this section and Sections 120885 and 120890.

(e)A participating county or the department may accept grants, donations, and in-kind services for purposes of carrying out this section and Sections 120885 and 120890.

(Amended by Stats. 2006, Ch. 20, Sec. 2. Effective April 17, 2006.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=4.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 4. Acquired Immune Deficiency Syndrome (AIDS) Early Intervention Projects [120900 - 120920]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 7.)

120900.

(a) The director shall award contracts to early intervention projects to provide long-term services to persons infected with HIV. The purposes of the early intervention projects shall be to provide appropriate medical treatment to prevent or delay the progression of disease that results from HIV infection, to coordinate services available to HIV infected persons, and to provide information and education, including behavior change support, to HIV infected persons to prevent the spread of HIV infection to others. The director shall award contracts to early intervention projects from a variety of geographical areas. In selecting projects, the

director shall ensure that each early intervention project will respond to the needs of its projected service area, will be sensitive to linguistic, ethnic, and cultural differences, and will accommodate the special needs of clients by taking into account the circumstances that placed them at risk for becoming infected with HIV. The director shall award contracts for early intervention services at a pace that reflects the availability of private, state, and federal reimbursement pursuant to Section 120920. Prior to awarding contracts to new programs, the director shall consider utilizing existing services and programs with which it currently contracts, or that are currently in operation, and that provide HIV-related services.

(b) Early intervention projects that are awarded contracts pursuant to this section shall provide all of the following services:

(1) Health assessment of HIV infected persons, including, but not limited to, a physical examination and immunologic and clinical monitoring.

(2) Health education and behavior change support related to reducing the risk of spreading HIV infection to others and to maximize the healthy and productive lives of HIV infected persons.

(3) Psychosocial counseling services.

(4) Information and referrals for social services.

(5) Information and referrals on available research for the treatment of HIV infection.

(6) Covered outpatient preventative or therapeutic health care services related to HIV infection, as determined by the director.

(7) Case management.

(c) An early intervention project shall establish a core case management team for each client to assess the needs of the client and to develop, implement, and evaluate the clientswritten individual service plan. As needed by the client, the individual service plan shall include services specified in subdivision (b), other support services, legal services, public assistance, insurance, and inpatient and outpatient health care services needs of the client. A core case management team shall include, but not be limited to, a physician and surgeon, a physician assistant or nurse practitioner, a health educator, a case manager, and the client. Case management in an early intervention project shall incorporate an interdisciplinary approach. Other professionals, paraprofessionals, and other interested persons deemed appropriate by the members of the core case management team also may be included. The case manager shall coordinate the objectives specified in the clientsindividual service plan. The case manager also shall monitor and assist the client through all services provided by the project and shall provide information, guidance, and assistance to the client regarding support services, legal services, public assistance, insurance, and inpatient and outpatient health care services. The project shall designate a sufficient number of case managers to reflect case manager-to-client ratios established by the department.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120905.

(a) The director shall commence awarding contracts to projects on or before July 1, 1990. In awarding contracts to early intervention projects, the director may select projects from each of the following models:

(1) A privately operated profit or nonprofit clinic that is not licensed as part of a health facility and that provides all of the services specified in subdivision (b) of Section 120900.

(2) A publicly operated clinic that is not licensed as part of a health facility and that provides all of the services specified in subdivision (b) of Section 120900.

(3) A combination of independent privately operated clinics, publicly operated clinics, and other health care providers that in total provide all of the services specified in subdivision (b) of Section 120900.

(4) Any other model that the director considers worthy of receiving funds.

(b) An applicant for a contract to operate an early intervention project that is not a part of a county health department shall submit its application to the county health department for review and comment. The county health department shall provide comment on the application to the department within a time period to be specified by the department. The failure by a county health department to comment on an application submitted to it within the time period specified by the department shall not jeopardize the application, and the department in a case of this nature may process and award a contract in the absence of comment by the county health department.

(c) An applicant for a contract to operate an early intervention project shall indicate in its application how it intends to coordinate with county health department programs, community-based organizations that provide HIV-related services, and other public and private entities that may provide services to a person who is infected with HIV.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120910.

(a) The department shall collect data from the early intervention projects, assess the effectiveness of the different models of early intervention projects.

(b) The department shall continuously collect data from each early intervention project. The data collected may include, but not be limited to, the following:

(1) The total number of clients served.

(2) The number of clients utilizing each service provided by the project.

(3) Demographics on clients in the aggregate.

(4) The source of funding for each type of service provided.

(5) The cost of each type of service provided.

(6) Medical treatment modalities utilized in the aggregate.

(7) Changes in the clinical status of clients in the aggregate.

(8) Changes in behaviors that present risks of transmitting HIV infection of the clients in the aggregate.

(9) The psychosocial changes of clients in the aggregate.

(10) Referrals made by the project.

(11) Perceived unmet needs of the clients served by the project.

(c) The department shall develop and distribute to each early intervention project forms for data collection that are designed to elicit information necessary for the department to comply with the requirements of subdivision (b). The data may be used by the department to comply with the requirements of subdivision (a).

(Amended by Stats. 2012, Ch. 728, Sec. 105. (SB 71) Effective January 1, 2013.)

120915.

(a) The department shall establish a reimbursement schedule for all of the services detailed in subdivision (b) of Section 120900. The amounts to be reimbursed for these services shall be commensurate with the costs of providing these services.

(b) The department shall develop and disseminate guidelines to assist early intervention projects in identifying appropriate public and private payers of early intervention services. The guidelines shall take into account each clientsaccess to, and eligibility for, private health insurance and public medical assistance. The guidelines shall include, but not be limited to, the reimbursement schedule established pursuant to subdivision (a) and the elements identified in subdivisions (c) to (h), inclusive.

(c) Reimbursement under Sections 120900 to 120920, inclusive, shall not be made for any services that are available to the client under a private health insurance program. Early intervention projects shall inquire of each client as to the clientscoverage by a private health insurance policy. Where a client has a private health insurance policy, the early intervention project shall bill the insurer for those services in subdivision (b) of Section 120900 that are covered by the clientspolicy.

(d) The department shall develop and implement, or cause to be implemented by an early intervention project, a uniform sliding fee schedule for services provided to individuals under Sections 120900 to 120920, inclusive. The schedule shall be based on the clientsability to pay.

(e) The department may apply for any funds available from the federal government for the reimbursement of those services to be provided by early intervention projects, including, but not limited to, funds available pursuant to Section 2318 of the Public Health Service Act, as added by Public Law 100-607, that provides for the development of model protocols for the clinical care of individuals who are infected with HIV.

(f) To the extent permitted under existing law, the Medi-Cal program shall provide reimbursement to early intervention projects for services provided under Sections 120900 to 120920, inclusive, that are covered under the Medi-Cal program. This subdivision shall not be construed to confer Medi-Cal eligibility on any person who does not meet existing Medi-Cal eligibility requirements.

(g) The department shall use federal and state general funds that are appropriated for the purpose of purchasing HIV-related drug treatments and related services, to reimburse for covered outpatient preventative or therapeutic health care services, as defined by the director, provided that the client is eligible

for a federal or state program that subsidizes the cost of HIV-related drugs and related services. If Assembly Bill 2251 of the 1989"90 Regular Session is enacted, the department shall use the provisions in Chapter 6 (commencing with Section 120950) to implement this subdivision.

(h) The department shall use moneys from the General Fund to cover expenses for early intervention services that are not otherwise reimbursed, to the extent that moneys from the General Fund are expressly appropriated to the department for early intervention services.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120917.

(a)An HIV counselor who meets the requirements of subdivision (f) may do all of the following:

(1)Perform any HIV, hepatitis C virus (HCV), or other sexually transmitted disease (STD) test that is classified as waived under the federal Clinical Laboratory Improvement Act (CLIA) (42 U.S.C. Sec. 263a et seq.) if all of the following conditions exist:

(A)The performance of the HIV, HCV, or STD test meets the requirements of CLIA and, subject to subparagraph (D), Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(B)The HIV counselor has been trained and demonstrates proficiency in administering the HIV, HCV, or STD test.

(C)The HIV counselor demonstrates sufficient knowledge of HIV, HCV, or STDs to provide appropriate counseling and referrals to patients for the test they are performing.

(D)Notwithstanding Section 1246 of the Business and Professions Code, an HIV counselor may perform skin punctures for the purpose of withdrawing blood for an HIV, HCV, or STD test, upon specific authorization from a licensed physician and surgeon, provided that the person meets all of the following requirements:

(i)The HIV counselor works under the direction of a licensed physician and surgeon.

(ii)The HIV counselor has been trained in administering rapid HIV, HCV, or STD tests and in universal infection control precautions, consistent with best infection control practices established by the Division of Occupational Safety and Health in the Department of Industrial Relations and the federal Centers for Disease Control and Prevention. The HIV counselor shall not administer a rapid HIV, HCV, or STD test until they demonstrate proficiency in administering the test.

(E)The person performing the HIV, HCV, or STD test meets the requirements for the performance of waived laboratory testing pursuant to subdivision (a) of Section 1206.5 of the Business and Professions Code. For purposes of this subdivision and subdivision (a) of Section 1206.5 of the Business and Professions Code, an HIV counselor who meets the requirements of subdivision (f) shall be other health care personnel providing direct patient care as referred to in paragraph (14) of subdivision (a) of Section 1206.5 of the Business and Professions Code.

(F)The patient is informed that the preliminary result of the test is indicative of the likelihood of HIV infection, HCV exposure, or other STD exposure and that the result may need to be confirmed by an additional more

specific test, or, if approved by the federal Centers for Disease Control and Prevention for that purpose, a second different rapid HIV, HCV, or STD test. This subdivision does not allow an HIV counselor to perform an HIV, HCV, or STD test that is not classified as waived under the CLIA.

(2)Notwithstanding Section 1246.5 of the Business and Professions Code, order and report HIV, HCV, or STD test results from tests performed pursuant to paragraph (1) to patients without authorization from a licensed health care professional or the health care professionalsauthorized representative. Patients with indeterminate or positive test results from tests performed pursuant to paragraph (1) shall be referred to a licensed health care provider whose scope of practice includes the authority to refer patients for laboratory testing for further evaluation.

(b)An HIV counselor who has been certified pursuant to subdivision (b) of Section 120871 prior to September 1, 2009, and who will administer rapid HIV, HCV, or STD skin puncture tests shall obtain training required by clause (ii) of subparagraph (B) of paragraph (1) of subdivision (a) prior to September 1, 2011. The HIV counselor shall not, unless also certified as a limited phlebotomist technician, perform a skin puncture pursuant to this section until after completing the training required by that clause.

(c)An HIV counselor who has been certified pursuant to subdivision (f) prior to January 1, 2022, and who will administer rapid STD tests, shall obtain training required by subparagraph (B) of paragraph (1) of subdivision (a). The HIV counselor shall not, unless also certified as a limited phlebotomist technician, perform STD tests pursuant to this section until after completing the training required by that clause.

(d)An HIV counselor who meets the requirements of this section with respect to performing any HIV, HCV, or STD test that is classified as waived under the CLIA may not perform any other test unless that person meets the statutory and regulatory requirements for performing that other test.

(e)This section does not certify an HIV counselor as a phlebotomy technician or a limited phlebotomy technician, or fulfill any requirements for certification as a phlebotomy technician or a limited phlebotomy technician, unless the HIV counselor has otherwise satisfied the certification requirements imposed pursuant to Section 1246 of the Business and Professions Code.

(f)(1)An HIV counselor shall meet one of the following criteria:

(A)Is trained by the Office of AIDS and working in an HIV counseling and testing site funded by the department through a local health jurisdiction, or its agents.

(B)Is working in an HIV counseling and testing site that meets both of the following criteria:

(i)Utilizes HIV counseling staff who are trained by the Office of AIDS or its agents.

(ii)Has a quality assurance plan approved by the local health department in the jurisdiction where the site is located and has HIV counseling and testing staff who comply with the quality assurance requirements specified in Section 1230 of Article 1 of Group 9 of Subchapter 1 of Chapter 2 of Division 1 of Title 17 of the California Code of Regulations.

(C)Has completed a training course that has been approved by the Office of AIDS.

(2)(A)The Office of AIDS or its agents may charge a fee for training HIV counseling staff.

(B)The local health department may charge a fee for the quality assurance plan approval.

(3)The Office of AIDS may determine which HIV, HCV, and STD tests are to be included in the training for HIV counseling staff. This determination may be modified by the department at any time, in consultation with appropriate local public health stakeholders. Both the establishment and modification of this determination shall be exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(Amended by Stats. 2021, Ch. 486, Sec. 6. (SB 306) Effective January 1, 2022.)

120920.

The Legislature hereby finds and declares that people with HIV infection may not avail themselves of early intervention services unless they are aware of the availability of the services and the efficacy of early intervention in prolonging life. This awareness by HIV-infected persons is critical to maximizing the benefits of early intervention. Therefore, it is the intent of the Legislature that the department includes early intervention education as a component of information and education grants in the first grant cycle following enactment of Sections 120900 to 120920, inclusive.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=5.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 5. Provision of Azidothymidine [120925 - 120935]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 7.)

120925.

The Legislature hereby finds and declares all of the following:

(a) The drug azidothymidine (AZT) improves and prolongs the quality of life for those suffering from acquired immune deficiency syndrome (AIDS) or AIDS-related conditions, is believed to reduce the infectiousness of a person infected with human immunodeficiency virus (HIV), and is the only drug approved by the federal Food and Drug Administration for treatment of AIDS and AIDS-related conditions.

(b) Hundreds of Californians infected with HIV are receiving AZT due to a subsidy for AZT made available by the federal government for low-income people.

(c) The department estimates that it will have sufficient federal funds to maintain those enrolling in the program prior to October 1, 1988, through April 1989, if it terminates new enrollees beginning October 1, 1988.

(d) The department intends to direct counties to cease accepting new enrollees for the subsidy program beginning October 1, 1988, because of the exhaustion of these federal funds.

(e) The federal government has an obligation to continue to support the subsidy program that it has initiated because of the horrendous moral consequences of terminating the access of low-income infected people to the drug.

(f) The funding cycle for federal programs precludes appropriating additional funds to maintain this program until June of 1989.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120930.

It is the intent of the Legislature that the State of California continue to provide temporary funding for the program to ensure that those whose health depends on obtaining access to AZT and who are unable to afford it can receive the drug during this interim period.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120935.

The department shall continue through June 1989, the AZT subsidy program established in 1987 with federal funds. The department shall maintain the eligibility standards used for the program as of August 1988. The department shall allocate to local health jurisdictions the funds appropriated to support the subsidy program. The department may reallocate funds among these local health jurisdictions as needed to ensure that persons requiring the subsidy receive it through June 1989.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=6.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 6. Human Immunodeficiency Virus (HIV) Treatment [120950 - 120971]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 7.)

120950.

The Legislature hereby finds and declares all of the following:

(a) State-of-art knowledge regarding treatment of people infected with the human immunodeficiency virus (HIV) indicates that active HIV infection (AIDS) can be a manageable, though chronic, condition with the use of drugs such as zidovudine (AZT), aerosolized pentamidine, and ganciclovir. AIDS experts across the nation agree that early intervention with these drugs can prolong life, minimize the related occurrences of more serious illnesses, reduce more costly treatments, and maximize the HIV-infected personsvitality and productivity.

(b) For reasons of compassion and cost effectiveness, the State of California has a compelling interest in ensuring that its citizens infected with the HIV virus have access to these drugs.

(c) The department subsidizes the cost of these drugs for persons who do not have private health coverage, are not eligible for Medi-Cal, or cannot afford to purchase the drug privately. The subsidy program is funded through state and federal sources.

(d) Congress is expected to place limitations on the federal subsidy program that will jeopardize access to these life-prolonging drugs for people whose income is higher than federal income eligibility cap but lower

than the statesincome eligibility cap.

(e) It is critical that suffering persons with limited income have access to life-prolonging drugs. It is also critical that persons currently eligible for the subsidy program remain eligible regardless of changes that may result from the congressional action and the enactment of this chapter. However, it is appropriate that people who can afford to pay a portion of the cost of treatment be obligated to share the cost of these drugs.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

120955.

(a)(1)To the extent that state and federal funds are appropriated in the annual Budget Act for these purposes, the director shall establish and may administer a program to provide drug treatments to persons infected with human immunodeficiency virus (HIV), the etiologic agent of acquired immunodeficiency syndrome (AIDS). If the director makes a formal determination that, in any fiscal year, funds appropriated for the program will be insufficient to provide all of those drug treatments to existing eligible persons for the fiscal year and that a suspension of the implementation of the program is necessary, the director may suspend eligibility determinations and enrollment in the program for the period of time necessary to meet the needs of existing eligible persons in the program.

(2)The director, in consultation with the AIDS Drug Assistance Program Medical Advisory Committee, shall develop, maintain, and update as necessary a list of drugs to be provided under this program. The list shall be exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and shall not be subject to the review and approval of the Office of Administrative Law.

(b)The director may grant funds to a county public health department through standard agreements to administer this program in that county. To maximize the recipients™ access to drugs covered by this program, the director shall urge the county health department in counties granted these funds to decentralize distribution of the drugs to the recipients.

(c)The director shall establish a rate structure for reimbursement for the cost of each drug included in the program. Rates shall not be less than the actual cost of the drug. However, the director may purchase a listed drug directly from the manufacturer and negotiate the most favorable bulk price for that drug.

(d)Manufacturers of the drugs on the list shall pay the department a rebate equal to the rebate that would be applicable to the drug under Section 1927(c) of the federal Social Security Act (42 U.S.C. Sec. 1396r-8(c)) plus an additional rebate to be negotiated by each manufacturer with the department, except that no rebates shall be paid to the department under this section on drugs for which the department has received a rebate under Section 1927(c) of the federal Social Security Act (42 U.S.C. Sec. 1396r-8(c)) or that have been purchased on behalf of county health departments or other eligible entities at discount prices made available under Section 256b of Title 42 of the United States Code.

(e)The department shall submit an invoice, not less than two times per year, to each manufacturer for the amount of the rebate required by subdivision (d).

(f)Drugs may be removed from the list for failure to pay the rebate required by subdivision (d), unless the

department determines that removal of the drug from the list would cause substantial medical hardship to beneficiaries.

(g)The department may adopt emergency regulations to implement amendments to this chapter made during the 1997"98 Regular Session, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The initial adoption of emergency regulations shall be deemed to be an emergency and considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this section shall remain in effect for no more than 180 days.

(h)Reimbursement under this chapter shall not be made for any drugs that are available to the recipient under any other private, state, or federal programs, or under any other contractual or legal entitlements, except that the director may authorize an exemption from this subdivision where exemption would represent a cost savings to the state.

(i)The department may also subsidize certain cost-sharing requirements for persons otherwise eligible for the AIDS Drug Assistance Program (ADAP) with existing non-ADAP drug coverage by paying for prescription drugs included on the ADAP formulary within the existing ADAP operational structure up to, but not exceeding, the amount of that cost-sharing obligation. This cost sharing may only be applied in circumstances in which the other payer recognizes the ADAP payment as counting toward the individualscost-sharing obligation. The department may subsidize, using available federal funds and moneys from the AIDS Drug Assistance Program Rebate Fund, costs associated with a health care service plan or health insurance policy, including medical copayments and deductibles for outpatient care, and premiums to purchase or maintain health insurance coverage.

(Amended by Stats. 2017, Ch. 52, Sec. 14. (SB 97) Effective July 10, 2017.)

120956.

(a)The AIDS Drug Assistance Program Rebate Fund is hereby created as a special fund in the State Treasury.

(b)All rebates collected from drug manufacturers on drugs purchased through the AIDS Drugs Assistance Program (ADAP) implemented pursuant to this chapter and, notwithstanding Section 16305.7 of the Government Code, interest earned on these moneys shall be deposited in the fund exclusively to cover costs related to the purchase of drugs and services provided through ADAP and the HIV prevention programs as described in Sections 120972 and 120972.1.

(c)Notwithstanding Section 13340 of the Government Code, moneys in the fund are continuously appropriated without regard to fiscal year to State Department of Public Health and available for expenditure for those purposes specified under this section.

(Amended by Stats. 2021, Ch. 143, Sec. 23. (AB 133) Effective July 27, 2021.)

120960.

(a)The department shall establish uniform standards of financial eligibility for the drugs under the program

established under this chapter.

(b)Nothing in the financial eligibility standards shall prohibit drugs to an otherwise eligible person whose modified adjusted gross income does not exceed 500 percent of the federal poverty level per year based on family size and household income. However, the director may authorize drugs for persons with incomes higher than 500 percent of the federal poverty level per year based on family size and household income if the estimated cost of those drugs in one year is expected to exceed 20 percent of the personsmodified adjusted gross income.

(c)A county public health department administering this program pursuant to an agreement with the director pursuant to subdivision (b) of Section 120955 shall use no more than 5 percent of total payments it collects pursuant to this section to cover any administrative costs related to eligibility determinations, reporting requirements, and the collection of payments.

(d)A county public health department administering this program pursuant to subdivision (b) of Section 120955 shall provide all drugs added to the program pursuant to subdivision (a) of Section 120955 within 60 days of the action of the director.

(e)For purposes of this section, the following terms shall have the following meanings:

(1)Family size has the meaning given to that term in Section 36B(d)(1) of the Internal Revenue Code of 1986, and shall include same or opposite sex married couples, registered domestic partners, and any tax dependents, as defined by Section 152 of the Internal Revenue Code of 1986, of either spouse or registered domestic partner.

(2)Federal poverty level refers to the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of Section 9902(2) of Title 42 of the United States Code.

(3)Household income means the sum of the applicantsor recipientsmodified adjusted gross income, plus the modified adjusted gross income of the applicantsor recipientsspouse or registered domestic partner, and the modified adjusted gross incomes of all other individuals for whom the applicant or recipient, or the applicantsor recipientsspouse or registered domestic partner, is allowed a federal income tax deduction for the taxable year.

(4)Internal Revenue Code of 1986 means Title 26 of the United States Code, including all amendments enacted to that code.

(5)Modified adjusted gross income has the meaning given to that term in Section 36B(d)(2)(B) of the Internal Revenue Code of 1986.

(Amended by Stats. 2016, Ch. 30, Sec. 5. (SB 833) Effective June 27, 2016.)

120962.

(a)(1)For the purpose of verifying financial eligibility pursuant to Section 120960 and the federal Ryan White HIV/AIDS Treatment Extension Act of 2009 (42 U.S.C. Sec. 201 et seq.), the department shall verify the accuracy of the modified adjusted gross income reported on an AIDS Drug Assistance Program application submitted by an applicant or recipient with data, if available, from the Franchise Tax Board.

(2)Notwithstanding any other law, the department shall disclose the name and individual taxpayer identification number (ITIN) or social security number of an applicant for, or recipient of, services under this chapter to the Franchise Tax Board for the purpose of verifying the modified adjusted gross income of, any tax-exempt interest received by, any tax-exempt social security benefits received by, and any foreign earned income of an applicant or recipient pursuant to subdivision (b) of Section 120960.

(b)(1)The Franchise Tax Board, upon receipt of this information, shall inform the department of all of the following:

(A)The amount of the federal adjusted gross income received by the taxpayer household as reported by the taxpayer to the Franchise Tax Board.

(B)The amount of the California adjusted gross income received by the taxpayer household as reported by the taxpayer to the Franchise Tax Board or as adjusted by the Franchise Tax Board.

(C)The amount of any tax-exempt interest received by the taxpayer household, as reported to the Franchise Tax Board.

(D)The amount of any tax-exempt social security benefits received by the taxpayer household, as reported to the Franchise Tax Board.

(E)The amount of any foreign earned income of the taxpayer household, as reported to the Franchise Tax Board.

(F)The family size of the taxpayer household, as reported to the Franchise Tax Board.

(2)The Franchise Tax Board shall provide the information to the department for the most recent taxable year that the Franchise Tax Board has information available, and shall include the first and last name, date of birth, and the ITIN or social security number of the taxpayer.

(c)(1)Information provided by the department pursuant to this section shall constitute confidential public health records as defined in Section 121035, and shall remain subject to the confidentiality protections and restrictions on further disclosure by the recipient under subdivisions (d) and (e) of Section 121025.

(2)To the extent possible, verification of financial eligibility shall be done in a way to eliminate or minimize, by use of computer programs or other electronic means, Franchise Tax Board staff and contractors™ access to confidential public health records.

(3)Prior to accessing confidential HIV-related public health records, Franchise Tax Board staff and contractors shall be required to annually sign a confidentiality agreement developed by the department that includes information related to the penalties under Section 121025 for a breach of confidentiality and the procedures for reporting a breach of confidentiality under subdivision (h) of Section 121022. Those agreements shall be reviewed annually by the department.

(4)The Franchise Tax Board shall return or destroy all information received from the department after completing the exchange of information.

(d)For purposes of this section, foreign earned income also includes any deduction taken for the housing expenses of an individual while living abroad pursuant to Section 911 of Title 26 of the Internal Revenue Code.

(e)For purposes of this section, household means the applicant or recipient, and, in addition, the applicantsor recipientsspouse or registered domestic partner, and all other individuals for whom the applicant or recipient, or the applicantsor recipientsspouse or registered domestic partner, is allowed a federal income tax deduction for the taxable year.

(f)For purposes of this section, family size has the meaning given to that term in Section 36B(d)(1) of Title 26 of the Internal Revenue Code, and includes same or opposite sex married couples, registered domestic partners, and any dependent, as defined by Section 152 of Title 26 of the Internal Revenue Code, of either spouse or registered domestic partner.

(Amended by Stats. 2020, Ch. 12, Sec. 8. (AB 80) Effective June 29, 2020.)

120966.

(a) (1) The program established under this chapter shall make available to any eligible person under this chapter any antiviral drug that is approved by the federal Food and Drug Administration for treatment of human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS), prescribed by the beneficiarysmedical care provider, and approved by the AIDS Drug Assistance Program Medical Advisory Committee of the Office of AIDS if determined by the State Department of Health Services that the new antiviral drug would be used as an additional treatment option, and anticipated client utilization represents no significant additional cost to the program and does not require the removal of another antiviral drug from the formulary.

(2) Any federal Food and Drug Administration-approved antiviral drug that is determined by the State Department of Health Services to represent a significant additional cost to the program shall be made available if, after an analysis is conducted by the department, it determines that the program has an adequate budget to fund the addition of the new drug.

(3) The department shall use all reasonable means to ensure that the determination required in paragraph (1) or the analysis required by paragraph (2) are performed as promptly as possible.

(b) Notwithstanding any other provision of law, any antiviral drug that is approved pursuant to paragraph (1) of subdivision (a) for addition to the formulary of drugs program established by this chapter shall be available to patients covered by the program established by this chapter within 30 days of the Office of AIDS being notified by the drugsmanufacturer of the FDA approval.

(Added by Stats. 1999, Ch. 497, Sec. 1. Effective January 1, 2000.)

120968.

The Office of AIDS shall report to the Legislature no later than October 1, 2000, the status of consumer protections for the AIDS drug program established pursuant to this chapter, including a report on the contractorsperformance in each of the following areas:

(a) Filling of patient prescriptions within 24 hours of submission, and shipping of mail order prescriptions within 48 hours.

(b) Subcontracting with any willing provider, including a report on any denials of contracts with providers and the reason for denial.

(c) Provision of information regarding program policies, procedures, enrollment procedures, eligibility guidelines, and lists of drugs covered in appropriate literacy levels in English, Spanish, Mandarin/Cantonese, Tagalog, and in other languages as determined by the department.

(d) Development of a timely and accessible grievance procedure for clients, promotion of that procedure among clients, and utilization.

(Added by Stats. 1999, Ch. 497, Sec. 2. Effective January 1, 2000.)

120970.

If the department utilizes a contractor or subcontractor to administer any aspect of the program provided for under this chapter, the following additional client assistance provisions shall apply:

(a)The contractor shall, either directly or through subcontracted pharmacy outlets, obtain and dispense the necessary drugs, in their approved forms according to the program formulary, and shall comply with all applicable provisions of the California Pharmacy Law (Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code) and regulations adopted thereunder.

(b)Upon receipt of notification by the department, the contractor shall be able to accommodate additions or changes in the formulary within 10 business days.

(c)Clients shall receive drugs from a participating pharmacy either directly, through the clientsdesignated representative, or mailed or delivered to the clientsplace of residence by the contractor or subcontractor, whichever the client prefers. Proof of delivery of the prescription to the clientsdesignated address, by signature acknowledging receipt thereof, shall be required for all mail order prescriptions.

(d)Clients shall have their prescriptions filled within 24 hours of submission of prescription requests, and mail order prescriptions shall be shipped by the contractor within 48 hours of receipt of client prescription requests.

(e)The contractor shall provide 24-hour free telephone and fax machine access for physicians and surgeons, or medical care providers as authorized under state law, to call in or transmit prescriptions for mail order pharmacy.

(f)Clients shall have toll-free telephone access during business hours to speak with licensed pharmacists for medication counseling and for mail order prescription requests. The contractor shall provide consultation in the prevention of potentially harmful drug interactions in connection with prescriptions filled for clients.

(g)The contractor shall have the ability to subcontract with any willing provider, including independent and sole proprietorship pharmacies, provided the subcontractor accepts the rates offered by the contractor, supplies the contractor with timely information, and complies with necessary contract terms and conditions and other needs of the program as determined by the contractor or the department.

(h)It is the intent of the Legislature that the contractor subcontract with all willing providers accepting the

terms and conditions provided for in subdivisions (a) to (g), inclusive, in order to facilitate continuity of care for clients under this chapter.

(i)All types of information, whether written or oral, concerning a client, made or kept in connection with the administration of ADAP services, which includes subsidizing costs associated with health care service plan contracts and health insurance premium payment assistance, shall be confidential, and shall not be used or disclosed except for any of the following:

(1)For purposes directly connected with the administration of the program.

(2)For coordinating client eligibility with programs funded by the federal Ryan White HIV/AIDS Program (Ryan White HIV/AIDS Treatment Extension Act of 2009, (Public Law 111-87, 42 U.S.C. Sec. 201, et seq.)).

(3)If disclosure is otherwise authorized by law.

(4)Pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator.

(j)Information regarding program policies and procedures, including enrollment procedures, eligibility guidelines, and lists of drugs covered, shall be made available to clients in appropriate literacy levels in English, Spanish, Mandarin/Cantonese, Tagalog, and in other languages, as determined by the department.

(k)The contractor shall develop and maintain a timely and accessible grievance procedure for clients to resolve problems regarding all components of the delivery of drugs under this chapter.

(Amended by Stats. 2017, Ch. 52, Sec. 16. (SB 97) Effective July 10, 2017.)

120971.

(a)In the event state expenditures for the AIDS Drug Assistance Program (ADAP) are identified by California to be used as a certified public expenditure for the purpose of obtaining federal financial participation under the Medi-Cal program for any purposes, including federal demonstration waivers, the State Department of Health Care Services and the State Department of Public Health shall ensure the integrity of the ADAP in meeting its maintenance-of-effort requirements to receive federal funds and to obtain all ADAP drug rebates to support the ADAP.

(b)The State Department of Health Care Services and the State Department of Public Health shall keep the appropriate policy and fiscal committees of the Legislature informed of any potential concerns that may arise in the event that state expenditures for the ADAP are used as a certified public expenditure as described in subdivision (a).

(Added by Stats. 2010, Ch. 717, Sec. 15. (SB 853) Effective October 19, 2010.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=6.1.&article=

120972.

(a)To the extent that funds are available for these purposes, the director may establish and administer a program within the departmentsOffice of AIDS to subsidize certain costs of medications for the prevention of HIV infection and other related medical services, as authorized by this section, to persons who meet all of the following requirements:

(1)Are residents of California who are at least 18 years of age, or who may consent to medical care related to the prevention of a sexually transmitted disease consistent with Section 6926 of the Family Code.

(2)Are HIV negative.

(3)Meet the financial eligibility requirements identified in Section 120960. Unemancipated minors between 12 and 17 years of age shall be considered a family size of one for purposes of determining financial eligibility for this program.

(4)Have been prescribed, dispensed, or otherwise furnished medication listed on the AIDS Drug Assistance Program (ADAP) formulary as provided in paragraph (2) of subdivision (a) of Section 120955.

(b)To the extent allowable under federal law, and upon available funds, the director may expend funding for this program from the AIDS Drug Assistance Program Rebate Fund as implemented pursuant to Section 120956.

(c)To the extent that funding is made available for this purpose, the program may subsidize all of the following costs of medication for the prevention of HIV infection and related medical services for eligible individuals:

(1)For uninsured individuals, the costs for both of the following:

(A)HIV pre-exposure prophylaxis (PrEP)-related and post-exposure prophylaxis (PEP)-related medical services for individuals who are enrolled, if eligible, in a drug manufacturersmedication assistance program.

(B)Medication for the prevention of HIV infection for individuals who are ineligible for a drug manufacturersmedication assistance program.

(2)For insured individuals, the costs for all of the following:

(A)Medication copays, coinsurance, and deductibles for the prevention of HIV infection after the individualsinsurance is applied and, if eligible, after the drug manufacturersmedication assistance programscontributions are applied. Use of the drug manufacturersmedication assistance program is not required if it is not accepted by the health plan or pharmacy contracted with the health plan.

(B)Medical copays, coinsurance, and deductibles for PrEP-related and PEP-related medical services.

(C)Subsidizing premiums to purchase or maintain health insurance coverage for individuals using PrEP if the director makes a determination that it is feasible and would result in cost savings to the state.

(d)For the purposes of this program, an insured individual on a parentsor partnershealth plan shall be considered uninsured if the individual is unable to use the individualshealth insurance coverage for

confidentiality or safety reasons.

(e)Notwithstanding the eligibility requirements in subdivision (a), the program may subsidize the costs of up to 30 days of PrEP and PEP medications for the prevention of HIV infection.

(f)If the director makes a formal determination that, in any fiscal year, funds appropriated for the program will be insufficient to provide medications for the prevention of HIV infection or related medical costs to existing eligible persons for the fiscal year and that a suspension of the implementation of the program is necessary, the director may suspend either of the following:

(1)The program.

(2)The eligibility determinations and enrollment in the program for the period of time necessary to meet the needs of existing eligible persons in the program.

(g)Reimbursement under the program shall not be made for any drugs or related services that are available to the recipient under any other private, state, or federal programs, or under any other contractual or legal entitlements, except as specified in this section. The director may authorize an exemption from this subdivision if it would result in cost savings to the state.

(h)If the department utilizes a contractor or subcontractor to administer any aspect of the program, the provisions of Section 120970, except subdivision (i) of that section, shall apply.

(i)All types of information, whether written or oral, concerning a client, made or maintained in connection with the administration of this program, shall be confidential, and shall not be used or disclosed except for any of the following:

(1)For purposes directly connected with the administration of the program.

(2)If disclosure is otherwise authorized by law.

(3)Pursuant to a written authorization by the person who is the subject of the record or, if the person is 18 years of age or older, by the personsguardian or conservator.

(j)For purposes of verifying financial eligibility for the program, the department shall verify the accuracy of the modified adjusted gross income reported by an applicant or recipient of the program, with data, if available, from the Franchise Tax Board. The Franchise Tax Board and the department are authorized to disclose personally identifiable data to one another, solely for this purpose, and in accordance with the data exchange process identified in Section 120962.

(k)Regulations adopted pursuant to subdivision (c), (d), or (e), are exempt from rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(Amended by Stats. 2021, Ch. 143, Sec. 18. (AB 133) Effective July 27, 2021.)

120972.1.

(a)To the extent that funds are available for these purposes, the State Department of Public Health, Office of

AIDS may allocate funds to local health departments and community-based organizations to support HIV preexposure prophylaxis (PrEP) and postexposure prophylaxis (PEP) navigation and retention coordinators and related services for the purpose of increasing PrEP and PEP initiation and retention among individuals most vulnerable to HIV.

(b)Navigation and retention services may include, but are not limited to, outreach and education, community messaging, assistance with applying for and retaining health coverage, assistance with enrollment in PrEP and PEP financial assistance programs, care coordination and adherence support, financial assistance for transportation costs, and linkage to behavioral health, substance use, housing, and other social service programs.

(c)The Office of AIDS shall establish a simple application process for local health departments and community-based organizations to receive funding to support PrEP and PEP navigation and retention coordinators and related services.

(d)Local health departments and community-based organizations in any county shall be eligible for funding if they meet all of the following requirements:

(1)Provide enrollment or clinical services for the HIV prevention program as outlined in Section 120972.

(2)Describe how funding for PrEP and PEP navigation and retention coordinators and related services will help to improve PrEP initiation and retention in their specific geographic area.

(3)Demonstrate the capacity to provide culturally appropriate PrEP and PEP navigation and retention services to one or more communities vulnerable to HIV, including, but not limited to, all of the following:

(A)Black, indigenous, and people of color.

(B)Lesbian, gay, bisexual, queer, and questioning individuals.

(C)Non-English-speaking individuals.

(D)Other populations that are difficult to reach, including those with transportation or technology challenges.

(E)People experiencing homelessness.

(F)People involved in the carceral system.

(G)People who use drugs.

(H)People engaged in sex work.

(I)Transgender and gender-nonconforming individuals.

(J)Undocumented individuals.

(K)Women.

(L)Youth.

(e)Local health departments and community-based organizations shall be eligible to apply for one or more

PrEP navigation and retention coordinators based on need in the specific geographic area and organizational capacity to reach the target population or populations.

(f)Funded local health departments and community-based organizations shall collaborate with the Office of AIDS to conduct outcome and process evaluation of PrEP and PEP navigation and retention services. The Office of AIDS shall establish performance metrics to ensure that funding is used efficiently and measure program success.

(g)The Office of AIDS may use a portion of funds to contract with a third-party entity to provide training, program technical assistance, and capacity building to funded local health departments and community-based organizations.

(h)To the extent allowable under federal law, and upon availability of funds, the Office of AIDS may expend funding for the activities outlined in this section from the AIDS Drug Assistance Program Rebate Fund as implemented pursuant to Section 120956.

(Added by Stats. 2021, Ch. 143, Sec. 24. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=6.2.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 6.2. HIV Care Program [120973 - 120974]__

(Chapter 6.2 added by Stats. 2019, Ch. 38, Sec. 24.)

120973.

The following definitions apply for purposes of this chapter:

(a)ADAP means the AIDS Drug Assistance Program.

(b)HIV Care Program means the CARE Services Program referenced in subparagraph (C) of paragraph (1) of subdivision (a) of Section 131051. Any reference to the CARE Services Program is deemed a reference to the HIV Care Program.

(c)The HIV Care Program provides primary medical care and support services pursuant to the federal Ryan White CARE Act (42 U.S.C. Sec. 300ff), and is administered by the Office of AIDS in the State Department of Public Health in accordance with Sections 131019 and 131051.

(Added by Stats. 2019, Ch. 38, Sec. 24. (SB 78) Effective June 27, 2019. Section operative April 1, 2020, pursuant to Section 120974.)

120973.5

The State Department of Public Health shall apply the same financial eligibility requirements for the purposes of administering the HIV Care Program as those set forth for the ADAP in Section 120960.

(Added by Stats. 2019, Ch. 38, Sec. 24. (SB 78) Effective June 27, 2019. Section operative April 1, 2020, pursuant to Section 120974.)

120974.

This chapter shall become operative on April 1, 2020.

(Added by Stats. 2019, Ch. 38, Sec. 24. (SB 78) Effective June 27, 2019.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=7.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 7. Mandated Blood Testing and Confidentiality to Protect Public Health [120975 - 121023]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 7.)

120975.

To protect the privacy of individuals who are the subject of testing for human immunodeficiency virus (HIV), the following shall apply:

Except as provided in Section 1603.1, 1603.3, or 121022, no person shall be compelled in any state, county, city, or other local civil, criminal, administrative, legislative, or other proceedings to identify or provide identifying characteristics that would identify any individual who is the subject of an HIV test, as defined in subdivision (c) of Section 120775.

(Amended by Stats. 2013, Ch. 445, Sec. 1. (SB 249) Effective January 1, 2014.)

120980.

(a)Any person who negligently discloses results of an HIV test, as defined in subdivision (c) of Section 120775, to any third party, in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1, 1603.3, or 121022 or any other statute that expressly provides an exemption to this section, shall be assessed a civil penalty in an amount not to exceed two thousand five hundred dollars ($2,500) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(b)Any person who willfully or maliciously discloses the results of an HIV test, as defined in subdivision (c) of Section 120775, to any third party, in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1, 1603.3, or 121022 or any other statute that expressly provides an exemption to this section, shall be assessed a civil penalty in an amount not less than five thousand dollars ($5,000) and not more than ten thousand dollars ($10,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(c)Any person who willfully, maliciously, or negligently discloses the results of an HIV test, as defined in subdivision (c) of Section 120775, to a third party, in a manner that identifies or provides identifying characteristics of the person to whom the test results apply, except pursuant to a written authorization, as described in subdivision (g), or except as provided in Section 1603.1, 1603.3, or 121022 or any other statute that expressly provides an exemption to this section, that results in economic, bodily, or psychological harm

to the subject of the test, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period not to exceed one year, or a fine of not to exceed twenty-five thousand dollars ($25,000), or both.

(d)Any person who commits any act described in subdivision (a) or (b) shall be liable to the subject for all actual damages, including damages for economic, bodily, or psychological harm that is a proximate result of the act.

(e)Each disclosure made in violation of this chapter is a separate and actionable offense.

(f)Except as provided in Article 6.9 (commencing with Section 799) of Chapter 1 of Part 2 of Division 1 of the Insurance Code, the results of an HIV test, as defined in subdivision (c) of Section 120775, that identifies or provides identifying characteristics of the person to whom the test results apply, shall not be used in any instance for the determination of insurability or suitability for employment.

(g)Written authorization, as used in this section, applies only to the disclosure of test results by a person responsible for the care and treatment of the person subject to the test. Written authorization is required for each separate disclosure of the test results, and shall include to whom the disclosure would be made.

(h)Nothing in this section limits or expands the right of an injured subject to recover damages under any other applicable law. Nothing in this section shall impose civil liability or criminal sanction for disclosure of the results of tests performed on cadavers to public health authorities or tissue banks.

(i)Nothing in this section imposes liability or criminal sanction for disclosure of an HIV test, as defined in subdivision (c) of Section 120775, in accordance with any reporting requirement for a case of HIV infection, including AIDS by the department or the Centers for Disease Control and Prevention under the United States Public Health Service.

(j)The department may require blood banks and plasma centers to submit monthly reports summarizing statistical data concerning the results of tests to detect the presence of viral hepatitis and HIV. This statistical summary shall not include the identity of individual donors or identifying characteristics that would identify individual donors.

(k)Disclosed, as used in this section, means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic means to any person or entity.

(l)When the results of an HIV test, as defined in subdivision (c) of Section 120775, are included in the medical record of the patient who is the subject of the test, the inclusion is not a disclosure for purposes of this section.

(Amended by Stats. 2006, Ch. 20, Sec. 4. Effective April 17, 2006.)

120985.

(a) Notwithstanding Section 120980, the results of an HIV test that identifies or provides identifying characteristics of the person to whom the test results apply may be recorded by the physician who ordered the test in the test subjectsmedical record or otherwise disclosed without written authorization of the subject of the test, or the subjectsrepresentative as set forth in Section 121020, to the test subjectsproviders of health care, as defined in Section 56.05 of the Civil Code, for purposes of diagnosis, care, or treatment of the patient, except that for purposes of this section, providers of health care does not include a health care

service plan regulated pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2.

(b) Recording or disclosure of HIV test results pursuant to subdivision (a) does not authorize further disclosure unless otherwise permitted by law.

(Amended by Stats. 2013, Ch. 444, Sec. 14. (SB 138) Effective January 1, 2014.)

120990.

(a)Prior to ordering a test that identifies infection of a patient with HIV, a medical care provider shall inform the patient that the test is planned, provide information about the test, inform the patient that there are numerous treatment options available for a patient who tests positive for HIV and that a person who tests negative for HIV should continue to be routinely tested, and advise the patient that he or she has the right to decline the test. If a patient declines the test, the medical care provider shall note that fact in the patientsmedical file.

(b)Subdivision (a) does not apply when a person independently requests an HIV test from a medical care provider.

(c)Except as provided in subdivision (a), a person shall not administer a test for HIV infection unless the person being tested or his or her parent, guardian, conservator, or other person specified in Section 121020 has provided informed consent for the performance of the test. Informed consent may be provided orally or in writing, but the person administering the test shall maintain documentation of consent, whether obtained orally or in writing, in the clientsmedical record. This consent requirement does not apply to a test performed at an alternative site pursuant to Section 120890 or 120895. This section does not authorize a person to administer a test for HIV unless that person is otherwise lawfully permitted to administer an HIV test.

(d)Subdivision (c) shall not apply when a person independently requests an HIV test from an HIV counseling and testing site that employs a trained HIV counselor, pursuant to Section 120917, provided that the person is provided with information required pursuant to subdivision (a) and his or her independent request for an HIV test is documented by the person administering the test.

(e)Nothing in this section shall preclude a medical examiner or other physician from ordering or performing a test to detect HIV on a cadaver when an autopsy is performed or body parts are donated pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7).

(f)(1)The requirements of subdivision (c) do not apply when blood is tested as part of a scientific investigation conducted either by a medical researcher operating under the approval of an institutional review board or by the department, in accordance with a protocol for unlinked testing.

(2)For purposes of this subdivision, unlinked testing means blood samples that are obtained anonymously, or that have the name or identifying information of the individual who provided the sample removed in a manner that prevents the test results from ever being linked to the particular individual who participated in the research or study.

(g)Nothing in this section permits a person to unlawfully disclose an individualsHIV status, or to otherwise violate provisions of Section 54 of the Civil Code, the Americans With Disabilities Act of 1990 (Public Law 101-336), or the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), which prohibit discrimination against individuals who are

living with HIV, who test positive for HIV, or who are presumed to be HIV-positive.

(h)After the results of a test performed pursuant to this section have been received, the medical care provider or the person who administers the test shall ensure that the patient receives timely information and counseling, as appropriate, to explain the results and the implications for the patientshealth. If the patient tests positive for HIV infection, the medical provider or the person who administers the test shall inform the patient that there are numerous treatment options available and identify followup testing and care that may be recommended, including contact information for medical and psychological services. If the patient tests negative for HIV infection and is determined to be at high risk for HIV infection by the medical provider or person administering the test, the medical provider or the person who administers the test shall advise the patient of the need for periodic retesting, explain the limitations of current testing technology and the current window period for verification of results, and provide information about methods that prevent or reduce the risk of contracting HIV, including, but not limited to, preexposure prophylaxis and postexposure prophylaxis, consistent with guidance of the federal Centers for Disease Control and Prevention, and may offer prevention counseling or a referral to prevention counseling.

(i)This section shall not apply to a clinical laboratory.

(Amended by Stats. 2016, Ch. 670, Sec. 1. (AB 2640) Effective January 1, 2017.)

120991.

(a)Each patient who has blood drawn at a primary care clinic and who has consented to the HIV test pursuant to Section 120990 shall be offered an HIV test. The primary care clinician shall offer an HIV test consistent with the United States Preventive Services Task Force recommendation for screening HIV infection. This subdivision shall not apply if the primary care clinic has tested the patient for HIV or if the patient has been offered the HIV test and declined the test within the previous 12 months. Any subsequent testing of a patient who has been tested by the primary care clinic shall be consistent with the most recent guidelines issued by the United States Preventive Services Task Force.

(b)HIV testing of minors 12 years of age or older shall comply with Section 6926 of the Family Code.

(c)This section shall not prohibit a primary care clinic from charging a patient to cover the cost of HIV testing. The primary care clinic shall be deemed to have complied with this section if an HIV test is offered.

(d)A primary care clinic shall attempt to provide test results to the patient before he or she leaves the facility. If that is not possible, the facility may inform the patient who tests negative for HIV by letter or by telephone, and shall inform a patient with a positive test result in a manner consistent with state law. However, in any case, the primary care clinic shall comply with subdivision (g) of Section 120990.

(e)For purposes of this section, primary care clinic means a primary care clinic as defined in subdivision (a) of Section 1204 or subdivision (g), (h), or (j) of Section 1206.

(Added by Stats. 2013, Ch. 589, Sec. 2. (AB 446) Effective January 1, 2014.)

120992.

(a)There is hereby created a pilot project, to be administered by the department, in order to assess and make recommendations regarding the effectiveness of the routine offering of an HIV test in the emergency department of a hospital.

(b)The department shall select four hospitals that have emergency departments to voluntarily participate in the pilot project. The department may select fewer hospitals if an insufficient number of hospitals express willingness to voluntarily participate.

(1)Two of the hospitals shall be selected from large urban areas.

(2)One hospital shall be selected from a small urban or suburban area.

(3)One hospital shall be selected from a rural area.

(c)Each hospital in the pilot project shall offer an HIV test to any patient in the hospital emergency department who has consented to the HIV test pursuant to Section 120990. The emergency department shall comply with subdivision (h) of Section 120990 and may choose to comply either by using emergency department or other hospital personnel or engaging the services of an HIV organization that has experience in prevention counseling for persons at risk for HIV.

(d)(1)A hospital in the pilot project shall not offer a test to any person who is being treated for a life-threatening emergency or who lacks the capacity to consent to an HIV test.

(2)If an emergency department physician at a hospital in the pilot project determines that a patient is in significant pain or distress, including psychological distress, the hospital shall not offer an HIV test to the patient. Once an emergency department physician determines that the patient has stabilized and is no longer in significant pain or distress, including psychological distress, the hospital shall offer an HIV test to the patient.

(e)A hospital in the pilot project shall offer HIV tests to individuals 15 to 65 years of age, inclusive, pursuant to the United States Preventive Services Task Force recommendations. In order to protect the confidentiality and privacy interests of minors, the hospital shall not offer HIV tests to individuals 15 to 17 years of age, inclusive, in the presence of their parent or legal guardian.

(f)A hospital in the pilot project shall be authorized to charge a patient for the cost of the HIV testing.

(g)A hospital in the pilot project shall be directed by the department, in a form, manner, and timeframe determined by the department, to collect and report data on the following topics:

(1)The frequency of HIV test offers.

(2)The frequency of consent or nonconsent to an HIV test and any reasons given by the patient for the consent or the nonconsent.

(3)The time taken to offer an HIV test and secure consent from a patient and the time taken to provide information and counseling pursuant to subdivision (h) of Section 120990.

(4)The aggregate HIV positivity rate.

(5)The frequency with which patients agree to participate in a session to receive information and counseling pursuant to subdivision (h) of Section 120990 and the reasons that patients give for refusing to participate.

(6)The frequency of patients leaving the emergency department without receiving their test results.

(h)A hospital in the pilot project shall provide information to the department regarding its practices and protocols for implementing the offer of an HIV test and the required followup to the test, as well as an assessment of the effectiveness of those practices and protocols.

(i)(1)The pilot project shall commence on March 1, 2017, and end on February 28, 2019.

(2)By December 1, 2019, the department shall complete a report to the Legislature on the findings of the hospitals in the pilot project and make recommendations about routine HIV testing in hospital emergency departments. In preparing the report to the Legislature, the department shall solicit input from a broad range of HIV testing and hospital stakeholders.

(j)(1)The requirement for submitting a report imposed under paragraph (2) of subdivision (i) is inoperative on December 1, 2023, pursuant to Section 10231.5 of the Government Code.

(2)A report submitted pursuant to paragraph (2) of subdivision (i) shall be submitted in compliance with Section 9795 of the Government Code.

(k)For purposes of this section, hospital means a general acute care hospital as defined in subdivision (a) of Section 1250.

(l)This section shall be implemented only to the extent that the department identifies available funding for the purposes of this section. The department may seek or use private funding to cover the costs of administering the pilot project.

(Added by Stats. 2016, Ch. 668, Sec. 1. (AB 2439) Effective January 1, 2017.)

120995.

Actions taken pursuant to Section 1768.9 of the Welfare and Institutions Code shall not be subject to subdivisions (a) to (c), inclusive, of Section 120980. In addition, the requirements of subdivision (a) of Section 120990 shall not apply to testing performed pursuant to Section 1768.9 of the Welfare and Institutions Code.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121000.

Actions taken pursuant to Title 8 (commencing with Section 7500) of Part 3 of the Penal Code shall not be subject to subdivisions (a) to (c), inclusive, of Section 120980. In addition, the requirements of subdivision (a) of Section 120990 shall not apply to testing performed pursuant to that title.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121005.

Neither the department nor any blood bank or plasma center, including a blood bank or plasma center owned or operated by a public entity, shall be held liable for any damages resulting from the notification of test results, as set forth in paragraph (3) of subdivision (a) of, and in subdivision (c) of, Section 1603.3, as amended by Chapter 23 of the Statutes of 1985.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121010.

Notwithstanding Section 120975 or 120980, the results of an HIV test, as defined in subdivision (c) of Section 120775, to detect antibodies to the probable causative agent of AIDS may be disclosed to any of the following persons without written authorization of the subject of the test:

(a)To the subject of the test or the subjectslegal representative, conservator, or to any person authorized to consent to the test pursuant to Section 120990 of this code and Section 6926 of the Family Code.

(b)To a test subjectsprovider of health care, as defined in subdivision (j) of Section 56.05 of the Civil Code, except that for purposes of this section, provider of health care does not include a health care service plan regulated pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2.

(c)To an agent or employee of the test subjectsprovider of health care who provides direct patient care and treatment.

(d)To a provider of health care who procures, processes, distributes, or uses a human body part donated pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7).

(e)(1)To the designated officer of an emergency response employee, and from that designated officer to an emergency response employee regarding possible exposure to HIV or AIDS, but only to the extent necessary to comply with provisions of the federal Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (Public Law 101-381; 42 U.S.C. Sec. 201).

(2)For purposes of this subdivision, designated officer and emergency response employee have the same meaning as these terms are used in the federal Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (Public Law 101-381; 42 U.S.C. Sec. 201).

(3)The designated officer shall be subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV results. Further, the designated officer shall inform the exposed emergency response employee that the employee is also subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV test results.

(Amended by Stats. 2013, Ch. 445, Sec. 2. (SB 249) Effective January 1, 2014.)

121015.

(a)Notwithstanding Section 120980 or any other provision of law, no physician and surgeon who has the results of a confirmed positive test to detect HIV infection of a patient under his or her care shall be held criminally or civilly liable for disclosing to a person reasonably believed to be the spouse, or to a person reasonably believed to be a sexual partner or a person with whom the patient has shared the use of hypodermic needles, or to the local health officer or designated local public health agency staff for HIV partner services, that the patient has tested positive on a test to detect HIV infection, except that no physician and surgeon shall disclose any identifying information about the individual believed to be infected, except as required in Section 121022 or with the written consent of the individual pursuant to subdivision (g) of Section 120980.

(b)No physician and surgeon shall disclose the information described in subdivision (a) unless he or she has first discussed the test results with the patient and has offered the patient appropriate educational and psychological counseling, that shall include information on the risks of transmitting the human immunodeficiency virus to other people and methods of avoiding those risks, and has attempted to obtain the patientsvoluntary consent for notification of his or her contacts. The physician and surgeon shall notify the patient of his or her intent to notify the patientscontacts prior to any notification. When the information is disclosed to a person reasonably believed to be a spouse, or to a person reasonably believed to be a sexual partner, or a person with whom the patient has shared the use of hypodermic needles, the physician and surgeon shall refer that person for appropriate care, counseling, and followup. This section shall not apply to disclosures made other than for the purpose of diagnosis, care, and treatment of persons notified pursuant to this section, or for the purpose of interrupting the chain of transmission.

(c)This section is permissive on the part of the attending physician, and all requirements and other authorization for the disclosure of test results to detect HIV infection are limited to the provisions contained in this chapter, Chapter 10 (commencing with Section 121075) and Sections 1603.1 and 1603.3. No physician has a duty to notify any person of the fact that a patient is reasonably believed to be infected with HIV, except as required by Section 121022.

(d)The local health officer or the designated local public health agency staff for HIV partner services may, without incurring civil or criminal liability, alert any persons reasonably believed to be a spouse, sexual partner, or partner of shared needles of an individual who has tested positive on an HIV test about their exposure, without disclosing any identifying information about the individual believed to be infected or the physician making the report, and shall refer any person to whom a disclosure is made pursuant to this subdivision for appropriate care and followup. Upon completion of the efforts to contact, alert, and refer any person pursuant to this subdivision by a local health officer or the designated local public health agency staff for HIV partner services, all records regarding that person maintained by the local health officer pursuant to this subdivision, including, but not limited to, any individual identifying information, shall be expunged by the local health officer.

(e)The local health officer shall keep confidential the identity and the seropositivity status of the individual tested and the identities of the persons contacted, as long as records of contacts are maintained.

(f)Except as provided in Section 1603.1, 1603.3, or 121022, no person shall be compelled in any state, county, city, or local civil, criminal, administrative, legislative, or other proceedings to identify or provide identifying characteristics that would identify any individual reported or person contacted pursuant to this section.

(Amended by Stats. 2011, Ch. 151, Sec. 1. (SB 422) Effective January 1, 2012.)

121020.

(a)(1)When the subject of an HIV test is not competent to give consent for the test to be performed, written consent for the test may be obtained from the subjectsparents, guardians, conservators, or other person lawfully authorized to make health care decisions for the subject. For purposes of this paragraph, a minor shall be deemed not competent to give consent if he or she is under 12 years of age.

(2)Notwithstanding paragraph (1), when the subject of the HIV test is a minor adjudged to be a dependent child of the court pursuant to Section 360 of the Welfare and Institutions Code, written consent for the test to be performed may be obtained from the court pursuant to its authority under Section 362 or 369 of the Welfare and Institutions Code.

(3)(A)Notwithstanding paragraphs (1) and (2), if the subject of the test is an infant who is less than 12 months of age who has been taken into temporary custody pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code or who has been, or has a petition filed with the court to be, adjudged a dependent child of the court pursuant to Section 360 of the Welfare and Institutions Code, the social worker may provide written consent for an HIV test to be performed when the infant is receiving medical care pursuant to Section 369 of the Welfare and Institutions Code, if all of the following have occurred:

(i)The attending physician and surgeon determines that HIV testing is necessary to render appropriate care to the infant and documents that determination. When deciding whether HIV testing is necessary, the physician and surgeon shall consider appropriate factors, either known to the attending physician and surgeon or provided to the attending physician and surgeon by the social worker, including, but not limited to, whether the infant has a parent with a history of behavior that places the parent at an increased risk of exposure to HIV, or whether the infant is a victim of sexual abuse, which has placed the child at risk of exposure to HIV.

(ii)The social worker provides known information concerning the infantspossible risk factors regarding exposure to HIV to the attending physician and surgeon.

(iii)The social worker has made reasonable efforts to contact the parent or guardian but was unable to do so, and the social worker has documented his or her efforts to contact that person.

(B)The attending physician and surgeon and the social worker shall comply with all applicable state and federal confidentiality and privacy laws, including Section 121025, to protect the confidentiality and privacy interests of both the infant and the biological mother.

(b)Written consent shall only be obtained for the subject pursuant to paragraphs (1) and (2) of subdivision (a) when necessary to render appropriate care or to practice preventative measures.

(c)The person authorized to consent to the test pursuant to subdivision (a) shall be permitted to do any of the following:

(1)Notwithstanding Sections 120975 and 120980, receive the results of the test on behalf of the subject without written authorization.

(2)Disclose the test results on behalf of the subject in accordance with Sections 120975 and 120980.

(3)Provide written authorization for the disclosure of the test results on behalf of the subject in accordance with Sections 120975 and 120980.

(d)(1)If an infant tested for HIV pursuant to paragraph (3) of subdivision (a) tests positive for HIV infection and the physician and surgeon determines that immediate HIV medical care is necessary to render appropriate care to that infant, the provision of HIV medical care shall be considered emergency medical care, pursuant to subdivision (d) of Section 369 of the Welfare and Institutions Code.

(2)If an infant tests positive for HIV in a test performed pursuant to this section, the social worker shall provide to the physician and surgeon any available contact information for the biological mother for purposes of reporting the HIV infection to the local health officer pursuant to Section 121022. Cases reported to the local health officer under this subdivision are subject to the requirements of Section 120175.

(Amended by Stats. 2013, Ch. 153, Sec. 1. (AB 506) Effective January 1, 2014.)

121022.

(a)To ensure knowledge of current trends in the HIV epidemic and to ensure that California remains competitive for federal HIV and AIDS funding, health care providers and laboratories shall report cases of HIV infection to the local health officer using patient names on a form developed by the department. Both the local health officer and the department shall be authorized to access reports of HIV infection that are electronically submitted by laboratories pursuant to subdivision (g) of Section 120130. Local health officers shall report unduplicated HIV cases by name to the department on a form developed by the department.

(b)(1)Health care providers and local health officers shall submit cases of HIV infection pursuant to subdivision (a) by courier service, United States Postal Service express mail or registered mail, other traceable mail, person-to-person transfer, facsimile, or electronically by a secure and confidential electronic reporting system established by the department.

(2)This subdivision shall be implemented using the existing resources of the department.

(c)The department and local health officers shall ensure continued reasonable access to anonymous HIV testing through alternative testing sites, as established by Section 120890, and in consultation with HIV planning groups and affected stakeholders, including representatives of persons living with HIV and health officers.

(d)The department shall promulgate emergency regulations to conform the relevant provisions of Article 3.5 (commencing with Section 2641.5) of Subchapter 1 of Chapter 4 of Division 1 of Title 17 of the California Code of Regulations, consistent with this chapter, by April 17, 2007. Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), if the department revises the form used for reporting pursuant to subdivision (a) after consideration of the reporting guidelines published by the federal Centers for Disease Control and Prevention, the revised form shall be implemented without being adopted as a regulation, and shall be filed with the Secretary of State and printed in Title 17 of the California Code of Regulations.

(e)Pursuant to Section 121025, reported cases of HIV infection shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

(f)State and local health department employees and contractors shall be required to sign confidentiality agreements developed by the department that include information related to the penalties for a breach of confidentiality and the procedures for reporting a breach of confidentiality, prior to accessing confidential

HIV-related public health records. Those agreements shall be reviewed annually by either the department or the appropriate local health department.

(g) A person shall not disclose identifying information reported pursuant to subdivision (a) to the federal government, including, but not limited to, any agency, employee, agent, contractor, or anyone else acting on behalf of the federal government, except as permitted under subdivision (b) of Section 121025.

(h)(1)Any potential or actual breach of confidentiality of HIV-related public health records shall be investigated by the local health officer, in coordination with the department, when appropriate. The local health officer shall immediately report any evidence of an actual breach of confidentiality of HIV-related public health records at a city or county level to the department and the appropriate law enforcement agency.

(2)The department shall investigate any potential or actual breach of confidentiality of HIV-related public health records at the state level, and shall report any evidence of such a breach of confidentiality to an appropriate law enforcement agency.

(i)Any willful, negligent, or malicious disclosure of cases of HIV infection reported pursuant to subdivision (a) shall be subject to the penalties prescribed in Section 121025.

(j)This section does not limit other remedies and protections available under state or federal law.

(Amended by Stats. 2014, Ch. 71, Sec. 92. (SB 1304) Effective January 1, 2015.)

121023.

(a)Subject to subdivision (b), each clinical laboratory, as defined in Section 1206 of the Business and Professions Code, shall report all CD4+ T-Cell test results to the local health officer for the local health jurisdiction where the health care provider facility is located within seven days of the completion of the CD4+ T-Cell test.

(b)A clinical laboratory shall not be required to report a CD4+ T-Cell test result, as required by this section, if the clinical laboratory can demonstrate that the CD4+ T-Cell test result is not related to a diagnosed case of HIV infection.

(c)The clinical laboratory report with CD4+ T-Cell test results shall also include, if provided by the ordering health care provider, all of the following:

(1)The patientsname.

(2)The patientsdate of birth.

(3)The patientsgender.

(4)The name, telephone number, and address of the local health care provider that ordered the test.

(d)The clinical laboratory report with CD4+ T-Cell test results shall also include all of the following information:

(1)CD4+ T-Cell test results expressed as an absolute count (the number of lymphocytes containing the CD4 epitope per cubic millimeter) and, if available, the relative count (the number of lymphocytes expressing the CD4 epitope as a percentage of total lymphocytes).

(2)The type of laboratory test performed.

(3)The date the laboratory test was performed.

(4)The name, telephone number, and address of the clinical laboratory that performed the test.

(5)The laboratory CLIA number.

(6)The laboratory report number.

(e)(1)Each local health officer shall inspect each clinical laboratory CD4+ T-Cell test report to determine if the test is related to a case of HIV infection.

(2)If the clinical laboratory CD4+ T-Cell test result is related to a case of HIV infection, the local health officer shall report the case of HIV infection or AIDS, as appropriate, to the State Department of Public Health within 45 days of receipt of the laboratory report.

(3)If the clinical laboratory CD4+ T-Cell test result is not related to a case of HIV infection, the local health officer shall destroy the laboratory CD4+ T-Cell test report.

(f)Pursuant to Section 121025, CD4+ T-Cell test reports shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

(g)CD4+ T-Cell test reports shall be considered confidential public health records as defined in Section 121035.

(h)For the purposes of this section, CD4+ T-Cell test means any test used to measure the number of lymphocytes containing the CD4 epitope.

(Amended by Stats. 2009, Ch. 501, Sec. 1. (AB 1045) Effective January 1, 2010.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=8.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 8. Acquired Immune Deficiency Syndrome (AIDS) Public Health Records Confidentiality Act [121025 - 121035]__

(Chapter 8 added by Stats. 1995, Ch. 415, Sec. 7.)

121025.

(a)Public health records relating to human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS), containing personally identifying information, that were developed or acquired by a state or local public health agency, or an agent of that agency, are confidential and shall not be disclosed, except as otherwise provided by law for public health purposes or pursuant to a written authorization by the person who is the subject of the record or by his or her guardian or conservator.

(b)In accordance with subdivision (g) of Section 121022, a state or local public health agency, or an agent of that agency, may disclose personally identifying information in public health records, as described in subdivision (a), to other local, state, or federal public health agencies or to corroborating medical researchers, when the confidential information is necessary to carry out the duties of the agency or researcher in the investigation, control, or surveillance of disease, as determined by the state or local public health agency.

(c)Any disclosures authorized by subdivision (a), (b), or this subdivision shall include only the information necessary for the purpose of that disclosure and shall be made only upon the agreement that the information will be kept confidential as described in subdivision (a). Except as provided in paragraphs (1) to (3), inclusive, or as otherwise provided by law, any disclosure authorized by subdivision (a) or (b) shall not be made without written authorization as described in subdivision (a). Any unauthorized further disclosure shall be subject to the penalties described in subdivision (e).

(1)Notwithstanding any other law, the following disclosures are authorized for the purpose of enhancing the completeness of reporting to the federal Centers for Disease Control and Prevention (CDC) of HIV/AIDS and coinfection with tuberculosis, syphilis, gonorrhea, chlamydia, hepatitis B, hepatitis C, and meningococcal infection:

(A)The local public health agency HIV surveillance staff may further disclose the information to the health care provider who provides HIV care to the HIV-positive person who is the subject of the record for the purpose of assisting in compliance with subdivision (a) of Section 121022.

(B)Local public health agency tuberculosis control staff may further disclose the information to state public health agency tuberculosis control staff, who may further disclose the information, without disclosing patient identifying information, to the CDC, to the extent the information is requested by the CDC and permitted by subdivision (b), for purposes of the investigation, control, or surveillance of HIV and tuberculosis

coinfections.

(C)Local public health agency sexually transmitted disease control staff may further disclose the information to state public health agency sexually transmitted disease control staff, who may further disclose the information, without disclosing patient identifying information, to the CDC, to the extent it is requested by the CDC and permitted by subdivision (b), for the purposes of the investigation, control, or surveillance of HIV and syphilis, gonorrhea, or chlamydia coinfection.

(D)For purposes of the investigation, control, or surveillance of HIV and its coinfection with hepatitis B, hepatitis C, and meningococcal infection, local public health agency communicable disease staff may further disclose the information to state public health agency staff, who may further disclose the information, without disclosing patient identifying information, to the CDC to the extent the information is requested by the CDC and permitted by subdivision (b).

(2)Notwithstanding any other law, the following disclosures are authorized for the purpose of facilitating appropriate HIV/AIDS medical care and treatment:

(A)State public health agency HIV surveillance staff, HIV prevention staff, AIDS Drug Assistance Program staff, and care services staff may further disclose the information to local public health agency staff, who may further disclose the information to the HIV-positive person who is the subject of the record, or the health care provider who provides his or her HIV care, for the purpose of proactively offering and coordinating care and treatment services to him or her.

(B)HIV surveillance staff, HIV prevention staff, AIDS Drug Assistance Program staff, and care services staff in the State Department of Public Health may further disclose the information directly to the HIV-positive person who is the subject of the record or the health care provider who provides his or her HIV care, for the purpose of proactively offering and coordinating care and treatment services to him or her.

(C)Local public health agency staff may further disclose acquired or developed information to the HIV-positive person who is the subject of the record or the health care provider who provides his or her HIV care for the purpose of proactively offering and coordinating care and treatment services to him or her.

(3)Notwithstanding any other law, for the purpose of facilitating appropriate medical care and treatment of persons coinfected with HIV and tuberculosis, syphilis, gonorrhea, chlamydia, hepatitis B, hepatitis C, or meningococcal infection, local public health agency sexually transmitted disease control, communicable disease control, and tuberculosis control staff may further disclose the information to state or local public health agency sexually transmitted disease control, communicable disease control, and tuberculosis control staff, the HIV-positive person who is the subject of the record, or the health care provider who provides his or her HIV, tuberculosis, hepatitis B, hepatitis C, meningococcal infection, and sexually transmitted disease care.

(4)For the purposes of paragraphs (2) and (3), staff does not include nongovernmental entities, but shall include state and local contracted employees who work within state and local public health departments.

(d)A confidential public health record, as defined in subdivision (c) of Section 121035, shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

(e)(1)A person who negligently discloses the content of a confidential public health record, as defined in subdivision (c) of Section 121035, to a third party, except pursuant to a written authorization, as described in subdivision (a), or as otherwise authorized by law, shall be subject to a civil penalty in an amount not to exceed five thousand dollars ($5,000), plus court costs, as determined by the court. The penalty and costs

shall be paid to the person whose record was disclosed.

(2)A person who willfully or maliciously discloses the content of any confidential public health record, as defined in subdivision (c) of Section 121035, to a third party, except pursuant to a written authorization, or as otherwise authorized by law, shall be subject to a civil penalty in an amount not less than five thousand dollars ($5,000) and not more than twenty-five thousand dollars ($25,000), plus court costs, as determined by the court. The penalty and costs shall be paid to the person whose confidential public health record was disclosed.

(3)A person who willfully, maliciously, or negligently discloses the content of a confidential public health record, as defined in subdivision (c) of Section 121035, to a third party, except pursuant to a written authorization, or as otherwise authorized by law, that results in economic, bodily, or psychological harm to the person whose confidential public health record was disclosed, is guilty of a misdemeanor, punishable by imprisonment in a county jail for a period not to exceed one year, or a fine of not to exceed twenty-five thousand dollars ($25,000), or both, plus court costs, as determined by the court. The penalty and costs shall be paid to the person whose confidential public health record was disclosed.

(4)A person who commits an act described in paragraph (1), (2), or (3) is liable to the person whose confidential public health record was disclosed for all actual damages for economic, bodily, or psychological harm that is a proximate result of the act.

(5)Each violation of this section is a separate and actionable offense.

(6)This section does not limit or expand the right of an injured person whose confidential public health record was disclosed to recover damages under any other applicable law.

(f)If a confidential public health record, as defined in subdivision (c) of Section 121035, is disclosed, the information shall not be used to determine employability or insurability of a person.

(Amended by Stats. 2017, Ch. 52, Sec. 18. (SB 97) Effective July 10, 2017.)

121026.

(a)Notwithstanding subdivision (f) of Section 120980, Section 121010, subdivision (g) of Section 121022, subdivision (f) of Section 121025, Section 121115, and Section 121280, the State Department of Public Health and qualified entities may share with each other health records involving the diagnosis, care, and treatment of human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS) related to a beneficiary enrolled in federal Ryan White Act funded programs who may be eligible for services under the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152). The qualified entities, who shall be covered entities under the federal Health Insurance Portability and Accountability Act (Public Law 104-191) and the final regulations issued pursuant to the act by the United States Department of Health and Human Services (45 C.F.R. Parts 160 and 164), may share records only for the purpose of enrolling the beneficiary in Medi-Cal, the bridge programs, Medicaid expansion programs, and any insurance plan certified by the California Health Benefit Exchange established pursuant to Title 22 (commencing with Section 100500) of the Government Code, or any other programs authorized under the federal Patient Protection and Affordable Care Act (Public Law 111-148), and for the purpose of continuing his or her access to those programs and plans without disruption.

(b)The information provided by the State Department of Public Health pursuant to this section shall be limited to only the information necessary for the purposes of this section and shall not include HIV or AIDS surveillance data. This information shall not be further disclosed by a qualified entity, except to any or all of the following as necessary for the purposes of this section:

(1)The person who is the subject of the record or to his or her guardian or conservator.

(2)The provider of health care for the person with HIV or AIDS to whom the information pertains.

(3)The Office of AIDS within the State Department of Public Health.

(c)For purposes of this section, the following definitions shall apply:

(1)Contractor means any person or entity that is a medical group, independent practice association, pharmaceutical benefits manager, or a medical service organization and is not a health care service plan or provider of health care.

(2)Provider of health care means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code; any person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act; any person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; any clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(3)Qualified entity means any of the following:

(A)The State Department of Health Care Services.

(B)The California Health Benefit Exchange established pursuant to Title 22 (commencing with Section 100500) of the Government Code.

(C)Medi-Cal managed care plans.

(D)Health plans participating in the Bridge Program.

(E)Health plans offered through the Exchange.

(F)County health departments delivering HIV or AIDS health care services.

(d)Notwithstanding any other law, information shared pursuant to this section shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

(e)This section shall be implemented only to the extent permitted by federal law. All employees and contractors of a qualified entity who have access to confidential HIV-related medical records pursuant to this section shall be subject to, and all information shared pursuant to this section shall be protected in accordance with, the federal Health Insurance Portability and Accountability Act (Public Law 104-191) and the final regulations issued pursuant to that act by the United States Department of Health and Human Services (45 C.F.R. Parts 160 and 164), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code).

(Amended by Stats. 2014, Ch. 71, Sec. 93. (SB 1304) Effective January 1, 2015.)

121030.

(a) To the extent Chapter 7 (commencing with Section 120975) and Chapter 10 (commencing with Section 121075) apply to records or information that would be covered by this chapter, Chapters 7 and 10 shall supersede this chapter.

(b) This chapter supersedes Section 100330 to the extent it applies to records or information covered by Section 100325 or 100330.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121035.

For purposes of this chapter:

(a)Disclosed or disclosure or discloses has the same meaning as set forth in subdivision (b) of Section 121125.

(b)State or local public health agencies are the department, and any local entity that a health officer, as defined in Section 120100, serves.

(c)Confidential public health record or records means any paper or electronic record maintained by the department or a local health department or agency, or its agent, that includes data or information in a manner that identifies personal information, including, but not limited to, name, social security number, address, employer, or other information that may directly or indirectly lead to the identification of the individual who is the subject of the record.

(Amended by Stats. 2006, Ch. 20, Sec. 8. Effective April 17, 2006.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=9.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 9. Acquired Immune Deficiency Syndrome (AIDS) Public Safety and Testing Disclosure [121050 - 121070]__

(Chapter 9 added by Stats. 1995, Ch. 415, Sec. 7.)

121050.

The people of the State of California find and declare that AIDS, AIDS-related conditions, and other communicable diseases pose a major threat to the public health and safety.

The health and safety of the public, victims of sexual crimes, and peace officers, firefighters, and custodial personnel who may come into contact with infected persons, have not been adequately protected by law. The purpose of this chapter is to require that information that may be vital to the health and safety of the public, victims of certain crimes, certain defendants and minors, and custodial personnel, custodial medical personnel, peace officers, firefighters and emergency medical personnel put at risk in the course of their official duties, be obtained and disclosed in an appropriate manner in order that precautions can be taken to preserve their health and the health of others or that those persons can be relieved from groundless fear of infection.

It is the intent of this chapter to supersede in case of conflict existing statutes or case law on the subjects covered including but not limited to the confidentiality and consent provisions contained in Chapter 7 (commencing with Section 120975), Chapter 8 (commencing with Section 121025), and Chapter 10 (commencing with Section 121075).

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996. Note: Stats. 1995, Ch. 415, reenacted in this section the provisions from Section 199.95 as added on Nov. 8, 1988, by initiative Prop. 96.)

121055.

Any defendant charged in any criminal complaint filed with a magistrate or court with any violation of Section 261, 261.5, 262, 266b, 266c, 286, 287, or 288 of, or former Section 288a of, the Penal Code, and any minor with respect to whom a petition has been filed in a juvenile court alleging violation of any of the foregoing laws, shall be subject to an order of a court having jurisdiction of the complaint or petition requiring testing as provided in this chapter.

If an alleged victim listed in the complaint or petition makes a written request for testing under this section, the prosecuting attorney, or the alleged victim may petition the court for an order authorized under this section.

The court shall promptly conduct a hearing upon any such petition. If the court finds that probable cause exists to believe that a possible transfer of blood, saliva, semen, or other bodily fluid took place between the defendant or minor and the alleged victim in an act specified in this section, the court shall order that the defendant or minor provide two specimens of blood for testing as provided in this chapter.

Copies of the test results shall be sent to the defendant or minor, each requesting victim and, if the defendant or minor is incarcerated or detained, to the officer in charge and the chief medical officer of the facility where the person is incarcerated or detained.

(Amended by Stats. 2018, Ch. 423, Sec. 37. (SB 1494) Effective January 1, 2019.)

121056.

(a) Any forensic scientist, including, but not limited to, any criminalist, toxicologist, and forensic pathologist, or any other employee required to handle or perform DNA or other forensic evidence analysis within the scope of his or her duties, who comes into contact with blood or other bodily fluids on, upon, or through the skin or membranes of his or her person while handling or performing testing on forensic evidence, may petition, ex parte, the court having jurisdiction over the laboratory in which he or she works for an order authorized under this chapter.

The employing agency, officer, or entity of the affected employee may also file an ex parte petition for an order authorized under this chapter. Before filing a petition, the requesting party shall make a reasonable effort to obtain the consent of the person whose blood or bodily fluids is to be tested.

(b) The court shall promptly consider any petition filed pursuant to this section. If the court finds that probable cause exists to believe that a possible transfer of blood, saliva, semen, or other bodily fluid took place between the forensic evidence collected and the forensic scientist, criminalist, toxicologist, forensic pathologist, or any other employee required to handle evidence or perform forensic testing thereon as specified in this section, the court shall promptly order that the existing forensic evidence be tested as provided in this chapter.

(c) (1) Except as provided in paragraph (2), copies of the test results shall be sent to each requesting employee named in the petition, and his or her employing agency, officer, or entity, to the person whose sample was tested, and to the officer in charge and the chief medical officer of the facility in which the person is incarcerated or detained.

(2) The person whose sample was tested, shall be advised that he or she will be informed of the HIV test results only if he or she wishes to be so informed. If the person declines to be informed of the HIV test results, then he or she shall sign a form documenting that refusal. The personsrefusal to sign that form shall be construed to be a request to be informed of the HIV test results.

(Added by Stats. 2001, Ch. 482, Sec. 1. Effective January 1, 2002.)

121060.

(a)Any peace officer, firefighter, custodial officer, as that term is defined in subdivision (a) of Section 831 or subdivision (a) of Section 831.5 of the Penal Code, a custody assistant, as that term is defined in subdivision

(a) of Section 831.7 of the Penal Code, a nonsworn uniformed employee of a law enforcement agency whose job entails the care or control of inmates in a detention facility, a nonsworn employee of a law enforcement agency whose job description entails the collection of fingerprints, or emergency medical personnel who, while acting within the scope of his or her duties, is exposed to an arresteesblood or bodily fluids, as defined in Section 121060.1, shall do the following:

(1)Prior to filing a petition with the court, a licensed health care provider shall notify the arrestee of the bloodborne pathogen exposure and make a good faith effort to obtain the voluntary informed consent of the arrestee or the arresteesauthorized legal representative to perform a test for human immunodeficiency virus (HIV), hepatitis B, and hepatitis C. The voluntary informed consent shall be in writing. Once consent is given in writing, the arrestee shall provide three specimens of blood for testing as provided in this chapter.

(2)If voluntary informed consent is not given in writing, the affected individual may petition, ex parte, the court for an order requiring testing as provided in this chapter. The petition shall include a written certification by a health care professional that an exposure, including the nature and extent of the exposure, has occurred.

(b)The court shall promptly conduct a hearing upon a petition filed pursuant to paragraph (2) of subdivision (a). If the court finds that probable cause exists to believe that a possible bloodborne pathogen exposure, as defined in Section 121060.1, took place between the arrestee and the peace officer, firefighter, custodial officer, custody assistant, nonsworn uniformed employee of a law enforcement agency whose job entails the care or control of inmates in a detention facility, nonsworn employee of a law enforcement agency whose job description entails the collection of fingerprints, or emergency medical personnel, as specified in this section, the court shall order that the arrestee provide three specimens of blood for testing as provided in this chapter.

(c)(1)Except as provided in paragraph (2), copies of the test results shall be sent to the arrestee, each peace officer, firefighter, custodial officer, custody assistant, nonsworn uniformed employee of a law enforcement agency whose job entails the care or control of inmates in a detention facility, nonsworn employee of a law enforcement agency whose job description entails the collection of fingerprints, and emergency medical personnel named in the petition and his or her employing agency, officer, or entity, and if the arrestee is incarcerated or detained, to the officer in charge and the chief medical officer of the facility where the person is incarcerated or detained.

(2)The person whose sample was tested, shall be advised that he or she will be informed of the hepatitis B, hepatitis C, and HIV test results only if he or she wishes to be so informed. If the person consents to be informed of the hepatitis B, hepatitis C, and HIV test results, then he or she shall sign a form documenting that consent. The personsrefusal to sign that form shall be construed to be a refusal to be informed of the hepatitis B, hepatitis C, and HIV test results.

(3)Except as otherwise provided under this section, all confidentiality requirements regarding medical records shall apply to the test results obtained.

(Amended by Stats. 2010, Ch. 688, Sec. 1. (AB 2635) Effective January 1, 2011. Note: Stats. 1995, Ch. 415, reenacted in this section the provisions from Section 199.97 as added on Nov. 8, 1988, by initiative Prop. 96.)

121060.1.

(a)For purposes of Section 121060, bloodborne pathogen exposure means a percutaneous injury, including, but not limited to, a needle stick or cut with a sharp object, or the contact of nonintact skin or mucous membranes with any of the bodily fluids identified in subdivision (b), in accordance with the most current bloodborne pathogen exposure definition established by the federal Centers for Disease Control and Prevention.

(b)Bodily fluids means any of the following:

(1)Blood.

(2)Tissue.

(3)Mucous containing visible blood.

(4)Semen.

(5)Vaginal secretions.

(Added by Stats. 2008, Ch. 554, Sec. 2. Effective January 1, 2009.)

121065.

(a)The withdrawal of blood shall be performed in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, licensed medical technician, or licensed phlebotomist may withdraw blood specimens for the purposes of this chapter.

(b)The court shall order that the blood specimens be transmitted to a licensed medical laboratory and that tests be conducted thereon for medically accepted indications of exposure to or infection by HIV, hepatitis B, and hepatitis C.

(c)(1)The test results shall be sent to the designated recipients with the following disclaimer:

The tests were conducted in a medically approved manner. Persons receiving this test result should continue to monitor their own health and should consult a physician as appropriate. Recipients of these test results are subject to existing confidentiality protections for any identifying information about HIV, hepatitis B, or hepatitis C test results. Medical information regarding the HIV, hepatitis B, or hepatitis C status of the source patient shall be kept confidential and may not be further disclosed, except as otherwise authorized by law.

(2)The exposed individual shall also be informed of the penalties for disclosure for which he or she would be personally liable pursuant to Section 120980.

If the person subject to the test is a minor, copies of the test result shall also be sent to the minorsparents or guardian.

(d)The court shall order all persons, other than the test subject, who receive test results pursuant to Sections 121055, 121056, or 121060, to maintain the confidentiality of personal identifying data relating to the test results except for disclosure that may be necessary to obtain medical or psychological care or advice.

(e)The specimens and the results of tests ordered pursuant to Sections 121055, 121056, and 121060 shall not

be admissible evidence in any criminal or juvenile proceeding.

(f)Any person performing testing, transmitting test results, or disclosing information pursuant to the provisions of this chapter shall be immune from civil liability for any action undertaken in accordance with the provisions of this chapter.

(Amended by Stats. 2008, Ch. 554, Sec. 3. Effective January 1, 2009. Note: Stats. 1995, Ch. 415, reenacted in this section the provisions from Section 199.98 as added on Nov. 8, 1988, by initiative Prop. 96.)

121070.

(a) Any medical personnel employed by, under contract to, or receiving payment from the State of California, any agency thereof, or any county, city, or city and county to provide service at any state prison, the Medical Facility, any Youth Authority institution, any county jail, city jail, hospital jail ward, juvenile hall, juvenile detention facility, or any other facility where adults are held in custody or minors are detained, or any medical personnel employed, under contract, or receiving payment to provide services to persons in custody or detained at any of the foregoing facilities, who receives information as specified herein that an inmate or minor at the facility has been exposed to or infected by the AIDS virus or has an AIDS-related condition or any communicable disease, shall communicate the information to the officer in charge of the facility where the inmate or minor is in custody or detained.

(b) Information subject to disclosure under subdivision (a) shall include the following: any laboratory test that indicates exposure to or infection by the AIDS virus, AIDS-related condition, or other communicable diseases; any statement by the inmate or minor to medical personnel that he or she has AIDS or an AIDS-related condition, has been exposed to the AIDS virus, or has any communicable disease; the results of any medical examination or test that indicates that the inmate or minor has tested positive for antibodies to the AIDS virus, has been exposed to the AIDS virus, has an AIDS-related condition, or is infected with AIDS or any communicable disease; provided, that information subject to disclosure shall not include information communicated to or obtained by a scientific research study pursuant to prior written approval expressly waiving disclosure under this section by the officer in charge of the facility.

(c) The officer in charge of the facility shall notify all employees, medical personnel, contract personnel, and volunteers providing services at the facility who have or may have direct contact with the inmate or minor in question, or with bodily fluids from the inmate or minor, of the substance of the information received under subdivisions (a) and (b) so that those persons can take appropriate action to provide for the care of the inmate or minor, the safety of other inmates or minors, and their own safety.

(d) The officer in charge and all persons to whom information is disclosed pursuant to this section shall maintain the confidentiality of personal identifying data regarding the information, except for disclosure authorized hereunder or as may be necessary to obtain medical or psychological care or advice.

(e) Any person who wilfully discloses personal identifying data regarding information obtained under this section to any person who is not a peace officer or an employee of a federal, state, or local public health agency, except as authorized hereunder, by court order, with the written consent of the patient or as otherwise authorized by law, is guilty of a misdemeanor.

(Amended by Stats. 2003, Ch. 468, Sec. 6. Effective January 1, 2004. Note: Stats. 1995, Ch. 415, reenacted in this section the provisions from Section 199.99 as added on Nov. 8, 1988, by initiative Prop. 96.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=10.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 10. Acquired Immune Deficiency Syndrome (AIDS) Research Confidentiality Act [121075 - 121125]__

(Chapter 10 added by Stats. 1995, Ch. 415, Sec. 7.)

121075.

Research records, in a personally identifying form, developed or acquired by any person in the course of conducting research or a research study relating to HIV or AIDS shall be confidential, and these confidential research records shall not be disclosed by any person in possession of the research record, nor shall these confidential research records be discoverable, nor shall any person be compelled to produce any confidential research record, except as provided by this chapter.

(Amended by Stats. 2006, Ch. 20, Sec. 9. Effective April 17, 2006.)

121080.

Confidential research records may be disclosed in accordance with the prior written consent of the research subject with respect to whom the research record is maintained, but only to the extent, under the circumstances, to the persons, and for the purposes the written consent authorizes. Any disclosure authorized by a research subject shall be accompanied by a written statement containing substantially the same language as follows:

This information has been disclosed to you from a confidential research record the confidentiality of which is protected by state law and any further disclosure of it without specific prior written consent of the person to whom it pertains is prohibited. Violation of these confidentiality guarantees may subject you to civil or criminal liabilities.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121085.

(a)Confidential research records shall be protected in the course of conducting financial audits or program evaluations, and audit personnel shall not directly or indirectly identify any individual research subject in any report of a financial audit or program evaluation. To the extent it is necessary for audit personnel to know the identity of individual research subjects, authorized disclosure of confidential research records shall be made on a case-by-case basis, and every prudent effort shall be exercised to safeguard the confidentiality of these research records in accordance with this chapter. Information disclosed for audit or evaluation purposes should be used only for audit and evaluation purposes and may not be redisclosed or used in any other way.

(b)Nothing in this section imposes liability or criminal sanction for disclosure of confidential research records in accordance with any reporting requirement for a case of HIV, including AIDS, by the department or the Centers for Disease Control and Prevention under the United States Public Health Services.

(Amended by Stats. 2006, Ch. 20, Sec. 10. Effective April 17, 2006.)

121090.

Notwithstanding Section 121080, whether or not the research subject, with respect to whom any confidential research record is maintained, gives prior written consent, the content of the confidential research record may be disclosed in any of the following situations:

(a) To medical personnel to the extent it is necessary to meet a bona fide medical emergency of a research subject.

(b) To the department to the extent necessary for the conduct of a special investigation pursuant to Section 100325, in which case the confidentiality provisions of Chapter 8 (commencing with Section 121025) shall apply.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121095.

The content of any confidential research record shall be disclosed to the research subject, the legal representative of the research subject if the research subject is a minor, or the personal representative of a deceased research subject to whom the record pertains, thirty (30) days after written request therefor by the

research subject, the legal representative or the personal representative.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121100.

(a) No confidential research record may be compelled to be produced in any state, county, city or other proceeding in order to initiate or substantiate any criminal charge or charges against a research subject, or to conduct an investigation of a research subject, unless a court finds there is reasonable likelihood that the records in question will disclose material information or evidence of substantial value in connection with the criminal charge or charges or investigation, and there is no other practicable way of obtaining the information or evidence.

In addition, no confidential research record shall be disclosed, discoverable, or compelled to be produced in order to initiate or substantiate any criminal charge or charges against a research subject until after a showing of good cause. In assessing good cause, the court shall weigh the public interest and need for disclosure against the injury to the research subject and the harm to the research being undertaken. Upon the granting of an order to produce, the court, in determining the extent to which disclosure of all or any part of a confidential research record is necessary, shall impose appropriate safeguards against unauthorized disclosure, that shall include, but not necessarily be limited to, the individuals or bodies that may have access to the data, the purposes for which the data shall be used, prohibitions on further disclosure and protection of the identities of other research subjects.

(b) No confidential research record may be compelled to be produced in any state, county, city or other civil proceeding, except as expressly provided in this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121105.

Prior to participation of an individual in a research study relating to HIV or AIDS, both of the following requirements shall be met:

(a)The informed consent of each research subject shall be obtained in the method and manner required by Section 46.116, (a) and (b), of Part 46 of Title 45 of the Code of Federal Regulations and be documented in accordance with Section 46.117 of that part.

(b)Each research subject shall be provided with an explanation in writing, in language understandable to the research subject, of the rights and responsibilities of researchers and research subjects under this chapter.

(Amended by Stats. 2006, Ch. 20, Sec. 11. Effective April 17, 2006.)

121110.

(a)Any person who negligently discloses the content of any confidential research record, as defined in

subdivision (c) of Section 121125, to any third party, except pursuant to this chapter, shall be assessed a civil penalty in an amount not to exceed two thousand five hundred dollars ($2,500), plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(b)Any person who willfully or maliciously discloses the content of any confidential research record, as defined in subdivision (c) of Section 121125, to any third party, except pursuant to this chapter, shall be assessed a civil penalty in an amount not less than five thousand dollars ($5,000) and not more than ten thousand dollars ($10,000), plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the test.

(c)Any person who willfully, maliciously, or negligently discloses the content of any confidential research record, as defined in subdivision (c) of Section 121125, to a third party, except pursuant to this chapter, that results in economic, bodily, or psychological harm to the research subject, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period not to exceed one year, or a fine of not to exceed twenty-five thousand dollars ($25,000), or both.

(d)Any person who commits any act described in subdivision (a) or (b) shall be liable to the subject for all actual damages for economic, bodily, or psychological harm that is a proximate result of the act.

(e)Any person who negligently or willfully violates Section 121105 is guilty of an infraction punishable by a fine of twenty-five dollars ($25).

(f)Each violation of this chapter is a separate and actionable offense.

(g)Nothing in this section limits or expands the right of an injured research subject to recover damages under any other applicable law.

(Amended by Stats. 2006, Ch. 20, Sec. 12. Effective April 17, 2006.)

121115.

In the event that the participation of an individual in a research study is disclosed, the information shall not be used to determine the employability or insurability of the research subject.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121120.

Nothing in this chapter shall preclude disclosure of information in order to further research efforts, including, but not limited to, the publication, dissemination, or sharing of raw data, statistics, or case studies, so long as no confidential research records concerning any research subject are disclosed.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121125.

For purposes of this chapter:

(a)AIDS means acquired immunodeficiency syndrome.

(b)Disclosed means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any confidential research record orally, in writing, or by electronic means to any person or entity, or to provide the means for obtaining the records.

(c)Confidential research record or records means any data or information in a personally identifying form, including name, social security number, address, employer, or other information that could, directly or indirectly, in part or in sum, lead to the identification of the individual research subject, developed or acquired by any person in the course of conducting research or a research study relating to HIV or AIDS.

(d)HIV means human immunodeficiency virus.

(Amended by Stats. 2006, Ch. 20, Sec. 13. Effective April 17, 2006.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=11.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 11. Acquired Immune Deficiency Syndrome (AIDS) Research and Workshop Grants [121150 - 121180]__

(Chapter 11 added by Stats. 1995, Ch. 415, Sec. 7.)

121150.

The Legislature hereby finds and declares that the department, working with the California AIDS Leadership Committee, has developed a draft state AIDS plan for comprehensive, coordinated government action against AIDS and HIV infection. It is the intention of the Legislature to implement those recommendations pertaining to infectious-disease screening of blood and other body parts and fluids, and to notifying donors of the results of those screening tests.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121155.

(a) There is hereby created in the state department an AIDS Advisory Committee. The membership of the committee shall be composed of eight members who have knowledge or expertise in the area of public health or AIDS research, or have been educated in the areas for which the grants are to be directed by the committee. These members shall be appointed by the following:

(1) Two by the Speaker of the Assembly.

(2) Two by the Senate Rules Committee.

(3) Four by the Governor.

(b) In addition to the membership prescribed by subdivision (a), the following persons shall be ex officio members:

(1) The Director of Health Services or a designee shall be a voting member.

(2) The Director of Mental Health, or a designee, a designee, requested to be appointed by the President of the University of California, with knowledge, experience, and responsibility for the university-wide allocation of AIDS research grants, shall be nonvoting members.

(c) The committee shall be abolished effective July 1, 1990, unless extended by subsequent legislative action.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121160.

The members of the AIDS Advisory Committee shall serve at the pleasure of the appointing powers. The members shall serve without compensation, but shall be reimbursed for necessary and travel expenses incurred in the performance of the duties of the committee.

The committee shall advise and assist the state in addressing the public health issues associated with Acquired Immune Deficiency Syndrome, and shall work with the department in statewide efforts to promote primary prevention, public education, and the advancement of knowledge regarding Acquired Immune Deficiency Syndrome.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121165.

The committee may establish rules or criteria for grants under this chapter as it deems necessary. Pursuant to the rules or criteria, the committee may review and recommend approval by the director of grant applications and monitor programs receiving grants under this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121170.

The director may award grants from any funds that may be made available for the purposes of this chapter to individuals, organizations, or facilities for activities that may include, but need not be limited to, any of the following:

(a) Education regarding primary prevention for high risk groups.

(b) Public education to reduce panic and lessen unnecessary anxiety about AIDS among California residents.

(c) Interdisciplinary or educational workshops to facilitate the interchange of knowledge among investigators regarding AIDS and related disorders.

(d) Research grants that would assist the state with the educational efforts outlined in subdivisions (a) and (b).

(e) Grants to provide seed money for larger grants funded by the federal government or other sources.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121175.

The department may do all of the following:

(a) Accept any federal funds provided for any of the purposes of this chapter.

(b) Accept any gift, donation, bequest, or grant of funds from a private or public agency for any of the purposes of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121180.

Not more than 10 percent of any money appropriated for purposes of this chapter shall be utilized for the

administration of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=12.&article=

121200.

The Legislature finds and declares all of the following:

(a) Over the past five years AIDS has reached an epidemic stage and is estimated to affect 30,000 Californians by 1990.

(b) The estimated cost of medical care alone for the 4,000 AIDS cases that have occurred to date in California totals approximately two hundred fifty million dollars ($250,000,000). By the end of 1990, medical care is projected to approach three billion five hundred million dollars ($3,500,000,000) and the total public health and medical care expenditures are expected to exceed five billion dollars ($5,000,000,000).

(c) There is no cure for the AIDS virus. The long-term solution to the elimination of AIDS lies in conducting vaccine research.

(d) Much research has already been completed by the private sector and should be utilized to the maximum extent possible, including supplementing with public funds.

(e) Profitmaking corporations are (1) not eligible for most of the existing public funding sources as are institutions of higher learning and nonprofit corporations; (2) when eligible, the public funding amounts are not adequate to conduct research; and (3) private grants are only available to nonprofit corporations.

(f) Moreover, private research companies, already having established vaccine development and manufacturing capabilities, are uniquely situated to maximize available resources and to utilize both management and research staff, equipment, and technical innovations to their greatest efficiency towards the specific goal of developing and manufacturing an AIDS vaccine at the earliest possible time.

(g) Exclusion of private corporations from public funding to develop an approved vaccine will likely result in (1) a delay in the development of a vaccine to prevent AIDS; (2) continued spread of AIDS to the general population; and (3) continued increases in private and public funds to provide care to AIDS victims.

(h) It is appropriate to mandate that a grant made to a private entity to develop an AIDS vaccine, once the vaccine has been approved by the FDA for use by the general population, should be reimbursed to the state from the sale of the vaccine.

(Amended by Stats. 1997, Ch. 294, Sec. 18. Effective August 18, 1997.)

121225.

If a California manufacturer that is a grant recipient sells, delivers, or distributes an AIDS vaccine that has received FDA approval for use by the general population and that was developed in whole or in part using a grant awarded pursuant to this chapter, the State of California shall be reimbursed for the grant as provided in this section.

Until the total amount of the grant is repaid, repayments in the amount of one dollar ($1) per dose from the sale of the AIDS vaccine shall be deposited by the grant recipient into the General Fund. Upon payment in full of the grant amount into the General Fund, a royalty on the sale of the vaccine from the grant recipient shall be deposited into the General Fund. The percentage amount of the royalty shall be negotiated at the time of the grant award.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=13.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 13. Acquired Immune Deficiency Syndrome (AIDS) Immunization [121250 - 121281]__

(Chapter 13 added by Stats. 1995, Ch. 415, Sec. 7.)

121250.

The Legislature finds and declares all of the following:

(a) The rapidly spreading AIDS epidemic poses an unprecedented major public health crisis in California, and

threatens, in one way or another, the life and health of every Californian.

(b) The best hope of stemming the spread of the AIDS virus among the general public is the development of an AIDS vaccine to develop an immunity to exposure.

(c) No vaccine has yet been fully developed, tested, or approved for AIDS. An effective vaccine, especially when directed at high-risk groups of unexposed persons, will virtually eliminate the risk of contracting AIDS, just as the risk of contracting polio and smallpox have been virtually eliminated by earlier vaccine development, production, and use among the general public.

(d) Private industry today has the capability of conducting the vaccine research, biological research, immunology, and genetic engineering of appropriate viral components needed to formulate, develop, produce, and test an AIDS vaccine. Whenever these and other appropriate expertise cannot be found within a single company, the formation of multiinstitutional research groups should be encouraged and prioritized, as it is in the public interest to encourage efforts toward vaccine production.

(e) It is of the highest importance and in the public interest to maximize public protection by developing an AIDS vaccine and by establishing high levels of immunization, initially among high-risk populations.

(f) The continuous spread of AIDS and especially the threat of infection spreading among population groups previously considered low-risk demands that the highest of priorities be given to the development of a universal immunoprophylaxis.

(g) The use of vaccines to control the spread of infectious pathogens is recognized as one of the genuinely decisive technologies of modern medicine. Recent advances in pharmaceutical technology combined with better understanding of the immune process offer the hope of an AIDS vaccine that is effective, safe, relatively inexpensive, and relatively easy to administer.

(h) Utilization of this new science may be forestalled, however, by problems that have recently deterred the development of vaccines by traditional means. These problems must be resolved before the full public health benefits of new approaches to vaccine development can be fully and expeditiously realized.

(i) The marketplace conditions facing vaccine manufacturers and developers today have changed considerably over the past 30 years. Private manufacturers and developers of vaccines cannot be forced to produce vaccines, and may choose, under the free enterprise system, not to produce them if marketplace conditions are unfavorable.

(j) Certain market conditions are slowing and threatening to halt the development of an AIDS vaccine. Any delay in the discovery, testing, approval, and production of the vaccine because of these secondary considerations may cost tens of thousands of human lives annually, unnecessary pain and suffering for hundreds of thousands of infected Americans, and billions of dollars in medical costs and in lost productivity.

(k) Resource constraints in the public and private sectors and the time required to bring vaccines to market presently limit investments in vaccines research and development. Although universities constitute a significant resource in AIDS research in particular and vaccines research in general, university funding limitations and conflicting research priorities make reliance on the resources and expertise of the private pharmaceutical industry a necessary supplement to public funding of AIDS research.

(l) There has been a decrease in the willingness of pharmaceutical companies to become involved in vaccine research, development, and manufacturing because of uncertain profitability and perceived and actual marketplace risks and disincentives.

(m) It is clearly in the public interest to provide appropriate and necessary incentives toward the timely development and production of an effective and safe AIDS vaccine.

(n) The development of an AIDS vaccine provides an exceptionally important benefit, making its availability highly desirable. However, certain conditions may preclude that development, including the following:

(1) There is a high cost for capital expenditures for vaccine development (estimated to be from ten million dollars ($10,000,000) to thirty million dollars ($30,000,000)). Testing costs of clinical trials (twenty million dollars ($20,000,000) per vaccine, by some estimates) are particularly burdensome, especially for smaller firms.

(2) There is an uncertain market demand for a vaccine once development costs have been invested and FDA marketing approval has been secured.

(o) Without state intervention to assure minimal profitability of an AIDS vaccine, inadequate incentives may exist for the private sector to commit resources and expertise to the accelerated development of an AIDS vaccine.

(p) In light of the dangers inherent in the AIDS epidemic to the general public of California, it is crucial that to the extent possible any serious obstacles to the development of a vaccine be removed.

(q) Because an AIDS vaccine provides an exceptionally important public benefit, it is in the public interest to take uncommon action to facilitate the development and production of a vaccine.

(r) It is as well in the public interest to assure fair compensation, if necessary at public expense, to any innocent victim who may be injured by an AIDS vaccine, as a part of implementing the socially beneficial policy of establishing high levels of AIDS immunization.

(s) In light of the high incidence of AIDS amongst Californians, the California Legislature must lead our country into the 20th century in this effort.

(t) It is therefore fitting and proper that the State of California enact uncommon and exceptional legislation in order to prevent the further spread of the AIDS epidemic.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121255.

The Legislature further finds and declares all of the following:

(a) Acquired immune deficiency syndrome (AIDS) is caused by the virus human T-cell lymphotropic virus, type III (HTLV-3) that initially cripples the bodysimmune system and eventually leaves the body open to an array of lethal opportunistic infections.

(b) So far, there is no known cure for AIDS and once a person is AIDS infected, the virus remains throughout the rest of his or her life.

(c) The AIDS virus has a three-to-seven year incubation period, making it one of the most difficult diseases to

combat and trace.

(d) An easily administered blood test can determine whether a person has been exposed to the AIDS virus.

(e) In 1979, when AIDS was first diagnosed in the United States, the number of newly diagnosed victims was doubling every six to nine months; today the number of people diagnosed with AIDS doubles each year.

(f) Nationally, between 500,000 and 2,000,000 Americans are estimated to have been exposed to the AIDS virus. Of those exposed, between 25,000 and 500,000 persons (5 percent"25 percent) may be expected to die of AIDS.

(1) Another 25,000 to 500,000 persons may be expected to develop AIDS Related Complex (ARC). The range of illnesses these individuals will suffer from may range from minor ailments to brain damage.

(2) The remaining majority of those exposed may never suffer its consequences, but may carry and transmit the disease unknowingly.

(3) Some experts estimate as many as 1,000 additional people are exposed daily.

(g) The department, in its report to the Legislature (March 1986) estimated conservatively that over 30,000 Californians shall have contracted AIDS by 1990, about 50 percent having succumbed. The disease is believed to be fatal within 18 months of diagnosis. To date, more than half the 16,000 people with AIDS in the United States have died.

(h) The AIDS virus is transmitted primarily through sexual contact, and also through the sharing of hypodermic needles, contaminated blood transfusions, and during pregnancy to the fetus.

(i) While the earliest spread of the AIDS virus was primarily among homosexuals, the virus is now found and spreading among heterosexuals as well.

(j) Additionally, drug abusers are highly susceptible to the AIDS virus since the drugs diminish the ability of the bodysimmune system to function. Intravenous drug abusers traditionally come into contact with the virus from sharing hypodermic needles.

(k) Persons sexually active in the heterosexual community are also at risk. Until a vaccine is developed, the AIDS virus will cross over from the high-risk groups to the lower risk groups. At this time, it is not known how fast the AIDS virus will penetrate other population groups, but it is not expected to be nearly as rapid. To date, partners of high-risk groups (bisexual men and intravenous drug users) are considered the main means of transmitting the AIDS virus to the heterosexual population. Other means include pregnant women who pass the infection on to the child and prostitutes who pass on the infection to their clients.

(l) Of the first 9,000 AIDS cases diagnosed in the United States, almost 1,000 were women. Fourteen percent of these women developed AIDS through sexual contact. Recent studies have demonstrated that the virus can be transmitted by women to their male sexual partners. Sexual contact with an infected partner may transmit the virus and fatally infect the partner.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121260.

The Legislature further finds and declares all of the following:

(a) The average cost per patient in the treatment of AIDS until death is now one hundred fifty thousand dollars ($150,000). It is estimated that total costs including health care of the first 10,000 AIDS cases in the United States totaled more than six billion three hundred million dollars ($6,300,000,000). By 1990, according to the department, Californians will spend almost five billion dollars ($5,000,000,000) in medical costs alone in care and treatment of 30,000 AIDS patients, with no realistic hope for their remission or cure. This cost does not include money spent on education, research, and lost income.

(b) To date, the costs of caring for people with AIDS related complex (ARC) has not been officially calculated. However, it is safe to assume the costs are substantial over time. Experts fear that the illnesses of ARC patients, although they may not be fatal, are severe. For example, the virus invades the brain rendering the patients incapable of caring for themselves. It is, therefore, plausible that a percentage of ARC patients will need to be institutionalized.

(c) The Legislature intends by this chapter to take uncommon action to remove the impediments to the expeditious development of an AIDS vaccine.

(d) It is further the intent of the Legislature to provide to any person, whose injury is proximately caused by the use of the vaccine, except to the extent the injuries are attributable to the comparative negligence of the claimant in the use of the vaccine, all of the following:

(1) Compensation for related medical costs associated with the care and treatment of the injury.

(2) Compensation for the loss of any and all earnings caused by the injury.

(3) Compensation for pain and suffering caused by the injury, except that in no action shall the amount of damages for noneconomic losses exceed five hundred fifty thousand dollars ($550,000).

(e) It is further the intent of the Legislature to establish the AIDS Clinical Trials Testing Fund that will be available to not more than three California manufacturers of an AIDS vaccine approved by the federal Food and Drug Administration (FDA) or the department pursuant to Part 5 (commencing with Section 109875) of Division 104 for clinical trials with humans.

(f) The AIDS Vaccine Research and Development Advisory Committee shall review requests from California manufacturers for funds from the AIDS Clinical Trials Testing Fund and shall make recommendations to the department regarding the award of funds, including the appropriate amount of funding. The department, taking into consideration the committeesrecommendations, may allocate the funds to the manufacturers specified in the protocol approved by the FDA or the department pursuant to Part 5 (commencing with Section 109875) of Division 104 for administering the clinical trials.

(g) A California manufacturer seeking the approval of the FDA, rather than the department, for administering clinical trials of an AIDS vaccine may apply while FDA approval is pending to the AIDS Vaccine Research and Development Advisory Committee for the committeesrecommendation that the manufacturer receive funds from the AIDS Clinical Trials Testing Fund upon FDA approval.

(Amended by Stats. 1997, Ch. 294, Sec. 22. Effective August 18, 1997.)

121265.

State, as used in this chapter, has the same meaning as set forth in Section 900.6 of the Government Code.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121270.

(a)There is hereby created the AIDS Vaccine Victims Compensation Fund.

(b)For the purposes of this section, the following definitions apply:

(1)AIDS vaccine means a vaccine that (A) has been developed by any manufacturer and (B) is approved by the FDA or the department pursuant to Part 5 (commencing with Section 109875) of Division 104 as a safe and efficacious vaccine for the purpose of immunizing against AIDS.

(2)Damages for personal injuries means the direct medical costs for the care and treatment of injuries to any person, including a person entitled to recover damages under Section 377 of the Code of Civil Procedure, proximately caused by an AIDS vaccine, the loss of earnings caused by the injuries, and the amount necessary, but not to exceed five hundred fifty thousand dollars ($550,000), to compensate for noneconomic losses, including pain and suffering caused by the injuries.

(3)Fund means the AIDS Vaccine Victims Compensation Fund.

(c)The Department of General Services shall pay from the fund, contingent entirely upon the availability of moneys as provided in subdivision (o), damages for personal injuries caused by an AIDS vaccine that is sold in or delivered in California, and administered or dispersed in California to the injured person except that no payment shall be made for any of the following:

(1)Damages for personal injuries caused by the vaccine to the extent that they are attributable to the comparative negligence of the person making the claim.

(2)Damages for personal injuries in any instance when the manufacturer has been found to be liable for the injuries in a court of law.

(3)Damages for personal injuries due to a vaccination administered during a clinical trial.

(d)An application for payment of damages for personal injuries shall be made on a form prescribed by the Department of General Services within one year of the date that the injury and its cause are discovered. This application may be required to be verified. Upon receipt, the Department of General Services may require the submission of additional information necessary to evaluate the claim.

(e)(1)Within 45 days of the receipt of the application and the submission of any additional information, the Department of General Services shall do either of the following:

(A)Allow the claim in whole or part.

(B)Disallow the claim.

(2)In those instances of unusual hardship to the victim, the board may grant an emergency award to the injured person to cover immediate needs upon agreement by the injured person to repay in the event of a final determination denying the claim.

(3)If the claim is denied in whole or part, the victim may apply within 60 days of denial for a hearing. The hearing shall be held within 60 days of the request for a hearing unless the injured person requests a later hearing.

(f)At the hearing, the injured person may be represented by counsel and may present relevant evidence as defined in subdivision (c) of Section 11513 of the Government Code. The Department of General Services may consider additional evidence presented by its staff. If the injured person declines to appear at the hearing, the Department of General Services may act solely upon the application, the staff report, and other evidence that appears on the record.

(g)The Department of General Services may delegate the hearing of applications to hearing examiners.

(h)The decision of the Department of General Services shall be in writing and shall be delivered or mailed to the injured person within 30 days of the hearing. Upon the request by the applicant within 30 days of delivery or mailing, the Department of General Services may reconsider its decision.

(i)Judicial review of a decision shall be under Section 1094.5 of the Code of Civil Procedure, and the court shall exercise its independent judgment. A petition for review shall be filed as follows:

(1)If no request for reconsideration is made, within 30 days of personal delivery or mailing of the Department of General Services™ decision on the application.

(2)If a timely request for reconsideration is filed and rejected by the Department of General Services, within 30 days of personal delivery or mailing of the notice of rejection.

(3)If a timely request for reconsideration is filed and granted by the Department of General Services, or reconsideration is ordered by the Department of General Services, within 30 days of personal delivery or mailing of the final decision on the reconsidered application.

(j)The Department of General Services shall adopt regulations to implement this section, including those governing discovery.

(k)The fund is subrogated to any right or claim that any injured person may have who receives compensation pursuant to this section, or any right or claim that the personspersonal representative, legal guardian, estate, or survivor may have, against any third party who is liable for the personal injuries caused by the AIDS vaccine, and the fund shall be entitled to indemnity from that third party. The fund shall also be entitled to a lien on the judgment, award, or settlement in the amount of any payments made to the injured person.

(l)In the event that the injured person, or his or her guardian, personal representative, estate, or survivors, or any of them, bring an action for damages against the person or persons liable for the injury or death giving rise to an award by the Department of General Services under this section, notice of institution of legal proceedings and notice of any settlement shall be given to the Department of General Services in Sacramento except in cases where the Department of General Services specifies that notice shall be given to the Attorney General. All notices shall be given by the attorney employed to bring the action for damages or by the injured person, or his or her guardian, personal representative, estate, or survivors, if no attorney is employed.

(m)This section is not intended to affect the right of any individual to pursue claims against the fund and lawsuits against manufacturers concurrently, except that the fund shall be entitled to a lien on the judgment, award, or settlement in the amount of any payments made to the injured party by the fund.

(n)There is hereby created the AIDS Vaccine Injury Compensation Policy Review Task Force consisting of 14 members. The task force shall be composed of 10 members appointed by the Governor, of which two shall be from a list provided by the California Trial Lawyers Association, one from the department, the Director of Finance, one unspecified member, and one attorney with experience and expertise in products liability and negligence defense work, two representing recognized groups that represent victims of vaccine induced injuries or AIDS victims, or both, and two representing manufacturers actively engaged in developing an AIDS vaccine. In addition four Members of the Legislature or their designees shall be appointed to the task force, two of which shall be appointed by the Speaker of the Assembly and two of which shall be appointed by the Senate Committee on Rules. The chairperson of the task force shall be appointed by the Governor from the membership of the task force. The task force shall study and make recommendations on the legislative implementation of the fund created by subdivision (a). These recommendations shall at least address the following issues:

(1)The process by which victims are to be compensated through the fund.

(2)The procedures by which the fund will operate and the governance of the fund.

(3)The method by which manufacturers are to pay into the fund and the amount of that payment.

(4)The procedural relationship between a potential victimsclaim through the fund and a court claim made against the manufacturer.

(5)Other issues deemed appropriate by the task force.

The task force shall make its recommendations to the Legislature on or before June 30, 1987.

(o)The fund shall be funded wholly by a surcharge on the sale of an AIDS vaccine, that has been approved by the FDA, or by the department pursuant to Part 5 (commencing with Section 109875) of Division 104, in California in an amount to be determined by the department. The surcharge shall be levied on the sale of each unit of the vaccine sold or delivered, administered, or dispensed in California. The appropriate amount of the surcharge shall be studied by the AIDS Vaccine Injury Compensation Policy Review Task Force, which shall recommend the appropriate amount as part of its report, with the amount of the surcharge not to exceed ten dollars ($10) per unit of vaccine. Expenditures of the task force shall be made at the discretion of the Director of Finance or the directorsdesignee.

(p)For purposes of this section, claims against the fund are contingent upon the existing resources of the fund as provided in subdivision (o), and in no case shall the state be liable for any claims in excess of the resources in the fund.

(Amended by Stats. 2016, Ch. 31, Sec. 175. (SB 836) Effective June 27, 2016.)

121275.

(a)Because the development of a vaccine now costs somewhere between twenty million dollars ($20,000,000) and forty million dollars ($40,000,000), and because the last vaccine produced and marketed did not sell well,

vaccine manufacturers are hesitant to proceed to invest their resources in a risky venture. It is, therefore, in the public health interest of California to assure that manufacturers proceed to develop this vaccine and protect Californians against this dread disease and protect the State of California against the enormous fiscal costs of treatment for persons getting AIDS. It is a sound and worthwhile investment to provide a guarantee of a market to lessen the risk of loss and assure the development of an AIDS vaccine.

It is anticipated that this AIDS vaccine will consist of a three-unit series. The State of California is willing to guarantee that at least 175,000 persons will be vaccinated, and to guarantee the purchase, within three years after the FDA or the department pursuant to Part 5 (commencing with Section 109875) of Division 104 approves marketing of an AIDS vaccine, of at least 500,000 units, at a cost of no more than twenty dollars ($20) per dosage, by all companies, anywhere in the United States.

Therefore, the State of California, by moneys to be appropriated later through the Budget Act, commits itself to purchasing, at the end of three years after the FDA or the department pursuant to Part 5 (commencing with Section 109875) of Division 104 has approved the marketing on a competitive basis, at not more than twenty dollars ($20) per dosage, the difference between 500,000 units and the actual amount sold, delivered, administered, or dispensed by all companies throughout the United States, including units sold to or reimbursed by Medi-Cal, Medicare, or other public programs, providing that fewer than 500,000 units are sold, delivered, administered, or dispensed.

(b)The AIDS Vaccine Guaranteed Purchase Fund is hereby established and shall be administered by the department, which may develop necessary regulations to carry out the purpose of this section.

(c)The department may carry out this section, when those funds are appropriated through the State Budget. In determining which vaccine shall be purchased by the state from among those manufacturers selling or distributing in California, an AIDS vaccine approved by the FDA or the department pursuant to Part 5 (commencing with Section 109875) of Division 104, the department shall take into consideration at least all of the following factors:

(1)The length of time each AIDS vaccine has been in the marketplace in California.

(2)Each AIDS vaccineshistory of efficacy since approval by the FDA or the department.

(3)Each AIDS vaccineshistory of side effects experienced by previous recipients of the vaccine.

(4)The relative cost of each competing manufacturersAIDS vaccine.

(Amended by Stats. 2006, Ch. 538, Sec. 443. Effective January 1, 2007.)

121280.

(a) In enacting this section the Legislature finds and declares:

(1) It is in the interest of the people of California to develop a vaccine that will prevent the infection of HIV, the agent that causes AIDS.

(2) In order to develop that vaccine, a prototype vaccine must be first given to HIV-negative people to determine the following:

(A) The vaccinestoxicity.

(B) The vaccineseefficacy.

(C) The human immune response to the vaccine.

(3) These studies are currently impossible because vaccine manufacturers fear that, by inoculating HIV-negative individuals with an experimental vaccine, they will elicit a positive immune response as measured by an enzyme linked immunosorbent assay (ELISA), western blot or other federal Food and Drug Administration approved in vitro diagnostic test, thereby placing vaccine volunteers at risk for denial of health or life insurance by insurance carriers as a consequence of their participation.

(4) Insurers need a reliable mechanism by which they can verify the insurability of a vaccine trial participant.

(b) No health care service plan, disability insurer, nonprofit hospital service plan, self-insured employee welfare benefit plan, or life insurer may withhold any settlement or coverage of an individual solely because of his or her participation in an AIDS/HIV vaccine clinical trial studied under an investigational new drug application effective pursuant to Section 312 of Title 21 of the Code of Federal Regulations, or Section 111595.

(c) The sponsor of any such trial shall make a confidential certificate with all the necessary particulars, which shall be determined by the department, for each enrollee and then submit it to the department, which shall endorse it and return it to the vaccine recipient. A copy of this confidential certificate shall be kept on file indefinitely by both the study sponsor and the department.

(d) Release of a confidential certificate shall be by written authorization of the enrollee named in the certificate. If the enrollee is unable to provide the written authorization, a person designated in the certificate by the enrollee may provide the written authorization. The written authorization shall include the name of the person or entity to whom the disclosure would be made.

Disclosure as used in this section means to release, transfer, disseminate or otherwise communicate all or part of any confidential certificate orally, in writing, or by electronic means to any person or entity.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121281.

In order to assist pharmacists and pharmacy personnel in the education of consumers who are at risk of bloodborne infections regarding methods and opportunities for improving and protecting their health, and thereby protect the public health, the Office of AIDS shall develop and maintain all of the following information, on its Internet Web site, and the California State Board of Pharmacy shall also post, or maintain a link to, the information on its Internet Web site:

(a)How consumers can access testing and treatment for HIV and viral hepatitis.

(b)How consumers can safely dispose of syringes and hypodermic needles or other sharps waste.

(c)How consumers can access drug treatment.

(Added by Stats. 2011, Ch. 738, Sec. 12. (SB 41) Effective January 1, 2012.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=105.&title=&part=4.&chapter=13.5.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=13.6.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 13.6. Public Health Demonstration Projects [121287 - 121289]__

(Chapter 13.6 added by Stats. 2014, Ch. 40, Sec. 2.)

121287.

(a)There are hereby established public health demonstration projects to allow for innovative, evidence-based approaches to provide outreach, HIV and hepatitis C screenings, and linkage to, and retention in, quality health care for the most vulnerable and underserved individuals with a high risk for HIV infection.

(b)The demonstration projects may operate for a period of up to two years. The department shall implement up to four demonstration projects. The demonstration projects shall be designed to be capable of replication and expansion on a statewide basis.

(c)After conclusion of the demonstration projects, the department shall review the effectiveness of each demonstration project and make a determination of whether the demonstration project model can be implemented on a statewide basis.

(Added by Stats. 2014, Ch. 40, Sec. 2. (SB 870) Effective June 20, 2014.)

121288.

Upon an appropriation for this purpose in the annual Budget Act, the department shall award funding, on a competitive basis, to a community-based organization or local health jurisdiction to operate a demonstration project pursuant to this chapter. The department shall determine the funding levels of each demonstration project based on scope and geographic area. An applicant shall demonstrate each of the following qualifications:

(a)Leadership on access to HIV care and testing issues and experience addressing the needs of highly marginalized populations in accessing medical and HIV care and support.

(b)Experience with the target population or relationships with community-based organizations or nongovernmental organizations, or both, that demonstrate expertise, history, and credibility working successfully in engaging the target population.

(c)Experience working with nontraditional collaborators who work within and beyond the field of HIV/AIDS education and outreach, including areas of reproductive health, housing, immigration, and mental health.

(d)Strong relationships with community-based HIV health care providers that have the trust of the targeted populations.

(e)Strong relationships with the state and local health departments.

(f)Capacity to coordinate a communitywide planning phase involving multiple community collaborators.

(g)Experience implementing evidence-based programs or generating innovative strategies, or both, with at least preliminary evidence of program effectiveness.

(h)Administrative systems and accountability mechanisms for grant management.

(i)Capacity to participate in evaluation activities.

(j)Strong communication systems that are in place to participate in public relations activities.

(Added by Stats. 2014, Ch. 40, Sec. 2. (SB 870) Effective June 20, 2014.)

121289.

Each demonstration project shall prepare and disseminate information regarding best practices for, and the lessons learned regarding, providing outreach and education to the most vulnerable and underserved individuals with a high risk for HIV infection for use by providers, the Office of AIDS, State Department of Public Health, federal departments and agencies, including the Department of Health and Human Services, and other national HIV/AIDS groups.

(Added by Stats. 2014, Ch. 40, Sec. 2. (SB 870) Effective June 20, 2014.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=13.7.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 13.7. Statewide African-American Initiative [121290 - 121290.9]__

(Chapter 13.7 added by Stats. 2005, Ch. 403, Sec. 1.)

121290.

(a)There is hereby established the Statewide African-American Initiative to address the disproportionate impact of HIV/AIDS on the health of African-Americans by coordinating prevention and service networks around the state and increasing the capacity of core service providers. For purposes of this chapter, initiative means the Statewide African-American Initiative.

(b)The initiative shall have an executive director who shall coordinate the initiative and report to the Office of AIDS through the Statewide African-American HIV/AIDS Steering Committee formally established pursuant to Section 121290.8.

(c)The initiative shall be implemented in the following five designated regions:

(1)Alameda/San Francisco.

(2)Los Angeles.

(3)Sacramento/Central Valley.

(4)San Bernardino/Riverside.

(5)San Diego.

(d)(1) The Office of AIDS shall provide initial administrative support for the core functions of the initiative.

(2)Until January 1, 2008, the initiative shall be housed at the Office of AIDS. By January 1, 2008, the initiative shall establish itself as an independent nonprofit organization for purposes of Section 501(c)(3) of the Internal Revenue Code.

(Added by Stats. 2005, Ch. 403, Sec. 1. Effective January 1, 2006.)

121290.1.

The initiative shall sponsor and conduct an annual Summit on African-Americans and HIV. The summit shall be funded solely by private funds. The summit shall do all of the following:

(a)Provide a report on the progress of the initiative.

(b)Offer technical assistance workshops.

(c)Provide an overview of local, regional, and national efforts concerning health disparities relating to African-Americans and HIV.

(Added by Stats. 2005, Ch. 403, Sec. 1. Effective January 1, 2006.)

121290.2.

The initiative shall have all of the following responsibilities:

(a)To design and conduct a series of complementary projects to implement policy and planning to address the disproportionate impact of HIV/AIDS on the African-American community, focusing on all of the following categories:

(1)Research.

(2)Policy and advocacy.

(3)Workforce development.

(4)Organizational capacity.

(5)Prevention and treatment information and resources.

(b)To provide integrated leadership in developing, implementing, evaluating, and sustaining HIV-related services and programmatic partnerships between research institutions, community-based organizations, the business community, and public sector agencies.

(c)To improve the efficacy of local service providers through the central coordination of service availability, data, and funding sources through the development of a central coordinating body.

(Added by Stats. 2005, Ch. 403, Sec. 1. Effective January 1, 2006.)

121290.4.

The initiative shall employ all of the following strategies to achieve its objectives:

(a)Serve as a community resource for technical assistance and training in the communication and dissemination of information, and for the synthesis, interpretation, and dissemination of HIV/AIDS data and public health information.

(b)Assemble a network of health experts, HIV/AIDS service providers, community-based organizations, and relevant public and private sector stakeholders who will be accessible through the regional centers, to support the capacity building of community-based programs to eliminate HIV-related health disparities for African-Americans.

(c)Establish the administrative, educational, and communication infrastructure, including personnel, facilities, and technology, to support the activities of the initiativesprovider network.

(d)Assess the availability and allocation of scientific, governmental, and private sector resources to reduce the impact of HIV/AIDS on African-Americans.

(e)Evaluate community-focused interventions and demonstration projects to eliminate disparities in the evaluation and treatment of HIV/AIDS, based on information from the work of the initiative and local and regional resources.

(f)Coordinate and disseminate data, including epidemiology, outcome assessment, and informatics, to provider networks addressing health disparities regarding HIV/AIDS.

(g)Facilitate the development of lasting academic and community partnerships that promote healthy lifestyles, prevent disease, and reduce risk factors for HIV/AIDS.

(h)Increase ongoing access to culturally appropriate health care for African-Americans living with HIV/AIDS.

(Added by Stats. 2005, Ch. 403, Sec. 1. Effective January 1, 2006.)

121290.5.

(a)The initiative shall establish a central coordinating body to provide administrative, technical, educational, and health information dissemination services to the initiativesnetwork of community-based organizations.

(b)The duties of the central coordinating body shall include, but not be limited to, all of the following:

(1)Helping to provide program administration services, project management, fiscal support, resource allocation, and program evaluation to the initiative.

(2)Assisting in the collection, management, and analysis of primary and secondary data, and providing technical support and training.

(3)Aiding in the synthesis, interpretation, and dissemination of information on HIV and African-Americans.

(c)The objectives of the central coordinating body shall include, but not be limited to, both of the following:

(1)To achieve economies of scale in effort, expertise, and equipment, and thereby build the capacity of the provider network and the Office of AIDS to develop, implement, and evaluate community programs to address HIV/AIDS among African-Americans.

(2)To pool services, expertise, equipment, and facilities to support several interrelated projects and collaborating organizations, thereby leveraging greater resources than those that would be provided separately to each project and without formal interactions among the Office of AIDS, community-based organizations, and public sector agencies.

(Added by Stats. 2005, Ch. 403, Sec. 1. Effective January 1, 2006.)

121290.7.

The Office of AIDS shall appoint an internal advisory committee composed of the officesAfrican-American HIV specialist, a section head from the office, and a designee to supervise the day-to-day activities of the initiative.

(Added by Stats. 2005, Ch. 403, Sec. 1. Effective January 1, 2006.)

121290.8.

There is hereby established the Statewide African-American HIV/AIDS Steering Committee. The committee shall be appointed by the Office of AIDS and shall initially consist of the current membership of the informally established Statewide African-American HIV/AIDS Steering Committee, which consists of leadership from service providers, researchers, educators, community-based organizations, and public sector agencies.

(Added by Stats. 2005, Ch. 403, Sec. 1. Effective January 1, 2006.)

121290.9.

The requirements of this chapter shall be implemented only after the Department of Finance makes a determination that nonstate funds in an amount sufficient to fully support the activities of the initiative have been deposited with the state. Thereafter, the requirements of this chapter shall be implemented only to the extent that nonstate funds are received for the purposes of this chapter.

(Added by Stats. 2005, Ch. 403, Sec. 1. Effective January 1, 2006.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=13.8.&article=

121295.

(a)The State Department of Public Health, in consultation with the California Department of Aging, shall establish a program for demonstration projects to allow for innovative, evidence-informed approaches to improve the health and well-being of older people living with HIV.

(b)The demonstration projects shall address the multidisciplinary clinical and nonclinical needs of older people living with HIV.

(c)The demonstration projects shall be responsive to the unique needs of older people living with HIV in the specific geographic area.

(d)The demonstration projects shall operate for a period of up to three years. The department shall implement up to five demonstration projects.

(e)The demonstration projects shall include an evaluation component and a plan for disseminating lessons learned in order to develop new programs and strengthen existing programs.

(f)(1)The department shall establish a process to request applications, and award funding on a competitive basis, for an eligible entity to operate a demonstration project pursuant to this chapter.

(2)An application to operate a demonstration project under this chapter shall be evaluated based on need in the geographic area, populations served, competency of the entity applying, and program design.

(g)The department shall determine the funding levels of each demonstration project based on the scope of the project and need in the specific geographic area.

(h)Any entity in any county shall be eligible to operate a demonstration project pursuant to this chapter if it meets both of the following requirements:

(1)Demonstrates experience and expertise in providing culturally appropriate services to the most vulnerable and underserved older people living with HIV, including, but not limited to, older people living with HIV who are Black, Indigenous, and people of color.

(2)Demonstrates the capacity to ensure that the multidisciplinary clinical and nonclinical needs of older people living with HIV are assessed and addressed. Services may be colocated or coordinated across different locations, including through referrals or partnerships with other entities.

(Added by Stats. 2021, Ch. 143, Sec. 25. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=14.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 14. Acquired Immune Deficiency Syndrome (AIDS) Clinical Trial Grant Award for the Prevention of Maternal Transmission of Human Immunodeficiency Virus (HIV) Infection [121300 - 121335]__

(Chapter 14 added by Stats. 1995, Ch. 415, Sec. 7.)

121300.

The Legislature finds and declares all of the following:

(a) Nearly 90 percent of the cases of pediatric AIDS in the United States occur as a result of maternal infant transmission.

(b) It is estimated that from 13 to 45 percent of infants born to HIV-infected mothers will acquire HIV either in utero, during delivery, or postpartum.

(c) In 1990, the number of cases of AIDS in women in the United States increased by 34 percent compared to an increase of 18 percent in men. As a consequence of this increased dissemination of HIV in women, there

has been a concomitant increase in the number of HIV infected infants.

(d) Approximately 6,000 children were born to HIV-infected women in the United States in 1990. This resulted in 1,500 to 2,000 newly infected infants. Internationally, it is estimated that one million children acquired HIV through maternal transmission in 1990.

(e) HIV infection that is transmitted maternally progresses more rapidly than HIV infection in adults, with most infants developing advanced symptoms of infection within 18 months. Costs for care of infants infected with HIV have been estimated to be comparable or higher than the cost of treating HIV-related illness in adults. Currently, limited data exists for the costs of treating HIV-infected children. A recent estimate for those costs is as follows:

(1) For the mean lifetime hospital costs per child: ninety thousand dollars ($90,000).

(2) For the mean annual cost per child hospitalized all year: two hundred nineteen thousand dollars ($219,000). A significant portion of pediatric hospital costs may be due to a prolonged hospitalization because of the lack of foster homes for children.

(3) For the estimated annual medicaid cost: eighteen thousand dollars ($18,000) to forty-two thousand dollars ($42,000).

(4) In comparison, recent estimates of the national cost of treating an adult with HIV and without AIDS is five thousand dollars ($5,000) per year and the average cost of treating an adult person with AIDS is thirty-two thousand dollars ($32,000) per year of that twenty-four thousand dollars ($24,000) is inpatient costs and eight thousand dollars ($8,000) for other services.

(f) AIDS vaccines are now available for testing in FDA-approved clinical trials in HIV-infected pregnant women for the purpose of protecting against HIV transmission from mother to child.

(g) Manufacturers are hesitant to conduct these trials because of the combined threat of liability and the limited market to reimburse the research and clinical trial investment.

(h) The California Legislature wishes to encourage FDA-approved AIDS vaccine clinical trials to protect against maternal HIV transmission from mother to child, that may also provide a therapeutic effect in the HIV-infected mother. It is appropriate to mandate that grants be made to encourage qualified manufacturers to conduct these trials for the benefit of California citizens.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121305.

For the purposes of this chapter, the following definitions apply:

(a) AIDS means acquired immune deficiency syndrome.

(b) An HIV-positive individual means an individual who is infected with the AIDS virus.

(c) Committee means the AIDS Vaccine Research and Development Advisory Committee.

(d) Grant award means an AIDS Vaccine Clinical Trial Grant Award for the Prevention of Maternal Transmission of HIV Infection.

(e) AIDS vaccine, for the purposes of this chapter, means a vaccine that has been developed by a manufacturer and is being tested and administered for the purposes of determining whether immunization of HIV-infected pregnant women will protect against maternal transmission of the AIDS virus. Clinical trials must be conducted under an investigational new drug (IND) application on file with the federal Food and Drug Administration (FDA).

(f) Research subject means a person who is administered an AIDS vaccine, or a fetus of a woman administered an AIDS vaccine, or a child born to a woman administered an AIDS vaccine during pregnancy.

(g) Researcher means a person employed by or affiliated with a manufacturer or a research institution, who participates in the development or testing or administration of an AIDS vaccine, or who is involved in the diagnosis and treatment of a research subject.

(Amended by Stats. 1997, Ch. 294, Sec. 23. Effective August 18, 1997.)

121310.

A manufacturer, research institution, or researcher shall, prior to the administration of an AIDS vaccine to a research subject, obtain that womansinformed consent, that shall comply with all applicable statutes and regulations.

(a) The informed consent shall contain a statement that significant new findings developed during the course of the research that may relate to the subjectswillingness to continue participation will be provided to the subject.

(b) A copy of the informed consent shall be maintained with the womansmedical records.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121315.

(a) A manufacturer, research institution, or researcher shall not be strictly liable for personal injury or wrongful death resulting from the administration of any AIDS vaccine to a research subject participating in the clinical trials described in this chapter.

(b) It is the intent of the Legislature in enacting this section to confer upon manufacturers, research institutions, and researchers participating in the clinical trials described in this chapter an immunity from liability to the same extent as conferred upon specified pharmaceutical manufacturers under Brown v. Superior Court, 44 Cal. 3d 1049.

(c) No immunity shall be conferred to the extent that the injury or death was caused by the negligence, gross negligence, or reckless, willful, or wanton misconduct of the manufacturer, research institution, or researcher or the manufacturer, research institution, or the researcher has failed to comply with Section 121310.

(d) The immunity provided by this section shall not apply to a manufacturer, research institution, or researcher who intentionally provided false information to the FDA in connection with an IND application.

(e) Notwithstanding the immunity provided by this section, nothing in this section shall be construed to affect the inapplicability or applicability of the holding in Brown v. Superior Court, 44 Cal. 3d 1049 to other situations involving the same or similar conduct.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121320.

No person shall be denied the opportunity to be a research subject because of the inability to pay for medical treatment.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121325.

There is hereby created the AIDS Vaccine Clinical Trial Grant Award for the Prevention of Maternal Transmission of HIV Infection. Moneys within the AIDS Clinical Trials Testing Fund, established in accordance with Section 121260, shall, upon appropriation by the Legislature, be available to the department for the purposes of this chapter, that shall include a one-time amount of sixty thousand dollars ($60,000) for the department to develop and process the request for proposal as specified in subdivision (a). Grant awards shall be made available to not more than three manufacturers of an AIDS vaccine approved by the FDA for clinical trials in HIV-positive pregnant women. The purpose is to expedite the completion of an AIDS vaccine to prevent maternal transmission of HIV. The funds are to be used for FDA approved clinical trials.

(a) The department shall issue a request for proposal (RFP) for the clinical trials of an AIDS vaccine to prevent maternal transmission of HIV infection.

(1) The RFP shall be based on the criteria provided in subdivision (d).

(2) Upon issuing the RFP, the department shall publish this fact along with the deadline for grant proposals in the newspapers with the greatest circulation in the major cities of the state, as determined by the department. Additionally, upon issuing the RFP, the same information shall be transmitted to the Secretary of the Senate and the Chief Clerk of the Assembly for publishing in the respective journals of each house of the Legislature.

(b) Any manufacturer may submit a proposal for the grant award in the response to the RFP issued by the department.

(c) The department, taking into consideration the committeesrecommendations, shall, for purposes of this chapter, award grants to no more than three California manufacturers after receiving the committeesrecommendations.

(d) The department, making use of an RFP, shall include a clear description of the criteria to be used to select the projects that will receive funding pursuant to this chapter. The committee shall make recommendations

to the department regarding the content of the RFP. The criteria shall include, but not be limited to, the following:

(1) The potential of the grant recipient to develop a vaccine for the prevention of maternal transmission of HIV infection.

(2) The financial, technical, and managerial commitment of the grant recipient to the development of the vaccine.

(3) The commitment of the grant recipient to agree to provide medical treatment, either directly or through reasonable health insurance coverage, to the participant for any injury caused by the AIDS vaccine in the clinical trial. This agreement shall also be included as part of the participantsinformed consent pursuant to Section 121305.

(e) Grant awards may be made without limitation on the amount of funding from the AIDS Clinical Trials Testing Fund that may be allocated to a single manufacturer, provided that the committee has determined that the grant award is in the public interest.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121330.

If a manufacturer that is a grant recipient sells, delivers, or distributes an AIDS vaccine that has received FDA approval for use by the general population and that was developed in whole or in part using a grant awarded pursuant to this chapter, the State of California shall be reimbursed for the grant as provided in this section.

Until the total amount of the grant is repaid, repayments in the amount of one dollar ($1) per dose from the sale of the AIDS vaccine shall be deposited by the grant recipient into the General Fund. Upon payment in full of the grant amount into the General Fund, a royalty on the sale of the vaccine from the grant recipient shall be deposited into the General Fund. The percentage amount of the royalty shall be negotiated at the time of the grant award.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121335.

It is the intent of the Legislature for the department to make every effort possible to insure a comprehensive and diverse expert representation on the committee. It is the intent of the Legislature to ensure that expert members of the committee include, but are not limited to, ethnic minorities and women.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=15.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=105.&title=&part=4.&chapter=15.&article=)

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 15. HIV Reporting Systems [121340- 121340.]__

(Chapter 15 added by Stats. 2002, Ch. 926, Sec. 2.)

121340.

(a) The State Department of Health Services, in consultation with the California Conference of Local Health Officers, the California Medical Association, HIV treatment providers, and public health and other stakeholders, shall determine, no later than December 31, 2005, whether CaliforniasHIV reporting system has achieved compliance with standards and criteria necessary to ensure continued federal funding for California under the federal Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990 (Public Law 101-381), as amended October 20, 2000 (Public Law 106-345).

(b) The department shall inform the appropriate committees of the Legislature of its findings under subdivision (a) by December 31, 2005.

(Amended by Stats. 2012, Ch. 728, Sec. 108. (SB 71) Effective January 1, 2013.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=16.&article=

__CHAPTER 16. Therapeutic Monitoring Program [121345- 121345.]__

(Chapter 16 added by Stats. 2003, Ch. 230, Sec. 11.)

121345.

(a) The Legislature finds and declares that therapeutic monitoring is necessary to make appropriate life-prolonging and cost-effective treatment decisions in the management of HIV disease.

(b) The Director of the Office of AIDS may provide funding for the coverage of therapeutic monitoring assays for HIV disease through the State HIV Therapeutic Monitoring Program.

(c) (1) The purpose of the program under this chapter shall be to provide the therapeutic assays for HIV-positive people who could not otherwise afford them.

(2) The scope of the program shall be determined by the federal and state guidelines for standards of HIV care and availability of funding.

(3) Priority for funding under the State HIV Therapeutic Monitoring Program shall be given to the state-funded Early Intervention Program sites.

(d) Therapeutic monitoring under this chapter shall include, but not be limited to, viral load and resistance assays.

(e) Coverage awards shall be made to counties on the basis of need. The determination of awards shall be made by the Office of AIDS, depending on the availability of state and federal funding for the program. Counties may cover those assays that are determined to be necessary and are not covered under the state program.

(Added by Stats. 2003, Ch. 230, Sec. 11. Effective August 11, 2003.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=17.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 4. HUMAN IMMUNODEFICIENCY VIRUS (HIV) [120775 - 121349.3]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 17. Pre- and Post-Exposure Prophylaxis [121348 - 121348.4]__

(Heading of Chapter 17 amended by Stats. 2015, Ch. 18, Sec. 17.)

121348.

(a) The department, through its Office of AIDS, shall appoint and convene a task force to develop recommendations for the use of post-exposure prophylaxis (PEP) in the general population, for the prevention of human immunodeficiency virus (HIV) infection.

(b) In performing its duties under this chapter, the task force shall review and consider PEP guidelines established by other jurisdictions, both in the United States and abroad.

(Added by Stats. 2003, Ch. 746, Sec. 2. Effective January 1, 2004.)

121348.2.

(a) The task force shall consist of no more than 10 members, including, but not be limited to, representatives with PEP experience from all of the following:

(1) Research scientists.

(2) Patients who have received PEP treatment.

(3) HIV physicians or clinicians.

(4) HIV prevention, education, or mental health providers.

(5) Public health officials.

(6) The Office of AIDS.

(7) Health plan representatives.

(b) A representative of the Office of AIDS shall serve as the chair of the task force and shall coordinate the proceedings and actions of the task force as necessary and appropriate.

(c) The department shall designate a physician member of the task force to serve as the cochair of the task force. The cochair shall consult with and advise the department and draft the recommendations for the use of PEP in the general population. The cochair shall serve without compensation or reimbursement for expenses beyond any existing contract with the department, consistent with subdivision (f).

(d) The task force shall be implemented only through existing state resources.

(e) Notwithstanding subdivision (d), the department may seek assistance, including financial and in-kind assistance, from other government, educational, and private sources for purposes of convening the task force and developing the recommendations required by this section.

(f) Representatives appointed to the task force shall serve without compensation and without reimbursement of expenses beyond any existing contract with the department. If the department is unable to secure representatives willing to serve on the task force without compensation or reimbursement for expenses beyond any existing contract with the department, the department may choose not to convene the task force or develop recommendations required by this section.

(g) The recommendations produced by the task force shall be approved by the department in consultation with the cochair and shall be made available through posting on the departmentsWeb site. The department is not required to print or mail the recommendations.

(Added by Stats. 2003, Ch. 746, Sec. 2. Effective January 1, 2004.)

121348.4.

Upon an appropriation in the annual Budget Act, the State Department of Public Health shall establish the Pre-Exposure Prophylaxis (PrEP) Navigator Services Program, under which the department shall provide for the following activities:

(a)Oversight and evaluation of the PrEP Navigator Services Program.

(b)Implementation of a process to request applications, and award funding on a competitive basis, to community-based organizations or local health departments. An eligible entity shall collaborate with the Office of AIDS to conduct outcome and process evaluation of navigator services. An entity in any county shall be eligible to receive funding if it can demonstrate all of the following:

(1)Capacity to ensure access for and serve the most vulnerable and underserved Californians at high risk for HIV.

(2)Ability to develop protocols to conduct outreach to targeted populations, to provide PrEP education to clients and providers, and to assess and refer persons to appropriate clinical care and prevention services.

(c)Development and distribution of PrEP education materials statewide, including providing training for and support of any additional activity that is consistent with the goals of this chapter.

(Added by Stats. 2015, Ch. 18, Sec. 18. (SB 75) Effective June 24, 2015.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=4.&chapter=18.&article=

121349.

(a)The Legislature finds and declares that scientific data from needle exchange programs in the United States and in Europe have shown that the exchange of used hypodermic needles and syringes for clean hypodermic needles and syringes does not increase drug use in the population, can serve as an important bridge to treatment and recovery from drug abuse, and can curtail the spread of human immunodeficiency virus (HIV) infection among the intravenous drug user population.

(b)In order to reduce the spread of HIV infection and bloodborne hepatitis among the intravenous drug user population within California, the Legislature hereby authorizes a clean needle and syringe exchange project pursuant to this chapter in any city, county, or city and county upon the action of a county board of supervisors and the local health officer or health commission of that county, or upon the action of the city council, the mayor, and the local health officer of a city with a health department, or upon the action of the city council and the mayor of a city without a health department.

(c)In order to reduce the spread of HIV infection, viral hepatitis, and other potentially deadly bloodborne infections, the State Department of Public Health may, notwithstanding any other law, authorize entities that provide services set forth in paragraph (1) of subdivision (d), and that have sufficient staff and capacity to provide the services described in Section 121349.1, as determined by the department, to apply for authorization under this chapter to provide hypodermic needle and syringe exchange services consistent with state standards in any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling infections that are spread through the sharing of used hypodermic needles and syringes. Authorization shall be made after consultation with the local health officer and local law enforcement leadership, and after a period of public comment, as described in subdivision (e). In making the determination, the department shall balance the concerns of law enforcement with the public health benefits. The authorization shall not be for more than two years. Before the end of the two-year period, the department may reauthorize the program in consultation with the local health officer and local law enforcement leadership.

(d)In order for an entity to be authorized to conduct a project pursuant to this chapter, its application to the department shall demonstrate that the entity complies with all of the following minimum standards:

(1)The entity provides, directly or through referral, all of the following services:

(A)Drug abuse treatment services.

(B)HIV or hepatitis screening.

(C)Hepatitis A and hepatitis B vaccination.

(D)Screening for sexually transmitted infections.

(E)Housing services for the homeless, for victims of domestic violence, or other similar housing services.

(F)Services related to provision of education and materials for the reduction of sexual risk behaviors, including, but not limited to, the distribution of condoms.

(2)The entity has the capacity to commence needle and syringe exchange services within three months of authorization.

(3)The entity has adequate funding to do all of the following at reasonably projected program participation levels:

(A)Provide needles and syringe exchange services for all of its participants.

(B)Provide HIV and viral hepatitis prevention education services for all of its participants.

(C)Provide for the safe recovery and disposal of used syringes and sharps waste from all of its participants.

(4)The entity has the capacity, and an established plan, to collect evaluative data in order to assess program impact, including, but not limited to, all of the following:

(A)The total number of persons served.

(B)The total number of needles and syringes distributed, recovered, and disposed of.

(C)The total numbers and types of referrals to drug treatment and other services.

(e)If the application is provisionally deemed appropriate by the department, the department shall, at least 45 days prior to approval of the application, provide for a period of public comment as follows:

(1)Post on the departmentsinternet website the name of the applicant, the nature of the services, and the location where the applying entity will provide the services.

(2)Send a written and an email notice to the local health officer of the affected jurisdiction.

(3)Send a written and an email notice to the chief of police, the sheriff, or both, as appropriate, of the jurisdictions in which the program will operate.

(f)The department shall establish and maintain on its internet website the address and contact information of programs providing hypodermic needle and syringe exchange services pursuant to this chapter.

(g)The authorization provided under this section is only for a clean needle and syringe exchange project as described in Section 121349.1.

(h)(1)Needle and syringe exchange services application submissions, authorizations, and operations performed pursuant to this chapter shall be exempt from review under the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) This subdivision is intended to be declaratory of existing law.

(i)If the department, in its discretion, determines that a state authorized syringe exchange program continues to meet all standards set forth in subdivision (d) and that a public health need exists, it may administratively approve amendments to a programsoperations including, but not limited to, modifications to the time, location, and type of services provided, including the designation as a fixed site or a mobile site. The amendment approval is not subject to the noticing requirements of subdivision (e).

(j)The department shall have 30 business days to review and respond to the applicantsrequest for amendment of the authorization. If the department does not respond in writing within 30 business days, the request shall be deemed denied.

(k)The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(Amended by Stats. 2021, Ch. 480, Sec. 1. (AB 1344) Effective January 1, 2022.)

121349.1.

The State Department of Public Health or a city, county, or a city and county with or without a health department, that acts to authorize a clean needle and syringe exchange project pursuant to this chapter shall, in consultation with the State Department of Public Health, authorize the exchange of clean hypodermic needles and syringes, as recommended by the United States Secretary of Health and Human Services, subject to the availability of funding, as part of a network of comprehensive services, including treatment services, to combat the spread of HIV and bloodborne hepatitis infection among injection drug users. Staff and volunteers participating in an exchange project authorized by the state, county, city, or city and county pursuant to this chapter shall not be subject to criminal prosecution for violation of any law related to the possession, furnishing, or transfer of hypodermic needles or syringes or any materials deemed by a local or state health department to be necessary to prevent the spread of communicable diseases, or to prevent drug overdose, injury, or disability during participation in an exchange project. Program participants shall not be subject to criminal prosecution for possession of needles or syringes or any materials deemed by a local or state health department to be necessary to prevent the spread of communicable diseases, or to prevent drug overdose, injury, or disability acquired from an authorized needle and syringe exchange project entity.

(Amended (as amended by Stats. 2011, Ch. 744, Sec. 2) by Stats. 2018, Ch. 34, Sec. 15. (AB 1810) Effective June 27, 2018.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=105.&title=&part=5.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=5.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 5. TUBERCULOSIS [121350 - 121555]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 1. Tuberculosis Control [121350 - 121460]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 7.)

121350.

The department shall maintain a program for the control of tuberculosis. The department shall administer the funds made available by the state for the care of tuberculosis patients.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121355.

Notwithstanding any other provision of this chapter a county that has elected to come under Section 14150.1 of the Welfare and Institutions Code shall not receive any tuberculosis subsidy or reimbursement from the state under the provisions of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121357.

The state department shall be the lead agency for all tuberculosis control and prevention activities at the state level.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121358.

(a) Notwithstanding any other provision of law, individuals housed or detained through the tuberculosis control, housing, and detention program shall not reside in correctional facilities, and the funds available under that program with regard to those individuals shall not be disbursed to, or used by, correctional facilities. This section shall not be interpreted to prohibit the institutionalization of criminals with tuberculosis in correctional facilities.

(b) The department shall work with local health jurisdictions to identify a detention site for recalcitrant tuberculosis patients appropriate for each local health jurisdiction in the state. The department shall notify all counties of their designated site by January 1, 1998.

(Added by Stats. 1997, Ch. 294, Sec. 24. Effective August 18, 1997.)

121360.

Pulmonary tuberculosis is an infectious and communicable disease, dangerous to the public health, and all proper expenditures that may be made by any county, pursuant to this chapter, are necessary for the preservation of the public health of the county.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121360.5.

(a)Any city or county health department that elects to participate in this program shall provide for one-year certification of tuberculin skin test technicians by local health officers.

(b)For purposes of this section, a certified tuberculin skin test technician is an unlicensed public health tuberculosis worker employed by, or under contract with, a local public health department, and who is certified by a local health officer to place and measure skin tests in the local health departmentsjurisdiction.

(c)A certified tuberculin skin test technician may perform the functions for which he or she is certified only if he or she meets all of the following requirements:

(1)The certified tuberculin skin test technician is working under the direction of the local health officer or the tuberculosis controller.

(2)The certified tuberculin skin test technician is working under the supervision of a licensed health professional. For purposes of this section, supervision means the licensed health professional is immediately available for consultation with the tuberculin skin test technician through telephonic or electronic contact.

(d)A certified tuberculin skin test technician may perform intradermal injections only for the purpose of placing a tuberculin skin test and measuring the test result.

(e)A certified tuberculin skin test technician may not be certified to interpret, and may not interpret, the results of a tuberculin skin test.

(f)In order to be certified as a tuberculin skin test technician by a local health officer, a person shall meet all

of the following requirements, and provide to the local health officer appropriate documentation establishing that he or she has met those requirements:

(1)The person has a high school diploma, or its equivalent.

(2)(A)The person has completed a standardized course approved by the California Tuberculosis Controllers Association (CTCA), which shall include at least 24 hours of instruction in all of the following areas: didactic instruction on tuberculosis control principles and instruction on the proper placement and measurement of tuberculin skin tests, equipment usage, basic infection control, universal precautions, and appropriate disposal of sharps, needles, and medical waste, client preparation and education, safety, communication, professional behavior, and the importance of confidentiality.

(B)A certification of satisfactory completion of this CTCA-approved course shall be dated and signed by the local health officer, and shall contain the name and social security number of the tuberculin skin test technician, and the printed name, the jurisdiction, and the telephone number of the certifying local health officer.

(3)The person has completed practical instruction including placing at least 30 successful intradermal tuberculin skin tests, supervised by a licensed physician or registered nurse at the local health department, and 30 correct measurements of intradermal tuberculin skin tests, at least 15 of which are deemed positive by the licensed physician or registered nurse supervising the practical instruction. A certification of the satisfactory completion of this practical instruction shall be dated and signed by the licensed physician or registered nurse supervising the practical instruction.

(g)The certification may be renewed, and the local health department shall provide a certificate of renewal, if the certificate holder has completed in-service training, including all of the following:

(1)At least three hours of a CTCA-approved standardized training course to ensure continued competency. This training shall include, but not be limited to, fundamental principles of tuberculin skin testing.

(2)Practical instruction, under the supervision of a licensed physician or registered nurse at the local health department, including the successful placement and correct measurement of 10 tuberculin skin tests, at least five of which are deemed positive by the licensed physician or registered nurse supervising the practical instruction.

(h)The local health officer or the tuberculosis controller may deny or revoke the certification of a tuberculin skin test technician if the local health officer or the tuberculosis controller finds that the technician is not in compliance with this section.

(i)Each county or city participating in the program under this section using tuberculin skin test technicians, that elects to participate on or after January 1, 2005, shall submit to the CTCA a survey and an evaluation of its findings, including a review of the aggregate report, by July 1, 2006, and by July 1 of each year thereafter to, and including, July 1, 2011. The report shall include the following:

(1)The number of persons trained and certified as tuberculin skin test technicians in that city or county.

(2)The estimated number of tuberculin skin tests placed by tuberculin skin test technicians in that city or county.

(j)By July 1, 2008, the CTCA shall submit a summary of barriers to implementing the tuberculosis technician program in the state to the department and to the appropriate policy and fiscal committees of the

Legislature.

(k)The local health officer of each participating city or county shall report to the Tuberculosis Control Branch within the department any adverse event that he or she determines has resulted from improper tuberculin skin test technician training or performance.

(Amended by Stats. 2009, Ch. 298, Sec. 19. (AB 1540) Effective January 1, 2010.)

121361.

(a) (1) A health facility, local detention facility, or state correctional institution shall not discharge or release any of the following persons unless subdivision (e) is complied with:

(A) A person known to have active tuberculosis disease.

(B) A person who the medical staff of the health facility or of the penal institution has reasonable grounds to believe has active tuberculosis disease.

(2) In addition, persons specified in this subdivision may be discharged from a health facility only after a written treatment plan described in Section 121362 is approved by a local health officer of the jurisdiction in which the health facility is located. Any treatment plan submitted for approval pursuant to this paragraph shall be reviewed by the local health officer within 24 hours of receipt of that plan.

(3) The approval requirement of paragraph (2) shall not apply to any transfer to a general acute care hospital when the transfer is due to an immediate need for a higher level of care, nor to any transfer from any health facility to a correctional institution. Transfers or discharges described in this paragraph shall occur only after the notification and treatment plan required by Section 121362 have been received by the local health officer.

(4) This subdivision shall not apply to any transfer within the state correctional system or to any interfacility transfer occurring within a local detention facility system.

(b) No health facility shall, without first complying with subdivision (e), transfer a person described in subparagraph (A) or (B) of paragraph (1) of subdivision (a) to another health facility. This subdivision shall not apply to any transfer within the state correctional system or to any interfacility transfer occurring within a local detention facility system.

(c) No state correctional institution or local detention facility shall transfer a person described in subparagraph (A) or (B) of paragraph (1) of subdivision (a) from a state to a local, or from a local to a state, penal institution unless notification and a written treatment plan are received by the chief medical officer of the penal institution receiving the person.

(d) No local detention facility shall transfer a person described in subparagraph (A) or (B) of paragraph (1) of subdivision (a) to a local detention facility in another jurisdiction unless subdivision (e) is complied with and notification and a written treatment plan are received by the chief medical officer of the local detention facility receiving the person.

(e) (1) Any discharge, release, or transfer described in subdivisions (a), (b), (c), and (d) may occur only after notification and a written treatment plan pursuant to Section 121362 has been received by the local health

officer. When prior notification would jeopardize the personshealth, the public safety, or the safety and security of the penal institution, the notification and treatment plan shall be submitted within 24 hours of discharge, release, or transfer.

(2) When a person described in paragraph (1) of subdivision (a) is released on parole from a state correctional institution, the notification and written treatment plan specified in this subdivision shall be provided to both the local health officer for the county in which the parolee intends to reside and the local health officer for the county in which the state correctional institution is located.

(3) Notwithstanding any other provision of law, the Department of Corrections shall inform the parole agent, and other parole officials as necessary, that the person described in paragraph (1) of subdivision (a) has active or suspected active tuberculosis disease and provide information regarding the need for evaluation or treatment. The parole agent and other parole officials shall coordinate with the local health officer in supervising the personscompliance with medical evaluation or treatment related to tuberculosis, and shall notify the local health officer if the personsparole is suspended as a result of having absconded from supervision.

(f) No health facility that declines to discharge, release, or transfer a person pursuant to this section shall be civilly or criminally liable or subject to administrative sanction therefor. This subdivision shall apply only if the health facility complies with this section and acts in good faith.

(g) Nothing in this section shall relieve a local health officer of any other duty imposed by this chapter.

(Amended by Stats. 2002, Ch. 763, Sec. 4. Effective January 1, 2003.)

121362.

Each health care provider who treats a person for active tuberculosis disease, each person in charge of a health facility, or each person in charge of a clinic providing outpatient treatment for active tuberculosis disease shall promptly report to the local health officer at the times that the health officer requires, but no less frequently than when there are reasonable grounds to believe that a person has active tuberculosis disease, and when a person ceases treatment for tuberculosis disease. Situations in which the provider may conclude that the patient has ceased treatment include times when the patient fails to keep an appointment, relocates without transferring care, or discontinues care. The initial disease notification report shall include an individual treatment plan that includes the patientsname, address, date of birth, tuberculin skin test results or the results of any other test for tuberculosis infection recommended by the federal Centers for Disease Control and Prevention and licensed by the federal Food and Drug Administration, pertinent radiologic, microbiologic, and pathologic reports, whether final or pending, and any other information required by the local health officer. Subsequent reports shall provide updated clinical status and laboratory results, assessment of treatment adherence, name of current care provider if the patient transfers care, and any other information required by the local health officer. A facility discharge, release, or transfer report shall include all pertinent and updated information required by the local health officer not previously reported on any initial or subsequent report, and shall specifically include a verified patient address, the name of the medical provider who has specifically agreed to provide medical care, clinical information used to assess the current infectious state, and any other information required by the local health officer. Each health care provider who treats a person with active tuberculosis disease, and each person in charge of a health facility or a clinic providing outpatient treatment for active tuberculosis disease, shall maintain written documentation of each patientsadherence to his or her individual treatment plan. Nothing in this section shall authorize the disclosure of test results for human immunodeficiency virus (HIV) unless authorized by Chapter 7

(commencing with Section 120975) of, Chapter 8 (commencing with Section 121025) of, and Chapter 10 (commencing with Section 121075) of Part 4 of Division 105.

In the case of a parolee under the jurisdiction of the Department of Corrections and Rehabilitation, the local health officer shall notify the assigned parole agent, when known, or the regional parole administrator, when there are reasonable grounds to believe that the parolee has active tuberculosis disease and when the parolee ceases treatment for tuberculosis. Situations where the local health officer may conclude that the parolee has ceased treatment include times when the parolee fails to keep an appointment, relocates without transferring care, or discontinues care.

(Amended by Stats. 2007, Ch. 24, Sec. 4. Effective January 1, 2008.)

121363.

Each health care provider who treats a person for active tuberculosis disease shall examine, or cause to be examined, all household contacts or shall refer them to the local health officer for examination. Each health care provider shall promptly notify the local health officer of the referral. When required by the local health officer, nonhousehold contacts and household contacts not examined by a health care provider shall submit to examination by the local health officer or designee. If any abnormality consistent with tuberculosis disease is found, steps satisfactory to the local health officer shall be taken to refer the person promptly to a health care provider for further investigation, and if necessary, treatment. Contacts shall be reexamined at times and in a manner as the local health officer may require. When requested by the local health officer, a health care provider shall report the results of any examination related to tuberculosis of a contact.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121364.

(a) Within the territory under his or her jurisdiction, each local health officer may order examinations for tuberculosis infection for the purposes of directing preventive measures for persons in the territory, except those incarcerated in a state correctional institution, for whom the local health officer has reasonable grounds to determine are at heightened risk of tuberculosis exposure.

(b) An order for examination pursuant to this section shall be in writing and shall include other terms and conditions as may be necessary to protect the public health.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121365.

Each local health officer is hereby directed to use every available means to ascertain the existence of, and immediately investigate all reported or suspected cases of active tuberculosis disease in the jurisdiction, and to ascertain the sources of those infections. In carrying out the investigations, each local health officer shall follow applicable local rules and regulations and all general and special rules, regulations, and orders of the state department. If the local health officer determines that the public health in general or the health of a

particular person is endangered by exposure to a person who is known to have active tuberculosis disease, or to a person for whom there are reasonable grounds to believe has active tuberculosis disease, the local health officer may issue any orders he or she deems necessary to protect the public health or the health of any other person, and may make application to a court for enforcement of the orders. Upon the receipt of information that any order has been violated, the health officer shall advise the district attorney of the county in which the violation has occurred, in writing, and shall submit to the district attorney the information in his or her possession relating to the subject matter of the order, and of the violation or violations thereof.

The orders may include, but shall not be limited to, any of the following:

(a) An order authorizing the removal to, detention in, or admission into, a health facility or other treatment facility for appropriate examination for active tuberculosis disease of a person who is known to have active tuberculosis disease, or a person for whom there are reasonable grounds to believe that the person has active tuberculosis disease and who is unable or unwilling voluntarily to submit to the examination by a physician or by the local health officer. Any person whom the health officer determines should have an examination for tuberculosis disease may have the examination made by a physician and surgeon of his or her own choice who is licensed to practice medicine under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code under terms and conditions as the local health officer shall determine on reasonable grounds to be necessary to protect the public health. This section does not authorize the local health officer to mandate involuntary anergy testing.

(b) An order requiring a person who has active tuberculosis disease to complete an appropriate prescribed course of medication for tuberculosis disease and, if necessary, to follow required infection control precautions for tuberculosis disease. This subdivision does not allow the forceable or involuntary administration of medication.

(c) An order requiring a person who has active tuberculosis disease and who is unable or unwilling otherwise to complete an appropriate prescribed course of medication for tuberculosis disease to follow a course of directly observed therapy. This subdivision does not allow forceable or involuntary administration of medication.

(d) An order for the removal to, detention in, or admission into, a health facility or other treatment facility of a person if both of the following occur:

(1) The person has infectious tuberculosis disease, or who presents a substantial likelihood of having infectious tuberculosis disease, based upon proven epidemiologic evidence, clinical evidence, X-ray readings, or tuberculosis laboratory test results.

(2) The local health officer finds, based on recognized infection control principles, that there is a substantial likelihood the person may transmit tuberculosis to others because of his or her inadequate separation from others.

(e) An order for the removal to, detention in, or admission into, a health facility or other treatment facility of a person if both of the following occur:

(1) The person has active tuberculosis disease, or has been reported to the health officer as having active tuberculosis disease with no subsequent report to the health officer of the completion of an appropriate prescribed course of medication for tuberculosis disease.

(2) There is a substantial likelihood, based on the personspast or present behavior, that he or she cannot be

relied upon to participate in or complete an appropriate prescribed course of medication for tuberculosis disease and, if necessary, follow required infection control precautions for tuberculosis disease. The behavior may include, but is not limited to, refusal or failure to take medication for tuberculosis disease, refusal or failure to keep appointments or treatment for tuberculosis disease, refusal or failure to complete the treatment for tuberculosis disease, or disregard for infection control precautions for active tuberculosis disease.

(f) An order for exclusion from attendance at the workplace for persons with infectious tuberculosis disease. The order may, also, exclude the person from any place when the local health officer determines that the place cannot be maintained in a manner adequate to protect others against the spread of tuberculosis disease.

(g) An order for isolation of persons with infectious tuberculosis disease to their place of residence until the local health officer has determined that they no longer have infectious tuberculosis disease.

(h) This section shall apply to all persons except those incarcerated in a state correctional institution.

(i) This section shall not be construed to require a private hospital or other private treatment facility to accept any patient without a payment source, including county responsibilities under Section 17000 of the Welfare and Institutions Code, except as required by Sections 1317 et seq. or by federal law.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121366.

The local health officer may detain in a hospital or other appropriate place for examination or treatment, a person who is the subject of an order of detention issued pursuant to subdivision (a), (d), or (e) of Section 121365 without a prior court order except that when a person detained pursuant to subdivision (a), (d), or (e) of Section 121365 has requested release, the local health officer shall make an application for a court order authorizing the continued detention within 72 hours after the request or, if the 72-hour period ends on a Saturday, Sunday, or legal holiday, by the end of the first business day following the Saturday, Sunday, or legal holiday, which application shall include a request for an expedited hearing. After the request for release, detention shall not continue for more than five business days in the absence of a court order authorizing detention. However, in no event shall any person be detained for more than 60 days without a court order authorizing the detention. The local health officer shall seek further court review of the detention within 90 days following the initial court order authorizing detention and thereafter within 90 days of each subsequent court review. In any court proceeding to enforce a local health officersorder for the removal or detention of a person, the local health officer shall prove the particularized circumstances constituting the necessity for the detention by clear and convincing evidence. Any person who is subject to a detention order shall have the right to be represented by counsel and upon the request of the person, counsel shall be provided.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121367.

(a) An order of a local health officer pursuant to Section 121365 shall set forth all of the following:

(1) The legal authority under which the order is issued, including the particular sections of state law or regulations.

(2) An individualized assessment of the personscircumstances or behavior constituting the basis for the issuance of the order.

(3) The less restrictive treatment alternatives that were attempted and were unsuccessful, or the less restrictive treatment alternatives that were considered and rejected, and the reasons the alternatives were rejected.

(4) The orders shall be in writing, and shall include the name of the person, the period of time during which the order shall remain effective, the location, payer source if known, and other terms and conditions as may be necessary to protect the public health. Upon issuing an order, a copy of the order shall be served upon the person named in the order.

(b) An order for the detention of a person shall do all of the following:

(1) Include the purpose of the detention.

(2) Advise the person being detained that he or she has the right to request release from detention by contacting a person designated on the local health officersorder at the telephone number stated on the order and that the detention shall not continue for more than five business days after the request for release, in the absence of a court order authorizing the detention.

(3) Advise the person being detained that, whether or not he or she requests release from detention, the local health officer is required to obtain a court order authorizing detention within 60 days following the commencement of detention and thereafter shall further seek court review of the detention within 90 days of the court order and within 90 days of each subsequent court review.

(4) Advise the person being detained that he or she has the right to arrange to be represented by counsel or to have counsel provided, and that if he or she chooses to have counsel provided, the counsel will be notified that the person has requested legal representation.

(5) Be accompanied by a separate notice that shall include, but not be limited to, all of the following additional information:

(A) That the person being detained has the right to request release from detention by contacting a person designated on the local health officersorder at a telephone number stated on the order, and that the detention shall not continue for more than five business days after the request in the absence of a court order authorizing the detention.

(B) That he or she has the right to arrange to be advised and represented by counsel or to have counsel provided, and that if he or she chooses to have counsel provided, the counsel will be notified that the person has requested legal representation.

(C) That he or she may supply the addresses or telephone numbers of not more than two individuals to receive notification of the personsdetention, and that the local health officer shall, at the patientsrequest, provide notice within the limits of reasonable diligence to those people that the person is being detained.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121368.

Notwithstanding any inconsistent provision of Section 121365, 121366 or 121367, all of the following shall apply:

(a) A person who is detained solely pursuant to subdivision (a) of Section 121365 shall not continue to be detained beyond the minimum period of time required, with the exercise of all due diligence, to make a medical determination of whether a person who is suspected of having tuberculosis disease, has active tuberculosis or whether a person who has active tuberculosis disease has infectious tuberculosis disease. Further detention of the person shall be authorized only upon the issuance of a local health officersorder pursuant to subdivision (d) or (e) of Section 121365.

(b) A person who is detained solely for the reasons described in subdivision (d) of Section 121365 shall not continue to be detained after he or she ceases to be infectious or after the local health officer ascertains that changed circumstances exist that permit him or her to be adequately separated from others so as to prevent transmission of tuberculosis disease after his or her release from detention.

(c) A person who is detained for the reasons described in subdivision (e) of Section 121365 shall not continue to be detained after he or she has completed an appropriate prescribed course of medication.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121369.

For purposes of Sections 121365, 121366, and 121367, all of the following shall apply:

(a) If necessary, language interpreters and persons skilled in communicating with vision-impaired and deaf or hard-of-hearing individuals shall be provided in accordance with applicable law.

(b) Those sections do not permit or require the forcible administration of any medication without a prior court order.

(c) Any and all orders authorized under those sections shall be made by the local health officer. His or her authority to make the orders may be delegated to the person in charge of medical treatment of inmates in penal institutions within the local health officersjurisdiction, or pursuant to Section 7. The local health officer shall not make any orders incorporating by reference any other rules or regulations.

(Amended by Stats. 2016, Ch. 94, Sec. 19. (AB 1709) Effective January 1, 2017.)

121370.

No examination or inspection shall be required of any person who depends exclusively on prayer for healing in accordance with the teachings of any well recognized religious sect, denomination or organization and claims exemption on that ground, except that the provisions of this code regarding compulsory reporting of communicable diseases and isolation and quarantine shall apply where there is probable cause to suspect

that the person is infected with the disease in a communicable stage. Such person shall not be required to submit to any medical treatment, or to go to or be confined in a hospital or other medical institution; provided, he or she can be safely quarantined and/or isolated in his or her own home or other suitable place of his or her choice.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121375.

The department may inspect and have access to all records of all institutions and clinics, both public and private, where tuberculosis patients are treated.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121380.

The department may advise officers of state educational, correctional, and medical institutions regarding the control of tuberculosis and the care of tuberculosis patients.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121390.

The department shall lease any facilities it deems necessary to care for persons afflicted with active contagious tuberculosis who violate the quarantine or isolation orders of the health officer as provided in Section 120280.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121395.

Whenever any person confined in any state institution, as provided in Section 120280, subject to the jurisdiction of the Director of Corrections, dies, and any personal funds or personal property of the person remains in the hands of the Director of Corrections, those funds may be applied in an amount not exceeding three hundred dollars ($300) to the payment of expenses relating to burial; provided, however, that if no such funds are available, the department shall reimburse the Director of Corrections for the expenses in an amount not exceeding three hundred dollars ($300).

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121400.

If the place of confinement of a person confined under the provisions of Section 120280 is in a county other than the county where he or she was convicted, upon release he or she shall be released in the custody of the sheriff of the county where he or she was convicted, and the sheriff shall forthwith return him or her to the place where he or she was convicted without the necessity of a court order or other process. The sheriff shall prior to the return of the person notify the health officer having jurisdiction of the area to which he or she will be returned of the date he or she will reach that area.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121450.

The department may distribute for the purpose of tuberculosis control an annual subvention, paid quarterly, to any local health department that maintains a tuberculosis control program consistent with standards and procedures established by the department. This annual subvention shall be used primarily for the strengthening of tuberculosis prevention activities by local health departments. Further, the department may allocate additional funds to selected local health departments based on high disease incidence, or other standards established by the department. These additional funds shall be expended primarily for the cost of diagnosis, treatment, and followup services required for an effective tuberculosis control program. Services rendered under this section may not be made dependent on status of residence.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121451.

A local entity that receives funding from the state for the purposes of this part, including, but not limited to, funding from the state for tuberculosis control pursuant to Item 4265-111-0001 of Section 2.00 of the annual Budget Act, shall first allocate the moneys received for the following purposes and activities before allocating the moneys for any other purposes or activities described in this part:

(a) Either of the following activities if those activities are carried out by a local detention facility:

(1) When a person who has active tuberculosis or is reasonably believed to have active tuberculosis is discharged or released from a detention facility, doing both of the following:

(A) Drafting and submitting notification to the local health officer.

(B) Submitting the written treatment plan that includes the information required by Section 121362 to the local health officer. This activity does not include drafting the written treatment plan.

(2) When a person who has active tuberculosis or is reasonably believed to have active tuberculosis is transferred to a local detention facility in another jurisdiction, doing both of the following:

(A)Drafting and submitting notification to the local health officer and the medical officer of the local detention facility receiving the person.

(B)Submitting the written treatment plan that includes the information required by Section 121362 to the

local health officer and the medical officer of the local detention facility receiving the person. This activity does not include drafting the written treatment plan.

(b)Either of the following activities if those activities are carried out by a local health officer or his or her designee:

(1)Receiving and reviewing for approval within 24 hours of receipt only those treatment plans submitted by a health facility. This activity includes all of the following:

(A)Receiving the health facilitystreatment plan.

(B)Sending a request to a health facility for medical records and information on tuberculosis medications, dosages, and diagnostic workup and reviewing records and information.

(C)Coordinating with the health facility on any adjustments to the treatment plan.

(D)Sending approval to the health facility.

(2)Drafting and sending a notice to the medical officer of a parole region, or a physician or surgeon designated by the Department of Corrections and Rehabilitation, if there are reasonable grounds to believe that a parolee has active tuberculosis and ceases treatment for the disease.

(c)For cities, counties, and cities and counties to provide counsel to nonindigent tuberculosis patients who are subject to a civil order of detention issued by a local health officer pursuant to Section 121365 upon request of the patient. Services provided by counsel include representation of the tuberculosis patient at any court review of the order of detention required by Section 121366.

(Added by Stats. 2014, Ch. 31, Sec. 14. (SB 857) Effective June 20, 2014.)

121452.

A local health department or local health officer that receives funding from the state for tuberculosis control pursuant to Item 4265-111-0001 of Section 2.00 of the annual Budget Act for purposes of this part may use those funds to reimburse the actual costs of carrying out the activities described in Section 121451.

(Added by Stats. 2014, Ch. 31, Sec. 15. (SB 857) Effective June 20, 2014.)

121455.

The department may establish standards and procedures for the operation of local tuberculosis control programs. Such standards shall include, but not be limited to, the maintenance of records and reports relative to services rendered and to expenditures made that shall be reported semiannually to the department in a manner as it may specify.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121460.

Of the annual appropriation made to the department for tuberculosis control, the department may expend a sum not to exceed 7.5 percent of the total, for administrative costs. In addition, it may, if it deems necessary, withhold a portion of the appropriation to pay for the cost of regional laboratory services and regional hospitalization facilities for patients whose care cannot be reasonably accomplished in facilities available within a local health department, or it may contract with physicians to supervise the medical care of tuberculosis patients in areas where the specialized care is not available. Further, the appropriation shall be available to purchase materials or drugs used in tuberculosis control for distribution to local health departments.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=5.&chapter=2.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 5. TUBERCULOSIS [121350 - 121555]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 2. Tuberculosis Tests for Pupils [121475 - 121520]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 7.)

121475.

In enacting this chapter, it is the intent of the Legislature to provide:

(a) A means for the eventual elimination of tuberculosis.

(b) Persons required to be tested for tuberculosis under this chapter may obtain testing from whatever medical source they desire, subject only to the condition that the testing be performed in accordance with the regulations of the department and that a record of the testing is made in accordance with the regulations.

(c) Exemptions from tuberculosis tests because of personal beliefs.

(d) For the keeping of adequate records of tuberculosis tests so that health departments, schools, and other institutions, parents or guardians, and the persons tested will be able to ascertain that a child is free from active tuberculosis, and so that appropriate public agencies will be able to ascertain the testing needs of groups of children in schools or other institutions.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121480.

As used in this chapter, the following terms shall have the following meanings:

(a) Governing authority means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

(b) Certificate means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a notice from a public health agency, a unit of the American Lung Association, or any other private or public source, any of which indicates examination for, and freedom from, active tuberculosis.

(c) Department means State Department of Health Services.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121485.

(a) If the local health officer determines that persons seeking first admission to any private or public elementary or secondary school or institution are reasonably suspected of having tuberculosis and further determines that the examination of the persons for tuberculosis is necessary for the preservation and protection of the public health, he or she may issue an order requiring the persons to undergo a tuberculosis examination.

(b) If an order has been issued pursuant to subdivision (a), the governing authority shall not unconditionally admit any person subject to the order as a pupil of any private or public elementary or secondary school, or institution, unless prior to his or her first admission to that institution, he or she provides evidence to the institution of a certificate showing that he or she is free of communicable tuberculosis.

(c) Thereafter, any such pupil may be required to undergo the tuberculosis examinations and provide another certificate showing that he or she is free of communicable tuberculosis, if the local health officer orders the examination.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121490.

The examination shall consist of either an approved intradermal tuberculin skin test or any other test for tuberculosis infection that has been recommended by the federal Centers for Disease Control and Prevention and licensed by the federal Food and Drug Administration, that, if positive, is followed by an X-ray of the lungs.

(Amended by Stats. 2007, Ch. 24, Sec. 5. Effective January 1, 2008.)

121495.

(a) A person subject to an order made pursuant to subdivision (a) of Section 121485 who does not have on file the certificate required by this chapter may be admitted by the governing authority on condition that within time periods designated by regulations of the department, he or she will provide the certificate.

(b) The governing authority shall prohibit from further attendance any person admitted conditionally who fails to obtain and provide the required certificate within the time limits allowed in the regulations of the department, unless the person is exempted under Section 121505, until the person has provided the certificate to the governing authority.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121500.

The examinations required by this chapter may be administered by any private or public source desired.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121505.

The certificate shall not be required for a person who is subject to an order made pursuant to subdivision (a) of Section 121485, if the parent, guardian, or other adult who has assumed responsibility for his or her care and custody in case of a minor, or the person seeking admission, if an emancipated minor, provides to the governing authority an affidavit stating that the examination required to obtain the certificate is contrary to his or her beliefs. If at any time there should be probable cause to believe that the person is afflicted with active tuberculosis, he or she may be excluded from the school or other institution listed in Section 121485 until the governing board is satisfied that he or she is not so afflicted.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121510.

Any person or organization administering tuberculosis examinations shall furnish each person examined, or his or her parent or guardian, as appropriate, with a certificate of the examination results given in a form prescribed by the department.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121515.

The governing authority shall cooperate with the local health officer in carrying out any programs ordered by the local health officer for the tuberculosis examinations of persons applying for first admission to any school or institution under its jurisdiction. The governing board of any school district may use funds, property, and personnel of the district for that purpose.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121520.

The department, in consultation with the State Department of Education, shall adopt and enforce all rules and regulations necessary to carry out this chapter.

(Amended by Stats. 2006, Ch. 538, Sec. 444. Effective January 1, 2007.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=5.&chapter=3.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 5. TUBERCULOSIS [121350 - 121555]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 3. Tuberculosis Tests for Employees [121525 - 121555]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 7.)

121525.

(a)Except as provided in Section 121555, a person shall not be initially employed, or employed under contract, by a private or parochial elementary or secondary school, or any nursery school, unless that person produces or has on file with the school a certificate showing that within the last 60 days the person has submitted to a tuberculosis risk assessment and, if tuberculosis risk factors are identified, has been examined and has been found to be free of infectious tuberculosis. If no risk factors are identified, an examination is not required. A person who is subject to the requirements of this subdivision may submit to an examination that complies with the requirements of Section 121530 instead of submitting to a tuberculosis risk assessment.

(b)Thereafter, an employee who has no identified risk factors or who tests negative for the tuberculosis infection by either the tuberculin skin test or any other test for tuberculosis recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA), shall be required to undergo the foregoing tuberculosis risk assessment and, if risk factors are identified, the examination, at least once each four years, or more often if directed by the governing authority of the school upon recommendation of the local health officer. Once an employee has a documented positive test for the tuberculosis infection conducted pursuant to this subdivision, the tuberculosis risk assessment is no longer required. A referral shall be made within 30 days of completion of the examination to the local health officer to determine the need for followup care.

(c)At the discretion of the governing authority of a private school, this section shall not apply to employees who are employed for any period of time less than a school year whose functions do not require frequent or prolonged contact with pupils.

(d)The governing authority of a private school providing for the transportation of pupils under authorized contract shall require as a condition of the contract that every person transporting pupils produce a certificate showing that within the last 60 days the person has submitted to a tuberculosis risk assessment, and, if tuberculosis risk factors are identified, has been examined and has been found to be free of infectious tuberculosis. At the discretion of the governing authority of the school, this section shall not apply to a private contracted driver who transports pupils infrequently and without prolonged contact with the pupils.

(e)The examination attested to in the certificate required pursuant to subdivision (d) shall be made available without charge by the local health officer.

(f)Certificate, as used in this chapter, means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a notice from a public health agency that indicates freedom from infectious tuberculosis.

(g)Nothing in this section shall prevent the governing authority of a private, parochial, or nursery school,

upon recommendation of the local health officer, from establishing a rule requiring a more extensive or more frequent examination than required by this section.

(h)The State Department of Public Health, in consultation with the California Tuberculosis Controllers Association, shall develop a risk assessment questionnaire, to be used to conduct tuberculosis risk assessments pursuant to this section. The risk assessment questionnaire shall be administered by a health care provider, which shall be specified on the questionnaire. This risk assessment questionnaire shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(Amended by Stats. 2014, Ch. 329, Sec. 2. (AB 1667) Effective January 1, 2015.)

121530.

The examination shall consist of either an approved intradermal tuberculin test or any other test for tuberculosis infection that has been recommended by the CDC and licensed by the FDA, that, if positive, shall be followed by an X-ray of the lungs.

(Amended by Stats. 2008, Ch. 179, Sec. 157. Effective January 1, 2009.)

121535.

The X-ray may be taken by a competent and qualified X-ray technician if the X-ray is subsequently interpreted by a licensed physician and surgeon.

(Amended by Stats. 2014, Ch. 329, Sec. 3. (AB 1667) Effective January 1, 2015.)

121540.

The school shall maintain a file containing an up-to-date certificate for each person covered by this chapter. It shall be the duty of the county health officer of each county to insure that the provisions of this chapter are complied with.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121545.

(a)A volunteer in a school subject to this chapter shall also be required to have on file with the school a certificate showing that, upon initial volunteer assignment, the person submitted to a tuberculosis risk assessment, and, if tuberculosis risk factors were identified, the person was examined and found to be free of infectious tuberculosis. If no risk factors are identified, an examination is not required. A person who is subject to the requirements of this subdivision may take an examination that complies with the requirements of Section 121530 instead of submitting to a tuberculosis risk assessment.

(b)At the discretion of the governing authority of a school subject to this chapter this section shall not apply to a volunteer whose functions do not require frequent or prolonged contact with pupils.

(Amended by Stats. 2014, Ch. 329, Sec. 4. (AB 1667) Effective January 1, 2015.)

121550.

Nothing in this chapter shall prevent the school from requiring more extensive or more frequent examinations.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121555.

(a)A person who transfers his or her employment from one of the schools specified in subdivision (a) of Section 121525 to another shall be deemed to meet the requirements of subdivision (a) of Section 121525 if the person can produce a certificate that shows that he or she was found to be free of infectious tuberculosis within 60 days of initial hire, or the school previously employing the person verifies that the school has a certificate on file showing that the person is free from infectious tuberculosis.

(b)A person who transfers his or her employment from a public elementary school or secondary school to any of the schools specified in subdivision (a) of Section 121525 shall be deemed to meet the requirements of subdivision (a) of Section 121525 if that person can produce a certificate as provided for in subdivision (c) of Section 49406 of the Education Code that shows that he or she was found to be free of infectious tuberculosis within 60 days of initial hire, or if the school district previously employing the person verifies that the school district has a certificate on file showing that the person is free from infectious tuberculosis.

(Amended by Stats. 2014, Ch. 329, Sec. 5. (AB 1667) Effective January 1, 2015.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=105.&title=&part=6.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 1. Rabies Control [121575 - 121710]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 7.)

121575.

Rabies, as used in this chapter, includes rabies, and any other animal disease dangerous to human beings that may be declared by the department as coming under this chapter.

(Amended by Stats. 1996, Ch. 1023, Sec. 351.5. Effective September 29, 1996.)

121580.

Quarantine, as used in this chapter, means the strict confinement, upon the private premises of the owner, under restraint by leash, closed cage, or paddock, of all animals specified in the order of the department.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121585.

Rabies area shall mean any area not less than a county as determined by the director within a region where the existence of rabies constitutes a public health hazard, as found and declared by the director. A region shall be composed of two or more counties as determined by the director. The status of an area as a rabies area shall terminate at the end of one year from the date of the declaration unless, not earlier than two months prior to the end of the year, it is again declared to be a rabies area in the manner provided in this

section. If however, the director at any time finds and declares that an area has ceased to be a rabies area its status shall terminate upon the date of the declaration.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121595.

Whenever any case of rabies is reported as existing in any county or city, the department shall make, or cause to be made, a preliminary investigation as to whether the disease exists, and as to the probable area of the state in which the population or animals are endangered.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121600.

If upon the investigation the department finds that rabies exists, a quarantine shall be declared against all animals as are designated in the quarantine order, and living within the area specified in the order.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121605.

Following the order of quarantine the department shall make or cause to be made a thorough investigation as to the extent of the disease, the probable number of persons and animals exposed, and the area found to be involved.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121610.

The department may substitute for the quarantine order regulations as may be deemed adequate for the control of the disease in each area.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121615.

All peace officers and boards of health shall carry out the provisions of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121620.

During the period for which any quarantine order is in force any officer may kill or in his or her discretion capture and hold for further action by the department any animal in a quarantine area, found on public highways, lands, and streets, or not held in restraint on private premises as specified in this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121625.

Any proper official within the meaning of this chapter may examine and enter upon all private premises for the enforcement of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121630.

Except as provided in Sections 121705 and 121710, every person who possesses or holds any animal in violation of the provisions of this chapter is guilty of an infraction, punishable by a fine not exceeding one thousand dollars ($1,000).

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121635.

For the purpose of providing funds to pay expenses incurred in connection with the eradication of rabies, the rabies treatment and eradication fund is continued in existence in each county or city in this state.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121640.

All money collected for dog license taxes shall be deposited to the credit of this fund with the treasurer of the county or city; but funds now collected from any dog tax may continue to be collected and used for other purposes specified by local ordinances.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121645.

Upon the determination by the department that rabies exists in any county or city, a special dog license tax shall immediately become effective, unless a dog tax is already in force the funds from which are available for the payment of expenditures in accordance with this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121650.

This tax shall be levied as follows: An annual tax of one dollar and fifty cents ($1.50) for each male, two dollars and fifty cents ($2.50) for each female, and one dollar and fifty cents ($1.50) for each neuter dog. It shall be collected by the proper authority at the same time and in the same manner as other taxes are collected; except that at the first collection the proportion of the annual tax as corresponds to the number of months the tax has been in operation plus one year advance payment shall be collected.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121655.

After this dog license tax has been established in a county or city, it shall be continued in force until an order has been issued by the department declaring that county, or the portion of that county as may be deemed advisable, to be free from rabies or further danger of its spread.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121660.

One half of all fines collected by any court or judge for violations of this chapter shall be placed to the credit of the rabies treatment and eradication fund of the county or city where the violation occurred.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121665.

Whenever it becomes necessary in the judgment of the department, to enforce this chapter in any county or city, the department may institute special measures of control to supplement the efforts of the local authorities in any county or city whose duties are specified in this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121670.

All expenditures incurred in enforcing the special measures shall be proper charges against the special fund referred to in this chapter, and shall be paid as they accrue by the proper authorities of each county or city where they have been incurred; but all expenditures that may be incurred after the issuance of the order establishing the tax and before the first collection of the tax, shall be paid as they accrue from the general fund of the county or city.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121675.

All expenditures in excess of the balance of money in this fund shall likewise be paid as they accrue from the general fund. All money thus expended from the general fund shall be repaid from the special fund when the collections from the tax have provided the money.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121680.

Notwithstanding any other provision of this chapter a guide dog serving a blind master shall not be quarantined, in the absence of evidence that he or she has been exposed to rabies, unless his or her master fails:

(a) To keep him or her safely confined to the premises of the master.

(b) To keep him or her available for examination at all reasonable times.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121685.

Notwithstanding any other provision of this chapter, a dog used by any state, county, city, or city and county law enforcement agency shall not be quarantined after biting any person if the bite occurred while the dog was being used for any law enforcement purpose. The law enforcement agency shall make the dog available for examination at any reasonable time. The law enforcement agency shall notify the local health officer if the dog exhibits any abnormal behavior.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121690.

In rabies areas, all of the following shall apply:

(a)Every owner of a dog, after the dog attains the age of four months, shall no less than once every two years secure a license for the dog as provided by ordinance of the responsible city, city and county, or county. License fees shall be fixed by the responsible city, city and county, or county, at an amount not to exceed limitations otherwise prescribed by state law or city, city and county, or county charter.

(b)(1)Every owner of a dog, after the dog attains the age of three months or older, shall, at intervals of time not more often than once a year, as may be prescribed by the department, procure its vaccination by a licensed veterinarian with a canine antirabies vaccine approved by the department and administered according to the vaccine label, unless a licensed veterinarian determines, on an annual basis, that a rabies vaccination would endanger the dogslife due to disease or other considerations that the veterinarian can verify and document. The responsible city, county, or city and county may specify the means by which a dogsowner is required to provide proof of the dogsrabies vaccination, including, but not limited to, by electronic transmission or facsimile.

(2)A request for an exemption from the requirements of this subdivision shall be submitted on an approved form developed by the department and shall include a signed statement by the veterinarian explaining the inadvisability of the vaccination and a signed statement by the dog owner affirming that the owner understands the consequences and accepts all liability associated with owning a dog that has not received the canine antirabies vaccine. The request shall be submitted to the local health officer, who may issue an exemption from the canine antirabies vaccine.

(3)The local health officer shall report exemptions issued pursuant to this subdivision to the department.

(4)A dog that is exempt from the vaccination requirements of this section shall be considered unvaccinated.

(5)A dog that is exempt from the vaccination requirements of this section shall, at the discretion of the local health officer or the officersdesignee, be confined to the premises of the owner, keeper, or harborer and, when off the premises, shall be on a leash the length of which shall not exceed six feet and shall be under the direct physical control of an adult. A dog that is exempt from the provisions of this section shall not have contact with a dog or cat that is not currently vaccinated against rabies.

(c)All dogs under four months of age shall be confined to the premises of, or kept under physical restraint by, the owner, keeper, or harborer. Nothing in this chapter or Section 120435 shall be construed to prevent the sale or transportation of a puppy four months old or younger.

(d)A dog in violation of this chapter or any additional provisions that may be prescribed by a local governing body shall be impounded, as provided by local ordinance.

(e)The governing body of each city, city and county, or county shall maintain or provide for the maintenance of an animal shelter system and a rabies control program for the purpose of carrying out and enforcing this section.

(f)(1)Each city, county, or city and county shall provide dog vaccination clinics, or arrange for dog vaccination at clinics operated by veterinary groups or associations, held at strategic locations throughout each city, city and county, or county. The vaccination and licensing procedures may be combined as a single operation in the clinics. No charge in excess of the actual cost shall be made for any one vaccination at a clinic. No owner of a dog shall be required to have the dog vaccinated at a public clinic if the owner elects to have the dog vaccinated by a licensed veterinarian of the ownerschoice.

(2)All public clinics shall be required to operate under antiseptic immunization conditions comparable to those used in the vaccination of human beings.

(g)In addition to the authority provided in subdivision (a), the ordinance of the responsible city, city and county, or county may provide for the issuance of a license for a period not to exceed three years for dogs that have attained the age of 12 months or older and have been vaccinated against rabies or one year for dogs exempted from the vaccination requirement pursuant to subdivision (b). The person to whom the license is issued pursuant to this subdivision may choose a license period as established by the governing body of up to one, two, or three years. However, when issuing a license pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination and, if a dog is exempted from the vaccination requirement pursuant to subdivision (b), the license period shall not extend beyond one year. A dog owner who complies with this subdivision shall be deemed to have complied with the requirements of subdivision (a).

(h)All information obtained from a dog owner by compliance with this chapter is confidential to the dog owner and proprietary to the veterinarian. This information shall not be used, distributed, or released for any purpose, except to ensure compliance with existing federal, state, county, or city laws or regulations.

(Amended by Stats. 2019, Ch. 7, Sec. 13. (AB 1553) Effective January 1, 2020.)

121695.

Nothing in this chapter and Section 120435 is intended or shall be construed to limit the power of any city, city and county, or county in its authority in the exercise of its police power or in the exercise of its power under any other provisions of law to enact more stringent requirements, to regulate and control dogs within the boundaries of its jurisdiction.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121700.

Rabies vaccines for animal use shall not be supplied to other than a veterinary biologic supply firm, a person licensed to practice veterinary medicine under Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code, or a public agency.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121705.

Any person who willfully conceals information about the location or ownership of an animal subject to rabies, that has bitten or otherwise exposed a person to rabies, with the intent to prevent the quarantine or isolation of that animal by the local health officer is guilty of a misdemeanor.

Any person who violates this section is guilty of a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121710.

Any person who, after notice, violates any order of a local health officer concerning the isolation or quarantine of an animal of a species subject to rabies, that has bitten or otherwise exposed a person to rabies or who, after that order, fails to produce the animal upon demand of the local health officer, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period not to exceed one year, or by fine of not less than one hundred dollars ($100), nor more than one thousand dollars ($1,000) per day of violation, or by both fine and imprisonment.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=1.5.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 1.5. Dog Importation: Health Certificates [121720 - 121723]__

(Chapter 1.5 added by Stats. 2014, Ch. 498, Sec. 1.)

121720.

(a)(1)A person seeking to bring a dog into this state or importing dogs into this state for the purpose of resale or change of ownership shall obtain a health certificate with respect to that dog that has been completed by a licensed veterinarian and is dated within 10 days prior to the date on which the dog is brought into the state.

(2)The person seeking to bring the dog into this state or importing dogs into this state for the purpose of resale or change of ownership shall submit the health certificate to the county health department as provided in subdivision (c). The person shall submit the health certificate to the county health department by any method accepted by the receiving agency, including, but not limited to, electronic transmission and facsimile.

(b)Completion of a United States Department of Agriculture Animal and Plant Health Inspection Service Form 7001, known as the United States Interstate and International Certificate of Health Examination for Small Animals, shall satisfy the requirement of subdivision (a). A different form of canine health certificate acceptable to the receiving agency shall also satisfy the requirement of subdivision (a).

(c)It shall be the responsibility of persons importing dogs into this state for the purpose of resale or change of ownership to send the health certificate to the county health department where the dog is to be offered for sale or to the county of residence of the individual purchasing or receiving a dog directly from a source outside of California.

(d)The receiving agency may use the information on the health certificate as it deems appropriate.

(Added by Stats. 2014, Ch. 498, Sec. 1. (AB 1809) Effective January 1, 2015.)

121721.

(a)This chapter does not apply to a person who brings a dog into the state that will not be offered for resale or if the ownership of the dog is not expected to change.

(b) This chapter does not apply to the import of a dog used for law enforcement or military work, a guide dog, as defined by subdivision (d) of Section 365.5 of the Penal Code, or a dog imported as a result of a declared emergency as described by Section 8558 of the Government Code or an investigation by law enforcement of an alleged violation of state or federal animal fighting or animal cruelty laws.

(Added by Stats. 2014, Ch. 498, Sec. 1. (AB 1809) Effective January 1, 2015.)

121722.

The agency that receives a form pursuant to Section 121720 may charge a fee in a reasonable amount sufficient to cover the costs associated with receiving and processing a health certificate submitted to the agency pursuant to this chapter.

(Added by Stats. 2014, Ch. 498, Sec. 1. (AB 1809) Effective January 1, 2015.)

121723.

(a)A person who violates a provision of this chapter is guilty of an infraction, punishable by a fine not to exceed two hundred fifty dollars ($250) for each dog for which a violation has occurred.

(b)In lieu of punishment pursuant to subdivision (a), authorized enforcement personnel may issue an administrative fine in the same amount specified in subdivision (a) or a correction warning to a person who violates a provision of this chapter, unless the violation endangers the health or safety of the animal, the animal has been wounded as a result of the violation, or an administrative fine or a correction warning has previously been issued to the individual. The administrative fine or correction warning shall require the person to correct the violation.

(Added by Stats. 2014, Ch. 498, Sec. 1. (AB 1809) Effective January 1, 2015.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=2.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 2. Avian Zoonosis Control [121745 - 121765]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 7.)

121745.

(a) Whenever the director finds that psittacosis, or any other diseases transmissible to man from pet birds, have become a public health hazard to the extent that control measures are necessary or desirable, the department shall adopt additional regulations as it deems necessary for the public health; and these regulations shall apply to all pet birds whether or not of a species otherwise regulated under this chapter. These regulations shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) This section shall not be operative during the 1993“94 fiscal year.

(Amended by Stats. 1998, Ch. 194, Sec. 5. Effective January 1, 1999.)

121760.

The violation of any of the provisions of this chapter shall constitute a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121765.

This chapter shall apply to all shell parakeets or budgerigars.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=105.&title=&part=6.&chapter=3.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=3.&article=1.

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 3. Importation of Wild Animals [121775 - 121870]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 7.)

__ARTICLE 1. General [121775 - 121800]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 7.)

121775.

As used in this chapter, wild animal refers to any animal of the class Aves (birds) or class Mammalia (mammals) that either is not normally domesticated in this state or not native to this state.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121780.

As used in this chapter, enforcement officer means any officer, employee, or agent of the department, local health officer, or of any state or local agency with which an agreement has been made to enforce Article 3 (commencing with Section 121850), or local health officer.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121785.

The department may enter into agreement with any state or local agency for the enforcement of Article 3 (commencing with Section 121850) of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121790.

The department shall publish from time to time a list of animals that may not be imported into this state except by permit from the department. Unless a permit is issued pursuant to this chapter, it is unlawful to import into this state any wild animal for which a permit is required by the department.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121795.

The department may adopt regulations governing the entry, quarantine, or release from quarantine, of any and all wild animals imported into this state pursuant to this chapter. The regulations shall be designed to protect the public health against diseases known to occur in any such animals.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121800.

The violation of any provision of this chapter shall be a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=3.&article=2.

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 3. Importation of Wild Animals [121775 - 121870]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 7.)

__ARTICLE 2. Permits [121825 - 121845]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 7.)

121825.

The department may issue a written permit to import into this state any wild animal specified by the department pursuant to Section 121790, upon determination that the public health and safety will not be endangered by the importation in accordance with the terms and conditions of the permit.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121830.

A permit shall be issued only upon written application from the person desiring to import the species, enumerating all of the following:

(a) The number and true scientific name of each species of wild animal for which a permit is requested.

(b) The carrier and probable point of first arrival in this state of each shipment of the species.

(c) The purpose for which they are to be imported.

(d) The name and address of the consignee.

(e) The name and address of the consignor.

(f) The place or premises where the animals shall be held in quarantine pending the completion of the tests, veterinary examinations, and observation period as may be specified by the department as a condition of the permit required under this chapter.

(g) The name and address of the licensed veterinarian who shall conduct the tests and examinations as specified by the department pursuant to this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121835.

Each permit issued shall set forth the following:

(a) The number and true scientific name of the species of wild animal for which the permit is granted.

(b) A statement of the terms and conditions under which the entry of the species is permitted.

(c) The place and conditions of quarantine where required.

(d) A statement of the tests, veterinary examinations, observation period, and quarantine period as may be specified by the department.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121840.

Whenever any permit is issued under provisions of this article, one copy shall be sent by the department to the local health officer of the county where the species will be held in quarantine, two copies shall accompany each shipment of wild animals involved.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121845.

The department shall charge a fee for the issuance of the import permit provided for under Section 121825. The department shall provide by regulation the amount of the fee to be collected, the total amount of the fees to yield a sum approximating the cost of the administration and enforcement of this chapter. All fees shall be paid by the department into the General Fund.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=3.&article=3.

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 3. Importation of Wild Animals [121775 - 121870]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 7.)

__ARTICLE 3. Regulation and Enforcement [121850 - 121870]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 7.)

121850.

Any person who imports, transports into the state, or receives, any live wild animal enumerated in or designated pursuant to Section 121790, shall hold the animal in confinement for inspection and immediately notify the department of the arrival thereof. If there is found in any shipment any species not specified in the permit issued under this chapter and subject thereto, or more than the number of any species specified, the animals shall be refused admittance as provided under Section 121865.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121855.

If, during inspection upon arrival any wild animal is found to be diseased, or there is reason to suspect the presence of disease that will or may endanger the public health and safety, the diseased animal, and, if necessary, the entire shipment shall be destroyed by or under the supervision of the enforcing officer, unless the public health and safety will not be endangered by its detention in quarantine for a time and under conditions satisfactory to the enforcing officer for disinfection, treatment, or diagnosis, or no detriment can be caused by its return to point of origin at the option and expense of the owner or bailee.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121860.

Whenever any wild animal brought into this state under permit is quarantined as provided in this chapter, the species shall not be released from quarantine except by release in writing from the department. All tests, veterinary examinations, and quarantines shall be at the expense of the owner or bailee of the animals involved. Any species refused release from quarantine under this section shall be destroyed, detained, or returned to its point of origin as provided in Section 121855.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121865.

Any live wild animal brought into this state in violation of the provisions of this chapter or any regulations thereunder may, upon notice from the enforcing officer inspecting them or discovering the violation, be returned to the point of origin, or destroyed, within the time specified in the notice, at the option of the owner or bailee.

The exercise of any such option shall be under the direction and control of the enforcing officer and at the expense of the owner or bailee. If the owner or bailee fails to exercise the option within the time specified in the notice, the enforcing officer shall immediately thereafter seize and destroy the animals at the expense of the owner or bailee.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121870.

This chapter, or any regulations adopted pursuant thereto, shall not authorize the importation, transportation, or possession of any live wild animals enumerated in Chapter 2 (commencing with Section 2116) of Division 3 of the Fish and Game Code or the regulations of the Fish and Game Commission adopted pursuant thereto, except as provided in Chapter 2 (commencing with Section 2116) of Division 3 of the Fish and Game Code.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=4.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 4. Animal Control [121875 - 121945]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 7.)

121875.

This chapter may be cited as The Dog Act of 1969.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121880.

For the purposes of this chapter, sentry dog means a dog trained to work without supervision in a fenced facility and to deter or detain unauthorized persons found within the facility.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121881.

For purposes of this chapter, guard dog or attack dog means any dog trained to guard, protect, patrol, or defend any premises, area, or yard, or any dog trained as a sentry or to protect, defend, or guard any person or property, or any dog such as a schutzhund or any similar classification.

(Added by Stats. 2001, Ch. 377, Sec. 1. Effective January 1, 2002.)

121885.

For the purposes of this chapter, narcotic detection dog means a dog trained to locate narcotics by scent.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121890.

For purposes of this chapter, tracker dog means a dog trained to work with a handler in searching facilities for burglary suspects and other intruders.

(Amended by Stats. 2001, Ch. 377, Sec. 2. Effective January 1, 2002.)

121895.

For the purposes of this chapter, sentry dog company means any person who agrees to furnish trained

sentry, attack, or narcotic detection dogs for hire.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121896.

For purposes of this chapter, trainer means any person who engages in the practice of training any attack, guard, or sentry dog.

(Added by Stats. 2001, Ch. 377, Sec. 3. Effective January 1, 2002.)

121900.

For the purposes of this chapter dog handler means any person trained in the handling of dogs whose training includes the care, feeding, and maintenance of dogs, and the procedures necessary to control the behavior of a dog subject to this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121905.

For the purposes of this chapter hire shall include, but not be limited to, the renting or leasing of the services of a dog with or without a dog handler, or the sale of a dog with an option to repurchase.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121906.

Person means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.

(Added by Stats. 2001, Ch. 377, Sec. 4. Effective January 1, 2002.)

121907.

Owner means any person who has purchased, or obtained legal custody of, an attack, guard, or sentry dog.

(Added by Stats. 2001, Ch. 377, Sec. 5. Effective January 1, 2002.)

121910.

Each sentry dog company shall register each dog subject to this chapter that it handles with the local law enforcement agency and with the state, city, county, or district fire department that has the responsibility for the prevention and suppression of fires in the area where the sentry dog company is located.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121915.

Each sentry dog company that handles a dog subject to this chapter shall notify the appropriate local law enforcement agency and the appropriate fire department by mail not more than 15 days before a dog is sent on an assignment of the location and duration of the assignment. The local law enforcement agency and fire department shall maintain a file of the assignments.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121916.

(a) Any person or owner of an attack, guard, or sentry dog that operates or maintains a business to sell, rent, or train an attack, guard, or sentry dog shall obtain a permit from the local public agency or private society or animal shelter contracting with the local public agency for animal care or protection services.

(b) Each local agency shall adopt and implement a permit program for the administration of subdivision (a) by the local agency or private society or animal shelter contracting with the local public agency for animal care or protection services. A local agency may charge a fee for the issuance or renewal of a permit required under this section. The fee shall not exceed the actual costs for the implementation of the permit program.

(c) For purposes of this section, local public agency means a city, county, or city and county.

(Amended by Stats. 2019, Ch. 7, Sec. 14. (AB 1553) Effective January 1, 2020.)

121917.

(a) An applicant, when applying for a permit pursuant to Section 121916, shall furnish the local public agency with a list of the types of animals to be kept or used for any purpose, with the estimated maximum number of animals to be kept.

(b) An applicant shall furnish the local public agency with the name and the telephone number of a responsible person who has access to the animals and who can be reached during an emergency.

(c) An applicant shall notify the local public agency when any animal for which a permit is required is kept or maintained.

(d) The local public agency may establish the maximum number of animals to be kept or maintained on the

premises.

(e) Any permittee shall report in writing any change in address, ownership, or management to the local public agency at least 15 days prior to any change.

(f) Any permittee shall maintain a register of the name and address of any person from whom any animal is received and to whom any animal is sold, traded, or given. This list shall be available to the local public agency representative upon demand.

(Added by Stats. 2001, Ch. 377, Sec. 7. Effective January 1, 2002.)

121918.

For the protection and welfare of any dog under this chapter, the local public agency may adopt an ordinance to require or prohibit any of the following:

(a) Any permittee shall supply each animal with sufficient, good, and wholesome food and water as often as the feeding habits of the animal requires.

(b) Any permittee shall keep each animal and animal quarters in a clean and sanitary condition.

(c) Any permittee shall provide each animal with proper shelter and protection from the weather at all times. An animal shall not be overcrowded or exposed to temperatures detrimental to the welfare of the animal.

(d) Any permittee shall not allow any animal to be without care or control in excess of 12 consecutive hours.

(e) Any permittee shall take every reasonable precaution to ensure that no animal is teased, abused, mistreated, annoyed, tormented, or in any manner made to suffer by any person or by any means.

(f) Any permittee shall not maintain or allow any animal to exist in any manner that is, or could be, injurious to that animal.

(g) Any permittee shall not give an animal any alcoholic beverage, unless prescribed by a veterinarian.

(h) Animals that are natural enemies, temperamentally unsuited, or otherwise incompatible, shall not be quartered together or so near each other as to cause injury, fear, or torment.

(i) Any tack equipment, device, substance, or material that is, or could be, injurious or cause unnecessary cruelty to any animal shall be prohibited.

(j) The permittee shall keep or maintain animals confined at all times on the premises for which the permit has been issued, unless special permission to remove the animals has been obtained from the department. The permittee shall have full responsibility for recapturing any animal that escapes.

(k) The permittee shall give proper rest periods to any working animal. Any confined or restrained animal shall be given exercise proper for the individual animal under the particular conditions.

(l) The permittee shall not work, use, or rent any animal that is overheated, weakened, exhausted, sick, injured, diseased, lame, or otherwise unfit.

(m) No animal that the local public agency has suspended from use shall be worked or used until released by the local public agency.

(n) The permittee shall display no animal bearing evidence of malnutrition, ill health, unhealed injury, or having been kept in an unsanitary condition.

(o) The permittee shall keep or maintain each animal in a manner as may be prescribed to protect the public from the animal, and the animal from the public.

(p) The local public agency may order any animal to be taken to a veterinarian for examination or treatment.

(q) The permittee shall display no animal whose appearance is, or may be, offensive or contrary to public decency.

(r) The permittee shall allow no animal to constitute or cause a hazard or be a menace to the health, peace, or safety of the community.

(s) The permittee shall isolate at all times any sick or diseased animal from any healthy animal, and adequately segregate them so that the illness or disease will not be transmitted from one animal to another. In the case of pet shops, no sick, diseased, or injured animal defined by this chapter may be maintained on the premises for any purpose. Any sick or injured animal shall be isolated and given proper medical treatment.

(t) The permittee shall immediately notify the owner of any animal held on consignment or boarded if the animal refuses to eat or drink beyond a reasonable period, is injured, becomes sick, or dies. In case of death, permittee shall retain the body for 12 hours after notification has been sent to the owner.

(Added by Stats. 2001, Ch. 377, Sec. 8. Effective January 1, 2002.)

121919.

The local public agency may suspend or revoke a permit issued under this chapter if the local public agency determines that the permittee has done any of the following:

(a) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof.

(b) Violated any provisions of this chapter.

(c) Violated any rule of an ordinance adopted pursuant to the authority contained in this chapter.

(d) Committed any other act that would be grounds for denial of a license.

(Added by Stats. 2001, Ch. 377, Sec. 9. Effective January 1, 2002.)

121920.

(a) The owner or trainer of any attack, guard, or sentry dog shall ensure that the dog has been microchipped and the ownersidentification has been entered into a local or national registry. Each dog subject to this chapter shall, at all times, wear an identification tag. The identification tag shall be provided by the attack, guard, or sentry dog company furnishing the dog for hire. The identification tag shall contain, but not be limited to, the following information:

The name of the dog.

The name, address, and telephone number of the attack, guard, or sentry dog company furnishing the dog for hire. Any telephone number so provided shall be to a telephone that is manned by a person 24 hours per day every day of the year so that calls from the public may be received and answered.

(b) The identification tag required by this section shall be in addition to any tag required or issued by any agency of government to show that a dog has been immunized or inoculated against disease.

(Amended by Stats. 2001, Ch. 377, Sec. 10. Effective January 1, 2002.)

121921.

No person shall sell, give away, or let for hire any guard, attack, or sentry dog unless the following requirements have been met:

(a) The dog has been immunized against distemper and rabies.

(b) A certificate of rabies vaccination has been issued by a licensed veterinarian and is current and valid.

(Added by Stats. 2001, Ch. 377, Sec. 11. Effective January 1, 2002.)

121925.

Whenever a dog subject to this chapter is being transported anywhere, it shall be well secured in a humane manner as will reasonably prevent its possible escape.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121930.

Each dog subject to this chapter shall, wherever and whenever the dog is kept when on actual duty, be visited by a dog handler at least once every 12 hours to insure that the dogsphysical condition, its surroundings, and its food and water supply are adequate, and if inadequate, the dog handler shall do whatever may be necessary to correct or remedy the situation. Such dog handler shall be either the owner of, or be employed by or under contract to, the sentry dog company that placed the dog on assignment.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121935.

(a) No person shall take a sentry dog or a tracker or attack dog into, or keep a sentry dog or a tracker or attack dog in, any portion of any business establishment that is open to the general public, unless any such dog is accompanied or kept by a dog handler.

(b) No person shall keep any sentry dog or tracker or attack dog in any business establishment or any other place open to the general public at any time unless there is posted at every entrance of the business establishment or place a sign of sufficient size and design to warn persons that such a dog is used at the business establishment or place.

(c) This section does not apply to dogs used and accompanied by peace officers or uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while employees are acting within the course and scope of their employment as private patrolmen.

(d) This section does not apply to any dog handler or his or her dog while training the dog or another dog handler.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

121940.

(a) Except as otherwise specified in this chapter, any person violating any provision of this chapter, other than Section 121945, shall be subject to a civil penalty of up to one thousand dollars ($1,000) per violation. The action pursuant to this chapter may be prosecuted in the name of the people of the State of California by the district attorney for the county in which the violation occurred and in the appropriate court, or by the city attorney in the city in which the violation occurred and in the appropriate court.

(b) Nothing in this chapter limits or authorizes any act or omission that violates Section 5971 of the Penal Code.

(Amended by Stats. 2001, Ch. 377, Sec. 12. Effective January 1, 2002.)

121945.

In lieu of the civil penalties imposed pursuant to Section 121940, any person or owner who violates this chapter shall be subject to a civil penalty of up to one thousand dollars ($1,000), or shall be prohibited from selling, renting, leasing, or training any attack, guard, or sentry dog for up to 30 days, or both. For a second offense, the person or owner shall be subject to a civil penalty of up to two thousand five hundred dollars ($2,500), or a prohibition from selling, renting, leasing, or training any attack, guard, or sentry dog for up to 90 days, or both. For a third offense, the person or owner shall be subject to a civil penalty of up to five thousand dollars ($5,000) or a prohibition from selling, renting, leasing, or training any attack, guard, or sentry dog for up to six months, or both. For a fourth or any subsequent offense, the person or owner shall

be subject to a civil penalty of up to ten thousand dollars ($10,000) or a prohibition from selling, renting, leasing, or training any attack, guard, or sentry dog for up to one year, or both. For purposes of this section, a violation that occurred over five years prior to the most recent violation shall not be considered. An action for recovery of the civil penalty and for a court order enjoining a person or owner from engaging in the business of selling, renting, leasing, or training any attack, guard, or sentry dog for the period set forth in this section, may be prosecuted by the district attorney for the county where the violation occurred, or the city attorney for the city where the violation occurred, in the appropriate court.

(Added by Stats. 2001, Ch. 377, Sec. 13. Effective January 1, 2002.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=105.&title=&part=6.&chapter=5.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=5.&article=1.

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 5. Sale of Dogs and Cats [122045 - 122319.5]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 7.)

__ARTICLE 1. Sale of Dogs by Breeders [122045 - 122110]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 7.)

122045.

(a) This article shall be known and may be cited as the Polanco-Lockyer Pet Breeder Warranty Act.

(b) Every breeder of dogs shall comply with this article. As used in this article, dog breeder, or breeder means a person, firm, partnership, corporation, or other association that has sold, transferred, or given away all or part of three or more litters or 20 or more dogs during the preceding 12 months that were bred and reared on the premises of the person, firm, partnership, corporation, or other association.

(c) For the purposes of this article, purchaser means any person who purchases a dog from a breeder.

(d) This article shall not apply to pet dealers regulated under Article 2 (commencing with Section 122125), or to publicly operated animal shelters, humane societies, or privately operated rescue organizations.

(Amended by Stats. 2019, Ch. 7, Sec. 15. (AB 1553) Effective January 1, 2020.)

122050.

(a) Every breeder of dogs shall deliver to each purchaser of a dog a written disclosure containing all of the following:

(1) The breedersname and address. If the breeder is a dealer licensed by the United States Department of Agriculture, the federal dealer identification number shall also be indicated.

(2) The date of the dogsbirth and the date the breeder received the dog. If the dog is not advertised or sold as purebred, registered, or registerable, the date of birth may be approximated if not known by the breeder.

(3) The breed, sex, color, and identifying marks at the time of sale, if any. If the dog is from a United States Department of Agriculture licensed source, the individual identifying tag, tattoo, or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate.

(4) If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known.

(5) A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale, including dates of administration and the type of vaccine or worming treatment.

(6) A record of any veterinarian treatment or medication received by the dog while in the possession of the breeder and either of the following:

(A) A statement, signed by the breeder at the time of sale, that:

(i) The dog has no known disease or illness.

(ii) The dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of the sale or that is likely to adversely affect the health of the dog in the future.

(B) A record of any known disease, illness, or congenital or hereditary condition that adversely affects the health of the dog at the time of sale, or that is likely to affect the health of the dog in the future, along with a statement signed by a veterinarian licensed in the State of California that authorizes the sale of the dog, recommends necessary treatment, if any, and verifies that the disease, illness, or condition does not require hospitalization or nonelective surgical procedures, nor is it likely to require hospitalization or nonelective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for seven days following examination of the dog by the veterinarian.

(b) The written disclosure made pursuant to this section shall be signed by both the breeder certifying the accuracy of the statement, and by the purchaser of the dog acknowledging receipt of the statement.

(c) In addition, all medical information required to be disclosed pursuant to this section shall be made orally by the breeder to the purchaser.

(d) For purposes of this article, a disease, illness, or congenital or hereditary condition that adversely affects the health of the dog at the time of sale, or is likely to adversely affect the health of the dog in the future, shall be one that is apparent at the time of sale or that should have been known by the breeder from the history of veterinary treatment disclosed pursuant to this section.

(e) For the purpose of this article, nonelective surgical procedure means a surgical procedure that is necessary to preserve or restore the health of the dog, to prevent the dog from experiencing pain or discomfort, or to correct a condition that would otherwise interfere with the dogsability to walk, run, jump, or otherwise function in a normal manner.

(f) For the purposes of this article, clinically ill means an illness that is apparent to a veterinarian based on observation, examination, or testing of the dog, or upon a review of the medical records relating to the dog.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122055.

A breeder shall maintain a written record on the health, status, and disposition of each dog for a period of not less than one year after disposition of the dog. The record shall also include all of the information that the breeder is required to disclose pursuant to Section 122050.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122060.

Except as provided for in paragraph (6) of subdivision (a) of Section 122050, no breeder shall knowingly sell a

dog that is diseased, ill or has a condition, any one of which that requires hospitalization or nonelective surgical procedures. In lieu of the civil penalties imposed pursuant to Section 122110, any breeder who violates this section shall be subject to a civil penalty of up to one thousand dollars ($1,000), or shall be prohibited from selling dogs for up to 30 days, or both. If there is a second offense, the breeder shall be subject to a civil penalty of up to two thousand five hundred dollars ($2,500), or a prohibition from selling dogs for up to 90 days, or both. For a third offense, the breeder shall be subject to a civil penalty of up to five thousand dollars ($5,000), or a prohibition from selling dogs for up to six months, or both. For a fourth and subsequent offense, the breeder shall be subject to a civil penalty of up to ten thousand dollars ($10,000) or a prohibition from selling dogs for up to one year, or both. For the purpose of this section, a violation that occurred over five years prior to the most recent violation shall not be considered.

An action for recovery of the civil penalty and for a court order enjoining the breeder from engaging in the business of selling dogs at retail for the period set forth in this section, may be prosecuted by the district attorney for the county in which the violation occurred, or the city attorney for the city in that the violation occurred, in the appropriate court.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122065.

It shall be unlawful for a breeder to fail to do any of the following:

(a) Maintain facilities where the dogs are kept in a sanitary condition.

(b) Provide dogs with adequate nutrition and potable water.

(c) Provide adequate space appropriate to the age, size, weight, and breed of dog. For purposes of this subdivision, adequate space means sufficient space for the dog to stand up, sit down, and turn about freely using normal body movements, without the head touching the top of the cage, and to lie in a natural position.

(d) Provide dogs with a rest board, floormat, or similar device that can be maintained in a sanitary condition.

(e) Provide dogs with adequate socialization and exercise. For the purpose of this article, socialization means physical contact with other dogs and with human beings.

(f) Wash hands before and after handling each infectious or contagious dog.

(g) Provide veterinary care without delay when necessary.

(Amended by Stats. 2001, Ch. 350, Sec. 2. Effective January 1, 2002.)

122065.5.

It shall be unlawful for a breeder to primarily house a dog on wire flooring.

(Added by Stats. 2001, Ch. 350, Sec. 3. Effective January 1, 2002.)

122070.

(a)If a licensed veterinarian states in writing that within 15 days after the purchaser has taken physical possession of a dog following the sale by a breeder, the dog has become ill due to any illness or disease that existed in the dog on or before delivery of the dog to the purchaser, or, if within one year after the purchaser has taken physical possession of the dog after the sale by a breeder, a veterinarian licensed in this state states in writing that the dog has a congenital or hereditary condition that adversely affects the health of the dog, or that requires, or is likely in the future to require, hospitalization or nonelective surgical procedures, the dog shall be considered unfit for sale, and the breeder shall provide the purchaser with any of the following remedies that the purchaser elects:

(1)Return the dog to the breeder for a refund of the purchase price, plus sales tax, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, including sales tax.

(2)Exchange the dog for a dog of the purchaserschoice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales tax on the original purchase price of the dog.

(3)Retain the dog, and receive reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed 150 percent of the original purchase price of the dog, plus sales tax.

(b)If the dog has died, regardless of the date of death of the dog, obtain a refund for the purchase price of the dog, plus sales tax, or a replacement dog of equivalent value of the purchaserschoice, and reimbursement for reasonable veterinary fees for diagnosis and treatment of the dog in an amount not to exceed the purchase price of the dog, plus sales tax, if any of the following conditions exist:

(1)A veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease that existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a breeder.

(2)A veterinarian, licensed in this state, states in writing that the dog has died due to a congenital or hereditary condition that was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a breeder.

(Amended by Stats. 2006, Ch. 538, Sec. 445. Effective January 1, 2007.)

122075.

(a) There shall be a rebuttable presumption that an illness existed at the time of sale if the animal dies within 15 days of delivery to the purchaser.

(b) For purposes of Section 122070, a finding by a veterinarian of intestinal or external parasites shall not be grounds for declaring a dog unfit for sale unless their presence makes the dog clinically ill or is likely to make the dog clinically ill.

(c) For purposes of Section 122070, the value of veterinary services shall be deemed reasonable if the services rendered are appropriate for the diagnosis and treatment of illness or congenital or hereditary condition made by the veterinarian and the value of the services is comparable to the value of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122080.

To obtain the remedies provided for in Section 122070, the purchaser shall substantially comply with all of the following requirements:

(a) Notify the breeder as soon as possible but no later than five days of the diagnosis by a veterinarian licensed in this state of a medical or health problem, including a congenital or hereditary condition and of the name and telephone number of the veterinarian providing the diagnosis.

(b) Return the dog to the breeder, in the case of illness or congenital or hereditary condition, along with a written statement from a veterinarian licensed in this state, stating the dog to be unfit for purchase due to illness, a congenital or hereditary condition, or the presence of symptoms of a contagious or infectious disease, that existed on or before delivery of the dog to the purchaser, and that adversely affects the health of the dog. The purchaser shall return the dog along with a copy of the veterinariansstatement as soon as possible but no later than five days of receipt of the veterinariansstatement.

(c) Provide the breeder, in the event of death, with a written statement from a veterinarian licensed in this state stating that the dog died from an illness that existed on or before the delivery of the dog to the purchaser. The presentation of the statement shall be sufficient proof to claim reimbursement or replacement and the return of the deceased dog to the breeder shall not be required.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122085.

No refund, replacement, or reimbursement of veterinary fees shall be made under Section 122070 if any of the following conditions exist:

(a) The illness, condition, or death resulted from maltreatment or neglect or from an injury sustained or an illness or condition contracted subsequent to the delivery of the dog to the purchaser.

(b) The purchaser fails to carry out the recommended treatment prescribed by the examining veterinarian who made the initial diagnosis. However, this subdivision shall not apply if the cost for the treatment together with the veterinariansfee for the diagnosis would exceed the purchase price of the dog, plus sales tax.

(c) A veterinariansstatement was provided to the purchaser pursuant to subparagraph (B) of paragraph (6) of subdivision (a) of Section 122050 that disclosed the disease, illness, or condition for which the purchaser seeks to return the dog. However, this subdivision shall not apply if, within one year after the purchaser took

physical possession of the dog, a veterinarian licensed in this state states in writing that the disease, illness, or condition requires, or is likely in the future to require, hospitalization or nonelective surgical procedures or that the disease, illness, or condition resulted in the death of the dog.

(d) The purchaser refuses to return to the breeder all documents previously provided to the purchaser for the purpose of registering the dog. This subdivision shall not apply if the purchaser signs a statement certifying that the documents have been inadvertently lost or destroyed.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122090.

(a) The veterinariansstatement pursuant to Section 122070 shall contain all of the following information:

(1) The purchasersname and address.

(2) The date or dates the dog was examined.

(3) The breed and age of the dog, if known.

(4) That the veterinarian examined the dog.

(5) That the dog has or had disease, illness, or a hereditary or congenital condition, as described in Section 122050 that renders it unfit for purchase or resulted in its death.

(6) The precise findings of the examination or necropsy, including laboratory results or copies of laboratory reports.

(b) If a refund for reasonable veterinary expenses is being requested, the veterinariansstatement shall be accompanied by an itemized bill of fees appropriate for the diagnosis and treatment of the illness or congenital or hereditary condition.

(c) Refunds and payment of reimbursable expenses provided for in Section 122070 shall be paid, unless contested, by the breeder to the purchaser not later than 10 business days following receipt of the veterinariansstatement required by Section 122070 or, where applicable, not later than 10 business days after the date on that the dog is returned to the breeder.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122095.

(a) In the event that a breeder wishes to contest a demand for any of the remedies specified in Section 122070, the breeder may, except in the case of the death of the dog, require the purchaser to produce the dog for examination by a licensed veterinarian designated by the breeder. The breeder shall pay the cost of this examination.

(b) If the purchaser and the breeder are unable to reach an agreement within 10 business days following

receipt by the breeder of the veterinariansstatement pursuant to Section 122070, or following receipt of the dog for examination by a veterinarian designated by the breeder, whichever is later, the purchaser may initiate an action in a court of competent jurisdiction to resolve the dispute or the parties may submit to binding arbitration if mutually agreed upon by the parties in writing.

(c) The prevailing party in the dispute shall have the right to collect reasonable attorneysfees if the other party acted in bad faith in seeking or denying the requested remedy.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122100.

Every breeder that sells a dog shall provide the purchaser at the time of sale, and a prospective purchaser upon request, with a written notice of rights, setting forth the rights provided for under this section. The notice shall be contained in a separate document. The written notice of rights shall be in 10-point type. A copy of the written notice of rights shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The notice shall state the following:

A STATEMENT OF CALIFORNIA LAW GOVERNING THE SALE OF DOGS

The sale of dogs is subject to consumer protection regulation. In the event that a California licensed veterinarian states in writing that your dog is unfit for purchase because it became ill due to an illness or disease that existed within 15 days following delivery to you, or within one year in the case of congenital or hereditary condition, you may choose one of the following:

(1) Return your dog and receive a refund of the purchase price, plus sales tax, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.

(2) Return your dog and receive a dog of your choice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.

(3) Keep the dog and receive reimbursement for reasonable veterinarian fees up to 150 percent of the original purchase price of the dog plus sales tax on the original purchase price of the dog.

In the event your dog dies, you may receive a refund for the purchase price of the dog, plus sales tax, or a replacement dog of your choice, of equivalent value, and reimbursement for reasonable veterinary fees for the diagnosis and treatment of the dog, if a veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease that existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a dog breeder, or states that the dog has died due to a congenital or hereditary condition that was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a dog breeder. These fees may not exceed the purchase price of the dog, plus sales tax.

In order to exercise these rights, you must notify the dog breeder as quickly as possible but no later than five days after learning from your veterinarian that a problem exists. You must tell the dog breeder about the problem and give the dog breeder the name and telephone number of the veterinarian providing the diagnosis.

If you are making a claim, you must also present to the dog breeder a written veterinary statement, in a form prescribed by law, that the animal is unfit for purchase and an itemized statement of all veterinary fees related to the claim. This information must be presented to the dog breeder no later than five days after you have received the written statement from the veterinarian.

In the event that the dog breeder wishes to contest the statement or the veterinariansbill, the dog breeder may request that you produce the dog for examination by a licensed veterinarian of the dog breederschoice. The dog breeder shall pay the cost of this examination.

In the event of death, the deceased dog need not be returned to the dog breeder if you submit a statement issued by a licensed veterinarian stating the cause of death.

If the parties cannot resolve the claim within 10 business days following receipt of the veterinarian statement or the examination by the dog breedersveterinarian, whichever event occurs later, you may file an action in a court of competent jurisdiction to resolve the dispute. If a party acts in bad faith, the other party may collect reasonable attorneysfees. If the dog breeder does not contest the matter, the dog breeder must make the refund or reimbursement no later than 10 business days after receiving the veterinary certification.

This statement is a summary of key provisions of the consumer remedies available. California law also provides safeguards to protect dog breeders from abuse. If you have questions, obtain a copy of the complete relevant statutes.

This notice shall be contained in a separate document. The written notice shall be in 10-point type. The notice shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The dog breeder shall permit persons to review the written notice upon request.

NOTE: ‰ This disclosure of rights is a summary of California law. The actual statutes are contained in Article 1 (commencing with Section 122045) of Chapter 5 of Part 6 of Division 105 of the Health and Safety Code.□

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122105.

Nothing in this article shall in any way limit the rights or remedies that are otherwise available to a consumer under any other law. Nor shall this article in any way limit the breeder and the purchaser from agreeing between themselves upon additional terms and conditions that are not inconsistent with this article. However, any agreement or contract by a purchaser to waive any rights under this article shall be null and void and shall be unenforceable.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122110.

(a) Except as otherwise specified herein, any person violating any provision of this article other than Section 122060 shall be subject to civil penalty of up to one thousand dollars ($1,000) per violation. An action may be prosecuted in the name of the people of the State of California by the district attorney for the county where the violation occurred in the appropriate court or by the city attorney in the city where the violation

occurred.

(b) Nothing in this article limits or authorizes any act or omission that violates Section 597 l of the Penal Code.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=5.&article=2.

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 5. Sale of Dogs and Cats [122045 - 122319.5]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 7.)

__ARTICLE 2. Retail Sale of Dogs and Cats [122125 - 122220]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 7.)

122125.

(a) This article shall be known and may be cited as the Lockyer-Polanco-Farr Pet Protection Act.

(b) Every pet dealer of dogs and cats shall conform to the provisions of this article. As used in this article, pet dealer means a person engaging in the business of selling dogs or cats, or both, at retail, and by virtue of the sales of dogs or cats is required to possess a permit pursuant to Section 6066 of the Revenue and

Taxation Code. For purposes of this article, the separate sales of dogs or cats from a single litter shall constitute only one sale under Section 6019 of the Revenue and Taxation Code. This definition does not apply to breeders of dogs regulated pursuant to Article 1 (commencing with Section 122045) nor to any person, firm, partnership, corporation, or other association, that breeds or rears dogs on the premises of the person, firm, partnership, corporation, or other association, that has sold, transferred, or given away fewer than 50 dogs in the preceding year.

(c) For purposes of this article, purchaser means a person who purchases a dog or cat from a pet dealer without the intent to resell the animal.

(d) This article shall not apply to publicly operated animal shelters and humane societies.

(Amended by Stats. 2019, Ch. 7, Sec. 16. (AB 1553) Effective January 1, 2020.)

122130.

Every pet dealer receiving dogs or cats from a common carrier shall transport, or have transported, dogs and cats from the carrierspremises within four hours after receipt of telephone notification by the carrier of the completion of shipment and arrival of the animal at the carrierspoint of destination.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122135.

All dogs or cats received by a retail dealer shall, prior to being placed with other dogs or cats, be examined for sickness. Any dog or cat found to be afflicted with a contagious disease shall be kept caged separately from healthy animals.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122137.

(a) (1) It is the intent of the Legislature and the purpose of this section to inform consumers who purchase dogs and cats from retail pet dealers about the benefits of spaying and neutering and the importance of establishing a relationship with a veterinarian, and to facilitate dog licensing by encouraging pet dealers to promote licensure compliance.

(2) The Legislature declares that pet dealers, when feasible, should offer incentives to purchasers to encourage the use of spaying and neutering services, and that local animal control agencies should investigate selling licenses through pet shops, or making licensure applications available in pet shops, since these businesses already serve a large number of pet owners through the sale of pet supplies.

(b) Every pet dealer shall deliver to the purchaser of each dog or cat at the time of sale, written material, in a form determined by the pet dealer, containing information on the benefits of spaying and neutering. The written material shall include recommendations on establishing a relationship with a veterinarian,

information on early-age spaying and neutering, the health benefits associated with spaying and neutering pets, the importance of minimizing the risk of homeless or unwanted animals, and the need to comply with applicable license laws.

(c) The delivering of any model materials prepared by the Pet Industry Joint Advisory Council, the California Animal Welfare Association, and the California Veterinary Medical Association shall satisfy the requirements of subdivision (b).

(Amended by Stats. 2019, Ch. 331, Sec. 3. (SB 787) Effective January 1, 2020.)

122140.

Every pet dealer shall deliver to the purchaser of each dog and cat at the time of sale a written statement in a standardized form prescribed by the Department of Consumer Affairs containing the following information:

(a) For cats:

(1) The breedersand brokersname and address, if known, or if not known, the source of the cat. If the person from whom the cat was obtained is a dealer licensed by the United States Department of Agriculture, the personsname, address, and federal dealer identification number.

(2) The date of the catsbirth, unless unknown because of the source of the cat and the date the dealer received the cat.

(3) A record of the immunizations and worming treatments administered, if any, to the cat as of the time of sale, including the dates of administration and the type of vaccine or worming treatment.

(4) A record of any known disease or sickness that the cat is afflicted with at the time of sale. In addition, this information shall also be orally disclosed to the purchaser.

(b) For dogs:

(1) The breedersname and address, if known, or if not known, the source of the dog. If the person from whom the dog was obtained is a dealer licensed by the United States Department of Agriculture, the personsname, address, and federal dealer identification number.

(2) The date of the dogsbirth, and the date the dealer received the dog. If the dog is not advertised or sold as purebred, registered, or registerable, the date of birth may be approximated if not known by the seller.

(3) The breed, sex, color, and identifying marks at the time of sale, if any. If the dog is from a United States Department of Agriculture licensed source, the individual identifying tag, tattoo, or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate.

(4) If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known.

(5) A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale, including dates of administration and the type of vaccine or worming treatment.

(6) A record of any veterinarian treatment or medication received by the dog while in the possession of the pet dealer and either of the following:

(A) A statement, signed by the pet dealer at the time of sale, containing all of the following:

(i) The dog has no known disease or illness.

(ii) The dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of the sale or that is likely to adversely affect the health of the dog in the future.

(B) A record of any known disease, illness, and any congenital or hereditary condition that adversely affects the health of the dog at the time of sale, or is likely to adversely affect the health of the dog in the future, along with a statement signed by a veterinarian licensed in the State of California that authorizes the sale of the dog, recommends necessary treatment, if any, and verifies that the disease, illness, or condition does not require hospitalization or nonelective surgical procedures, nor is it likely to require hospitalization or nonelective surgical procedures in the future. A veterinarian statement is, not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for seven days following examination of the dog by the veterinarian.

(c) For the purpose of this article, nonelective surgical procedure means a surgical procedure that is necessary to preserve or restore the health of the dog, to prevent the dog from experiencing pain or discomfort, or to correct a condition that would interfere with the dogsability to walk, run, jump, or otherwise function in a normal manner.

(d) For the purposes of this article, clinically ill means an illness that is apparent to a veterinarian based on observation, examination, or testing of the dog, or upon a review of the medical records relating to the dog.

(e) A disclosure made pursuant to subdivision (b) shall be signed by both the pet dealer certifying the accuracy of the statement, and the purchaser of the dog acknowledging receipt of the statement. In addition, all medical information required to be disclosed pursuant to subdivision (b) shall be made orally to the purchaser.

(f) For purposes of this article, a disease, illness, or congenital or hereditary condition that adversely affects the health of a dog at the time of sale or is likely to adversely affect the health of the dog in the future shall be one that is apparent at the time of sale or that should have been known by the pet dealer from the history of veterinary treatment disclosed pursuant to this section.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122145.

A pet dealer shall maintain a written record on the health, status, and disposition of each dog and each cat for a period of not less than one year after disposition of the dog or cat. The record shall also contain all of the information required to be disclosed pursuant to Sections 122140 and 122220. Those records shall be available to humane officers, animal control officers, and law enforcement officers for inspection during normal business hours.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122150.

(a) Except as otherwise specified herein, any person violating any provision of this article other than Section 122205 shall be subject to a civil penalty of up to one thousand dollars ($1,000) per violation. The action may be prosecuted in the name of the people of the State of California by the district attorney for the county where the violation occurred in the appropriate court or by the city attorney in the city where the violation occurred.

(b) Nothing in this article limits or authorizes any act or omission that violates Section 597 l of the Penal Code.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122155.

(a) It shall be unlawful for a pet dealer to fail to do any of the following:

(1) Maintain facilities where the dogs are kept in a sanitary condition.

(2) Provide dogs with adequate nutrition and potable water.

(3) Provide adequate space appropriate to the age, size, weight, and breed of dog. Adequate space means sufficient space for the dog to stand up, sit down, and turn about freely using normal body movements, without the head touching the top of the cage, and to lie in a natural position.

(4) Provide dogs housed on wire flooring with a rest board, floormat, or similar device that can be maintained in a sanitary condition.

(5) Provide dogs with adequate socialization and exercise. For the purpose of this article socialization means physical contact with other dogs or with human beings.

(6) Wash hands before and after handling each infectious or contagious dog.

(7) Maintain either of the following:

(A) A fire alarm system that is connected to a central reporting station that alerts the local fire department in case of fire.

(B) Maintain a fire suppression sprinkler system.

(8) Provide veterinary care without delay when necessary.

(b) A pet dealer shall not be in possession of a dog that is less than eight weeks old.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122160.

(a) If a licensed veterinarian states in writing that within 15 days after the purchaser has taken physical possession of the dog after the sale by a pet dealer, the dog has become ill due to any illness that existed in the dog on or before delivery of the dog to the purchaser, or, if within one year after the purchaser has taken physical possession of the dog after the sale, a veterinarian licensed in this state states in writing that the dog has a congenital or hereditary condition that adversely affects the health of the dog, or that requires, or is likely in the future to require, hospitalization or nonelective surgical procedures, the dog shall be considered unfit for sale, and the pet dealer shall provide the purchaser with any of the following remedies that the purchaser elects:

(1) Return the dog to the pet dealer for a refund of the purchase price, plus sales tax, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales tax.

(2) Exchange the dog for a dog of the purchaserschoice of equivalent value, providing a replacement dog is available, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed the original purchase price of the dog, plus sales tax.

(3) Retain the dog, and reimbursement for reasonable veterinary fees for diagnosis and treating the dog in an amount not to exceed 150 percent of the original purchase price of the dog, plus sales tax on the original purchase price of the dog.

(b) If the dog has died, regardless of the date of the death of the dog, obtain a refund for the purchase price of the dog, plus sales tax, or a replacement dog of equivalent value of the purchaserschoice and reimbursement for reasonable veterinary fees in diagnosis and treatment of the dog in an amount not to exceed the original purchase price of the dog, plus sales tax, if either of the following conditions exist:

(1) A veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease that existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a pet dealer.

(2) A veterinarian, licensed in this state, states in writing that the dog has died due to a congenital or hereditary condition that was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a pet dealer.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122165.

(a) There shall be a rebuttable presumption that an illness existed at the time of sale if the animal dies within 15 days of delivery to the purchaser.

(b) For purposes of Section 122160, a finding by a veterinarian of intestinal or external parasites shall not be grounds for declaring a dog unfit for sale unless their presence makes the dog clinically ill or is likely to make the dog clinically ill.

(c) For purposes of Section 122160, the value of veterinary services shall be deemed reasonable if the

services rendered are appropriate for the diagnosis and treatment of illness or congenital or hereditary condition, made by the veterinarian and the value of similar services is comparable to the value of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122170.

To obtain the remedies provided for in Section 122160, the purchaser shall substantially comply with all of the following requirements:

(a) Notify the pet dealer as soon as possible but not more than five days after the diagnosis by a veterinarian licensed in this state of a medical or health problem, including a congenital or hereditary condition and of the name and telephone number of the veterinarian providing the diagnosis.

(b) Return the dog to the pet dealer, in the case of illness, along with a written statement from a veterinarian licensed in this state, stating the dog to be unfit for purchase due to illness, a congenital or hereditary condition, or the presence of symptoms of a contagious or infectious disease, that existed on or before delivery of the dog to the purchaser, and that adversely affects the health of the dog. The purchaser shall return the dog along with a copy of the veterinariansstatement as soon as possible but not more than five days after receipt of the veterinariansstatement.

(c) Provide the pet dealer, in the event of death, with a written statement from a veterinarian licensed in this state stating that the dog died from an illness that existed on or before the delivery of the dog to the purchaser. The presentation of the statement shall be sufficient proof to claim reimbursement or replacement and the return of the deceased dog to the pet dealer shall not be required.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122175.

Notwithstanding Section 122160, no refund, replacement, or reimbursement of veterinary fees shall be made if any of the following conditions exist:

(a) The illness or death resulted from maltreatment or neglect or from an injury sustained or an illness contracted subsequent to the delivery of the dog to the purchaser.

(b) The purchaser fails to carry out the recommended treatment prescribed by the examining veterinarian who made the initial diagnosis. However, this subdivision shall not apply if the cost for the treatment together with the veterinariansfee for the diagnosis would exceed the purchase price of the dog, including sales tax.

(c) A veterinariansstatement was provided to the purchaser pursuant to subparagraph (B) of paragraph (6) of subdivision (b) of Section 122140 that disclosed the disease, illness, or condition for which the purchaser seeks to return the dog. However, this paragraph shall not apply if, within one year after the purchaser took physical possession of the dog, a veterinarian licensed in this state states in writing that the disease, illness, or condition requires, or is likely in the future to require, hospitalization or nonelective surgical procedures or

that the disease, illness, or condition resulted in the death of the dog.

(d) The purchaser refuses to return to the pet dealer all documents previously provided to the purchaser for the purpose of registering the dog. This subdivision shall not apply if the purchaser signs a written statement certifying that the documents have been inadvertently lost or destroyed.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122180.

(a) The veterinariansstatement pursuant to Section 122160 shall contain the following information:

(1) The purchasersname and address.

(2) The date or dates the dog was examined.

(3) The breed and age of the dog, if known.

(4) That the veterinarian examined the dog.

(5) That the dog has or had an illness described in this section that renders it unfit for purchase or resulted in its death.

(6) The precise findings of the examination or necropsy, including laboratory results or copies of laboratory reports.

(b) If a refund for reasonable veterinary expenses is being requested, the veterinary statement shall be accompanied by an itemized bill of fees appropriate for the diagnosis and treatment of the illness or congenital or hereditary condition.

(c) Refunds and payment of reimbursable expenses provided for by Section 122160 shall be paid, unless contested, by the pet dealer to the purchaser not later than 10 business days following receipt of the veterinariansstatement required by Section 122160 or, where applicable, not later than 10 business days after the date on which the dog is returned to the pet dealer.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122185.

(a) In the event that a pet dealer wishes to contest a demand for any of the remedies specified in Section 122160, the dealer may, except in the case of the death of the dog, require the purchaser to produce the dog for examination by a licensed veterinarian designated by the pet dealer. The pet dealer shall pay the cost of this examination.

(b) If the purchaser and the pet dealer are unable to reach an agreement within 10 business days following receipt by the pet dealer of the veterinariansstatement pursuant to Section 122160, or following receipt of the dog for examination by a veterinarian designated by the pet dealer, whichever is later, the purchaser may

initiate an action in a court of competent jurisdiction to resolve the dispute or the parties may submit to binding arbitration if mutually agreed upon by the parties in writing.

(c) The prevailing party in the dispute shall have the right to collect reasonable attorneysfees if the other party acted in bad faith in seeking or denying the requested remedy.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122190.

Every pet dealer that sells a dog shall provide the purchaser at the time of sale, and a prospective purchaser upon request, with a written notice of rights, setting forth the rights provided for under this section. The notice shall be contained in a separate document. The written notice of rights shall be in 10-point type. A copy of the written notice of rights shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The notice shall state the following:

A STATEMENT OF CALIFORNIA LAW GOVERNING THE SALE OF DOGS

The sale of dogs is subject to consumer protection regulations. In the event that a California licensed veterinarian states in writing that your dog is unfit for purchase because it became ill due to an illness or disease that existed within 15 days following delivery to you, or within one year in the case of congenital or hereditary condition, you may choose one of the following:

(1) Return your dog and receive a refund of the purchase price, plus sales tax, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog plus sales tax.

(2) Return your dog and receive a dog of your choice of equivalent value, providing a replacement dog is available, and receive reimbursement for reasonable veterinarian fees up to the cost of the dog, plus sales tax.

(3) Keep the dog and receive reimbursement for reasonable veterinarian fees up to 150 percent of the original purchase price of the dog plus sales tax on the original purchase price of the dog.

In the event your dog dies, you may receive a refund for the purchase price of the dog, plus sales tax, or a replacement dog of your choice, of equivalent value, and reimbursement for reasonable veterinary fees for the diagnosis and treatment of the dog, if a veterinarian, licensed in this state, states in writing that the dog has died due to an illness or disease that existed within 15 days after the purchaser obtained physical possession of the dog after the sale by a pet dealer, or states that the dog has died due to a congenital or hereditary condition that was diagnosed by the veterinarian within one year after the purchaser obtained physical possession of the dog after the sale by a pet dealer. These fees may not exceed the purchase price of the dog, plus sales tax.

In order to exercise these rights, you must notify the pet dealer as quickly as possible but no later than five days after learning from your veterinarian that a problem exists. You must tell the pet dealer about the problem and give the pet dealer the name and telephone number of the veterinarian providing the diagnosis.

If you are making a claim, you must also present to the pet dealer a written veterinary statement, in a form prescribed by law, that the animal is unfit for purchase and an itemized statement of all veterinary fees

related to the claim. This information must be presented to the pet dealer no later than five days after you have received the written statement from the veterinarian.

In the event that the pet dealer wishes to contest the statement or the veterinariansbill, the pet dealer may request that you produce the dog for examination by a licensed veterinarian of the pet dealerschoice. The pet dealer shall pay the cost of this examination.

In the event of death, the deceased dog need not be returned to the pet dealer if you submit a statement issued by a licensed veterinarian stating the cause of death.

If the parties cannot resolve the claim within 10 business days following receipt of the veterinarian statement or the examination by the pet dealersveterinarian, whichever event occurs later, you may file an action in a court of competent jurisdiction to resolve the dispute. If a party acts in bad faith, the other party may collect reasonable attorneysfees. If the pet dealer does not contest the matter, the pet dealer must make the refund or reimbursement no later than 10 business days after receiving the veterinary certification.

If the pet dealer has represented your dog as registerable with a pedigree organization, the pet dealer shall provide you with the necessary papers to process the registration within 120 days following the date you received the dog. If the pet dealer fails to deliver the papers within the prescribed timeframe, you are entitled to return the dog for a full refund of the purchase price, including sales tax, or a refund of 75 percent of the purchase price, including sales tax if you choose to keep the dog.

This statement is a summary of key provisions of the consumer remedies available. California law also provides safeguards to protect pet dealers from abuse. If you have any questions, obtain a copy of the complete relevant statutes.

This notice shall be contained in a separate document. The written notice shall be in 10-point type. The notice shall be signed by the purchaser acknowledging that he or she has reviewed the notice. The pet dealer shall permit persons to review the written notice upon request.

NOTE: ‰ This disclosure of rights is a summary of California law. The actual statutes are contained in Article 2 (commencing with Section 122125 of Chapter 5 of Part 6 of Division 105 of the Health and Safety Code.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122191.

(a)For the purposes of this section, online pet retailer means a person engaged in the business of selling dogs, cats, or rabbits, at retail, online through an internet website.

(b)An online pet retailer shall not offer, broker, make a referral for, or otherwise facilitate a loan or other financing option for the adoption or sale of a dog, cat, or rabbit.

(c)This section does not apply to a loan or other financing option for the purchase of a service animal.

(Added by Stats. 2022, Ch. 548, Sec. 1. (AB 2380) Effective January 1, 2023.)

122195.

Nothing in this article shall in any way limit the rights or remedies that are otherwise available to a consumer under any other law. Nor shall this article in any way limit the pet dealer and the purchaser from agreeing between themselves upon additional terms and conditions that are not inconsistent with this article. However, any agreement or contract by a purchaser to waive any rights under this article shall be null and void and shall be unenforceable.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122200.

(a) A pet dealer shall not state, promise, or represent to the purchaser, directly or indirectly, that a dog is registered or capable of being registered with an animal pedigree registry organization, unless the pet dealer provides the purchaser with the documents necessary for that registration within 120 days following the date of sale of the dog.

(b) In the event that a pet dealer fails to provide the documents necessary for registration within 120 days following the date of sale, in violation of subdivision (a), the purchaser shall, upon written notice to the pet dealer, be entitled to retain the animal and receive a partial refund of 75 percent of the purchase price, plus sales tax, or return the dog along with all documentation previously provided the purchaser for a full refund, including sales tax.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122205.

Except as provided for in subparagraph (B) of paragraph (6) of subdivision (b) of Section 122140, no pet dealer shall knowingly sell a dog that is diseased, ill, or has a condition, any one of which requires hospitalization or surgical procedures. In lieu of the civil penalties imposed pursuant to Section 122150, any pet dealer who violates this section shall be subject to a civil penalty of up to one thousand dollars ($1,000), or shall be prohibited from selling dogs at retail for up to 30 days, or both. If there is a second offense, the pet dealer shall be subject to a civil penalty of up to two thousand five hundred dollars ($2,500), or a prohibition from selling dogs at retail for up to 90 days, or both. For a third offense, the pet dealer shall be subject to a civil penalty of up to five thousand dollars ($5,000) or a prohibition from selling dogs at retail for up to six months, or both. For a fourth and subsequent offense, the pet dealer shall be subject to a civil penalty of up to ten thousand dollars ($10,000) or a prohibition from selling dogs at retail for up to one year, or both. For purposes of this section, a violation that occurred over five years prior to the most recent violation shall not be considered.

An action for recovery of the civil penalty and for a court order enjoining the pet dealer from engaging in the business of selling dogs at retail for the period set forth in this section, may be prosecuted by the district attorney for the county where the violation occurred, or the city attorney for the city where the violation occurred, in the appropriate court.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122210.

(a) No dog may be offered for sale by a pet dealer to a purchaser until the dog has been examined by a veterinarian licensed in this state. Each dog shall be examined within five days of receipt of the dog and once every 15 days thereafter while the dog is in the possession or custody of the pet dealer. The pet dealer shall provide any sick dog with proper veterinary care without delay.

(b) Any dog diagnosed with a contagious or infectious disease, illness, or condition shall be caged separately from healthy dogs until a licensed veterinarian determines that the dog is free from contagion or infection. The area shall meet the following conditions when contagious or infectious dogs are present:

(1) The area shall not be used to house other healthy dogs or new arrivals awaiting the required veterinary examination.

(2) The area shall not be used for storing open food containers or bowls, dishes, or other utensils that come in contact with healthy dogs.

(3) The area shall have an exhaust fan that creates air movement from the isolation area to an area outside the premises of the pet dealer. The removal of exhaust air from the isolation area may be accomplished by the use of existing heating and air-conditioning ducts, provided no exhaust air is permitted to enter or mix with fresh air for use by the general animal population.

(4) Upon removal of all of the contagious or infectious dogs, the area shall be cleaned and disinfected before any healthy animal can be placed in the area.

(c) If the pet dealersveterinarian deems the dog to be unfit for purchase due to a disease, illness, or congenital condition, any of which is fatal or that causes, or is likely to cause, the dog to unduly suffer, the veterinarian shall humanely euthanize the dog. The veterinarian shall provide the pet dealer with a written statement as to why the dog was euthanized. Otherwise, the pet dealer shall have a veterinarian treat the dog, or may surrender the dog to a humane organization that consents to the receipt thereof.

(d) In the event a dog is returned to a pet dealer due to illness, disease, or a congenital or hereditary condition requiring veterinary care, the pet dealer shall provide the dog with proper veterinary care.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122215.

Every retail dealer shall post conspicuously on the cage of each dog offered for sale a notice indicating the state where the dog was bred and brokered.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122220.

(a) Every pet dealer shall post conspicuously within close proximity to the cages of dogs offered for sale, a notice containing the following language in 100-point type:

Information on the source of these dogs, and veterinary treatments received by these dogs is available for review.

You are entitled to a copy of a statement of consumer rights.

(b) Every pet dealer shall, upon request for information regarding a dog, make immediately available to prospective purchasers all of the information required to be disclosed to purchasers pursuant to subdivision (b) of Section 122140 and pursuant to Section 122190.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=5.&article=3.

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 5. Sale of Dogs and Cats [122045 - 122319.5]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 7.)

__ARTICLE 3. Dog Pedigree Registries [122300 - 122315]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 7.)

122300.

For purposes of this article:

(a) Dog dealer means any person, firm, partnership, corporation, or other association that engages in the acquisition of dogs for retail sale to the public. Dog dealer does not include duly incorporated nonprofit humane societies dedicated to the care of unwanted animals that make animals available for adoption, whether or not a fee for the adoption is charged, or pet dealers who do not in the normal course of business sell dogs, but who sometimes exhibit dogs for adoption.

(b) Dog breeder means any person, firm, partnership, corporation, or other association that breeds and sells dogs at wholesale or retail.

(c) Dog pedigree registry means any of various private agencies that serve to keep track of the breed, lineage, physical characteristics, and historical data regarding dogs that are registered with the agency.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122305.

Every dog dealer that sells registered dogs or that claims that the dogs being sold are registered or are registerable with a dog pedigree registry shall post conspicuously within close proximity to the dogs offered for sale, a notice containing the following language in at least 100-point type:
Pedigree registration does not assure proper breeding conditions, health, quality, or claims to lineage.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122310.

(a) For every dog sold by a dog dealer or dog breeder that is sold with any representation that the dog is registered or registerable with a dog pedigree registry, the following fully completed disclosure shall be made, orally and in writing on a separate sheet from any other statements, including, but not limited to, the name of the dog dealer or breeder and the name of the relevant dog pedigree registry:
Disclosure by

DOG PEDIGREE REGISTRATION DISCLOSURE

Description of dog: _____
_____
The dog you are purchasing is registered/registerable [circle one] with the _____ [enter name of registry].

Registration means only that _____ [enter name of registry] maintains information regarding the parentage and identity of this dog, it does not guarantee the quality or health of this dog, and it does not guarantee quality lineage. Since dog pedigree registries depend in large part on the honesty and accuracy of persons registering dogs, registration does not guarantee the accuracy of the lineage recorded nor that this dog is purebred.

Acknowledged:	□
Retail purchaserssignature	Date

(b) The disclosure in subdivision (a) shall be signed and dated by the retail purchaser of the dog acknowledging receipt of a copy of the statement and the dog dealer or dog breeder shall retain a copy.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

122315.

(a) Any dog dealer or dog breeder who fails to comply with the disclosure requirements in Section 122305 or 122310, as the case may be, shall be liable to the retail purchaser for civil damages in an amount equal to three times the cost of the dog. Claim for payment under this section shall be made within one year from the date of purchase of the dog.

(b) The remedies provided in this section shall be in addition to any other remedies or penalties authorized by other provisions of law.

(Added by Stats. 1995, Ch. 415, Sec. 7. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=5.&article=4.

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 5. Sale of Dogs and Cats [122045 - 122319.5]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 7.)

__ARTICLE 4. Emotional Support Animals [122317 - 122319.5]__

(Article 4 added by Stats. 2021, Ch. 168, Sec. 1.)

122317.

(a)A person or business that sells or provides a dog for use as an emotional support dog shall provide a written notice to the buyer or recipient of the dog that states all of the following:

(1)The dog does not have the special training required to qualify as a guide, signal, or service dog.

(2)The dog is not entitled to the rights and privileges accorded by law to a guide, signal, or service dog.

(3)Knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor violation of Section 365.7 of the Penal Code.

(b)A person or business that sells or provides a certificate, identification, tag, vest, leash, or harness for an emotional support animal shall provide a written notice to the buyer or recipient that states all of the following:

(1)The item does not entitle an emotional support animal to the rights and privileges accorded by law to a guide, signal, or service dog.

(2)Knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor violation of Section 365.7 of the Penal Code.

(c)The written notices described in subdivisions (a) and (b) shall be made in at least 12-point bold type, and shall be provided on the receipt for the emotional support dog or the product described in subdivision (b), or on a separate piece of paper.

(Added by Stats. 2021, Ch. 168, Sec. 1. (AB 468) Effective January 1, 2022.)

122318.

(a)A health care practitioner shall not provide documentation relating to an individualsneed for an emotional support dog unless the health care practitioner complies with all of the following criteria:

(1)Possesses a valid, active license and includes the effective date, license number, jurisdiction, and type of professional license in the documentation.

(2)Is licensed to provide professional services within the scope of the license in the jurisdiction in which the

documentation is provided.

(3)(A)Except as specified in subparagraph (B), establishes a client-provider relationship with the individual for at least 30 days prior to providing the documentation requested regarding the individualsneed for an emotional support dog.

(B)A client-provider relationship with the individual of 30 days or more shall not be required for individuals who are verified to be homeless. Homeless status may be verified by any of the following:

(I)Identification through the local Homeless Management Information System, as defined in Section 578.3 of Title 24 of the Code of Federal Regulations.

(II)Via a continuum of care, as defined in Section 578.3 of Title 24 of the Code of Federal Regulations, or a homeless services provider that is contracting with a continuum of care.

(III)Visual confirmation by a homeless services provider of individuals dwelling in a homeless shelter, homeless encampment, outdoor makeshift shelter, or vehicle.

(4)Completes a clinical evaluation of the individual regarding the need for an emotional support dog.

(5)Provides a verbal or written notice to the individual that knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed as, to be qualified as, or identified as, a guide, signal, or service dog is a misdemeanor violation of Section 365.7 of the Penal Code.

(b)For purposes of this section, health care practitioner means a person who is licensed and regulated pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, who is acting within the scope of practice of the personslicense or certificate.

(c)A health care practitioner may be subject to discipline from the health care practitionerslicensing board for a violation of this section.

(Amended by Stats. 2022, Ch. 550, Sec. 1. (SB 774) Effective January 1, 2023.)

122319.

(a)(1)A violation of either of the following shall be subject to a civil penalty of five hundred dollars ($500) for the first violation, one thousand dollars ($1,000) for the second violation, and two thousand five hundred dollars ($2,500) for the third and any subsequent violation:

(A)Knowingly and fraudulently representing, selling, or offering for sale, or attempting to represent, sell, or offer for sale, an emotional support dog as being entitled to the rights and privileges accorded by law to a guide, signal, or service dog.

(B)Violating the written notice requirements specified in Section 122317.

(2)An action for civil penalties under this section may be brought by the Attorney General, a district attorney, a county counsel, or a city attorney.

(b)Nothing in this section shall be construed to restrict or change existing federal and state law related to a

personsrights for reasonable accommodation and equal access to housing, including, but not limited to, rights afforded under the California Fair Employment and Housing Act (Chapter 1 (commencing with Section 12900) of Part 2.8 of Division 3 of Title 2 of the Government Code), the Unruh Civil Rights Act (Section 51 of the Civil Code), and the Disabled Persons Act (Part 2.5 (commencing with Section 54) of Division 1 of the Civil Code).

(Added by Stats. 2021, Ch. 168, Sec. 1. (AB 468) Effective January 1, 2022.)

122319.5.

For purposes of this article, the following definitions apply:

(a)Emotional support animal means an animal that provides emotional, cognitive, or other similar support to an individual with a disability, and that does not need to be trained or certified.

(b)Emotional support dog means a dog that provides emotional, cognitive, or other similar support to an individual with a disability, and that does not need to be trained or certified.

(c)Guide, signal, or service dog has the meaning set forth in subdivisions (d), (e), and (f) of Section 365.5 of the Penal Code, and paragraph (6) of subdivision (b) of Section 54.1 of the Civil Code.

(Added by Stats. 2021, Ch. 168, Sec. 1. (AB 468) Effective January 1, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=6.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 6. Sale of Birds [122320 - 122324]__

(Chapter 6 added by Stats. 2003, Ch. 887, Sec. 1.)

122320.

As used in this chapter:

(a) Bird means any order of Psittaciformes bird.

(b) Bird mart means an event at which two or more persons offer birds for sale or exchange and where a fee is charged for the privilege of offering or displaying the birds.

(c) Hand-feeding means the process by which a bird is manually fed by a human through the use of hand, spoon, or oral gavage.

(d) Pet shop means a retail pet shop location primarily engaged in retailing pets, pet foods, and pet supplies, as defined by the North American Industry Classification System.

(e) Sale has the same meaning as retail sale as defined in Section 6007 of the Revenue and Taxation Code.

(f) Time of sale means the calendar date the retail purchaser removed the bird from the premises of the pet shop following the retail sale of that bird.

(g) Unweaned bird means any bird that requires hand-feeding or animal assistance to sustain at least 90 percent of its own weight for at least two weeks.

(h) Vendor means any person or entity, including, but not limited to, a broker, agent, aviary, or breeder, who sells birds directly to the retail purchaser at a bird mart or at a swap meet as defined in Section 21661 of the Business and Professions Code.

(i) Weaned means a bird that does not require hand-feeding or animal assistance to sustain at least 90 percent of its own weight following the time of sale, notwithstanding any illness or injury.

(Added by Stats. 2003, Ch. 887, Sec. 1. Effective January 1, 2004. Section operative September 1, 2004, pursuant to Section 122324.)

122321.

(a) A pet shop with five or fewer employees may not possess an unweaned bird unless the pet shop employs at least one person per pet shop location who has completed the Pet Industry Joint Advisory Councilsavian certification program.

(b) A pet shop with six or more employees may not possess an unweaned bird unless the pet shop employs at least two people who have completed the Pet Industry Joint Advisory Councilsavian certification program.

(c) A pet shop may not sell a bird unless the bird is weaned.

(d) A vendor may not sell a bird at a swap meet or bird mart, unless the bird is weaned.

(e) At the time of sale, a pet shop location or vendor shall document the weight of any hand-fed bird under one year of age, and note the weight on the sales receipt.

(Added by Stats. 2003, Ch. 887, Sec. 1. Effective January 1, 2004. Section operative September 1, 2004, pursuant to Section 122324.)

122322.

(a) Any person violating any provision of this chapter shall be subject to a civil penalty of up to one thousand dollars ($1,000) per violation. The action may be prosecuted in the name of the people of the State of California by the district attorney for the county where the violation occurred in the appropriate court or by the city attorney in the city where the violation occurred.

(b) Nothing in this chapter limits or authorizes any act or omission that violates Section 597 of the Penal Code.

(c) Nothing in this chapter shall authorize the seizure of an unweaned bird by a peace officer, officer of a humane society, or officer of an animal shelter or animal regulation department of a public agency.

(Amended by Stats. 2019, Ch. 7, Sec. 17. (AB 1553) Effective January 1, 2020.)

122323.

This chapter does not apply to publicly operated animal shelters and humane societies.

(Amended by Stats. 2019, Ch. 331, Sec. 4. (SB 787) Effective January 1, 2020.)

122324.

This chapter shall become operative on September 1, 2004.

(Added by Stats. 2003, Ch. 887, Sec. 1. Effective January 1, 2004. Note: This section prescribes a delayed operative date (Sept. 1, 2004) for Chapter 6, commencing with Section 122320.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=7.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 7. Spay/Neuter and Breeding Programs for Animals [122330 - 122331]__

(Chapter 7 added by Stats. 2005, Ch. 668, Sec. 2.)

122330.

The Legislature finds and declares all of the following:

(a)Uncontrolled and irresponsible breeding of animals contributes to pet overpopulation, inhumane treatment of animals, mass euthanasia at local shelters, and escalating costs for animal care and control; this irresponsible breeding also contributes to the production of defective animals that present a public safety risk.

(b)Though no specific breed of dog is inherently dangerous or vicious, the growing pet overpopulation and lack of regulation of animal breeding practices necessitates a repeal of the ban on breed-specific solutions and a more immediate alternative to existing laws.

(c)It is therefore the intent of the Legislature in enacting this chapter to permit cities and counties to take appropriate action aimed at eliminating uncontrolled and irresponsible breeding of animals

(Added by Stats. 2005, Ch. 668, Sec. 2. Effective January 1, 2006.)

122331.

(a)Cities and counties may enact dog breed-specific ordinances pertaining only to mandatory spay or neuter programs and breeding requirements, provided that no specific dog breed, or mixed dog breed, shall be declared potentially dangerous or vicious under those ordinances.

(b)Jurisdictions that implement programs described in subdivision (a) shall measure the effect of those programs by compiling statistical information on dog bites. The information shall, at a minimum, identify dog bites by severity, the breed of the dog involved, whether the dog was altered, and whether the breed of

dog was subject to a program established pursuant to subdivision (a). These statistics shall be submitted quarterly to the State Public Health Veterinarian.

(Added by Stats. 2005, Ch. 668, Sec. 2. Effective January 1, 2006.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=8.&article=

122335.

(a)For purposes of this chapter, the following terms shall have the following definitions:

(1)Animal control means the municipal or county animal control agency or any other entity responsible for enforcing animal-related laws.

(2)Agricultural operation means an activity that is necessary for the commercial growing and harvesting of crops or the raising of livestock or poultry.

(3)Person means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal entity, and any officer, member, shareholder, director, employee, agent, or representative thereof.

(4)Reasonable period means a period of time not to exceed three hours in a 24-hour period, or a time that is otherwise approved by animal control.

(b)No person shall tether, fasten, chain, tie, or restrain a dog, or cause a dog to be tethered, fastened, chained, tied, or restrained, to a dog house, tree, fence, or any other stationary object.

(c)Notwithstanding subdivision (b), a person may do any of the following in accordance with Section 597t of the Penal Code:

(1)Attach a dog to a running line, pulley, or trolley system. A dog shall not be tethered to the running line, pulley, or trolley system by means of a choke collar or pinch collar.

(2)Tether, fasten, chain, tie, or otherwise restrain a dog pursuant to the requirements of a camping or recreational area.

(3)Tether, fasten, chain, or tie a dog no longer than is necessary for the person to complete a temporary task that requires the dog to be restrained for a reasonable period.

(4)Tether, fasten, chain, or tie a dog while engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by the State of California if the activity for which the license is issued is associated with the use or presence of a dog. Nothing in this paragraph shall be construed to prohibit a person from restraining a dog while participating in activities or using accommodations that are reasonably associated with the licensed activity.

(5)Tether, fasten, chain, or tie a dog while actively engaged in any of the following:

(A)Conduct that is directly related to the business of shepherding or herding cattle or livestock.

(B)Conduct that is directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

(d)A person who violates this chapter is guilty of an infraction or a misdemeanor.

(1)An infraction under this chapter is punishable upon conviction by a fine of up to two hundred fifty dollars ($250) as to each dog with respect to which a violation occurs.

(2)A misdemeanor under this chapter is punishable upon conviction by a fine of up to one thousand dollars ($1,000) as to each dog with respect to which a violation occurs, or imprisonment in a county jail for not more than six months, or both.

(3)Notwithstanding subdivision (d), animal control may issue a correction warning to a person who violates this chapter, requiring the owner to correct the violation, in lieu of an infraction or misdemeanor, unless the violation endangers the health or safety of the animal, the animal has been wounded as a result of the violation, or a correction warning has previously been issued to the individual.

(e)Nothing in this chapter shall be construed to prohibit a person from walking a dog with a hand-held leash.

(Added by Stats. 2006, Ch. 489, Sec. 1. Effective January 1, 2007.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=9.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 9. Pet Store Animal Care [122350 - 122361]__

(Chapter 9 added by Stats. 2007, Ch. 703, Sec. 3.)

122350.

As used in this act, the following definitions apply:

(a)Adequate space means sufficient height and sufficient floorspace for the animals to stand up, sit down, turn about freely using normal body movements without the head touching the top of the primary enclosure, lie down with limbs outstretched, exercise normal postural movement, move about freely as appropriate for the species, age, size, and condition of the animal, and, when appropriate, to experience socialization with other animals, if any, in the primary enclosure. However, when freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal in a humane manner is permitted.

(b)Animal means any nonhuman vertebrate species housed, offered for sale or adoption, or both, in the pet store, including, but not limited to, mammals, birds, reptiles, amphibians, fish, and also invertebrates housed, sold, or adopted as pets.

(c)Disposition means the transfer of an animal from a pet store to another location, including the sale or adoption of the animal, the return of the animal to the person who supplied the animal to the pet store, or removal from the pet store of an animal that is deceased for any reason, including euthanasia.

(d)Enrichment means providing objects or activities, appropriate to the needs of the species, as well as the age, size, and condition of the animal, that stimulate the animal and promote the animalswell-being.

(e)Euthanasia or euthanize means the humane destruction of an animal in compliance with the requirements set forth in paragraph (5) of subdivision (b) of Section 122354.

(f)Impervious to moisture means a surface that prevents the absorption of fluids and that can be thoroughly and repeatedly sanitized, will not retain odors, and from which fluids bead up and run off or can be removed without being absorbed into the surface material.

(g)Intact means an animal that retains its sexual organs or ability to procreate and has not been sterilized.

(h)Person means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity.

(i)Pet store means a retail establishment open to the public and selling or offering for sale animals, including, but not limited to, animals for use as pets or animals intended as food for other animals. Pet store does not include a retail establishment open to the public and selling or offering for sale animals to agricultural operations for purposes that are directly related to the raising of livestock or poultry on a farm or ranch. A person who sells, exchanges, or otherwise transfers only animals that were bred or raised, or both, by the person, or sells or otherwise transfers only animals kept primarily for reproduction, shall be considered a breeder and not a pet store.

(j)Pet store operator or operator means a person who owns or operates a pet store, or both.

(k)Primary enclosure means a structure used to immediately restrict an animal or animals to a limited

amount of space, such as a room, pen, cage, aquarium, terrarium, habitat compartment, or hutch, where the animal or animals reside until their sale, transfer, or other disposition.

(l)Rodent means an animal of the order Rodentia, such as a guinea pig, rat, mouse, chinchilla, or hamster.

(m)Sanitize means to make physically clean and to destroy, to the extent practical, agents injurious to health.

(n)Temporary enclosure means a confined space used by the pet store to house an animal when the animal is not in its primary enclosure for a period not to exceed four consecutive hours. The temporary enclosure shall allow the animals to stand up, lie down, and turn around. An enclosure used by the pet store to house an animal for longer than four consecutive hours shall meet the requirements of a primary enclosure.

(o)Time of sale means the calendar date the retail purchaser removes the animal from the premises of the pet store following the retail sale of that animal.

(p)Transfer means the release of an animal by its owner to another person by sale, gift, adoption, or other disposition, including the exchange of animals between pet stores.

(q)Veterinary treatment means treatment by or at the direction of a California-licensed veterinarian.

(Amended by Stats. 2009, Ch. 446, Sec. 1. (AB 490) Effective January 1, 2010.)

122351.

Each pet store operator shall be responsible for all of the following:

(a)Maintaining the entire pet store facility in good repair.

(b)Restricting the entry of pests from outside, ensuring the containment of animals within the pet store, and, in the event that animals escape, being responsible for reporting this fact, as necessary, to local authorities and making reasonable efforts to capture the animals that have escaped.

(c)Ensuring that the pet storesinterior building surfaces, including walls and floors, are constructed in a manner that permits them to be readily cleaned and maintained.

(d)Uniformly distributing light, by natural or artificial means, in a manner that permits routine inspection and cleaning, and the proper care and maintenance of the animals.

(e)When dog or cat grooming services are offered by a pet store, separating the grooming work area from the storesprimary animal enclosures, animal food storage areas, and isolation areas for housing sick animals. The grooming area shall be cleaned and maintained at least once daily.

(f) With respect to dogs, complying with all of the requirements of Section 122155. Sections 122356 and 122358 do not apply to a violation of Section 122155.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122352.

(a)Primary enclosures shall comply with all of the following structural standards:

(1)Primary and temporary enclosures shall be structurally sound and maintained in good repair to protect the animals from injury, to contain the animals, to keep other animals out, and to promote the health and well-being of the enclosed animals. Primary enclosures shall be constructed so they can be routinely maintained to allow animals to stay clean.

(2)The floor of the primary enclosure shall be constructed to prevent injury. A solid surface, platform, or shelf shall be provided when a grid-flooring system is used.

(3)Primary enclosures shall be constructed of materials that are impervious to moisture and can be sanitized.

(4)All primary enclosures shall provide adequate space for the animal or animals housed in the enclosure.

(5)Each primary enclosure shall provide animals with an enrichment device or devices appropriate for the species, age, size, and condition of the animal.

(b)In addition to the requirements set forth in subdivision (a), primary enclosures for cats shall provide an elevated platform as appropriate for the size of the cat.

(c)In addition to the requirements set forth in subdivision (a), primary enclosures for birds shall be designed to ensure all of the following:

(1)A bird can fully extend both of its wings at the same time without contacting the sides of the enclosure.

(2)Perches are provided in a diameter that is appropriate for the species, age, size, and condition of the bird, and for the size of the enclosure.

(3)There is sufficient space to enable each bird to fully extend its wings in every direction while all birds are simultaneously perched.

(d)Primary enclosures for prey species shall be located where they cannot be directly seen by predator animals for that species.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122353.

(a)When a primary or temporary enclosure is being cleaned in a manner, or with a substance, that is or may be harmful to the animals within the enclosure, those animals shall be removed from the enclosure.

(b)Primary enclosures shall be observed at least once daily, and animal and food wastes, used bedding, debris, and any other organic wastes shall be removed as necessary to prevent contamination of the animals and to reduce disease hazards and odors.

(c)Pest control measures shall be implemented to effectively control infestation of vermin, insects, or other pests.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122354.

(a)The pet store operator or at least one of his or her employees shall be present in the store at least once daily, regardless of whether the store is open, for care and maintenance of the animals in the pet store.

(b)A pet store operator shall comply with the following animal care requirements:

(1)House only compatible animals in the same enclosure.

(2)Observe each animal at regular intervals, at least once a day, in order to recognize and evaluate general symptoms of sickness, injury, or abnormal behavior.

(3)Take reasonable measures to house intact mammals that have reached sexual maturity in a manner to prevent unplanned reproduction.

(4)(A)Maintain and abide by written animal husbandry procedures that address animal care, management and safe handling, disease prevention and control, routine care, preventative care, emergency care, veterinary treatment, euthanasia, and disaster planning, evacuation, and recovery that is applicable to the location of the pet store. These procedures shall be reviewed with employees who provide animal care and shall be present, in writing, either electronically or physically, in the store and made available to all store employees.

(B)Sections 122356 and 122358 do not apply to subparagraph (A) where there are other local, state, or federal laws that apply to those procedures.

(5)(A)If there is a determination that an animal may need to be euthanized, ensure that veterinary treatment is provided without delay.

(B)Notwithstanding subparagraph (A), a rodent or rabbit intended as food for another animal may be destroyed by a pet store operator or an employee of a pet store only if the animal is euthanized by a method that is performed in a humane manner, appropriate for the species, authorized by state law, and in compliance with the American Veterinary Medical Association (AVMA) Guidelines on Euthanasia, dated June 2007, published by the AVMA.

(C)The euthanasia performed pursuant to subparagraph (B) may be performed by a pet store operator or an employee of a pet store only if a California-licensed veterinarian has certified, in writing, that the pet store operator or employee is properly trained and proficient in performing the method of euthanasia on that particular species. The certification shall be valid for a period of not more than three years, and may be recertified for additional periods of three years. Each certification of a pet store operator or employee shall be retained by the pet store for three years, unless a longer period is otherwise required under state law. The certification shall be made available, upon request, to appropriate law enforcement officers exercising authority pursuant to Section 122356.

(D)It is the responsibility of the pet store operator to ensure that euthanasia is performed in compliance with this section.

(E)Subparagraphs (A) to (D), inclusive, shall be implemented in a manner consistent with California law and in accordance with Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code.

(6)Isolate and not offer for sale those animals that have or are suspected of having a contagious condition. This paragraph shall not apply to those animals that are effectively isolated by their primary enclosure, including, but not limited to, fish, provided that a sign is posted on the enclosure that indicates that these animals are not for sale, or otherwise marked in a manner to prevent their sale to customers during their treatment for the contagious condition.

(7)Have a documented program of routine care, preventative care, emergency care, disease control and prevention, and veterinary treatment and euthanasia, as outlined in paragraph (5), that is established and maintained by the pet store in consultation with a licensed veterinarian employed by the pet store or a California-licensed veterinarian, to ensure adherence to the program with respect to each animal. The program shall also include a documented onsite visit to the pet store premises by a California-licensed veterinarian at least once a year.

(8)Ensure that each diseased, ill, or injured animal is evaluated and treated without delay. If necessary for the humane care and treatment of the animal, the animal shall be provided with veterinary treatment without delay.

(9)In the event of a natural disaster, an emergency evacuation, or other similar occurrence, the humane care and treatment of each animal is provided for, as required by this chapter, to the extent access to the animal is reasonably available.

(c)Subdivisions (a) and (b) shall be implemented to the extent consistent with California law.

(Amended by Stats. 2009, Ch. 446, Sec. 2. (AB 490) Effective January 1, 2010.)

122354.5.

(a)A pet store shall not adopt out, sell, or offer for sale a dog, cat, or rabbit. This section does not prevent a pet store from providing space to display animals for adoption in accordance with subdivision (b).

(b)(1)A pet store shall not provide space for the display of dogs, cats, or rabbits available for adoption unless the animals are displayed by either a public animal control agency or shelter, or animal rescue group.

(2)Any animal displayed for adoption shall be both sterilized and adoptable for total fees, including, but not limited to, adoption fees, not to exceed five hundred dollars ($500).

(3)The pet store displaying dogs, cats, or rabbits pursuant to paragraph (1) shall not receive any fees in connection with the display of dogs, cats, or rabbits.

(c)A public animal control agency or shelter, an animal rescue group displaying animals at a pet store, or an animal rescue group operating a retail establishment shall not offer dogs, cats, or rabbits for adoption unless

the animals are sterilized, the animals are adoptable for total fees, including, but not limited to, adoption fees, not to exceed five hundred dollars ($500), and the adoption fees are posted and visible to the public on or near the enclosures or areas where adoptable animals are displayed. An animal rescue group that displays animals at a pet store, but does not meet the criteria set forth in clauses (i) and (ii) of subparagraph (A) of paragraph (1) of subdivision (e) is also subject to the penalties described in this section.

(d)(1)Each violation of subdivision (a), (b), or (c) shall result in a single written notice to the pet store and any public animal control agency, shelter, or animal rescue group responsible for the animal that is the subject of the violation. The notice shall set forth in detail the specific violation, the name and location of the pet store, the name and location of, or other identifying information regarding, the public animal control agency, shelter, or animal rescue group responsible for the animal that is the subject of the violation, and any other information relevant to the violation. In addition, the notice shall include a direction to cease the specific activity found to be in violation of this section and state the time period during which the violation must be corrected.

(2)A failure to correct the violation described in the notice issued pursuant to paragraph (1) in the time period stated in the notice to correct shall be punished by a civil penalty of one thousand dollars ($1,000) for a first violation, two thousand five hundred dollars ($2,500) for a second violation, and five thousand dollars ($5,000) for subsequent violations as described in the notice. Each animal that is displayed, adopted, sold, or offered for sale or adoption in violation of subdivision (a), (b), or (c), as described in the notice, constitutes a separate violation.

(e)(1)For purposes of this section, the following definitions apply:

(A)An animal rescue group is any not-for-profit organization that has tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, whose mission and practice is, in whole or significant part, the rescue and placement of animals into permanent homes, and that meets the following requirements:

(i)Does not breed animals.

(ii)Does not obtain animals in exchange for payment or compensation from any person that breeds or brokers animals.

(B)Public animal control agency or shelter is any facility operated by or under contract with any governmental entity for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, rabbits, or other animals.

(2)For purposes of this section, pet store does not include an animal rescue group operating a retail establishment in compliance with subdivision (c).

(f)This section does not prohibit a local governing body from adopting requirements that are more protective of animal welfare than those set forth in this section.

(g)An action for a violation of this section may be brought in the name of the people of the State of California by the district attorney for the county where the violation occurred in the appropriate court or by the city attorney in the city where the violation occurred. In addition to any other remedy, the district attorney is authorized to apply to the court for, and that court shall have jurisdiction upon hearing and for cause shown to grant, a temporary or permanent injunction enjoining or restraining any person or entity from violating any provision of this section.

(Repealed and added by Stats. 2020, Ch. 96, Sec. 2. (AB 2152) Effective January 1, 2021.)

122355.

(a)Each pet store operator shall ensure that records of all veterinary visits to the pet store are documented in writing. Veterinary treatment records shall be kept for each animal or group of animals that receives medications or immunizations while in the care of the pet store. These records shall include summaries of direction received orally from veterinarians, and shall include all of the following, to the extent it is provided by the veterinarian:

(1)Identification of the animal or group of animals receiving medical treatment.

(2)Name of the medication or immunization used.

(3)Amount of medication used.

(4)Time and date on which the medication or immunization was administered.

(b)Records required by subdivision (a) shall be made available, upon request, to a person who purchases a cat or dog, or any individually housed animal.

(c)The pet store shall provide to the purchaser of an animal at the time of sale information concerning the storesanimal return policy, which shall be made available to customers either through in-store signs or handouts to customers. The pet store shall also provide to purchasers of cats, dogs, and all individually housed animals all of the following information:

(1)Spay or neuter procedures performed on the animal.

(2)Vaccinations, medical treatment, and veterinary treatment administered to the animal during its stay in the store.

(3)Any identification device on the animal.

(4)With respect to dogs and cats, all information required to be disclosed under Section 122140. Sections 122356 and 122358 do not apply to a violation of Section 122140.

(5)With respect to dogs, all information required to be disclosed under Sections 122190 and 122310. This information shall be contained in separate documents. Sections 122356 and 122358 do not apply to a violation of Section 122190 or 122310.

(6)With respect to birds, all information required to be disclosed under Section 122321. Section 122356 and Section 122358 do not apply to a violation of Section 122321.

(d)Each pet store operator shall maintain records for identification purposes of the person from whom the animals in the pet store were acquired, including that personsname, address, and telephone number, and the date the animal was acquired.

(e)All records required by this section shall be maintained by the pet store for two years from the date of disposition of the animal, and shall be made available upon request to appropriate enforcement officers exercising authority pursuant to Section 122356.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122356.

(a)An animal control officer, as defined in Section 830.9 of the Penal Code, a humane officer qualified pursuant to Section 14502 or 14503 of the Corporations Code, or a peace officer who detects a violation of Section 122351, subdivision (b) or (c) of Section 122353, paragraphs (3) or (4) of subdivision (b) of Section 122354, or Section 122355 shall issue a single notice to correct, which shall contain all of the following information:

(1)Specify each violation of this chapter found in the inspection.

(2)Identify the corrective action for each violation.

(3)Include a specific period of time during which the listed violation or violations must be corrected.

(b)After issuing a notice to correct pursuant to this section, the officer or another qualified officer of the issuing agency shall verify compliance with this chapter by conducting a subsequent investigation of the pet store in violation of this chapter within a reasonable period of time.

(c)An exact, legible copy of the notice to correct shall be delivered to the pet store operator at the time he or she signs the notice. In the alternative, the issuing agency may personally deliver the notice to the pet store operator within 48 hours of its issuance, excluding holidays and weekends. The signing of the notice is an acknowledgment of receipt, and does not constitute an admission of guilt.

(d)A pet store operator who fails to comply with a notice to correct is guilty of an infraction.

(e)A pet store operator who violates the same provision of this chapter on more than one occasion within a 12-month period, at the same location, is not eligible to receive a notice to correct, and is guilty of an infraction on the second violation, and is guilty of a misdemeanor on the third or subsequent violation.

(f)Notwithstanding subdivision (a), a pet store operator is guilty of a misdemeanor if the pet store operator violates any provision listed in subdivision (a), and by doing so, the pet store operator causes or allows harm or injury to an animal, or allows an animal to be subject to an unreasonable risk of harm or injury.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122357.

A pet store operator who violates any provision of this chapter that is not specified in subdivision (a) of Section 122356 and is not proscribed by Section 122354.5 is guilty of a misdemeanor.

(Amended by Stats. 2017, Ch. 740, Sec. 3. (AB 485) Effective January 1, 2018.)

122358.

An infraction is punishable by a fine not to exceed two hundred fifty dollars ($250) per violation. A misdemeanor is punishable by a fine not to exceed one thousand dollars ($1,000) per violation. The court shall weigh the gravity of the offense in setting the penalty.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122359.

(a)Except as otherwise provided in Section 599 of the Penal Code, a pet store shall not offer any live animal as a prize or give away any animal as an inducement to enter any contest, game, or other competition.

(b)Except as otherwise provided in Section 597z of the Penal Code, a pet store shall not sell, offer for sale, trade, or barter any dog or cat that is under eight weeks of age. Except as otherwise provided in any other provision of law, dogs or cats over eight weeks of age may be sold, offered for sale, traded, or bartered only if the animal is weaned. Pet stores shall not sell any animal before it is weaned, except for animals intended to be used as food for other animals.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122360.

(a)Nothing in this chapter shall be construed to in any way limit or affect the application or enforcement of any other law that protects animals or the rights of consumers, including, but not limited to, the Lockyer-Polanco-Farr Pet Protection Act contained in Article 2 (commencing with Section 122125) of Chapter 5 of Part 6 of Division 105, or Sections 597 and 5971 of the Penal Code.

(b)Nothing in this chapter limits or authorizes any act or omission that violates Section 597 or 5971 of the Penal Code, or any other local, state, or federal law. The procedures set forth in this chapter shall not apply to any civil violation of any other local, state, or federal law that protects animals or the rights of consumers, or to a violation of Section 597 or 5971 of the Penal Code, which is cited or prosecuted pursuant to one or both of those sections, or to a violation of any other local, state, or federal law that is cited or prosecuted pursuant to that law.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Section operative January 1, 2009, pursuant to Section 122361.)

122361.

This chapter shall become operative on January 1, 2009.

(Added by Stats. 2007, Ch. 703, Sec. 3. Effective January 1, 2008. Note: This section prescribes a delayed operative date (Jan. 1, 2009) for Chapter 9, commencing with Section 122350.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=10.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 10. Sale of Animals at Swap Meets [122370 - 122374]__

(Chapter 10 added by Stats. 2013, Ch. 231, Sec. 1.)

122370.

A swap meet operator may permit a vendor to offer animals for sale at a swap meet provided the local jurisdiction has adopted standards for the care and treatment of those animals during the time that the animals are present at the swap meet and transported to and from the swap meet. This chapter does not apply to the sale of a particular species of animal if a local jurisdiction has adopted a local ordinance prior to January 1, 2013, that applies specifically to the sale of that particular species of animal at swap meets.

(Added by Stats. 2013, Ch. 231, Sec. 1. (AB 339) Effective January 1, 2014. Section operative January 1, 2016, pursuant to Section 122374.)

122371.

Any ordinance adopted pursuant to Section 122370 shall, at a minimum, require the swap meet vendor to do

all of the following:

(a)Maintain the facilities used for the keeping of animals in a sanitary condition.

(b)Provide proper heating and ventilation for the facilities used for the keeping of animals.

(c)Provide adequate nutrition for, and humane care and treatment of, all animals that are under his or her care and control.

(d)Take reasonable care to release for sale, trade, or adoption only those animals that are free of disease or injuries.

(e)Provide adequate space appropriate to the size, weight, and species of animals.

(f)Have a documented program of routine care, preventative care, emergency care, disease control and prevention, and veterinary treatment and euthanasia that is established and maintained by the vendor in consultation with a licensed veterinarian employed by the vendor or a California-licensed veterinarian, to ensure adherence to the program with respect to each animal. The program shall also include a documented onsite visit to the swap meet premises by a California-licensed veterinarian at least once a year.

(g)Provide buyers of an animal with general written recommendations for the generally accepted care of the type of animal sold, including recommendations as to the housing, equipment, cleaning, environment, and feeding of the animal. This written information shall be in a form determined by the vendor and may include references to Internet Web sites, books, pamphlets, videos, and compact discs.

(h)Present for inspection and display a current business license issued by the local jurisdiction where the animals are principally housed.

(i)Maintain records for identification purposes of the person from whom the animals offered for sale were acquired, including that personsname, address, e-mail address, and telephone number and the date the animals were acquired.

(Added by Stats. 2013, Ch. 231, Sec. 1. (AB 339) Effective January 1, 2014. Section operative January 1, 2016, pursuant to Section 122374.)

122372.

(a)(1)A swap meet vendor who offers animals for sale at a swap meet in a local jurisdiction that has not adopted an ordinance authorizing that sale, is guilty of an infraction punishable by a fine not to exceed one hundred dollars ($100).

(2)A swap meet vendor who violates paragraph (1) for a second or subsequent time, is guilty of an infraction punishable by a fine not to exceed five hundred dollars ($500) per violation. The court shall weigh the gravity of the violation in setting the amount of the fine.

(3)Nothing in paragraph (2) shall preclude punishment under any other provision of law, including, but not limited to, laws prohibiting the abuse or neglect of animals in the Health and Safety Code or the Penal Code.

(b)A notice describing the charge and the penalty for a violation of this section may be issued by any peace

officer, animal control officer, as defined in Section 830.9, or humane officer qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(Added by Stats. 2013, Ch. 231, Sec. 1. (AB 339) Effective January 1, 2014. Section operative January 1, 2016, pursuant to Section 122374.)

122373.

This chapter shall not apply to the following:

(a)Events held by 4-H Clubs, Junior Farmers Clubs, or Future Farmers Clubs.

(b)The California Exposition and State Fair, district agricultural association fairs, or county fairs.

(c)Stockyards with respect to which the Secretary of the United States Department of Agriculture has posted notice that the stockyards are regulated by the federal Packers and Stockyards Act of 1921 (7 U.S.C. Sec. 181 et seq.).

(d)The sale of cattle on consignment at any public cattle sales market, the sale of sheep on consignment at any public sheep sales market, the sale of swine on consignment at any public swine sales market, the sale of goats on consignment at any public goat sales market, and the sale of equines on consignment at any public equine sales market.

(e)Live animal markets regulated under Section 597.3 of the Penal Code.

(f)A public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group regulated under Division 14 (commencing with Section 30501) of the Food and Agricultural Code. For purposes of this section, rescue group is a not-for-profit entity whose primary purpose is the placement of dogs, cats, or other animals that have been removed from a public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane society shelter, or that have been surrendered or relinquished to the entity by the previous owner.

(g)The sale of fish or shellfish, live or dead, from a fishing vessel or registered aquaculture facility, at a pier or wharf, or at a farmersmarket by any licensed commercial fisherman or an owner or employee of a registered aquaculture facility to the public for human consumption.

(h)A cat show, dog show, or bird show, provided that all of the following circumstances exist:

(1)The show is validly permitted by the city or county in which the show is held.

(2)The showssponsor or permittee ensures compliance with all federal, state, and local animal welfare and animal control laws.

(3)The participant has written documentation of the payment of a fee for the entry of his or her cat, dog, or bird in the show.

(4)The sale of a cat, dog, or bird occurs only on the premises and within the confines of the show.

(5)The show is a competitive event where the cats, dogs, or birds are exhibited and judged by an established

standard or set of ideals established for each breed or species.

(i)A pet store as defined in subdivision (i) of Section 122350.

(j)Any reptile or aquatic trade show, provided all of the following circumstances exist:

(1)The show is validly permitted by the city or county in which the show is held.

(2)The showssponsor or permittee ensures compliance with all federal, state, and local animal welfare and animal control laws.

(Added by Stats. 2013, Ch. 231, Sec. 1. (AB 339) Effective January 1, 2014. Section operative January 1, 2016, pursuant to Section 122374.)

122374.

This chapter shall become operative on January 1, 2016.

(Added by Stats. 2013, Ch. 231, Sec. 1. (AB 339) Effective January 1, 2014. Note: This section prescribes a delayed operative date (Jan. 1, 2016) for Chapter 10, commencing with Section 122370.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=11.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 11. Pet Boarding Facilities [122380 - 122388]__

(Chapter 11 added by Stats. 2016, Ch. 364, Sec. 1.)

122380.

As used in this chapter, the following definitions apply:

(a)Enrichment means providing objects or activities, appropriate to the needs of the species, as well as the age, size, and condition of the pet, that stimulate the pet and promote the petswell-being.

(b)Permanent or fixed enclosure means a structure, including, but not limited to, an exercise run, kennel, or room, used to restrict a pet, that provides for the effective separation of a pet from the petswaste products.

(c)Person means an individual, partnership, firm, limited liability company, joint-stock company, corporation, association, trust, estate, or other legal entity.

(d)Pet means any nonhuman animal housed in the pet boarding facility, including, but not limited to, mammals, birds, reptiles, and amphibians. However, pet does not include a horse.

(e)Pet boarding facility means any lot, building, structure, enclosure, or premises, or a portion thereof, whereupon four or more dogs, cats, or other pets in any combination are boarded at the request of, and in exchange for compensation provided by, their owner. However, pet boarding facility does not include a city, county, or city and county animal control agency, society for the prevention of cruelty to animals, or humane society that contracts for the care of stray or abandoned animals, or the premises of a veterinary facility that is registered pursuant to Section 4853 of the Business and Professions Code.

(f)Pet boarding facility operator or operator means a person who owns or operates, or both, a pet boarding facility.

(g)Temporary enclosure means a structure used to restrict a pet, including, but not limited to, a crate or cage, that does not provide for the effective separation of a pet from the petswaste products.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122381.

Each pet boarding facility operator shall be responsible for all of the following:

(a)Ensuring that the entire pet boarding facility, including all equipment therein, is structurally sound and maintained in good repair.

(b)Ensuring that pests do not inhabit any part of the pet boarding facility in a number large enough to be harmful, threatening, or annoying to the pets.

(c)Ensuring the containment of pets within the pet boarding facility, and, in the event that a pet escapes, making reasonable efforts to immediately capture the escaped pet.

(d)If an escaped pet has not been captured despite reasonable efforts, ensuring that all material facts regarding the petsescape are reported to the local agency for animal control and to the owner.

(e)Ensuring that the pet boarding facilitysinterior building surfaces, including walls and floors, are constructed in a manner that permits them to be readily cleaned and sanitized.

(f)Ensuring that light, by natural or artificial means, is distributed in a manner that permits routine inspection and cleaning, and the proper care and maintenance of the pets.

(g)If pet grooming services are offered by a pet boarding facility, separating the grooming work area from the pet boarding facilityspermanent or fixed and temporary enclosures and ensuring that the grooming areas are cleaned and sanitized at least once daily.

(h)Storing food in an area separate from permanent or fixed enclosures or temporary enclosures.

(i)Maintaining an area for isolating sick pets from healthy pets.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122382.

(a)Each permanent or fixed and temporary enclosure shall comply with all of the following standards:

(1)Be structurally sound and maintained in good repair to protect the enclosed pet from injury, to contain the pet, to keep other animals out, and to promote the health and well-being of the pet.

(2)Be maintained in a comfortable and sanitary manner. When being cleaned in a manner or with a substance that is or may be harmful to a pet within the enclosure, that pet shall be removed from the enclosure.

(3)Be constructed of material suitable for regular cleaning and sanitizing.

(4)As needed to ensure the comfort and well-being of the pet, provide heating, cooling, lighting, ventilation, shade, and protection from the elements, including, but not limited to, the sun, wind, rain, and snow.

(5)Allow a pet to turn around freely, stand easily, and sit or lie down in a comfortable position.

(b)Each enclosure is either a permanent or fixed enclosure or a temporary enclosure.

(c)In addition to the requirements set forth in subdivision (a), a permanent or fixed enclosure for a cat shall provide an elevated platform appropriate for the size of the cat.

(d)A pet may be contained in a temporary enclosure for a period not to exceed 4 hours during the day and 12 hours at night or the length of time that is humane for that particular pet, whichever is less. However, the pet shall remain outside the temporary enclosure for no less than the amount of time needed for the pet to eliminate its waste.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122383.

A pet boarding facility operator shall comply with all of the following animal care requirements:

(a)House only one pet at a time in an enclosure unless otherwise consented to by the owner.

(b)Observe each pet as necessary, but no less than once every 24 hours, in order to recognize the signs of sickness, injury, or distress, and in order to ensure that the pet, food, and waste or debris is removed as necessary to prevent contamination or injury.

(c)Provide each pet with easy and convenient access to potable water at all times, or if the behavior of the pet makes unrestricted access to water impracticable, offer water as often as necessary to ensure the petshealth and well-being. However, water may be restricted as directed by the owner or a licensed veterinarian.

(d)Provide each pet with nutritious food in quantities and at intervals suitable for that pet.

(e)Provide each pet daily with enrichment sufficient to maintain the behavioral health of the pet.

(f)Maintain and abide by written policies and procedures that address animal care, management and safe handling, disease prevention and control, routine care, preventive care, emergency care, veterinary treatment, and disaster planning, evacuation, and recovery that are applicable to the location of the pet boarding facility. These procedures shall be reviewed with each employee who provides animal care and shall be present, in writing, either electronically or physically, in the facility and made available to all employees.

(g)Isolate those pets that have or are suspected of having a contagious condition.

(h)Ensure that each sick or injured pet is immediately provided with appropriate care and, if prudent, veterinary treatment.

(i)Ensure that the owner of a pet is notified immediately that his or her pet is sick or injured unless the owner has indicated in writing that notification of any, or a particular, type of illness or injury is not required.

(j)In the event of a natural disaster, an emergency evacuation, or other similar occurrence, ensure that the humane care and treatment of each animal is provided for, as required by this chapter, to the extent access to the pet is reasonably available.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122384.

(a)A pet boarding facility operator shall provide each owner with written information describing all of the following:

(1)Days and times during which the pet boarding facility permits pets to be dropped off and picked up.

(2)Days and times during which personnel are onsite.

(3)The square footage of the permanent or fixed and temporary enclosures in which the species of pet that

the owner is boarding is customarily contained.

(4)General observation practices during each 24-hour period for the species of pet that the owner is boarding is customarily observed by personnel.

(5)The pet boarding facilityscustomary daily activity schedule for the species of pet that the owner is boarding.

(b)If the pet boarding facility will materially deviate from the customary practices described in the written information required by subdivision (a) with respect to an ownerspet, the pet boarding facility operator shall disclose those deviations to the owner or patron, as appropriate.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122385.

A pet boarding facility shall maintain either of the following:

(a)A fire alarm system that is connected to a central reporting station that alerts the local fire department in case of fire.

(b)A fire suppression sprinkler system.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122386.

(a)An animal control officer, as defined in Section 830.9 of the Penal Code, a humane officer qualified pursuant to Section 14502 or 14503 of the Corporations Code, or a peace officer who detects a violation of Sections 122380 to 122385, inclusive, if he or she decides the violation warrants formal action, shall issue a single notice to correct that shall contain all of the following information:

(1)Specify each violation of this chapter found in the inspection.

(2)Identify the corrective action for each violation.

(3)Include a specific period of time during which the listed violation or violations are to be corrected.

(b)After issuing a notice to correct pursuant to this section, the officer or another qualified officer of the issuing agency shall verify compliance with this chapter by conducting a subsequent investigation of the pet boarding facility within a reasonable period of time.

(c)An exact, legible copy of the notice to correct shall be delivered to the pet boarding facility operator at the time he or she signs the notice. In the alternative, the issuing agency may personally deliver the notice to the operator within 48 hours of its issuance, excluding holidays and weekends. The signing of the notice is an acknowledgment of receipt and does not constitute an admission of guilt.

(d)A pet boarding facility operator who is verified to have complied with a notice to correct shall not be subject to subdivision (g).

(e)A pet boarding facility operator who violates the same provision of this chapter on more than one occasion within a five-year period is not eligible to receive a notice to correct, and is guilty of an infraction on the second violation, and is guilty of a misdemeanor on the third or subsequent violation.

(f)Notwithstanding subdivision (a), a pet boarding facility operator that causes or allows harm or injury to an animal, or allows an animal to be subject to an unreasonable risk of harm or injury is guilty of a misdemeanor.

(g)Except as provided in subdivisions (e) and (f), a pet boarding facility operator who violates any provision of this chapter is guilty of an infraction punishable by a fine not to exceed two hundred fifty dollars ($250) for the first violation and by a fine not to exceed one thousand dollars ($1,000) for each subsequent violation. The court shall weigh the gravity of the offense in setting the penalty.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122387.

(a)Nothing in this chapter shall be construed to in any way limit or affect the application or enforcement of any other law that protects animals or the rights of consumers, including, but not limited to, Section 597 of the Penal Code.

(b)Nothing in this chapter limits, or authorizes any act or omission that violates, Section 597 of the Penal Code, or any other local, state, or federal law that protects animals or the rights of consumers.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122388.

Pursuant to Section 7 of Article XI of the California Constitution, a city, county, or city and county may adopt ordinances that establish additional standards and requirements for a pet boarding facility.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=12.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 12. Safe Transportation of Dogs and Cats [122390 - 122390.3]__

(Chapter 12 added by Stats. 2022, Ch. 80, Sec. 2.)

122390.

This chapter shall be known, and may be cited, as the Safe Transportation of Dogs and Cats Act.

(Added by Stats. 2022, Ch. 80, Sec. 2. (AB 1781) Effective January 1, 2023.)

122390.1.

For purposes of this chapter, mobile or traveling housing facility means a transporting vehicle, including, but not limited to, a car, truck, trailer, bus, or recreational vehicle used to transport animals by an entity described in Section 122390.3.

(Added by Stats. 2022, Ch. 80, Sec. 2. (AB 1781) Effective January 1, 2023.)

122390.2.

The conditions in a mobile or traveling housing facility for dogs and cats shall not endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(Added by Stats. 2022, Ch. 80, Sec. 2. (AB 1781) Effective January 1, 2023.)

122390.3.

This chapter applies to any public animal control agency or shelter, society for the prevention of cruelty to

animals shelter, humane society shelter, or rescue group that is in a cooperative agreement with at least one private or public shelter pursuant to Section 31108, 31752, or 31753 of the Food and Agricultural Code.

(Added by Stats. 2022, Ch. 80, Sec. 2. (AB 1781) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=6.&chapter=12.5.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122395.2]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 7.)

__CHAPTER 12.5. Dog Training [122395 - 122395.2]__

(Chapter 12.5 added by Stats. 2022, Ch. 276, Sec. 1.)

122395.

This chapter shall be known, and may be cited, as the Dog Trainer Sufficiency Act.

(Added by Stats. 2022, Ch. 276, Sec. 1. (AB 1901) Effective January 1, 2023.)

122395.1.

The following definitions apply for purposes of this chapter:

(a)Dog trainer or trainer means a person, firm, partnership, corporation, or other association that sells, offers, or provides dog training services on the premises of the person, firm, partnership, corporation, or other association, or from any other location, but does not include a person as defined in subdivision (a) of

Section 7201 of the Business and Professions Code.

(b)Dog training means the training or behavior modification of dogs or serving as a dog behavior consultant, when performed for a fee, salary, or other form of compensation.

(c)Person means an individual, partnership, firm, limited liability company, joint stock company, corporation, association, trust, estate, or other legal entity.

(d)Purchaser means any person who purchases dog training services.

(Added by Stats. 2022, Ch. 276, Sec. 1. (AB 1901) Effective January 1, 2023.)

122395.2.

(a)A dog trainer shall deliver to a purchaser of dog training services at the time of purchase of the dog training services, a written disclosure containing all of the following:

(1)The trainersname and address.

(2)Any civil judgments related to the dog trainersservices, or a statement that no judgments exist.

(3)Any criminal animal cruelty convictions against the dog trainer or an employee of a dog trainer that will be providing the dog training services to the purchaser, or a statement that no convictions exist.

(b)The written disclosure made pursuant to this section shall be signed by the trainer certifying the accuracy of the statement, and by the purchaser of the training services acknowledging receipt of the statement.

(c)A person may bring a civil action in a court of competent jurisdiction for damages arising from a violation of this section.

(Added by Stats. 2022, Ch. 276, Sec. 1. (AB 1901) Effective January 1, 2023.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=105.&title=&part=7.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=7.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 7. HEPATITIS C [122400 - 122445]__

(Part 7 added by Stats. 1998, Ch. 867, Sec. 1.)

__CHAPTER 1. General Provisions [122400 - 122445]__

(Chapter 1 added by Stats. 1998, Ch. 867, Sec. 1.)

122400.

This chapter shall be known, and may be cited, as the Hepatitis C Education, Screening, and Treatment Act.

(Added by Stats. 1998, Ch. 867, Sec. 1. Effective January 1, 1999.)

122405.

The Legislature hereby finds and declares all of the following:

(a) Hepatitis C is classified as a silent killer, where no recognizable signs or symptoms occur until severe liver damage has occurred.

(b) Hepatitis C has been characterized by the World Health Organization as a disease of primary concern to humanity.

(c) Studies indicate that 1.8 percent of the population, nearly 4 million Americans, carry the virus HCV that causes hepatitis C. In California, as many as 500,000 individuals may be carriers and could develop the debilitating and potentially deadly liver disease associated with hepatitis C in their lifetime. An expert panel, convened in March by the National Institutes of Health (NIH), estimated that 30,000 acute new infections occur each year in the United States, and only 25 to 30 percent of those are diagnosed. Current data sources indicate that 8,000 to 10,000 Americans die from hepatitis C each year.

(d) Studies also indicate that 39.4 percent of male inmates and 54.5 percent of female inmates in California correctional facilities have hepatitis C, 26 times higher than the general population. Upon their release from prison, these inmates present a significant health risk to the general population of California.

(e) It is the intent of the Legislature to study the adequacy of the health care delivery system as it pertains to hepatitis C.

(f) It is the intent of the Legislature to urge the department to make funds available to community-based nonprofit organizations for education and outreach with respect to the hepatitis C virus.

(Amended by Stats. 2000, Ch. 754, Sec. 1. Effective January 1, 2001.)

122406.

The Secretary of Veterans Affairs shall report to the Legislature on or before March 1, 2001, regarding the use of funds earmarked by the federal VeteransAdministration to regional offices in California to educate, screen, and treat veterans with the hepatitis C virus.

(Added by Stats. 2000, Ch. 754, Sec. 2. Effective January 1, 2001.)

122410.

(a) The State Department of Health Services shall make available protocols and guidelines developed by the National Institutes of Health, the University of California at San Francisco, and California legislative advisory committees on hepatitis C for educating physicians and health professionals and training community service providers on the most recent scientific and medical information on hepatitis C detection, transmission, diagnosis, treatment, and therapeutic decisionmaking.

(b) The guidelines referenced in subdivision (a) may include, but not be limited to, all of the following:

(1) Tracking and reporting of both acute and chronic cases of hepatitis C by public health officials.

(2) A cost-efficient plan to screen the prison population and the medically indigent population in California.

(3) Protocols within the Department of Corrections to enable that department to provide appropriate prevention and treatment to prisoners with hepatitis C.

(4) Protocols for the education of correctional peace officers and other correctional workers who work with prisoners with hepatitis C.

(5) Protocols for public safety and health care workers who come in contact with hepatitis C patients.

(6) Surveillance programs to determine the prevalence of hepatitis C in ethnic and other high-risk populations.

(7) Education and outreach programs for high-risk individuals, including, but not limited to, individuals who received blood transfusions prior to 1992, hemophiliacs, veterans, women who underwent a caesarian

section or premature delivery prior to 1990, persons who received an organ transplant prior to 1990, persons who receive invasive cosmetic procedures, including body piercing and tattooing, students, minority communities, and any other categories of persons at high risk for hepatitis C infection as determined by the director. Education and outreach programs shall be targeted to high-risk individuals as determined by the director. Education programs may provide information and referral on hepatitis C including, but not limited to, education materials developed by health-related companies, community-based or national advocacy organizations, counseling, patient support groups, and existing hotlines for consumers.

(c) Nothing in this section shall be construed to require the department to develop or produce any protocol, guideline, or proposal.

(Amended by Stats. 2000, Ch. 754, Sec. 3. Effective January 1, 2001.)

122415.

(a) The Director of Corrections shall do all of the following:

(1) Provide the budget subcommittees of the Legislature, on or before March 1, 2002, with an annual statistical report on the prevalence of the hepatitis C virus in correctional facilities and trends in the incidence and prevalence of the hepatitis C virus in the correctional system.

(2) Establish and make available a voluntary program to test inmates for the presence of the hepatitis C virus upon incarceration and in conjunction with any routine blood testing.

(3) Update treatment protocols and regimens as new therapies become available.

(b) This section shall be implemented only to the extent funds for this purpose have been appropriated in the annual Budget Act.

(Added by Stats. 2000, Ch. 754, Sec. 4. Effective January 1, 2001.)

122420.

The Director of Health Services shall do all of the following:

(a) Develop and implement a public education and outreach program to raise awareness of the hepatitis C virus aimed at high-risk groups, physiciansoffices, health care workers, and health care facilities. The program shall do all of the following:

(1) Attempt to coordinate with national public education efforts related to the identification and notification of recipients of blood from hepatitis C virus-positive donors.

(2) Attempt to stimulate interest and coordinate with community-based organizations to sponsor community forums and undertake other appropriate community outreach activities.

(3) Employ public communication strategies utilizing a variety of media that may include, but is not limited to, print, radio, television, and the Internet.

(b) Include information on co-infection of human immunodeficiency virus (HIV) or hemophilia with the hepatitis C virus in the professional training and all appropriate care and treatment programs under the jurisdiction of the department.

(c) Develop a program to work with the Department of Corrections to identify hepatitis C virus-positive inmates likely to be released within two years and provide counseling and treatment options to reduce the community risk.

(d) Urge local public health officials to make hepatitis C virus screening available for uninsured individuals upon request.

(e) Include hepatitis C counseling, education, and testing, as appropriate, into local state-funded programs including those addressing HIV, tuberculosis, sexually transmitted disease, and all other appropriate programs approved by the director.

(Added by Stats. 2000, Ch. 754, Sec. 5. Effective January 1, 2001.)

122425.

There is hereby established a three-year Hepatitis C Linkage to Care demonstration pilot project to allow for innovative, evidence-based approaches to provide outreach, hepatitis C screening, and linkage to, and retention in, quality health care for the most vulnerable and underserved individuals living with, or at high risk for, hepatitis C viral infection (HCV). This demonstration pilot project is authorized for fiscal years 2015“16, 2016“17, and 2017“18.

(Added by Stats. 2015, Ch. 18, Sec. 19. (SB 75) Effective June 24, 2015.)

122430.

(a)Upon an appropriation for the purpose described in Section 122425 in the annual Budget Act for the 2015“16, 2016“17, and 2017“18 fiscal years, the department shall award funding, on a competitive basis, to community-based organizations or local health jurisdictions to operate demonstration pilot projects pursuant to this chapter. The department shall determine the funding levels of each demonstration project based on scope and geographic area. Funds may be used to support other activities consistent with the goals of this chapter, including the purchase of hepatitis C viral infection (HCV) test kits, syringe exchange supplies, or other HCV prevention and linkage to care materials and activities.

(b)An applicant for funding shall demonstrate each of the following qualifications:

(1)Leadership on access to HCV care and testing issues and experience addressing the needs of highly marginalized populations in accessing medical care and support.

(2)Experience with the target population or relationships with community-based organizations or nongovernmental organizations, or both, that demonstrates expertise, history, and credibility working successfully in engaging the target population.

(3)Experience working with nontraditional collaborators who work within and beyond the field of HCV education and outreach, including homeless services, veterans™ medical and service programs, substance use disorders treatment, syringe exchange programs, womenshealth, reproductive health, immigration, mental health, or human immunodeficiency virus (HIV) prevention and treatment.

(4)Strong relationships with community-based HCV health care providers that have the trust of the targeted population.

(5)Strong relationships with the state and local health departments.

(6)Capacity to coordinate a communitywide planning phase involving multiple community collaborators.

(7)Experience implementing evidence-based programs or generating innovative strategies, or both, with at least preliminary evidence of program effectiveness.

(8)Administrative systems and accountability mechanisms for grant management.

(9)Capacity to participate in evaluation activities.

(10)Strong communication systems that are in place to participate in public relations activities.

(Added by Stats. 2015, Ch. 18, Sec. 20. (SB 75) Effective June 24, 2015.)

122435.

During the demonstration pilot project described in Section 122425, each demonstration pilot project shall prepare and disseminate information regarding best practices for, and the lessons learned regarding, providing outreach and education to the most vulnerable and underserved individuals living with hepatitis C viral infection (HCV) or at a high risk for HCV infection, for use by providers, the State Department of Public Health, including the Office of AIDS and the Office of Viral Hepatitis Prevention, federal departments and agencies, including the federal Department of Health and Human Services, and other national HIV/AIDS and viral hepatitis groups.

(Added by Stats. 2015, Ch. 18, Sec. 21. (SB 75) Effective June 24, 2015.)

122440.

(a) (1) (A) The State Department of Public Health shall allocate funds to local health jurisdictions to provide hepatitis C virus (HCV) activities and other activities that improve HCV health outcomes, including, but not limited to, monitoring, prevention, testing, and linkage to and retention in care activities for the most vulnerable and underserved individuals living with, or at high risk for, HCV infection. Activities may include integrated services for viral hepatitis, human immunodeficiency virus (HIV) infection, sexually transmitted infections, and drug overdose to the extent they improve health outcomes for the most vulnerable and underserved individuals living with, or at high risk for, HCV infection.

(B)Local health jurisdictions shall be prioritized based on factors that indicate a need for HCV monitoring, prevention, testing, and linkage to and retention in care activities.

(C)Funds shall be allocated to prioritized local health jurisdictions in a manner that balances the need to spread funding to as many local health jurisdictions and community-based organizations as possible and the need to provide meaningful activities to each recipient. No less than 50 percent of the funds allocated to local health jurisdictions shall be provided to, or used to support activities in partnership with, community-based organizations for purposes consistent with this section, provided that there are community-based organizations in the jurisdiction that are able to provide these activities and demonstrate expertise, history, and credibility working successfully in engaging the most vulnerable and underserved individuals living with, or at high risk for, HCV infection.

(D)The department shall develop measures for each local health jurisdiction funded pursuant to this section to demonstrate accountability.

(E)Local health jurisdictions and community-based organizations may use funds to provide material support, including, but not limited to, sleeping bags, tarps, shelter, clothing items, and hygiene kits, to individuals described in subparagraph (A) for purposes consistent with this section.

(2)The department may use funds to support capacity building assistance for purposes consistent with this section, including integrated services for viral hepatitis, HIV, sexually transmitted infections, and drug overdose, to the extent they improve health outcomes for the most vulnerable and underserved individuals living with, or at high risk for, HCV infection.

(b)This section shall not be construed to require the department to replace existing activities with the activities provided for in subdivision (a) or to prevent the department from adding new activities as appropriate.

(c)This section shall be operative only if funds are explicitly appropriated in the annual Budget Act specifically for purposes of this section.

(Amended by Stats. 2022, Ch. 47, Sec. 15. (SB 184) Effective June 30, 2022.)

122445.

(a)In order to ensure that the most vulnerable Californians are informed of their hepatitis C virus (HCV) status and are linked to care and a cure, the State Department of Public HealthsOffice of Viral Hepatitis Prevention may purchase HCV test kits and associated materials and supplies for distribution to community-based organizations and local health departments.

(b)The Office of Viral Hepatitis Prevention may also allocate funding to train personnel associated with community-based organizations and local health departments to conduct HCV testing, human immunodeficiency virus (HIV) testing, and sexually transmitted infection (STI) testing and related activities.

(c)The Office of Viral Hepatitis Prevention may use a portion of the funds allocated for purposes of this section to hire necessary staff to successfully implement and evaluate the activities authorized by this section.

(d)The Office of Viral Hepatitis Prevention shall establish a simple application process for community-based organizations and local health departments to apply to receive HCV test kits and support for the activities authorized by this section.

(e)If the overall requests for HCV test kits and support exceeds the amount of funds allocated for this section, the Office of Viral Hepatitis Prevention may prioritize distribution of HCV test kits and support to community-based organizations and local health departments based on need in the specific geographic area and demonstrated capacity to provide culturally appropriate services to one or more of the communities most vulnerable to HCV.

(Added by Stats. 2021, Ch. 143, Sec. 26. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=7.5.&chapter=&article=

Code Text

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 7.5. Communicable Disease Testing and Prevention [122450- 122450.]__

(Part 7.5 added by Stats. 2016, Ch. 30, Sec. 7.)

122450.

(a)Of the funds appropriated in the Budget Act of 2016 for this purpose, the State Department of Public Health shall do all of the following:

(1)Purchase and distribute hepatitis B vaccine and related materials to local health jurisdictions and community-based organizations to test and vaccinate high-risk adults.

(2)Purchase hepatitis C test kits and related materials to distribute to local health jurisdictions and community-based testing programs.

(3)Train nonmedical personnel to perform HCV and HIV testing waived under the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) (42 U.S.C. Sec. 263a) in local health jurisdictions and community-based settings.

(4)Provide technical assistance to local governments and community-based organizations to increase the number of syringe exchange and disposal programs throughout California and the number of jurisdictions in which syringe exchange and disposal programs are authorized.

(b)The State Department of Public Health may issue grants for the materials and activities provided for in subdivision (a).

(Amended by Stats. 2017, Ch. 561, Sec. 134. (AB 1516) Effective January 1, 2018.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=105.&title=&part=7.7.&chapter=&article=

__Health and Safety Code - HSC__

__DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122476]__

(Division 105 added by Stats. 1995, Ch. 415, Sec. 7.)

__PART 7.7. Valley Fever [122475 - 122476]__

(Part 7.7 added by Stats. 2018, Ch. 338, Sec. 1.)

122475.

This part shall be known, and may be cited, as the Valley Fever Education, Early Diagnosis, and Treatment Act.

(Added by Stats. 2018, Ch. 338, Sec. 1. (AB 1790) Effective January 1, 2019.)

122476.

(a)Valley fever, also called coccidioidomycosis, is a lung infection caused by a fungus that lives in the soil. Approximately 10,000 cases are reported each year, mostly from California and bordering states.

(b)Valley fever is a serious, costly illness. According to the federal Centers for Disease Control and Prevention, nearly 75 percent of people with valley fever miss work or school. As many as 40 percent of people who get valley fever need to stay in the hospital.

(c)People get valley fever by breathing in microscopic fungal spores from the air in areas where the fungus lives. Anyone who lives in or travels to these areas can get valley fever, but some people are at higher risk for developing valley fever, such as older adults, people who have weakened immune systems, pregnant women, people with diabetes, people who are Black or Filipino, and people who have jobs that expose them to dust, such as agricultural or construction workers.

(d)The symptoms of valley fever are similar to those of other common illnesses, so patients may have delays in getting diagnosed and treated. The initial symptoms may appear one to three weeks after exposure. They tend to resemble those of the flu, and can range from minor to severe, including fever, cough, chest pain, chills, night sweats, headache, fatigue, joint aches, and a red spotty rash.

(e)In areas with valley fever, it is difficult to completely avoid exposure to the fungus because it is in the environment. There is no vaccine to prevent infection. Knowing about valley fever is one of the most important ways to avoid delays in diagnosis and treatment.

(f)It is the intent of the Legislature to raise awareness of the symptoms, tests, and treatments for valley fever among the general public, primary health care providers, and health care providers who care for persons at higher risk for getting valley fever.

(Added by Stats. 2018, Ch. 338, Sec. 1. (AB 1790) Effective January 1, 2019.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=&chapter=&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=1.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=1.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 1. GENERAL ADMINISTRATION [123100 - 123223]__

(Part 1 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 1. Patient Access to Health Records [123100 - 123149.5]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 8.)

123100.

The Legislature finds and declares that every person having ultimate responsibility for decisions respecting his or her own health care also possesses a concomitant right of access to complete information respecting his or her condition and care provided. Similarly, persons having responsibility for decisions respecting the health care of others should, in general, have access to information on the patientscondition and care. It is, therefore, the intent of the Legislature in enacting this chapter to establish procedures for providing access to health care records or summaries of those records by patients and by those persons having responsibility for decisions respecting the health care of others.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123105.

As used in this chapter:

(a)Health care provider means any of the following:

(1)A health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(2)A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.

(3)A home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2.

(4)A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or pursuant to the Osteopathic Act.

(5)A podiatrist licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 of Division 2 of the Business and Professions Code.

(6)A dentist licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.

(7)A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(8)An optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code.

(9)A chiropractor licensed pursuant to the Chiropractic Initiative Act.

(10)A marriage and family therapist licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(11)A clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code.

(12)A physical therapist licensed pursuant to Chapter 5.7 (commencing with Section 2600) of Division 2 of the Business and Professions Code.

(13)An occupational therapist licensed pursuant to Chapter 5.6 (commencing with Section 2570).

(14)A professional clinical counselor licensed pursuant to Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

(15)A speech-language pathologist or audiologist licensed pursuant to Chapter 5.3 (commencing with Section 2530) of Division 2 of the Business and Professions Code.

(16)A physician assistant licensed pursuant to Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code.

(17)A nurse practitioner licensed pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.

(b)Mental health records means patient records, or discrete portions thereof, specifically relating to evaluation or treatment of a mental disorder. Mental health records includes, but is not limited to, all alcohol and drug abuse records.

(c)Patient means a patient or former patient of a health care provider.

(d)Patient records means records in any form or medium maintained by, or in the custody or control of, a health care provider relating to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient. Patient records includes only records

pertaining to the patient requesting the records or whose representative requests the records. Patient records does not include information given in confidence to a health care provider by a person other than another health care provider or the patient, and that material may be removed from any records prior to inspection or copying under Section 123110 or 123115. Patient records does not include information contained in aggregate form, such as indices, registers, or logs.

(e)Patientsrepresentative, patientspersonal representative, or representative means any of the following:

(1)A parent or guardian of a minor who is a patient.

(2)The guardian or conservator of the person of an adult patient.

(3)An agent as defined in Section 4607 of the Probate Code, to the extent necessary for the agent to fulfill the duties set forth in Division 4.7 (commencing with Section 4600) of the Probate Code.

(4)The beneficiary as defined in Section 24 of the Probate Code or personal representative as defined in Section 58 of the Probate Code, of a deceased patient.

(f)Alcohol and drug abuse records means patient records, or discrete portions thereof, specifically relating to evaluation and treatment of alcoholism or drug abuse.

(Amended by Stats. 2020, Ch. 101, Sec. 1. (AB 2520) Effective January 1, 2021.)

123110.

(a)Notwithstanding Section 5328 of the Welfare and Institutions Code, and except as provided in Sections 123115 and 123120, any adult patient of a health care provider, any minor patient authorized by law to consent to medical treatment, and any patientspersonal representative shall be entitled to inspect patient records upon presenting to the health care provider a request for those records and upon payment of reasonable costs, as specified in subdivision (j). However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of the request. The inspection shall be conducted by the patient or patientspersonal representative requesting the inspection, who may be accompanied by one other person of their choosing.

(b)(1)Additionally, any patient or patientspersonal representative shall be entitled to a paper or electronic copy of all or any portion of the patient records that they have a right to inspect, upon presenting a request to the health care provider specifying the records to be copied, together with a fee to defray the costs of producing the copy or summary, as specified in subdivision (j). The health care provider shall ensure that the copies are transmitted within 15 days after receiving the request.

(2)The health care provider shall provide the patient or patientspersonal representative with a copy of the record in the form and format requested if it is readily producible in the requested form and format, or, if not, in a readable paper copy form or other form and format as agreed to by the health care provider and the patient or patientspersonal representative. If the requested patient records are maintained electronically and if the patient or patientspersonal representative requests an electronic copy of those records, the health care provider shall provide them in the electronic form and format requested if they are readily producible in that form and format, or, if not, in a readable electronic form and format as agreed to by the health care provider and the patient or patientspersonal representative.

(c)Copies of X-rays or tracings derived from electrocardiography, electroencephalography, or electromyography need not be provided to the patient or patientspersonal representative under this section, if the original X-rays or tracings are transmitted to another health care provider upon written request of the patient or patientspersonal representative and within 15 days after receipt of the request. The request shall specify the name and address of the health care provider to whom the records are to be delivered. All reasonable costs, not exceeding actual costs, incurred by a health care provider in providing copies pursuant to this subdivision may be charged to the patient or representative requesting the copies.

(d)(1)Notwithstanding any provision of this section, and except as provided in Sections 123115 and 123120, a patient, employee of a nonprofit legal services entity representing the patient, or the personal representative of a patient, is entitled to a copy, at no charge, of the relevant portion of the patientsrecords, upon presenting to the provider a written request, and proof that the records or supporting forms are needed to support a claim or appeal regarding eligibility for a public benefit program, a petition for U nonimmigrant status under the Victims of Trafficking and Violence Protection Act, or a self-petition for lawful permanent residency under the Violence Against Women Act. A public benefit program includes the Medi-Cal program, the In-Home Supportive Services Program, the California Work Opportunity and Responsibility to Kids (CalWORKs) program, Social Security Disability Insurance benefits, Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits, federal veterans service-connected compensation and nonservice connected pension disability benefits, CalFresh, the Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants, and a government-funded housing subsidy or tenant-based housing assistance program.

(2)Although a patient shall not be limited to a single request, the patient, employee of a nonprofit legal services entity representing the patient, or patientspersonal representative shall be entitled to no more than one copy of any relevant portion of their record free of charge.

(3)This subdivision shall not apply to any patient who is represented by a private attorney who is paying for the costs related to the patientsclaim or appeal, pending the outcome of that claim or appeal. For purposes of this subdivision, private attorney means any attorney not employed by a nonprofit legal services entity.

(e)If a patient, employee of a nonprofit legal services entity representing the patient, or the patientspersonal representative requests a record pursuant to subdivision (d), the health care provider shall ensure that the copies are transmitted within 30 days after receiving the written request.

(f)This section shall not be construed to preclude a health care provider from requiring reasonable verification of identity prior to permitting inspection or copying of patient records, provided this requirement is not used oppressively or discriminatorily to frustrate or delay compliance with this section. This section does not supersede any rights that a patient or personal representative might otherwise have or exercise under Section 1158 of the Evidence Code or any other provision of law. This chapter does not require a health care provider to retain records longer than required by applicable statutes or administrative regulations.

(g)(1)This chapter shall not be construed to render a health care provider liable for the quality of their records or the copies provided in excess of existing law and regulations with respect to the quality of medical records. A health care provider shall not be liable to the patient or any other person for any consequences that result from disclosure of patient records as required by this chapter. A health care provider shall not discriminate against classes or categories of providers in the transmittal of X-rays or other patient records, or copies of these X-rays or records, to other providers as authorized by this section.

(2)Every health care provider shall adopt policies and establish procedures for the uniform transmittal of X-

rays and other patient records that effectively prevent the discrimination described in this subdivision. A health care provider may establish reasonable conditions, including a reasonable deposit fee, to ensure the return of original X-rays transmitted to another health care provider, provided the conditions do not discriminate on the basis of, or in a manner related to, the license of the provider to which the X-rays are transmitted.

(h)Any health care provider described in paragraphs (4) to (10), inclusive, of subdivision (a) of Section 123105 who willfully violates this chapter is guilty of unprofessional conduct. Any health care provider described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 123105 that willfully violates this chapter is guilty of an infraction punishable by a fine of not more than one hundred dollars ($100). The state agency, board, or commission that issued the health care providersprofessional or institutional license shall consider a violation as grounds for disciplinary action with respect to the licensure, including suspension or revocation of the license or certificate.

(i)This section prohibits a health care provider from withholding patient records or summaries of patient records because of an unpaid bill for health care services. Any health care provider who willfully withholds patient records or summaries of patient records because of an unpaid bill for health care services is subject to the sanctions specified in subdivision (h).

(j)(1)Except as provided in subdivision (d), a health care provider may impose a reasonable, cost-based fee for providing a paper or electronic copy or summary of patient records, provided the fee includes only the cost of the following:

(A)Labor for copying the patient records requested by the patient or patientspersonal representative, whether in paper or electronic form.

(B)Supplies for creating the paper copy or electronic media if the patient or patientspersonal representative requests that the electronic copy be provided on portable media.

(C)Postage, if the patient or patientspersonal representative has requested the copy, or the summary or explanation, be mailed.

(D)Preparing an explanation or summary of the patient record, if agreed to by the patient or patientspersonal representative.

(2)The fee from a health care provider shall not exceed twenty-five cents ($0.25) per page for paper copies or fifty cents ($0.50) per page for records that are copied from microfilm.

(Amended by Stats. 2023, Ch. 294, Sec. 31. (SB 815) Effective January 1, 2024.)

123111.

(a)A patient who inspects his or her patient records pursuant to Section 123110 has the right to provide to the health care provider a written addendum with respect to any item or statement in his or her records that the patient believes to be incomplete or incorrect. The addendum shall be limited to 250 words per alleged incomplete or incorrect item in the patientsrecord and shall clearly indicate in writing that the patient requests the addendum to be made a part of his or her record.

(b)The health care provider shall attach the addendum to the patientsrecords and shall include that

addendum if the health care provider makes a disclosure of the allegedly incomplete or incorrect portion of the patientsrecords to any third party.

(c)The receipt of information in a patientsaddendum which contains defamatory or otherwise unlawful language, and the inclusion of this information in the patientsrecords, in accordance with subdivision (b), shall not, in and of itself, subject the health care provider to liability in any civil, criminal, administrative, or other proceeding.

(d)Subdivision (i) of Section 123110 and Section 123120 are applicable with respect to any violation of this section by a health care provider.

(Amended by Stats. 2018, Ch. 275, Sec. 1. (AB 2088) Effective January 1, 2019.)

123114.

(a)A health care provider shall not charge a fee to a patient for filling out forms or providing information responsive to forms that support a claim or appeal regarding eligibility for a public benefit program.

(b)A health care provider shall provide information responsive to those portions of the form for which the health care provider has the information necessary to provide a medical opinion. If the health care provider does not have the information necessary to provide a medical opinion, the health care provider may inform the patient if an examination is necessary to obtain the information.

(c)If a health care provider conducts an examination pursuant to subdivision (b), the health care provider shall provide information responsive to those portions of the form for which the health care provider has a medical opinion.

(d)For the purposes of this section, a public benefit program includes the Medi-Cal program, the In-Home Supportive Services Program, the California Work Opportunity and Responsibility to Kids (CalWORKs) program, Social Security Disability Insurance benefits, Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits, federal veterans service-connected compensation and nonservice connected pension disability benefits, discharge of a federal student loan based on total and permanent disability, CalFresh, the Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants, and a government-funded housing subsidy or tenant-based housing assistance program.

(e)Notwithstanding any other law, a health care provider may honor a request to disclose a patient record or complete a public benefit form that contains the written or electronic signature of the patient or the patientspersonal representative.

(Added by Stats. 2020, Ch. 101, Sec. 3. (AB 2520) Effective January 1, 2021.)

123115.

(a)The representative of a minor shall not be entitled to inspect or obtain copies of the minorspatient records, including clinical notes, in any of the following circumstances:

(1)With respect to which the minor has a right of inspection under Section 123110.

(2)When the health care provider determines that access to the patient records requested by the representative would have a detrimental effect on the providersprofessional relationship with the minor patient or the minorsphysical safety or psychological well-being. The decision of the health care provider as to whether or not a minorsrecords are available for inspection or copying under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith.

(3)When records relate to services described in Section 6924, 6925, 6926, 6927, 6928, 6929, or 6930 of the Family Code, or Section 121020 or 124260 of this code, when obtained by a patient who has the mental capacity to provide consent and is at or above the minimum age for consenting to the service specified in the respective section.

(b)When a health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of mental health records requested by the patient, the provider may decline to permit inspection or provide copies of the records to the patient, subject to the following conditions:

(1)The health care provider shall make a written record, to be included with the mental health records requested, noting the date of the request and explaining the health care providersreason for refusing to permit inspection or provide copies of the records, including a description of the specific adverse or detrimental consequences to the patient that the provider anticipates would occur if inspection or copying were permitted.

(2)(A)The health care provider shall permit inspection by, or provide copies of the mental health records to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, licensed clinical social worker, or licensed professional clinical counselor, designated by request of the patient.

(B)Any person registered as a marriage and family therapist intern, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, may not inspect the patientsmental health records or obtain copies thereof, except pursuant to the direction or supervision of a licensed professional specified in subdivision (g) of Section 4980.03 of the Business and Professions Code. Prior to providing copies of mental health records to a registered marriage and family therapist intern, a receipt for those records shall be signed by the supervising licensed professional.

(C)Any person registered as a clinical counselor intern, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code, may not inspect the patientsmental health records or obtain copies thereof, except pursuant to the direction or supervision of a licensed professional specified in subdivision (h) of Section 4999.12 of the Business and Professions Code. Prior to providing copies of mental health records to a person registered as a clinical counselor intern, a receipt for those records shall be signed by the supervising licensed professional.

(D)A licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, licensed clinical social worker, licensed professional clinical counselor, registered marriage and family therapist intern, or person registered as a clinical counselor intern to whom the records are provided for inspection or copying shall not permit inspection or copying by the patient.

(3)The health care provider shall inform the patient of the providersrefusal to permit them to inspect or obtain copies of the requested records, and inform the patient of the right to require the provider to permit inspection by, or provide copies to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, licensed clinical social worker, or licensed professional clinical counselor

designated by written authorization of the patient.

(4)The health care provider shall indicate in the mental health records of the patient whether the request was made under paragraph (2).

(Amended by Stats. 2022, Ch. 888, Sec. 2. (SB 1419) Effective January 1, 2023.)

123116.

(a)Notwithstanding Section 3025 of the Family Code, paragraph (2) of subdivision (c) of Section 56.11 of the Civil Code, or any other provision of law, a psychotherapist who knows that a minor has been removed from the physical custody of his or her parent or guardian pursuant to Article 6 (commencing with Section 300) to Article 10 (commencing with Section 360), inclusive, of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code shall not allow the parent or guardian to inspect or obtain copies of mental health records of the minor patient. This restriction shall not apply if the juvenile court has issued an order authorizing the parent or guardian to inspect or obtain copies of the mental health records of the minor patient after finding that such an order would not be detrimental to the minor patient.

(b)For purposes of this section, the following definitions apply:

(1)Mental health records means mental health records as defined by subdivision (b) of Section 123105.

(2)Psychotherapist means a provider of health care as defined in Section 1010 of the Evidence Code.

(c)When the juvenile court has issued an order authorizing the parent or guardian to inspect or obtain copies of the mental health records of a minor patient under the circumstances described in subdivision (a), the parent or guardian requesting to inspect or obtain copies of the mental health records of the minor patient shall present a copy of the court order to the psychotherapist and shall comply with subdivisions (a) and (b) of Section 123110 before the records may be accessed by the parent or guardian.

(d)Nothing in this section shall be construed to prevent or limit a psychotherapistsauthority under subdivision (a) of Section 123115 to deny a parentsor guardianswritten request to inspect or obtain copies of the minor patientsmental health records, notwithstanding the fact that the juvenile court has issued an order authorizing the parent or guardian to inspect or obtain copies of the minor patientsmental health records. Liability for a psychotherapistsdecision not to allow the parent or guardian to inspect or obtain copies of records pursuant to the authority of subdivision (a) of Section 123115 shall be governed by that section.

(e)Nothing in this section shall be construed to impose upon a psychotherapist a duty to inquire or investigate whether a child has been removed from the physical custody of his or her parent or guardian pursuant to Article 6 (commencing with Section 300) to Article 10 (commencing with Section 360), inclusive, of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code when a parent or guardian presents the minorspsychotherapist with a written request to inspect or obtain copies of the minorsmental health records.

(Added by Stats. 2012, Ch. 657, Sec. 2. (SB 1407) Effective January 1, 2013.)

123120.

Any patient or representative aggrieved by a violation of Section 123110 may, in addition to any other remedy provided by law, bring an action against the health care provider to enforce the obligations prescribed by Section 123110. Any judgment rendered in the action may, in the discretion of the court, include an award of costs and reasonable attorney fees to the prevailing party.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123125.

(a) This chapter shall not require a health care provider to permit inspection or provide copies of alcohol and drug abuse records where, or in a manner, prohibited by Section 408 of the federal Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255) or Section 333 of the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91-616), or by regulations adopted pursuant to these federal laws. Alcohol and drug abuse records subject to these federal laws shall also be subject to this chapter, to the extent that these federal laws do not prohibit disclosure of the records. All other alcohol and drug abuse records shall be fully subject to this chapter.

(b) This chapter shall not require a health care provider to permit inspection or provide copies of records or portions of records where or in a manner prohibited by existing law respecting the confidentiality of information regarding communicable disease carriers.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123130.

(a) A health care provider may prepare a summary of the record, according to the requirements of this section, for inspection and copying by a patient. If the health care provider chooses to prepare a summary of the record rather than allowing access to the entire record, he or she shall make the summary of the record available to the patient within 10 working days from the date of the patientsrequest. However, if more time is needed because the record is of extraordinary length or because the patient was discharged from a licensed health facility within the last 10 days, the health care provider shall notify the patient of this fact and the date that the summary will be completed, but in no case shall more than 30 days elapse between the request by the patient and the delivery of the summary. In preparing the summary of the record the health care provider shall not be obligated to include information that is not contained in the original record.

(b) A health care provider may confer with the patient in an attempt to clarify the patientspurpose and goal in obtaining his or her record. If as a consequence the patient requests information about only certain injuries, illnesses, or episodes, this subdivision shall not require the provider to prepare the summary required by this subdivision for other than the injuries, illnesses, or episodes so requested by the patient. The summary shall contain for each injury, illness, or episode any information included in the record relative to the following:

(1) Chief complaint or complaints including pertinent history.

(2) Findings from consultations and referrals to other health care providers.

(3) Diagnosis, where determined.

(4) Treatment plan and regimen including medications prescribed.

(5) Progress of the treatment.

(6) Prognosis including significant continuing problems or conditions.

(7) Pertinent reports of diagnostic procedures and tests and all discharge summaries.

(8) Objective findings from the most recent physical examination, such as blood pressure, weight, and actual values from routine laboratory tests.

(c) This section shall not be construed to require any medical records to be written or maintained in any manner not otherwise required by law.

(d) The summary shall contain a list of all current medications prescribed, including dosage, and any sensitivities or allergies to medications recorded by the provider.

(e) Subdivision (c) of Section 123110 shall be applicable whether or not the health care provider elects to prepare a summary of the record.

(f) The health care provider may charge no more than a reasonable fee based on actual time and cost for the preparation of the summary. The cost shall be based on a computation of the actual time spent preparing the summary for availability to the patient or the patientsrepresentative. It is the intent of the Legislature that summaries of the records be made available at the lowest possible cost to the patient.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123135.

Except as otherwise provided by law, nothing in this chapter shall be construed to grant greater access to individual patient records by any person, firm, association, organization, partnership, business trust, company, corporation, or municipal or other public corporation, or government officer or agency. Therefore, this chapter does not do any of the following:

(a) Relieve employers of the requirements of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code).

(b) Relieve any person subject to the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1 of the Insurance Code) from the requirements of that act.

(c) Relieve government agencies of the requirements of the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code).

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123140.

The Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) shall prevail over this chapter with respect to records maintained by a state agency.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123145.

(a) Providers of health services that are licensed pursuant to Sections 1205, 1253, 1575 and 1726 have an obligation, if the licensee ceases operation, to preserve records for a minimum of seven years following discharge of the patient, except that the records of unemancipated minors shall be kept at least one year after the minor has reached the age of 18 years, and in any case, not less than seven years.

(b) The department or any person injured as a result of the licenseesabandonment of health records may bring an action in a proper court for the amount of damage suffered as a result thereof. In the event that the licensee is a corporation or partnership that is dissolved, the person injured may take action against that corporationsor partnershipsprinciple officers of record at the time of dissolution.

(c) Abandoned means violating subdivision (a) and leaving patients treated by the licensee without access to medical information to which they are entitled pursuant to Section 123110.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123147.

(a)Except as provided in subdivision (b), all health facilities, as defined in Section 1250, and all primary care clinics that are either licensed under Section 1204 or exempt from licensure under Section 1206, shall include a patientsprincipal spoken language on the patientshealth records.

(b)Any long-term health care facility, as defined in Section 1418, that already completes the minimum data set form as specified in Section 14110.15 of the Welfare and Institutions Code, including documentation of a patientsprincipal spoken language, shall be deemed to be in compliance with subdivision (a).

(Added by Stats. 2005, Ch. 313, Sec. 1. Effective January 1, 2006.)

123148.

(a)Notwithstanding any other law, a health care professional at whose request a test is performed shall provide or arrange for the provision of the results of a test to the patient who is the subject of the test if so requested by the patient, in oral or written form. The results shall be disclosed in plain language and in oral or written form, except the results may be disclosed in electronic form if requested by the patient unless deemed inappropriate by the health care professional who requested the test. The telephone shall not be considered an electronic form of disclosing test results subject to the limits on electronic disclosure of test

results for the purpose of this section.

(b)(1)Consent of the patient to receive their test results by internet posting or other electronic means shall be obtained in a manner consistent with the requirements of Section 56.10 or 56.11 of the Civil Code. In the event that a health care professional arranges for the provision of test results by internet posting or other electronic manner, the results shall be disclosed to a patient in a reasonable time period. Access to test results shall be restricted by the use of a secure personal identification number when the results are disclosed to a patient by internet posting or other electronic manner.

(2)Paragraph (1) shall not prohibit direct communication by internet posting or the use of other electronic means to disclose test results by a treating health care professional who ordered the test for their patient or by a health care professional acting on behalf of, or with the authorization of, the treating health care professional who ordered the test.

(c)When a patient requests access to their test results by internet posting, the health care professional shall advise the patient of any charges that may be assessed directly to the patient or insurer for the service and that the patient may call the health care professional for a more detailed explanation of the laboratory test results when delivered.

(d)The electronic disclosure of test results under this section shall be in accordance with any applicable federal law governing privacy and security of electronic personal health records. However, any state statute that governs privacy and security of electronic personal health records, shall apply to test results under this section and shall prevail over federal law if federal law permits.

(e)The test results to be reported to the patient pursuant to this section shall be recorded in the patientsmedical record, and shall be reported to the patient within a reasonable time period after the test results are received by the health care professional who requested the test.

(f)Notwithstanding subdivision (a), unless the patient requests the disclosure, the health care professional deems this disclosure as an appropriate means, and a health care professional has first discussed in person, by telephone, or by any other means of oral communication, the test results with the patient, in compliance with any other applicable laws, none of the following test results and any other related results shall be disclosed to a patient by internet posting or other electronic means:

(1)(A)A positive HIV test, unless an HIV test subject is anonymously tested and the test result is posted on a secure internet website and can only be viewed with the use of a secure code that can access only a single set of test results and that is provided to the patient at the time of testing. The test result shall be posted only if there is no link to any information that identifies or refers to the subject of the test and the information required pursuant to subdivision (h) of Section 120990 is provided.

(B)Subparagraph (A) does not prevent the disclosure of HIV test results, including viral load and CD4 count test results, to a patient living with HIV by secure internet website or other electronic means if the patient has previously been informed about the results of a positive HIV test pursuant to the requirements of this section.

(2)Presence of antigens indicating a hepatitis infection.

(3)Abusing the use of drugs.

(4)Test results related to routinely processed tissues and imaging scans that reveal a new or recurrent malignancy.

(g)Patient identifiable test results and health information that have been provided under this section shall not be used for any commercial purpose without the consent of the patient, obtained in a manner consistent with the requirements of Section 56.11 of the Civil Code. In no event shall patient identifiable HIV-related test results and health information disclosed in this section be used in violation of subdivision (f) of Section 120980.

(h)A third party to whom test results are disclosed pursuant to this section shall be deemed a provider of administrative services, as that term is used in paragraph (3) of subdivision (c) of Section 56.10 of the Civil Code, and shall be subject to all limitations and penalties applicable to that section.

(i)A patient may not be required to pay a cost, or be charged a fee, for electing to receive their test results in a manner other than by internet posting or other electronic form.

(j)A patient or their physician may revoke consent provided under this section at any time and without penalty, except to the extent that action has been taken in reliance on that consent.

(k)As used in this section, test applies to both clinical laboratory tests and imaging scans, such as x-rays, magnetic resonance imaging, ultrasound, or other similar technologies.

(l)As used in this section, internet posting includes posting to an online patient portal.

(Amended by Stats. 2022, Ch. 888, Sec. 3. (SB 1419) Effective January 1, 2023.)

123149.

(a) Providers of health services, licensed pursuant to Sections 1205, 1253, 1575, and 1726, that utilize electronic recordkeeping systems only, shall comply with the additional requirements of this section. These additional requirements do not apply to patient records if hard copy versions of the patient records are retained.

(b) Any use of electronic recordkeeping to store patient records shall ensure the safety and integrity of those records at least to the extent of hard copy records. All providers set forth in subdivision (a) shall ensure the safety and integrity of all electronic media used to store patient records by employing an offsite backup storage system, an image mechanism that is able to copy signature documents, and a mechanism to ensure that once a record is input, it is unalterable.

(c) Original hard copies of patient records may be destroyed once the record has been electronically stored.

(d) The printout of the computerized version shall be considered the original as defined in Section 255 of the Evidence Code for purposes of providing copies to patients, the Division of Licensing and Certification, and for introduction into evidence in accordance with Sections 1550 and 1551 of the Evidence Code, in administrative or court proceedings.

(e) Access to electronically stored patient records shall be made available to the Division of Licensing and Certification staff promptly, upon request.

(f) This section does not exempt licensed clinics, health facilities, adult day health care centers, and home health agencies from the requirement of maintaining original copies of patient records that cannot be

electronically stored.

(g) Any health care provider subject to this section, choosing to utilize an electronic recordkeeping system, shall develop and implement policies and procedures to include safeguards for confidentiality and unauthorized access to electronically stored patient health records, authentication by electronic signature keys, and systems maintenance.

(h) Nothing contained in this chapter shall affect the existing regulatory requirements for the access, use, disclosure, confidentiality, retention of record contents, and maintenance of health information in patient records by health care providers.

(i) This chapter does not prohibit any provider of health care services from maintaining or retaining patient records electronically.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123149.5.

(a)It is the intent of the Legislature that all medical information transmitted during the delivery of health care via telehealth, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, become part of the patientsmedical record maintained by the licensed health care provider.

(b)This section shall not be construed to limit or waive any of the requirements of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(Amended by Stats. 2012, Ch. 782, Sec. 8. (AB 1733) Effective January 1, 2013.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=1.&chapter=2.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 1. GENERAL ADMINISTRATION [123100 - 123223]__

(Part 1 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Destruction of Records and Exhibits of Human Health [123150 - 123155]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

123150.

The board of supervisors may authorize the destruction or the disposition to a public or private medical library of any X-ray photographs and case records that are more than five years old and that were taken by the county health officer in the performance of his or her duties with regard to tuberculosis if any of the following conditions are complied with:

(a) The county health officer has determined that the X-ray photographs or a series of X-ray photographs in conjunction with case records do not show the existence of tuberculosis in the infectious stage.

(b) The individual of whom the X-ray photographs were taken has been deceased not less than two years or the 102nd anniversary of the individualsbirthdate has occurred and the county health officer cannot reasonably ascertain whether the individual is still living.

(c) The place of residence of the individual of whom the X-ray photographs were taken has been unknown to the county health officer for 10 years.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123155.

The board of supervisors of any county, in addition to its other powers and duties may acquire or construct exhibits and displays depicting all or parts of the human body and functions thereof for the purpose of educating the public with regard to human health, and maintain, operate and manage the exhibits and displays in any county or other public building. It may enter into contracts or leases with any other governmental agency or any nonprofit association or corporation, including a county medical association, for the construction and acquisition of the exhibits and displays, and for the maintenance, operation and management of the exhibits and displays in any county or other public building, without consideration except the agreement of the contracting or leasing agency, association or corporation to construct, acquire, maintain, operate and manage the exhibits and displays for the purpose of public health education and upon any other terms and conditions as may be agreed upon by the board and the contracting or leasing agency, association or corporation.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=1.&chapter=3.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=106.&title=&part=1.&chapter=3.&article=)

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 1. GENERAL ADMINISTRATION [123100 - 123223]__

(Part 1 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. Catastrophic Health Insurance [123175 - 123220]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 8.)

123175.

The Legislature finds and declares as follows:

(a) A catastrophic illness or injury may financially devastate an individual or the family of that individual because of extraordinary medical expenses. It is vitally necessary to the public health and welfare of the State of California that:

(1) Its residents not be burdened with those financial costs. Most health insurance policies contain a monetary limitation on the amount of money that can be expended on a particular illness or individual, leaving any balance to be paid by the patient. The state has enacted this chapter to promote the availability of additional insurance to help pay extensive medical costs.

(2) The state government not be financially burdened by residents who may become indigent due to these catastrophic health costs.

(b) It is the intent of the Legislature in enacting this chapter to institute a program to inform state residents of the need for catastrophic health insurance, and to make this insurance available to residents through an independent insurer at no cost or liability to the state.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123180.

As used in this chapter:

(a) Catastrophic health insurance means a supplementary insurance contract that indemnifies a California resident for medical expenses, including at least the costs of the basic health care services that result from an illness, injury, or disease, and that are greater than fifty thousand dollars ($50,000), subject to a lifetime benefit limit of one million dollars ($1,000,000).

(b) Resident means any individual who lives in California for at least 90 consecutive days.

(c) Insurer as used in this chapter includes a disability insurer that covers hospital, medical, or surgical expenses, and a nonprofit hospital service plan.

(d) Basic health care services includes, but is not limited to, the following:

(1) Inpatient hospital treatment, including room and board, general nursing services, diagnostic tests, supplies, and other medically necessary services.

(2) Outpatient services for surgery, presurgical diagnostic tests, emergency care, and chemotherapy.

(3) Surgery and anesthesia.

(4) Hospital and office visits and consultations.

(5) X-rays and laboratory tests; allergy tests, injections, and sera.

(6) Maternity care for the subscriber or enrolled spouse.

(7) Psychotherapy.

(8) Chemotherapy and radiation therapy.

(9) Physical, speech, occupational and respiratory therapies.

(10) Prescription drugs.

(11) Prostheses and durable medical equipment, such as artificial limbs, hospital beds, and wheelchairs.

(12) Cardiac rehabilitation program.

(13) Local ambulance service.

(14) Alcohol and drug abuse rehabilitation.

(15) Rehabilitative care.

(16) Outpatient skilled nursing care (up to two hours per day for up to 50 days per calendar year).

(17) Home health care and hospice services provided by an approved home health agency or hospice

agency.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123185.

The director shall, in consultation with, and approval of the Department of Insurance, do all of the following:

(a) Contract with an insurer or insurers to provide any resident catastrophic health insurance.

(b) Inform residents of the availability of catastrophic health insurance.

(c) Provide oversight for all contract obligations of the insurer.

(d) Approve all advertising and marketing materials used by an insurer in connection with catastrophic health insurance provided under this chapter in order to ensure accuracy and fairness. The advertising standards used shall be those set out in Section 1360.

(e) Determine the cost of the oversight function and make provisions to cover all administrative costs.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123190.

The director may appoint a full-time employee, and other staff as required, to implement this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123195.

(a) A contract provided for by this chapter shall not be required to cover a preexisting medical condition of the resident during the first 10 months the resident is covered by catastrophic health insurance provided under this chapter. Charges for a preexisting condition shall not apply toward the deductible during the first 10 months of coverage. Charges for other conditions during that initial period shall apply toward the deductible.

(b) The contract shall also prohibit the insurer from discriminating against prospective insureds in their underwriting practices on the basis of demographic factors, such as age, or preexisting medical conditions.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123200.

The state is not liable in any way for any claims arising out of an arrangement for insurance established under this chapter. The insurer shall bear the cost of all claims, and shall indemnify the state against all claims and the cost of defending against all claims in connection with an arrangement for catastrophic health insurance established under this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123205.

The director shall enter into contracts pursuant to subdivision (a) of Section 123185 only with insurers that meet all of the following criteria, as determined by the director:

(a) The insurer shall be actuarially sound.

(b) The insurer shall be fully self-supported by its policy premiums or charges and investments.

(c) The insurer shall use advertising that is accurate.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123210.

(a) The term of any contract entered into pursuant to subdivision (a) of Section 123185 shall be determined by the director, but shall not exceed three years.

(b) The contract shall contain a provision authorizing the director to terminate the contract upon giving 60 days™ written notice to the insurer of any of the following causes for termination:

(1) The department has determined that management practices of the insurer or the current financial condition of the insurer interferes with the efficient and timely payment of catastrophic health insurance benefits.

(2) Continuing failure of the insurer to timely pay the benefits of its policies of catastrophic health insurance or provide catastrophic health insurance services in accordance with the contract.

(3) Other continuing unsatisfactory performance by the insurer under the contract, based upon complaints received from insureds or other sources, if the insurer has failed to take reasonable, effective, and prompt actions to resolve the complaints.

(c) The contract shall contain a provision authorizing the director to terminate the contract without cause upon any annual anniversary date of the contract by giving at least 60 days™ notice to the insurer.

(d) The director may give up to 120 days™ notice to terminate if it is determined to be in the best interest of plan participants.

(e) The director shall annually certify that participating providers meet the conditions of the program. In carrying out this requirement, the director shall consult with the Department of Insurance to obtain any

audits performed by those agencies that may be used in evaluating the performance of each provider.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123215.

Premiums or charges paid for catastrophic health insurance provided pursuant to this chapter shall include an increment to defray the reasonable administrative costs of the department in administering this chapter that shall be transmitted by insurers to the department as provided in the contract.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123220.

If studies or research demonstrate that it is in the best interest of the program, the director may adopt regulations setting forth modifications to the coverage provided under the program. No modification shall apply to any coverage provided by a policy or contract issued prior to the operative date of the regulation, except that the modification shall apply to coverage provided after any renewal of the policy or contract occurring after the operative date of the regulation.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=1.&chapter=4.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 1. GENERAL ADMINISTRATION [123100 - 123223]__

(Part 1 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 4. Written Materials For Patients [123222.1 - 123222.3]__

(Chapter 4 added by Stats. 2002, Ch. 550, Sec. 2.)

123222.1.

(a) Notwithstanding any other provision of law, any printed materials specified in subdivision (b), that are provided to a patient by an employee or authorized agent on behalf of a general acute care hospital, as defined in subdivision (a) of, a skilled nursing facility, as defined in subdivision (c) of, an intermediate care facility as defined in subdivision (d) of, a nursing facility, as defined in subdivision (k) of, Section 1250, or a residential care facility for the elderly, as defined in subdivision (l) of Section 1569.2, shall be printed in at least a 12-point font that is clear and legible.

(b) The section shall apply only to the following:

(1) Admission and discharge papers and forms from general acute care hospitals, skilled nursing facilities, intermediate care facilities, and nursing facilities.

(2) Medical and therapeutic instructions prepared by the facility specifically for an individual upon his or her discharge from a general acute care hospital, a skilled nursing facility, an intermediate care facility, or a nursing facility.

(3) Any contract for consent for hospitalization, or agreement to assume financial responsibility between a patient and any of the facilities specified in paragraph (1).

(4) Instructions and forms for advance health care directives, as defined in Section 4605 of the Probate Code.

(5) Information produced by the hospital or facility regarding the rights and responsibilities of patients or residents while receiving care at the hospital or facility, and regarding grievances and appeals, including forms and instructions.

(6) Correspondence written, printed, or produced by any of the facilities specified in paragraph (1), or a residential care facility for the elderly.

(c) Any entity described in paragraph (1) of subdivision (b), and any residential care facility for the elderly, may continue to use its supply of materials that exists on January 1, 2003, until that supply is exhausted or until January 1, 2006, whichever occurs first, and thereafter shall comply with the requirements of this section.

(d) The hospitalsor facilityspolicies and procedures are specifically excluded from the requirements of this section.

(Added by Stats. 2002, Ch. 550, Sec. 2. Effective January 1, 2003.)

123222.2.

(a) (1) Upon admission of a patient to a skilled nursing facility, as defined in subdivision (c) of, an intermediate care facility, as defined in subdivision (d) of, or a nursing facility, as defined in subdivision (k) of, Section 1250, the facility shall ask the patient if he or she would like the facility to provide the patientsnext of kin or agent under a durable power of attorney for health care with materials regarding patients™ rights and responsibilities. If the patient states that he or she would like these materials to be provided, the facility shall do so, in accordance with paragraph (2).

(2) (A) The materials provided by the facility pursuant to this subdivision shall include a comprehensive Patients™ Bill of Rights, as described in subdivision (d) of Section 1599.61. Until subdivision (d) of Section 1599.61 is fully implemented by the State Department of Health Services, the Patients™ Bill of Rights provided pursuant to this subdivision shall include all of the following:

(i) The rights contained in Chapter 3.9 (commencing with Section 1599) of Division 2.

(ii) The resident rights applicable to skilled nursing facilities, contained in Section 72527 of Title 22 of the California Code of Regulations.

(iii) The resident rights applicable to intermediate care facilities, contained in Section 73523 of Title 22 of the California Code of Regulations.

(iv) The resident rights applicable to long-term care facilities under Sections 483.10 to 483.25, inclusive, of Title 42 of the Code of Federal Regulations.

(B) The facility may also provide written materials regarding the facilitysexpectations of patients and patients™ responsibilities while the patient is receiving care at the facility. This paragraph shall not be construed to require the facility to create any additional written materials regarding the facilitysexpectations of patients and patients™ responsibilities.

(b) (1) Upon admission of a patient to a general acute care hospital, as defined in subdivision (a) of Section 1250, the hospital shall ask the patient if he or she would like the hospital to provide the patientsnext of kin or agent under a durable power of attorney for health care with materials regarding patients™ rights and responsibilities. If the patient states that he or she would like these materials to be provided, the hospital shall do so, in accordance with paragraph (2).

(2) (A) The materials provided by the hospital pursuant to this subdivision shall include a comprehensive Patients™ Bill of Rights, including the regulatory patients™ rights for general acute care hospitals contained in Section 70707 of Title 22 of the California Code of Regulations, and the rights afforded to patients under Section 482.13 of Title 42 of the Code of Federal Regulations.

(B) The hospital may also provide written materials regarding the hospitalsexpectations of patients and patients™ responsibilities while the patient is receiving care at the hospital. This paragraph shall not be construed to require the hospital to create any additional written materials regarding the hospitalsexpectations of patients and patients™ responsibilities.

(c) Upon the request of the patient, or of the patientsnext of kin or agent under a durable power of attorney for health care, a representative of any facility or hospital providing patients™ rights information or other documentation described in this section shall explain the materials provided.

(d) This section shall not be construed to require the disclosure of patient information that would otherwise be exempt from disclosure.

(Added by Stats. 2002, Ch. 550, Sec. 2. Effective January 1, 2003.)

123222.3.

(a)A health facility at which a mammography examination is performed shall, if a patient is categorized by the facility as having heterogeneously dense breasts or extremely dense breasts, based on the Breast Imaging Reporting and Data System established by the American College of Radiology, include in the summary of the written report that is sent to the patient, as required by federal law, the following notice:

Your mammogram shows that your breast tissue is dense. Dense breast tissue is common and is not abnormal. However, dense breast tissue can make it harder to evaluate the results of your mammogram and may also be associated with an increased risk of breast cancer.

This information about the results of your mammogram is given to you to raise your awareness and to inform your conversations with your doctor. Together, you can decide which screening options are right for you. A report of your results was sent to your physician.

(b)(1)This section shall not be deemed to create a duty of care or other legal obligation beyond the duty to provide notice as set forth in this section.

(2)This section shall not be deemed to require a notice that is inconsistent with the provisions of the federal Mammography Quality Standards Act (42 U.S.C. Sec. 263b) or any regulations promulgated pursuant to that act.

(c)This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Amended by Stats. 2018, Ch. 332, Sec. 1. (SB 1034) Effective January 1, 2019. Repealed as of January 1, 2025, by its own provisions.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=1.&chapter=5.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 1. GENERAL ADMINISTRATION [123100 - 123223]__

(Part 1 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 5. ChildrensMedical Services Rebate Fund [123223- 123223.]__

(Chapter 5 added by Stats. 2004, Ch. 228, Sec. 5.)

123223.

(a) The ChildrensMedical Services Rebate Fund is hereby created as a special fund in the State Treasury.

(b) All rebates for the delivery of health care, medical supplies, pharmaceuticals, including blood replacement products, and equipment for clients enrolled in the state funded Genetically Handicapped Persons Program, Chapter 2 (commencing with Section 125125) of Part 5, and the California ChildrensServices Program, Article 5 (commencing with Section 123800) of Chapter 3 of Part 2, and, notwithstanding Section 16305.7 of the Government Code, interest earned on these moneys, shall be deposited in the ChildrensMedical Services Rebate Fund exclusively to cover costs related to services, and the administration of services, provided through the Genetically Handicapped Persons Program and California ChildrensServices Program.

(c) Notwithstanding Section 13340 of the Government Code, moneys in the ChildrensMedical Services Rebate Fund are continuously appropriated without regard to fiscal year to the State Department of Health Care Services and available for expenditure for those purposes specified under this section.

(Amended by Stats. 2015, Ch. 303, Sec. 351. (AB 731) Effective January 1, 2016.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=2.&chapter=&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=2.&chapter=&article=)

Code:Section:
Keyword(s):

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=2.&chapter=1.&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=2.&chapter=1.&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=1.&article=1.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 1. General Provisions [123225 - 123371]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 1. Maternal, Child, and Adolescent Health [123225 - 123260]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 8.)

123225.

The department shall maintain a program of maternal and child health.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123230.

The department may investigate, and disseminate educational information relating to, conditions affecting the health of the children of this state.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123232.

(a) The department shall develop or obtain a brochure to educate pregnant women and new parents about the important role in maintaining a healthy lifestyle and preventing chronic diseases of both of the following:

(1) Eating a diet rich in fruits and vegetables.

(2) Staying active every day.

(b) The brochure shall address how proper nutrition and exercise help prevent the development of chronic disease in pregnant women, new mothers, and young children. The brochure shall also include information regarding the critical role of fruits and vegetables in a personsdiet, especially as an important source of vitamins and nutrients to new mothers and their breast milk.

(c) The department shall include the brochure on the departmentsWeb site.

(d) The brochure shall be distributed as follows:

(1) By the department to each individual who contacts the BabyCal program and receives a package of information from the program.

(2) By a provider to each participant in the Access for Infants and Mothers (AIM) program one time during the participantspregnancy.

(e) The brochure shall be available in both English and Spanish.

(f) This section shall be implemented only if, and to the extent that, federal or private funding, or both, are available for that purpose.

(Added by Stats. 2003, Ch. 879, Sec. 2. Effective October 12, 2003.)

123235.

The program may include the provision of educational, preventative, diagnostic and treatment services, including medical care, hospitalization and other institutional care and aftercare, appliances and facilitating services directed toward reducing infant mortality and improving the health of mothers and children. The department may make grants or contracts or advance funds from any funds that are made available for the purposes of the Maternal and Child Health Program Act (Section 27).

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123240.

(a) The Maternal and Child Health Branch of the department shall conduct a pilot project to assess the effectiveness of daily ambulatory uterine monitoring devices and services in reducing preterm births in Medi-Cal eligible women.

(b) The department shall implement the pilot program to assess the incidence of preterm births in 1,000 women at high risk of preterm birth, 500 of whom shall be provided daily ambulatory uterine monitoring services between the 23rd and 36th weeks of gestation and 500 of whom shall be provided routine prenatal care augmented by training in palpatation. Women participating in the pilot program shall be Medi-Cal eligible women. To the maximum extent possible these services shall be prescribed by providers participating in other programs administered by the Maternal and Child Health Branch of the department or the comprehensive perinatal program.

(c) Women shall be deemed to be at high risk if they have multiple gestation or any two of the following risk factors for preterm labor; uterine malformation, a history of preterm labor or births, cervical incompetence, cervical dilation or effacement, and those patients who have been treated during the current pregnancy for preterm labor.

(d) The department shall select five counties to participate in the project, at least one of which shall be a rural county, and shall reimburse providers of ambulatory uterine monitoring services a fee based on reasonable costs.

(e) (1) The department shall also contract for an evaluation of the pilot project to ascertain whether use of the ambulatory uterine monitoring services significantly reduces the incidence of preterm births. The evaluation shall compare the experimental and control groups and identify the following for each group:

(A) The number of preterm births.

(B) The number of hospital days used by the mother prior to delivery.

(C) The number of hospital days used by the mother and child after delivery, including neonatal intensive care.

(D) The number of children born with developmental disabilities or conditions that may lead to developmental disabilities.

(E) The costs of providing prenatal services.

(2) The evaluation shall also project the costs associated with the health care provided to the mother and child during the course of the pilot project and, if feasible, shall project the longer term health care costs of children born prematurely, including costs of services provided to the developmentally disabled.

(3) The department may enter into the contract on a sole source basis.

(f) (1) The pilot project established pursuant to this section shall be considered successful if it shows that the experimental group, when compared to the control group, had all of the following:

(A) A 20-percent reduction in the number of premature births.

(B) A 20-percent reduction in the number of antepartum hospitalization days.

(C) A 20-percent reduction in the number of neonatal intensive care unit days for premature births.

(D) A 20-percent reduction in total patient costs.

(2) The department shall submit the evaluation to the Legislature by September 1, 1990.

(g) (1) The department shall immediately seek any federal waivers necessary to ensure full federal financial participation in the pilot program established pursuant to this section.

(2) The department shall not implement the pilot program under this section until necessary federal waivers are received.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123245.

The Maternal and Child Health Program Act (Section 27) does not give the power to force compulsory medical or physical examination of children.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123250.

Upon request the department shall advise all public officers, organizations, and agencies interested in the health and welfare of mothers and children in the state.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123255.

(a) The department may maintain a maternal and child health program in each county.

(b) Notwithstanding any other provision of law, the department may allocate, for the purposes of maintaining a maternal and child health program, to a county an amount determined in a manner as the director shall provide. The total of all county allocations shall not exceed the annual appropriation for this purpose.

(c) To be considered for an allocation, the countysgoverning board shall submit a plan and budget for the countysprogram in accordance with maternal and child health plans and priorities to be approved by the department under Title V of the Public Health Service Act (42 U.S.C. Sec. 701 et seq.). The department shall establish the procedures and format for submission of the plan and budget. The plan shall conform to the departmentsmaternal and child health priorities that are in accordance with the core public health functions of needs assessment, policy development, and assurance.

(d) The department shall establish minimum standards that govern the basis for allocations to counties, including, but not limited to, the services to be provided, administration, staffing, fiscal accountability, and eligibility for services. The department may recoup or withhold all or part of a countysallocation for failure to comply with those standards.

(e) Claims for reimbursement shall be made in a manner as provided by the director for activities provided in accordance with the plan and budget for the fiscal year in which the expenses upon which the claim is based are incurred.

(f) There shall be no reimbursement for any of the following:

(1) Projects or programs identified unless previously approved by the department as part of the maternal and child health plan.

(2) Capital improvements.

(3) The purchase or construction of buildings except for the equipment items and remodeling expenses as may be allowed by the department on a case-by-case basis.

(g) The department and counties shall maximize the use of federal funds available to implement this section, including using state or county funds to match funds claimable under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(h) (1) For purposes of this program, the department shall reimburse a county pursuant to this section in lieu of renewing or commencing a cooperative agreement with a county for the operation of a maternal and child health program.

(2) It is the intent of the Legislature that cooperative agreements between the department and a county for the operation of a maternal and child health program pursuant to this section be replaced by the process described in this section beginning with the 1997“98 fiscal year.

(Added by Stats. 1997, Ch. 294, Sec. 25. Effective August 18, 1997.)

123259.

(a)The Legislature finds and declares that there continues to be a statewide gap between mortality rates for Black infants and those for other population groups. While there have been modest but statistically significant declines in infant mortality generally, including a decline in Black infant mortality, the rate of mortality among Black infants continues to be two to four times higher than the rates for other groups statewide. Furthermore, preterm birth, which is the leading cause for infant death, has increased for the third straight year in California. The social support, stress management, and empowerment model of the Black Infant Health Program is an evidence-informed intervention program designed to reduce Black infant mortality. Other interventions that show promise but do not currently receive state support would enhance the impact of current funding for Black infant health.

(b)It is the intent of the Legislature to promote the establishment of Community Centers of Excellence in perinatal health based on public health science concerning the causes of persistent inequality and current best practices to narrow the gap. It is the further intent of the Legislature to direct funding to local health

jurisdictions to ensure the leadership and coordination required for widespread and lasting change in public awareness and in public health and clinical practice.

(Amended by Stats. 2023, Ch. 174, Sec. 1. (AB 1701) Effective January 1, 2024.)

123260.

(a)Subject to an appropriation in the annual Budget Act for this purpose, the State Department of Public Health shall establish the California Perinatal Equity Initiative to expand the scope of interventions provided under the Black Infant Health Program. The initiative shall foster Community Centers of Excellence in perinatal health and promote the use of interventions designed to fill gaps in current programming offered through the Black Infant Health Program.

(b)(1)As part of the initiative described in subdivision (a), the department shall develop a process to allocate funds to up to 15 local health jurisdictions and to work collaboratively with state and local Black Infant Health programs for the purpose of improving Black infant birth outcomes and reducing infant mortality.

(2)Participation in the initiative described in subdivision (a) is optional and local health jurisdictions that participate in the program shall agree to the terms of this article.

(3)Allocations made pursuant to paragraph (1) shall be used by local health jurisdictions for any of the following purposes:

(A)Creating a local grant program to develop local Community Centers of Excellence in perinatal health. Recipients of local grants shall be hospitals, federally qualified health centers, health centers that are closely related to federally qualified health centers, womenshealth clinics, county clinics, clinics operated by a private nonprofit organization that qualifies under Section 501(c)(3) of the United States Internal Revenue Code, or community-based organizations that have demonstrated capacity to work with public health and health care systems as well as within the Black community. Recipients of local grants shall implement or expand at least two of the following:

(i)An evidence-based or evidence-informed group prenatal care program that has shown promise in reducing the incidence of adverse birth outcomes and that includes, but is not limited to, improvement in health provider preterm birth screening and ongoing, risk-appropriate care for Black women to better identify and prevent preterm births.

(ii)Pregnancy intentionality, preconception, and interconception care programs.

(iii)Fatherhood or partnership initiatives that support engagement of partners in pregnancy and childbearing.

(iv)Evidence-based or evidence-informed home visitation programs inclusive of case management to increase advocacy and empowerment for Black women and to ensure linkages to prenatal care, monitoring, life planning, birth spacing, infant development, and well-being.

(v)A strategy that is not described in clauses (i) to (iv), inclusive, that is justified based on local needs and resources, if a local health jurisdiction determines that the strategy combines social interventions with medical interventions, including integration of mental health services in perinatal health care and other wraparound services, including, but not limited to, assessment, personalized case management, doulas, patient navigator services that increase patient empowerment, and access to and utilization of evidence-

based interventions that reduce preterm birth and infant mortality, and that the strategy is evidence-based or evidence-informed in relation to reducing adverse birth outcomes.

(B)Providing technical assistance to recipients of local grants, and coordinating with local partners, such as hospitals, federally qualified health centers, health centers that are closely related to federally qualified health centers, county clinics, and other community-based organizations.

(C)Carrying out local public awareness efforts around birth outcome inequities and the importance of preconception health, group prenatal care, evidence-based interventions to prevent preterm births, and social support during pregnancy, and to promote the role of fathers and partners as supports for women during and after pregnancy.

(D)Participating in collaborative statewide learning efforts and sharing best practices.

(E)Collecting and reporting data and information on process and outcome measures regarding the programs and activities carried out with allocated funds.

(c)The department shall, as part of implementing the initiative, consult with stakeholders, including, but not limited to, representatives of county health departments, current or former participants in the strategies described in subparagraph (A) of paragraph (3) of subdivision (b), health providers, or organizations representing health providers that provide services to improve Black infant health outcomes, advocates, and any appropriate state department or agency.

(d)Funds provided to an eligible entity pursuant to this section shall supplement, and not supplant, funds from other sources for infant health equity programs or initiatives.

(e)For purposes of this section, local health jurisdiction means a county, city, or city and county health department that meets the requirements of Chapter 3 (commencing with Section 101175) of Part 3 of Division 101.

(Amended by Stats. 2023, Ch. 174, Sec. 2. (AB 1701) Effective January 1, 2024.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=1.&article=2.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 1. General Provisions [123225 - 123371]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2. Women, Infants, and ChildrensNutrition [123275 - 123355]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 8.)

123275.

The Legislature finds that medical, educational and psychological evidence increasingly points to adequate nutrition as a determinant not only of good physical health but also of full intellectual development and educational achievement, with adequate nutrition in the earliest months and years being particularly important for full development of the childsmind and body, that problems of child nutrition cut across income lines and can result not only from low income but also from parental ignorance or neglect and that there is a need for a statewide child nutrition program that has the potential of reaching all pregnant women and mothers of infants.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123279.

(a) It is the intent of the Legislature in adding this section to authorize the establishment of a program designed to implement the federal WIC Farmers™ Market Nutrition Act of 1992 (Public Law 102-314), which is designed to accomplish the following:

(1) Provide resources to persons who are nutritionally at risk, in the form of fresh, high-quality agricultural products from certified farmers™ markets.

(2) Expand the awareness and use of certified farmers™ markets and increase sales at those markets.

(b) The department may establish a program designed to implement the federal WIC Farmers Market Nutrition Act of 1992.

(c) If the program is established, the department shall develop criteria to permit any producer authorized by the department to participate in the program to sell fresh nutritious foods to recipients in exchange for nutrition coupons.

(d) If the program is established, the department shall authorize local agencies to distribute nutrition coupons to all recipients, as defined by subdivision (c) of Section 123285 of the Health and Safety Code.

(e) If the program is established, the department shall design the nutrition coupon issuance process to ensure that nutrition coupons are bearer-only, nonnegotiable, and nontransferable by the recipient and that they may be redeemed by recipients only to purchase fresh produce and redeemed for reimbursement only by authorized producers.

(f) It is the intent of the Legislature that the program established by this section to implement the federal WIC Farmers™ Market Nutrition Act of 1992 (Public Law 102-314) be funded 70 percent by federal funds and 30 percent by private or other funds, as specified by the federal act.

(Added by Stats. 1997, Ch. 294, Sec. 26. Effective August 18, 1997.)

123280.

(a) The department may conduct a statewide program for providing nutritional food supplements to low-income pregnant women, low-income postpartum and lactating women, and low-income infants and children under five years of age, who have been determined to be at nutritional risk by a health professional, based on criteria established by the department. Any program established pursuant to this section shall do all of the following:

(1) Comply with all the requirements of this article.

(2) Be conducted only if a special project is authorized by inclusion in the Budget Act or notification is provided to the Legislature pursuant to Section 28 of the Budget Act, and federal funds are appropriated therefor.

(3) Be known as the California Special Supplemental Nutrition Program for Women, Infants, and Children (WIC Program).

(b) The department shall administer this article and shall adopt minimum standards and regulations as necessary.

(c)In order to be in conformity with federal law and to remain in compliance with federal funding, the department shall adopt all mandatory requirements and guidelines set forth in federal law and federal regulation for the federal Special Supplemental Nutrition Program for the WIC program, including, but not limited to, the Child Nutrition Act of 1966, and the amendments thereto (Chapter 13A (commencing with Section 1786) of Title 42 of the United States Code), Part 246 of Title 7 of the Code of Federal Regulations, and federal memoranda and guidance letters clarifying and interpreting those laws and regulations as the requirements for the WIC Program. In adopting the federal mandatory requirements and guidelines, the department shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The department may adopt these requirements and guidelines by bulletin or similar instruction.

(Amended by Stats. 2012, Ch. 787, Sec. 2. (AB 2322) Effective September 29, 2012.)

123285.

As used in this article, the following definitions shall apply:

(a)Health professional means a physician and surgeon, registered nurse, nutritionist, dietitian, or state or local medically trained health official, who is competent to professionally evaluate nutritional need and to authorize supplemental foods, as determined by the state department.

(b)Low income means an income of not more than 185 percent of the poverty level as determined by the federal poverty income guidelines promulgated by the United States Department of Health and Human Services.

(c)Recipient means low-income pregnant women, low-income post partum and lactating women, and low-income infants and children under five years of age, who are determined to be at nutritional risk by a health professional, based on criteria established by the state department.

(d)Nutrition coupon means a check that is limited as to value, food type, and food quantity and that has a limited period of validity.

(e)WIC Program means the California Special Supplemental Nutrition Program for Women, Infants, and Children.

(Amended by Stats. 2012, Ch. 787, Sec. 3. (AB 2322) Effective September 29, 2012.)

123290.

The department, under any program established pursuant to this article, shall do all of the following:

(a) Establish guidelines to determine resource allocation giving consideration to an areasnutritional need.

(b) Designate the counties within which a program will be conducted, with the approval of those counties.

(c) Establish the minimum nutritional requirements for recipients.

(d) Designate specific supplemental foods to meet the minimum nutritional requirements for recipients.

(e) Develop and maintain a system for the delivery of supplemental foods to recipients through the distribution of supplemental foods designated in subdivision (d) and nutrition coupons when other methods of delivery are impractical.

(f) (1) Develop and coordinate a smoking cessation component of program operations, with consideration of local agency plans, needs, and available tobacco education resources.

(2) In consultation with the directors of local agencies and with other individuals with expertise in the field of smoking cessation, identify and promulgate a strategy for smoking cessation in the state plan of operation and administration of the WIC program, including, but not limited to all of the following:

(A) Designating an agency staff member to coordinate smoking cessation efforts.

(B) Providing training on smoking cessation and tobacco education to designated staff members of local agencies who are responsible for counseling participants in the program.

(3) Develop and implement procedures to ensure that tobacco use screening and education, including, but not limited to, smoking cessation counseling and referrals where appropriate, are offered to all participants.

(g) (1) Establish guidelines and criteria to be used by participating local agencies, when determining recipient eligibility, that require, in addition to a recipient being a low-income pregnant woman, or a low-income postpartum and lactating woman, or a low-income infant or child under five years of age, that the recipient be at nutritional risk.

(2) A health professional on the staff of the local agency shall determine if a person is at nutritional risk through a medical or nutritional assessment. This determination may be based on referral data submitted by a health professional not on the staff of the local agency. The personsheight or length and weight shall be measured, and a hematological test for anemia, such as a hemoglobin or hematocrit test, shall be performed. However, the tests shall not be required for infants under six months of age. In addition, the blood test shall not be required for children who were determined to be within the normal range at their last program certification. However, the blood test shall be performed on the children at least once a year. A breastfeeding woman may be certified if the child she is breastfeeding is determined to be at nutritional risk and the woman meets the income eligibility criteria.

(h) Operate the program as an adjunct to existing health services.

(i) Seek federal funds to carry out this article.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123295.

Nutrition coupons in an amount sufficient to meet the nutritional needs of a recipient for one month shall be granted to a recipient by facilities and persons referred to in subdivision (g) of Section 123290 upon the written finding of nutritional need by the recipientsphysician or other health professional.

(Amended by Stats. 1997, Ch. 97, Sec. 8. Effective July 21, 1997.)

123300.

The department may, under any program established pursuant to this article, investigate the feasibility of contracting with one or more banks in the area served by the program for the redemption of nutrition coupons.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123302.

(a)(1)Notwithstanding any other law, the department may design, implement, and fund an electronic benefits transfer (EBT) system for the California Special Supplemental Food Program for Women, Infants, and Children. Sections 10066, 10067, and 10068 of, and subdivision (m) of Section 10072 of, the Welfare and Institutions Code, shall apply to the administration of this section.

(2)The department shall not implement any EBT system authorized by this section until the department completes a feasibility study, and funding for the system is provided in the annual Budget Act.

(b)The department shall seek the advice of the Electronic Benefits Transfer Committee, created by Section 10067 of the Welfare and Institutions Code, in implementing this section, and shall obtain the approval of the United States Department of Agriculture, which is the federal governing agency, prior to the establishment of any EBT system.

(c)The department shall develop a plan to determine the feasibility of implementing an EBT system for the California Special Supplemental Food Program for Women, Infants, and Children by January 1, 2003, and shall report its findings to the Legislature by July 1, 2003.

(Amended by Stats. 2014, Ch. 720, Sec. 2. (AB 1614) Effective January 1, 2015.)

123305.

The department, under any program established pursuant to this article, may collect data to determine the need for and the continuation of a supplemental nutritional program for recipients under this article.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123310.

The department, under any program established pursuant to this article, shall authorize retail food vendors, by written agreement, to accept nutrition coupons and reimbursement according to the system developed by the department. The department shall authorize an appropriate number and distribution of food vendors in order to ensure adequate participant convenience and access and to ensure that state or local officials can effectively manage review of authorized food vendors in their jurisdictions. The department shall establish criteria to limit the number of retail food vendors with which the department enters into agreements. The criteria, at a minimum, shall include:

(a) The prices the vendor charges for foods in relation to other vendors in its peer group. For purposes of this subdivision, peer group means a group of vendors with similar characteristics that may include, but shall not be limited to, any or all of the following:

(1) Geographic location of the store.

(2) Store size.

(3) Type of store.

(4) Number of cash registers.

(5) Sales volume relating to any program established pursuant to this article.

(6) Gross sales volume.

(7) Inventory.

(8) Other vendor characteristics established by the department.

(b) The ability of the department to ensure that authorized supplemental foods will be provided through in-store compliance purchases.

(c) The adequacy of the shelf stock of the authorized supplemental foods.

(d) Past performance of the vendor in compliance with this article and with CalFresh.

(Amended by Stats. 2011, Ch. 227, Sec. 13. (AB 1400) Effective January 1, 2012.)

123312.

(a)The department shall specify the criteria the department shall use and the actions the department shall take when initiating a moratorium on new WIC Program retail food vendor location applications. Notwithstanding any other provision of law, the department may, without taking regulatory action pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, implement, interpret, or make specific this section by means of a vendor bulletin when initiating a moratorium on new WIC Program retail food vendor location applications.

(b)A vendor bulletin initiating a moratorium, at a minimum, shall include all of the following:

(1)The reason for, and the maximum duration of, a moratorium.

(2)An action plan with specific steps the department plans to take by the identified end date of the moratorium that addresses the reason or need for the moratorium. The department shall make this information, including any changes to the action plan, available to the public by posting this information on the departmentsInternet Web site and through other forms of electronic communication.

(3)Exceptions for processing applications during the moratorium period, including the processing of a retail food vendorsapplication to add a specific store location to a current master vendor agreement if the department received the vendorscompleted application for that store location prior to the effective date of the moratorium.

(c)The department shall provide retail food vendors with a minimum of 30 days™ notice prior to the effective date of, or extension of, a moratorium.

(d)The department shall seek any federal approvals necessary to implement this section.

(e)Moratoriums required by federal directive shall not be subject to the requirements of this section.

(Added by Stats. 2012, Ch. 787, Sec. 4. (AB 2322) Effective September 29, 2012.)

123315.

(a) The department, under any program established pursuant to this article, shall ensure that, at a minimum, the authorized vendor shall do all of the following:

(1) Redeem nutrition coupons only from persons bearing appropriate identification provided by the department.

(2) Redeem nutrition coupons for only those foods specified thereon.

(3) Redeem nutrition coupons at an amount that is the same as, or lesser than, that charged other customers for identical foods.

(4) Redeem and deposit nutrition coupons during specified valid periods.

(5) Deposit the nutrition coupons directly in the vendorsbank account and not transfer them for cash payment, credit, or any other benefit to any party other than the vendorsbank or the state.

(6) Maintain for a period of at least three years records that shall include, but not be limited to, all of the following:

(A) Inventory records showing all purchases, both wholesale and retail, in the form of invoices that identify the quantity and prices of specified authorized supplemental foods.

(B) Sales and use tax returns.

(C) Books of account.

(D) Other pertinent records that the department determines are necessary to substantiate the volume and prices charged to the state department through the nutrition coupons redeemed by the vendor.

(7) Accept up to the maximum allowable department reimbursement as payment in full for the maximum allowable quantity of food listed on the food instrument.

(8) Comply with department rules of vendor authorization, reimbursement, and monitoring that control program food costs, maximize participant access, and ensure program integrity.

(b) The department shall adopt regulations to implement this section and Section 123310 in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of any emergency regulations on or after January 1, 2000, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted pursuant to this section shall remain in effect for no more than 180 days.

(Amended by Stats. 1999, Ch. 21, Sec. 3. Effective May 4, 1999.)

123320.

(a) The department shall inform the retail food vendors of, and include in the written agreement with the vendors, guidelines consistent with Section 123315, and shall print on each coupon the following:

(1) Specific supplemental foods and the quantities thereof for which the coupon may be redeemed.

(2) The period of validity of the nutrition coupon.

(3) The maximum value for which the nutrition coupon may be redeemed.

(b) To the extent feasible, the information required pursuant to subdivision (a) shall be provided in a form that may be read by optical scanning technology readily available to vendors. The department shall, no later than March 15, 2002, report to the Legislature on the feasibility and costs of providing the information in this form. This subdivision shall be implemented only to the extent that funds for its purposes are appropriated in the annual Budget Act or another statute.

(Amended by Stats. 2001, Ch. 842, Sec. 3. Effective January 1, 2002.)

123322.

(a)In order to effectively manage and administer the federal and state requirements for the vendors in the WIC Program, and remain in compliance with the conditions of federal funding, the department shall establish requirements for all of the following:

(1)Peer groups and a corresponding reimbursement system.

(2)Criteria used for vendor authorization.

(3)The WIC Program authorized foods.

(b)Notwithstanding any other provisions of law, including the requirement in Section 123315 for enacting regulations to implement that section and Section 123310, the department may, without taking regulatory action pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, implement, interpret, or make specific this section by means of an action by bulletin or similar instruction. The department shall provide notice to, and consult with, affected stakeholders, including vendors, manufacturers, local agencies, participants, advocates, consumer groups, and their respective associations, in the process of implementing, interpreting, or making specific this statute, and meet all of the following requirements:

(1)The notice shall be provided electronically to the stakeholders identified in this subdivision and shall also be posted on the programsInternet Web site. The notice shall state the reason for the change, the authority for the change, and the nature of the change. The notice shall provide opportunity for written comment by indicating the address to which to send the comment. The address may be an electronic site. The notice shall allow for at least 20 calendar days for comments to be submitted. The notice shall also provide the date of a consultation meeting with a stakeholder workgroup consisting of, but not limited to, representatives of stakeholder associations, stakeholder representatives, and consumer groups, to ensure stakeholder participation in the implementation of this section.

(2)The department shall consider all comments submitted before the due date, though it may withdraw the proposed action at any time by notification on its Internet Web site or notification by electronic means. Unless the department withdraws the action, it shall publish the final action on its Internet Web site no later than 120 days after the consultation with stakeholders or the last day for comments, whichever is later. If the department fails to issue a final action within 120 days from the consultation with stakeholders or the last day for comments, whichever is later, the proposed action will be deemed withdrawn. The department may finalize a proposed action that has been withdrawn by renoticing the proposed action for comment pursuant to paragraphs (1) to (3), inclusive.

(3)The department shall provide at least 30 days™ advance notice of the final action. In the final action, the department shall respond to the comments received.

(4)The department shall establish a process to collect stakeholder feedback regarding the impact of the final action and any policy adjustments that should be considered postimplementation.

(Added by Stats. 2012, Ch. 787, Sec. 5. (AB 2322) Effective September 29, 2012.)

123325.

A retail food vendor or any other person who knowingly redeems coupons in excess of the price charged other customers for identical foods, or who provides anything of value other than the specified foods, or who fails to provide inventory records to substantiate purchases for resale of authorized supplemental foods is subject to all sanctions set forth in federal regulation for the Special Supplemental Food Program for Women, Infants, and Children, that is provided for in Section 246 and following of Title 7 of the Code of Federal Regulations. The department may disqualify a food vendor who is currently disqualified from CalFresh.

(Amended by Stats. 2011, Ch. 227, Sec. 14. (AB 1400) Effective January 1, 2012.)

123327.

(a)The department shall provide written notice to a retail food vendor if the department determines that the vendor has committed an initial violation for which a pattern of the violation must be established to impose a sanction. Notice shall be provided no later than 30 days after the department determines the first investigation that identified the violation is complete.

(b)The written notice shall be delivered to the vendor 30 days before the department conducts a second investigation for purposes of establishing a pattern of the violation to the vendorsmost recent business ownership address on file with the department or to the vendor location upon identification of a violation during vendor monitoring, as defined by Section 40743 of Title 22 of the California Code of Regulations.

(c)The written notice shall include a description of the initial violation and may include information to assist the vendor to take corrective action, including, but not limited to, a 60-day window that includes the date of the violation.

(d)For purposes of this section, violation means a violation set forth in Section 246.2 of Title 7 of the Code of Federal Regulations.

(e)It is the intent of the Legislature in enacting this section to clarify existing law.

(Amended by Stats. 2013, Ch. 76, Sec. 126. (AB 383) Effective January 1, 2014.)

123330.

Any person or persons who have embezzled, willfully misapplied, stolen, or fraudulently obtained funds or benefits pursuant to this article shall be subject to the penalties set forth in federal regulations for the Special Supplemental Food Program for Women, Infants, and Children, that is provided for in Section 246 and following of Title 7 of the Code of Federal Regulations.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123335.

Any officer, employee, or agent of the department may enter the place of business of any vendor transacting nutrition coupons to verify food prices, to witness or investigate procedures, to conduct financial audits, or to otherwise determine compliance of the vendor with this article and the vendor agreement.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123340.

(a) Except as provided in subdivision (c), if any amount is due and payable and unpaid as a result of an overpayment to a vendor or local agency established under this article that is identified through an audit or examination conducted by or on behalf of the director and the department has issued an audit or examination finding, or an administrative decision resulting from an administrative appeal of the audit or examination finding that has become final, the director may file in the office of the County Clerk of Sacramento County and with the county clerk of the county in which the vendor has his or her principal place of business, a certificate containing the following:

(1) The amount due and owing and unpaid plus the applicable interest at a rate equal to the monthly average of the rate received on investments in the Pooled Money Investment Fund commencing on the date that an audit or examination finding, made pursuant to Section 316.5 is mailed to the vendor or local agency.

(2) A statement that the director has complied with this article prior to the filing of the certificate.

(3) A request that judgment be entered against the vendor or local agency in the amount set forth in the certificate.

The county clerk immediately upon the filing of the certificate, shall enter a judgment for the State of California against the vendor or local agency in the amount set forth in the certificate.

Notwithstanding any provision of law to the contrary, the Special Supplemental Food Program for Women,

Infants, and Children shall pay the normal fee charged by the county for the certificate of judgment.

Nothing in this subdivision shall prevent the director from using any other means available in law to recover amounts due and owing and unpaid from the vendor or local agency.

(b) The dates when the department may file the certificate and seek judgment from the county clerk, as provided in subdivision (a), depends on whether the audit finding is appealed by the vendor or local agency.

(1) If the audit finding or lower level administrative decision is not appealed, the department may file the certificate the day after the end of the appeal period or anytime thereafter, but not later than three years after the payment became due and owing.

(2) If the audit finding or lower level administrative decision is appealed to the director, the department may file the certificate no earlier than 90 days after the issuance of the final decision by the director, but no later than three years after the issuance of the final decision.

(c) If the vendor seeks judicial review of the final decision of the director pursuant to Section 1094.5 of the Code of Civil Procedure, and notice of the action is properly served on the director within 90 days of the issuance of the final decision, the department shall not file any certificate as provided in subdivision (a).

If the vendor does not seek judicial review of the final decision of the director or does not properly serve notice within 90 days from the date of the final decision of the director, the department may file the certificate and obtain judgment pursuant to subdivision (a).

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123345.

An abstract of judgment obtained pursuant to subdivisions (a) and (b) of Section 123340 or a copy thereof may be recorded with the county recorder of any county. From the time of recording, the judgment shall constitute a lien upon all real or personal property owned by the vendor at the time, or that the vendor may afterwards, but before the lien expires, acquire. The lien shall have the force, effect, and priority of a judgment lien and shall continue for 10 years from the time of recording of the abstract of judgment obtained pursuant to subdivisions (a) and (b) of Section 123340 unless sooner released or otherwise discharged.

The lien may, within 10 years from the date of recording of the abstract of judgment or within 10 years from the date of the last extension of the lien in the manner herein provided, be extended by recording a new abstract in the office of the county recorder of any county. From the date of the recording the lien shall be extended for 10 years unless sooner released or otherwise discharged.

(Amended by Stats. 1997, Ch. 97, Sec. 9. Effective July 21, 1997.)

123350.

The department shall arrange for the conduct of periodic audits of participating local agencies.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123355.

The department shall provide a hearing procedure whereby any food vendor or local agency may appeal any adverse action taken by the department affecting the vendorsor local agencysparticipation in the California Supplemental Food Program for Women, Infants, and Children. The hearing procedure shall be in accordance with the requirements of the federal regulations for the Special Supplemental Food Program for Women, Infants, and Children, that is contained in Section 246 et seq. of Title 7 of the Code of Federal Regulations.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=1.&article=3.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 1. General Provisions [123225 - 123371]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 3. Breast Feeding [123360 - 123367]__

(Heading of Article 3 renumbered from Article 3.35 (and relocated from Chapter 2 of Part 1 of Division 1) by Stats. 1996, Ch. 1023, Sec. 113.)

123360.

(a)The State Department of Public Health shall include in its public service campaign the promotion of mothers breast-feeding their infants.

(b)The department shall develop a model eight-hour training course of hospital policies and recommendations that promote exclusive breast-feeding, incorporating available materials already developed by the department, and shall specify hospital staff for whom this model training is appropriate. The department shall also provide the model training materials to hospitals, upon request.

(Amended by Stats. 2007, Ch. 460, Sec. 3. Effective January 1, 2008.)

123361.

To the extent that non-United States Department of Agriculture (USDA) federal funds and private grants or donations are made available for this purpose, the State Department of Public Health shall, no later than July 1, 2008, begin expansion of the breast-feeding peer counseling program at local agency California Special Supplemental Food Program for Women, Infants, and Children (WIC) sites. Plans for the expansion of the program shall take into account local WIC agency program models that have demonstrated the greatest improvement in breast-feeding rates, including exclusive breast-feeding rates. Program expansion shall be contingent upon the availability of non-USDA federal funds and private grants or donations being made available for this purpose. Nothing in this section shall impact USDA federal funding for the WIC Supplemental Food Program or the breast-feeding peer counseling program at local agency WIC sites.

(Added by Stats. 2007, Ch. 460, Sec. 4. Effective January 1, 2008.)

123365.

(a) All general acute care hospitals, as defined in subdivision (a) of Section 1250, and all special hospitals providing maternity care, as defined in subdivision (f) of Section 1250, shall make available a breast feeding consultant or alternatively, provide information to the mother on where to receive breast feeding information.

(b) The consultant may be a registered nurse with maternal and newborn care experience, if available.

(c) The consultation shall be made available during the hospitalization associated with the delivery, or alternatively, the hospital shall provide information to the mother on where to receive breast feeding information.

(d) The patient may decline this consultation or information.

(Added by renumbering Section 319.55 (as added by Stats. 1995, Ch. 463) by Stats. 1996, Ch. 1023, Sec. 115. Effective September 29, 1996.)

123366.

(a)This section shall be known, and may be cited, as the Hospital Infant Feeding Act.

(b)For the purposes of this section, the following definitions shall apply:

(1)Perinatal unit means a maternity and newborn service of the hospital for the provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods with appropriate staff, space, equipment, and supplies.

(2)Baby-Friendly Hospital Initiative means the program sponsored by the World Health Organization (WHO) and the United Nations ChildrensFund (UNICEF) that recognizes hospitals that offer an optimal level of care for infant feeding.

(3)Model Hospital Policy Recommendations means the most recently updated guidelines approved and published by the State Department of Public Health entitled, Providing Breastfeeding Support: Model Hospital Policy Recommendations.

(c)All general acute care hospitals and special hospitals, as defined in subdivisions (a) and (f) of Section 1250, that have a perinatal unit shall have an infant-feeding policy. The infant-feeding policy shall promote breastfeeding, utilizing guidance provided by the Baby-Friendly Hospital Initiative or the State Department of Public Health Model Hospital Policy Recommendations. The infant-feeding policy may include guidance on formula supplementation or bottlefeeding, if preferred by the mother or when exclusive breastfeeding is contraindicated for the mother or infant.

(d)The infant-feeding policy shall be routinely communicated to perinatal unit staff, beginning with hospital orientation, and shall be clearly posted in the perinatal unit or on the hospital or health system Internet Web site.

(e)The infant-feeding policy shall apply to all infants in a perinatal unit.

(f)This section shall become operative January 1, 2014.

(Added by Stats. 2011, Ch. 511, Sec. 2. (SB 502) Effective January 1, 2012. Section operative January 1, 2014, by its own provisions.)

123367.

(a)For the purposes of this section, the following definitions shall apply:

(1)Baby-Friendly Hospital Initiative means the program sponsored by the World Health Organization (WHO) and the United Nations ChildrensFund (UNICEF) that recognizes hospitals that offer an optimal level of care for infant feeding.

(2)Perinatal unit means a maternity and newborn service of the hospital for the provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods with appropriate staff, space, equipment, and supplies.

(b)All general acute care hospitals and special hospitals, as defined in subdivisions (a) and (f) of Section 1250, that have a perinatal unit shall, by January 1, 2025, adopt the Ten Steps to Successful Breastfeeding, as adopted by Baby-Friendly USA, per the Baby-Friendly Hospital Initiative, or an alternate process adopted by a health care service plan that includes evidence-based policies and practices and targeted outcomes, or the Model Hospital Policy Recommendations as defined in paragraph (3) of subdivision (b) of Section 123366.

(Amended by Stats. 2014, Ch. 71, Sec. 94. (SB 1304) Effective January 1, 2015.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=1.&article=4.

123370.

The department shall conduct the Umbilical Cord Blood Community Awareness Campaign to do all of the following:

(a)Provide awareness, assistance, and information regarding umbilical cord blood banking options using brochures, television, print media, radio, Internet Web sites, outdoor advertising, and other media, where appropriate to disseminate information to licensed prenatal care providers, Family PACT providers, and pregnant women.

(b)Establish an Internet Web site to provide information about umbilical cord blood banking options that is accessible to prenatal care providers, pregnant women, and the general public.

(c)Undertake public education activities related to umbilical cord blood donation to targeted populations, as appropriate.

(Added by Stats. 2006, Ch. 484, Sec. 2. Effective January 1, 2007.)

123371.

(a)(1)The State Department of Public Health shall develop standardized, objective information about umbilical cord blood donation that is sufficient to allow a pregnant woman to make an informed decision on whether to participate in a private or public umbilical cord blood banking program. The information developed by the department shall enable a pregnant woman to be informed of her option to do any of the following:

(A)Discard umbilical cord blood.

(B)Donate umbilical cord blood to a public umbilical cord blood bank.

(C)Store the umbilical cord blood in a family umbilical cord blood bank for the use by immediate and extended family members.

(D)Donate umbilical cord blood to research.

(2)The information developed pursuant to paragraph (1) shall include, but not be limited to, all of the following:

(A)The current and potential future medical uses of stored umbilical cord blood.

(B)The benefits and risks involved in umbilical cord blood banking.

(C)The medical process involved in umbilical cord blood banking.

(D)Medical or family history criteria that can impact a familysconsideration of umbilical cord banking.

(E)An explanation of the differences between public and private umbilical cord blood banking.

(F)The availability and costs of public or private umbilical cord blood banks.

(G)Medical or family history criteria that can impact a familysconsideration of umbilical cord blood banking.

(H)An explanation that the practices and policies of blood banks may vary with respect to accreditation, cord blood processing and storage methods, costs, and donor privacy.

(I)An explanation that pregnant women are not required to donate their umbilical cord blood for research purposes.

(b)The information provided by the department pursuant to subdivision (a) shall be made available in Cantonese, English, Spanish, and Vietnamese, and shall be updated by the department as needed.

(c)The information provided by the department pursuant to subdivision (a) shall be made available on the Internet Web sites of the licensing boards that have oversight over primary prenatal care providers.

(d)(1)A primary prenatal care provider of a woman who is known to be pregnant may, during the first prenatal visit, provide the information required by subdivision (a) to the pregnant woman.

(2)For purposes of this article, a prenatal care provider means a health care provider licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or pursuant to an initiative act referred to in that division, who provides prenatal medical care within his or her scope of practice.

(e)The department shall only implement this article upon a determination by the Director of Finance, that sufficient private donations have been collected and deposited into the Umbilical Cord Blood Education Account, which is hereby created in the State Treasury. The moneys in the account shall be available, upon appropriation by the Legislature, for the purposes of this article. No public funds shall be used to implement this article. If sufficient funds are collected and deposited into the account, the Director of Finance shall file a written notice thereof with the Secretary of State.

(Amended by Stats. 2007, Ch. 517, Sec. 2. Effective January 1, 2008.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=2.&chapter=2.&article=]

(https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=2.&chapter=2.&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=1.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Maternal Health [123375 - 123641]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 1. Determination of Pregnancy [123375 - 123418]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 8.)

123375.

(a) Except as otherwise provided in subdivision (b), no person shall sell, offer for sale, give away, distribute, or otherwise furnish materials intended to determine the presence of pregnancy, unless that person has obtained a certificate of acceptability from the department declaring that the materials have been approved

as to efficacy and safety by the department.

(b) Subdivision (a) shall not apply to materials intended to determine the presence of pregnancy, that are sold, offered for sale, given away, distributed, or otherwise furnished to a physician and surgeon licensed to practice in this state, a pharmacist licensed to practice in this state, a licensed primary care clinic, a licensed health facility, or a public health agency.

(c) Any person other than a person described in subdivision (b) who intends to sell, offer for sale, give away, distribute or otherwise furnish materials intended to determine the presence of pregnancy shall first make application to the state department for certification of the materials. The department shall also require that an application for certification shall be accompanied by samples of any materials that are the subject of the application as the department may reasonably require.

Any violation of this section is a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123380.

Local public health agencies shall make pregnancy testing services available free or at cost to the person using the services. The results of any pregnancy test shall be confidential.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123385.

It is the intent of the Legislature that the program authorized pursuant to this article be entirely self-supporting, and for this purpose the state department is authorized to establish a schedule of fees for applications for certificates of acceptability that shall provide revenues that shall not exceed the amount necessary, but shall be sufficient to cover all costs incurred in the administration of this article.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123418.

Subject to all other provisions of this article, all residency programs in obstetrics and gynecology shall comply with the program requirements for residency education in obstetrics and gynecology of the Accreditation Council for Graduate Medical Education, which require that in addition to education and training in in-patient care, the program in obstetrics-gynecology be geared toward the development of competence in the provision of ambulatory primary health care for women, including, but not limited to, training in the performance of abortion services.

(Amended by Stats. 2003, Ch. 62, Sec. 197. Effective January 1, 2004.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=2.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Maternal Health [123375 - 123641]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2. Abortion [123420 - 123445]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 8.)

123420.

(a) No employer or other person shall require a physician, a registered nurse, a licensed vocational nurse, or any other person employed or with staff privileges at a hospital, facility, or clinic to directly participate in the induction or performance of an abortion, if the employee or other person has filed a written statement with the employer or the hospital, facility, or clinic indicating a moral, ethical, or religious basis for refusal to participate in the abortion.

No such employee or person with staff privileges in a hospital, facility, or clinic shall be subject to any penalty or discipline by reason of his or her refusal to participate in an abortion. No such employee of a hospital, facility, or clinic that does not permit the performance of abortions, or person with staff privileges therein, shall be subject to any penalty or discipline on account of the personsparticipation in the performance of an abortion in other than the hospital, facility, or clinic.

No employer shall refuse to employ any person because of the personsrefusal for moral, ethical, or religious reasons to participate in an abortion, unless the person would be assigned in the normal course of business of any hospital, facility, or clinic to work in those parts of the hospital, facility, or clinic where abortion patients are cared for. No provision of this article prohibits any hospital, facility, or clinic that permits the performance of abortions from inquiring whether an employee or prospective employee would advance a moral, ethical, or religious basis for refusal to participate in an abortion before hiring or assigning that person to that part of a hospital, facility, or clinic where abortion patients are cared for.

The refusal of a physician, nurse, or any other person to participate or aid in the induction or performance of an abortion pursuant to this subdivision shall not form the basis of any claim for damages.

(b) No medical school or other facility for the education or training of physicians, nurses, or other medical personnel shall refuse admission to a person or penalize the person in any way because of the personsunwillingness to participate in the performance of an abortion for moral, ethical, or religious reasons. No hospital, facility, or clinic shall refuse staff privileges to a physician because of the physiciansrefusal to participate in the performance of abortion for moral, ethical, or religious reasons.

(c) Nothing in this article shall require a nonprofit hospital or other facility or clinic that is organized or operated by a religious corporation or other religious organization and licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250) of Division 2, or any administrative officer, employee, agent, or member of the governing board thereof, to perform or to permit the performance of an abortion in the facility or clinic or to provide abortion services. No such nonprofit facility or clinic organized or operated by a religious corporation or other religious organization, nor its administrative officers, employees, agents, or members of its governing board shall be liable, individually or collectively, for failure or refusal to participate in any such act. The failure or refusal of any such corporation, unincorporated association or individual person to perform or to permit the performance of such medical procedures shall not be the basis for any disciplinary or other recriminatory action against such corporations, unincorporated associations, or individuals. Any such facility or clinic that does not permit the performance of abortions on its premises shall post notice of that proscription in an area of the facility or clinic that is open to patients and prospective admittees.

(d) This section shall not apply to medical emergency situations and spontaneous abortions.

Any violation of this section is a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123425.

The refusal of any person to submit to an abortion or surgical sterilization or to give consent therefor shall not be grounds for loss of any privileges or immunities to which the person would otherwise be entitled, nor shall submission to an abortion or surgical sterilization or the granting of consent therefor be a condition precedent to the receipt of any public benefits. The decision of any person to submit to an abortion or surgical sterilization or to give consent therefor shall not be grounds for loss of any privileges or immunities to which the person would otherwise be entitled, nor shall the refusal to submit to an abortion or surgical sterilization or to give consent therefor be a condition precedent to the receipt of any public benefits.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123430.

(a)(1)To ensure people have accurate and comprehensive information when accessing abortion services in California, on or before July 1, 2023, the California Health and Human Services Agency, or an entity designated by the agency, shall establish an internet website where the public can access information on abortion services in the state.

(2)The internet website established pursuant to paragraph (1) shall include all of the following information and resources:

(A)A personslegally protected rights to an abortion under state law.

(B)The location of abortion providers or links to the information in the state. Location information shall be posted and updated in a manner that allows people to easily identify the health care providers that provide abortion in the state.

(C)Practical support services, such as airfare, lodging, ground transportation, gas money, meals, dependent childcare, doula support, and translation services, to help a person access and obtain an abortion.

(D)Payment support resources, including coverage options, state programs, and other assistance that is available to help people with the cost of the abortion procedure.

(E)General description of the available types of abortion.

(F)Information to combat misinformation and disinformation, and ensure that people have comprehensive and medically accurate counseling and support services.

(G)Any other information or resources that will assist an individual seeking comprehensive and accurate information about exercising their legal right to abortion and accessing abortion services in the state.

(3)The agency shall consult with subject matter experts when determining the information and resources posted on the internet website. Subject matter experts include, but is not limited to, the Commission on the Status of Women and Girls, the Department of Justice, the State Department of Health Care Services, the Department of Managed Health Care, and organizations that represent patients, providers, and assistants that obtain, provide, or assist a pregnant person to access an abortion.

(4)The internet website shall have mobile capabilities.

(5)The internet website shall comply with Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794d), regulations implementing that act as set forth in Part 1194 of Title 36 of the Federal Code of Regulations, and any laws or regulations governing the accessibility of state internet websites.

(6)The agency, in consultation with the subject matter experts, shall review the information and resources on the internet website to ensure that it is current and updated at reasonable intervals, but no less than once every six months. The website shall contain a feature to allow users to report erroneous or outdated information.

(b)The internet website and informational materials created and distributed pursuant to this section shall be made available in a manner to ensure that they are accessible by all state residents. The internet website and

informational materials shall be translated into Spanish, Chinese, Tagalog, Vietnamese, and Korean and in compliance with the Dymally-Alatorre Bilingual Services Act (Chapter 17.5 (commencing with Section 7290) of Division 7 of Title 1 of the Government Code).

(c)Notwithstanding subdivision (a), the internet website established pursuant to this section shall not include the name or location of any individual who is an abortion provider.

(Added by Stats. 2022, Ch. 566, Sec. 2. (SB 1142) Effective January 1, 2023.)

123435.

The rights to medical treatment of an infant prematurely born alive in the course of an abortion shall be the same as the rights of an infant of similar medical status prematurely born spontaneously.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123440.

(a) It is unlawful for any person to use any aborted product of human conception, other than fetal remains, for any type of scientific or laboratory research or for any other kind of experimentation or study, except to protect or preserve the life and health of the fetus. Fetal remains, as used in this section, means a lifeless product of conception regardless of the duration of pregnancy. A fetus shall not be deemed to be lifeless for the purposes of this section, unless there is an absence of a discernible heartbeat.

(b) In addition to any other criminal or civil liability that may be imposed by law, any violation of this section constitutes unprofessional conduct within the meaning of the Medical Practice Act, Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123445.

(a) Except as provided in subdivision (b), at the conclusion of any scientific or laboratory research or any other kind of experimentation or study upon fetal remains, the fetal remains shall be promptly interred or disposed of by incineration.

Storage of the fetal remains prior to the completion of the research, experimentation, or study shall be in a place not open to the public, and the method of storage shall prevent any deterioration of the fetal remains that would create a health hazard.

(b) Subdivision (a) shall not apply to public or private educational institutions.

Any violation of this section is a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=2.3.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Maternal Health [123375 - 123641]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2.3. Abortion Practical Support Fund [123451 - 123453]__

(Article 2.3 added by Stats. 2022, Ch. 47, Sec. 16.)

123451.

(a)As used in this article, the following definitions apply:

(1)Abortion has the same meaning as defined in Section 123464.

(2)Department means the Department of Health Care Access and Information.

(3)Fund means the Abortion Practical Support Fund.

(4)Grantee means a qualifying nonprofit organization in California that assists pregnant people with direct practical support for the purposes of obtaining an abortion.

(5)Practical support means financial or in-kind assistance to help a person access and obtain an abortion in California.

(b)The Abortion Practical Support Fund is hereby established in the State Treasury for the purpose of providing grants described in Section 123452. Notwithstanding Section 13340 of the Government Code, moneys in the Abortion Practical Support Fund are continuously appropriated to the department for providing grants described in Section 123452 and administrative costs as described in subdivision (d).

(c)Notwithstanding any other law, the department may receive and deposit moneys in the fund from the following entities:

(1)Nonstate entities, such as private sector or philanthropic entities.

(2)Local and federal government agencies.

(d)The department shall administer the fund. No more than 5 percent of the moneys in the fund shall be available for the departmentsadministrative activities related to planning and production of grants.

(e)Beginning no later than July 1, 2022, the fund shall be available to receive moneys from nonstate entities.

(Amended by Stats. 2022, Ch. 738, Sec. 2. (AB 204) Effective September 29, 2022.)

123452.

(a)The department, or its contracted vendor, shall use moneys in the fund to administer grants to nonprofit organizations in California that are exempt from taxation under Section 501(c) of the Internal Revenue Code and that either specialize in assisting pregnant people who are low income, or who face other financial barriers. A grant recipient under this subdivision shall use the funds awarded to fund a new program or support an existing program that increases patient access to abortion. By way of nonlimiting examples, the program and the awarded funds may be used for any of the following:

(1)Practical support services related to seeking abortion.

(2)Abortion navigators, patient navigators, and community health workers services based in California.

(3)Case management support for patients seeking abortion.

(4)Costs associated with training volunteers and staff in the provision of practical support services to abortion patients in California.

(5)Costs associated with enabling grantees that meet the requirements of this section to assist pregnant people with practical support services, including staffing and administrative costs.

(6)Costs associated with coordinating practical support services, abortion providers, and other support services in California.

(b)(1)Unless otherwise specified by the department, grants under this article are for a period of one year and may be renewed.

(2)An application for a grant shall be made on a form to be developed by the department or its contracted vendor.

(3)Decisions regarding the grants and the funding level of the grant shall be made after consideration of all relevant factors, such as the granteesanticipated level of need and the availability of funds.

(c)To administer this section, the department, or its contracted vendor, shall use moneys in the fund to pay direct and indirect costs of the department, or its contracted vendor, including hiring or administrative costs.

(d)The department, or its contracted vendor, shall use moneys in the fund to maintain a system of financial reporting on all aspects of the fund. The financial reporting shall include, but is not limited to, information from the grantees on their expenditures and activities using grant funds associated with this article as the department deems necessary to ensure the use of the funds are consistent with the purposes of this article and the terms of any grant award.

(e)For purposes of this section, the department, or its contracted vendor, shall not require the submission of any identifying personal information about individuals receiving practical support services as part of an application for a grant or reporting of expenditures and activities using grant funds under this article. Information required by the department, or its contracted vendor, may only include information in summary, statistical, or other forms that do not identify particular individuals.

(f)An application for a grant under this article and financial reporting by grantees are exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(g)Contracts entered into or amended pursuant to this article are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and the State Administrative Manual, and are exempt from the review or approval of any division of the Department of General Services.

(Amended by Stats. 2022, Ch. 738, Sec. 3. (AB 204) Effective September 29, 2022.)

123452.5.

The department shall conduct an evaluation of the grant program implemented pursuant to Section 123452 and shall report its findings to the Legislature no later than January 1, 2025, and on an annual basis no later than each January 1 thereafter. The first annual report shall cover the period before July 1, 2024. Each subsequent annual report shall cover the previous fiscal year. The department may use moneys in the fund, upon appropriation by the Legislature, for the evaluation of the program. The report shall be submitted in compliance with Section 9795 of the Government Code.

(Added by Stats. 2022, Ch. 566, Sec. 3. (SB 1142) Effective January 1, 2023.)

123453.

This article shall be construed to effectuate its legislative intent to support access to abortion in California and build upon its commitment to be a reproductive freedom state. The United States Supreme Court overturned the protections to access abortion under Roe v. Wade. For decades, abortion funds, abortion providers, and other community-based organizations have provided direct and indirect support to callers and patients with logistical and practical support needs. The purpose of this article ensures that people seeking abortion care have access to the logistical and practical support resources needed, to diminish barriers to care. The purpose of this article and all of its provisions with respect to the powers granted shall be interpreted to effectuate that intent and purposes to support organizations in California who provide support and resources to people seeking abortion.

(Added by Stats. 2022, Ch. 738, Sec. 4. (AB 204) Effective September 29, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=2.5.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Maternal Health [123375 - 123641]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2.5. Reproductive Privacy Act [123460 - 123469]__

(Article 2.5 added by Stats. 2002, Ch. 385, Sec. 8.)

123460.

This article shall be known and may be cited as the Reproductive Privacy Act.

(Added by Stats. 2002, Ch. 385, Sec. 8. Effective January 1, 2003.)

123462.

The Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care. Accordingly, it is the public policy of the State of California that:

(a) Every individual has the fundamental right to choose or refuse birth control.

(b) Every pregnant individual or individual who may become pregnant has the fundamental right to choose to bear a child or to choose to have and to obtain an abortion, except as specifically limited by this article.

(c) The state shall not deny or interfere with the fundamental right of a pregnant individual or an individual who may become pregnant to choose to bear a child or to choose to have and to obtain an abortion, except as specifically permitted by this article.

(Amended by Stats. 2022, Ch. 629, Sec. 5. (AB 2223) Effective January 1, 2023.)

123464.

The following definitions shall apply for purposes of this chapter:

(a) Abortion means any medical treatment intended to induce the termination of a pregnancy except for the purpose of producing a live birth.

(b) Pregnancy means the human reproductive process, beginning with the implantation of an embryo.

(c) State means the State of California, and every county, city, town and municipal corporation, and quasi-municipal corporation in the state.

(d) Viability means the point in a pregnancy when, in the good faith medical judgment of a physician, on the particular facts of the case before that physician, there is a reasonable likelihood of the fetus™ sustained survival outside the uterus without the application of extraordinary medical measures.

(Amended by Stats. 2003, Ch. 62, Sec. 198. Effective January 1, 2004.)

123466.

(a)The state shall not deny or interfere with a womansor pregnant personsright to choose or obtain an

abortion prior to viability of the fetus, or when the abortion is necessary to protect the life or health of the woman or pregnant person.

(b)A person shall not be compelled in a state, county, city, or other local criminal, administrative, legislative, or other proceeding to identify or provide information that would identify or that is related to an individual who has sought or obtained an abortion if the information is being requested based on either another stateslaws that interfere with a personsrights under subdivision (a) or a foreign penal civil action, as defined in Section 2029.200 of the Code of Civil Procedure.

(Amended by Stats. 2022, Ch. 629, Sec. 6.5. (AB 2223) Effective January 1, 2023.)

123467.

(a)Notwithstanding any other law, a person shall not be subject to civil or criminal liability or penalty, or otherwise deprived of their rights under this article, based on their actions or omissions with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, including miscarriage, stillbirth, or abortion, or perinatal death due to causes that occurred in utero.

(b)A person who aids or assists a pregnant person in exercising their rights under this article shall not be subject to civil or criminal liability or penalty, or otherwise be deprived of their rights, based solely on their actions to aid or assist a pregnant person in exercising their rights under this article with the pregnant personsvoluntary consent.

(Added by Stats. 2022, Ch. 629, Sec. 7. (AB 2223) Effective January 1, 2023.)

123467.5.

(a)A law of another state that authorizes a person to bring a civil action against a person or entity that does any of the following is contrary to the public policy of this state:

(1)Receives or seeks an abortion.

(2)Performs, provides, or induces an abortion.

(3)Knowingly engages in conduct that aids or abets the performance, provision, or inducement of an abortion.

(4)Attempts or intends to engage in the conduct described in paragraphs (1) to (3), inclusive.

(b)The state shall not do either of the following:

(1)Apply a law described in subdivision (a) to a case or controversy heard in state court.

(2)Enforce or satisfy a civil judgment received through an adjudication under a law described in subdivision (a).

(c)The provisions of this section are severable. If any provision of this section or its application is held invalid,

that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(Amended by Stats. 2023, Ch. 261, Sec. 2. (SB 487) Effective January 1, 2024.)

123468.

The performance of an abortion is unauthorized if performed by someone other than the pregnant person and if either of the following is true:

(a)The person performing the abortion is not a health care provider authorized to perform an abortion pursuant to Section 2253 of the Business and Professions Code.

(b)The abortion is performed on a viable fetus, and both of the following are established:

(1)In the good faith medical judgment of the physician, the fetus was viable.

(2)In the good faith medical judgment of the physician, continuation of the pregnancy posed no risk to life or health of the pregnant person.

(Amended by Stats. 2022, Ch. 629, Sec. 8. (AB 2223) Effective January 1, 2023.)

123468.5.

(a)(1)California law governs in any action in this state, whether civil, administrative, or criminal, against any person who provides, receives, aids or abets in providing or receiving, or attempts to provide or receive, by any means, including telehealth, the health care services described in paragraph (2) if the provider was located in this state or any other state where the care was legal at the time of the challenged conduct.

(2)Reproductive health care services and gender-affirming health care services, including gender-affirming mental health care services, are subject to paragraph (1).

(b)Reproductive health has the same meaning as set forth in Section 1798.300 of the Health and Safety Code.

(c)Gender-affirming health care services and gender-affirming mental health care services have the same meaning as defined in paragraph (3) of subdivision (b) of Section 16010.2 of the Welfare and Institutions Code.

(Added by Stats. 2023, Ch. 260, Sec. 13. (SB 345) Effective January 1, 2024.)

123469.

(a)A party whose reproductive rights are protected by this article and whose reproductive rights are interfered with by conduct or by a statute, ordinance, or other state or local rule, regulation, or enactment in

violation of this article may bring a civil action against an offending state actor in a state superior court.

(b)Whoever denies a right protected by this article, or aids, incites, or conspires in that denial, is liable for each and every offense for the actual damages suffered by any person denied that right and, in addition, all of the following:

(1)An amount to be determined by a jury, or a court sitting without a jury, for exemplary damages.

(2)A civil penalty of twenty-five thousand dollars ($25,000), to be awarded to the person denied the right protected by this article.

(3)Preventive relief, including permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to ensure the full enjoyment of the rights described in this article.

(4)Upon a motion, a court shall award reasonable attorneysfees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section. In awarding reasonable attorneysfees, the court shall consider the degree to which the relief obtained relates to the relief sought.

(c)An action under subdivision (b) shall be commenced within three years of the alleged practice violation of this article.

(d)(1)A party aggrieved by conduct or regulation in violation of this article may also bring a civil action pursuant to Section 52.1 of the Civil Code. Notwithstanding Section 821.6 of the Government Code, a civil action pursuant to Section 52.1 of the Civil Code may be based upon instituting or prosecuting any judicial or administrative proceeding in violation of this article.

(2)For purpose of establishing liability pursuant to this subdivision, the criminal investigation, arrest, or prosecution, or threat of investigation, arrest, or prosecution, of a person with respect to their pregnancy or actual, potential, or alleged pregnancy outcome, constitutes threat, intimidation, or coercion pursuant to Section 52.1 of the Civil Code.

(e)Sections 825, 825.2, 825.4, and 825.6 of the Government Code, providing for indemnification of an employee or former employee of a public entity, apply to any cause of action brought under this section against an employee or former employee of a public entity.

(Added by Stats. 2022, Ch. 629, Sec. 9. (AB 2223) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=2.7.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Maternal Health [123375 - 123641]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2.7. Reproductive FACT Act [123470 - 123473]__

(Article 2.7 added by Stats. 2015, Ch. 700, Sec. 3.)

123470.

This article shall be known and may be cited as the Reproductive FACT (Freedom, Accountability, Comprehensive Care, and Transparency) Act or Reproductive FACT Act.

(Added by Stats. 2015, Ch. 700, Sec. 3. (AB 775) Effective January 1, 2016.)

123471.

(a)For purposes of this article, and except as provided in subdivision (c), licensed covered facility means a facility licensed under Section 1204 or an intermittent clinic operating under a primary care clinic pursuant to subdivision (h) of Section 1206, whose primary purpose is providing family planning or pregnancy-related services, and that satisfies two or more of the following:

(1)The facility offers obstetric ultrasounds, obstetric sonograms, or prenatal care to pregnant women.

(2)The facility provides, or offers counseling about, contraception or contraceptive methods.

(3)The facility offers pregnancy testing or pregnancy diagnosis.

(4)The facility advertises or solicits patrons with offers to provide prenatal sonography, pregnancy tests, or pregnancy options counseling.

(5)The facility offers abortion services.

(6)The facility has staff or volunteers who collect health information from clients.

(b)For purposes of this article, subject to subdivision (c), unlicensed covered facility is a facility that is not licensed by the State of California and does not have a licensed medical provider on staff or under contract who provides or directly supervises the provision of all of the services, whose primary purpose is providing pregnancy-related services, and that satisfies two or more of the following:

(1)The facility offers obstetric ultrasounds, obstetric sonograms, or prenatal care to pregnant women.

(2)The facility offers pregnancy testing or pregnancy diagnosis.

(3)The facility advertises or solicits patrons with offers to provide prenatal sonography, pregnancy tests, or pregnancy options counseling.

(4)The facility has staff or volunteers who collect health information from clients.

(c)This article shall not apply to either of the following:

(1)A clinic directly conducted, maintained, or operated by the United States or any of its departments, officers, or agencies.

(2)A licensed primary care clinic that is enrolled as a Medi-Cal provider and a provider in the Family Planning, Access, Care, and Treatment Program.

(Added by Stats. 2015, Ch. 700, Sec. 3. (AB 775) Effective January 1, 2016.)

123472.

(a)A licensed covered facility shall disseminate to clients on site the following notice in English and in the primary threshold languages for Medi-Cal beneficiaries as determined by the State Department of Health Care Services for the county in which the facility is located.

(1)The notice shall state:

California has public programs that provide immediate free or low-cost access to comprehensive family planning services (including all FDA-approved methods of contraception), prenatal care, and abortion for eligible women. To determine whether you qualify, contact the county social services office at [insert the telephone number].

(2)The information shall be disclosed in one of the following ways:

(A)A public notice posted in a conspicuous place where individuals wait that may be easily read by those seeking services from the facility. The notice shall be at least 8.5 inches by 11 inches and written in no less than 22-point type.

(B)A printed notice distributed to all clients in no less than 14-point type.

(C)A digital notice distributed to all clients that can be read at the time of check-in or arrival, in the same point type as other digital disclosures. A printed notice as described in subparagraph (B) shall be available for all clients who cannot or do not wish to receive the information in a digital format.

(3)The notice may be combined with other mandated disclosures.

(b)An unlicensed covered facility shall disseminate to clients on site and in any print and digital advertising materials including Internet Web sites, the following notice in English and in the primary threshold languages for Medi-Cal beneficiaries as determined by the State Department of Health Care Services for the county in which the facility is located.

(1)The notice shall state: This facility is not licensed as a medical facility by the State of California and has no licensed medical provider who provides or directly supervises the provision of services.

(2)The onsite notice shall be a sign at least 8.5 inches by 11 inches and written in no less than 48-point type, and shall be posted conspicuously in the entrance of the facility and at least one additional area where clients wait to receive services.

(3)The notice in the advertising material shall be clear and conspicuous. Clear and conspicuous means in larger point type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language.

(Added by Stats. 2015, Ch. 700, Sec. 3. (AB 775) Effective January 1, 2016.)

123473.

(a)Covered facilities that fail to comply with the requirements of this article are liable for a civil penalty of five hundred dollars ($500) for a first offense and one thousand dollars ($1,000) for each subsequent offense. The Attorney General, city attorney, or county counsel may bring an action to impose a civil penalty pursuant to this section after doing both of the following:

(1)Providing the covered facility with reasonable notice of noncompliance, which informs the facility that it is subject to a civil penalty if it does not correct the violation within 30 days from the date the notice is sent to the facility.

(2)Verifying that the violation was not corrected within the 30-day period described in paragraph (1).

(b)The civil penalty shall be deposited into the General Fund if the action is brought by the Attorney General. If the action is brought by a city attorney, the civil penalty shall be paid to the treasurer of the city in which the judgment is entered. If the action is brought by a county counsel, the civil penalty shall be paid to the treasurer of the county in which the judgment is entered.

(Added by Stats. 2015, Ch. 700, Sec. 3. (AB 775) Effective January 1, 2016.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=3.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=3.)

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Maternal Health [123375 - 123641]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 3. Community-Based Perinatal System [123475 - 123525]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 8.)

123475.

The Legislature finds that a community-based system of comprehensive perinatal care, including prenatal care, delivery service, postpartum care, and neonatal and infant care are necessary services that have been demonstrated effective in preventing or reducing maternal, perinatal, and infant mortality and morbidity.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123480.

It is the intent of the Legislature in enacting this article to maintain, to the extent resources are available, a permanent statewide community-based comprehensive perinatal system to provide care and services to low-income pregnant women and their infants who are considered underserved in terms of comprehensive perinatal care.

It is also the intent of the Legislature that the statewide, community-based, comprehensive perinatal health care program be developed by the department to conform with the guidelines set forth in this article, and be integrated and coordinated with the perinatal access program in Article 2.5 (commencing with Section 288).

It is further the intent of the Legislature that these guidelines allow each applicant the flexibility to design a system specific to the nature of the community and the needs of the clients.

It is further the intent of the Legislature that the director, in allocating funds available for programs that provide comprehensive perinatal care, follow the guidelines and principles developed in this article.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123485.

The following definitions shall govern the construction of this article:

(a)Community-based comprehensive perinatal care means a range of prenatal, delivery, postpartum, infant, and pediatric care services delivered in an urban community or neighborhood, rural area, city or county clinic, city or county health department, freestanding birth center, or other health care provider facility by health care practitioners trained in methods of preventing complications and problems during and after pregnancy, and in methods of educating pregnant women of these preventive measures, and who provide a continuous range of services. The health care practitioners shall, through a system of established linkages to other levels of care in the community, consult with, and, when appropriate, refer to, specialists.

(b)Low income means all persons of childbearing age eligible for Medi-Cal benefits under Chapter 7 (commencing with Section 14000) and all persons eligible for public social services for which federal reimbursement is available, including potential recipients. Potential recipients shall include the pregnant woman and her infant in a family where current social, economic and health conditions of the family indicate that the family would likely become a recipient of financial assistance within the next five years.

(c)Prenatal care means care received from conception until the completion of labor and delivery.

(d)Perinatal care means care received from the time of conception through the first year after birth.

(e)Qualified organization means any nonprofit, not-for-profit, or for-profit corporation with demonstrated expertise in implementing the Nurse-Family Partnership program or similar programs in different local settings.

(f)Qualified trainer means anyone who has been certified by the Nurse-Family Partnership to provide training.

(g)Department means the State Department of Public Health, unless otherwise designated.

(Amended by Stats. 2007, Ch. 483, Sec. 29. Effective January 1, 2008.)

123490.

(a) The department shall develop and maintain a statewide comprehensive community-based perinatal services program and enter into contracts, grants, or agreements with health care providers to deliver these services in a coordinated effort to the extent permitted under federal law and regulation. These contracts, grants, or agreements shall be made in medically underserved areas or areas with demonstrated need. Nothing in this section shall be construed to prevent reallocation of resources or use of new moneys for the development of new community-based comprehensive perinatal systems in underserved areas or areas with demonstrated need, and supplementation of systems already in existence.

(b) As a condition of receiving funds from the Maternal and Child Health program, contractors shall bill the Medi-Cal program for services provided to Medi-Cal recipients.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123491.

(a) There is hereby established a voluntary nurse home visiting grant program for expectant first-time mothers, their children, and their families, to be administered by the department pursuant to Section 123492. The program may be cited as the Nurse-Family Partnership program.

(b)The goals and objectives of the program shall be the same as, but shall not be limited to, those in the community-based comprehensive perinatal health care system as set forth in Section 123505.

(c)The department shall adopt regulations for the implementation of this section in accordance with Section 123516.

(Added by Stats. 2006, Ch. 878, Sec. 3. Effective January 1, 2007.)

123492.

The department shall develop a grant application and award grants on a competitive basis to counties for the startup, continuation, and expansion of the program established pursuant to Section 123491. To be eligible to receive a grant for purposes of that section, a county shall agree to all of the following:

(a)Serve through the program only pregnant, low-income women who have had no previous live births. Notwithstanding subdivision (b) of Section 123485, women who are juvenile offenders or who are clients of the juvenile system shall be deemed eligible for services under the program.

(b)Enroll women in the program while they are still pregnant, before the 28th week of gestation, and preferably before the 16th week of gestation, and continue those women in the program through the first two years of the childslife.

(c)Use as home visitors only registered nurses who have been licensed in the state.

(d)Have nurse home visitors undergo training according to the program and follow the home visit guidelines developed by the Nurse-Family Partnership program.

(e)Have nurse home visitors specially trained in prenatal care and early child development.

(f)Have nurse home visitors follow a visit schedule keyed to the developmental stages of pregnancy and early childhood.

(g)Ensure that, to the extent possible, services shall be rendered in a culturally and linguistically competent manner.

(h)Limit a nurse home visitorscaseload to no more than 25 active families at any given time.

(i)Provide for every eight nurse home visitors a full-time nurse supervisor who holds at least a bachelorsdegree in nursing and has substantial experience in community health nursing.

(j)Have nurse home visitors and nurse supervisors trained in effective home visitation techniques by qualified trainers.

(k)Have nurse home visitors and nurse supervisors trained in the method of assessing early infant development and parent-child interaction in a manner consistent with the program.

(l)Provide data on operations, results, and expenditures in the formats and with the frequencies specified by the department.

(m)Collaborate with other home visiting and family support programs in the community to avoid duplication of services and complement and integrate with existing services to the extent practicable.

(n)Demonstrate that adoption of the Nurse-Family Partnership program is supported by a local governmental or government-affiliated community planning board, decisionmaking board, or advisory body responsible for assuring the availability of effective, coordinated services for families and children in the community.

(o)Provide cash or in-kind matching funds in the amount of 100 percent of the grant award.

(p)Prohibit the use of moneys received for the program as a match for grants currently administered by the department.

(Added by Stats. 2006, Ch. 878, Sec. 4. Effective January 1, 2007.)

123493.

(a)The department may accept voluntary contributions, in cash or in-kind, to pay for the costs in the implementation of the program under Section 123492. These private donations shall be deposited into the California Families and Children Account, which is hereby created in the State Treasury, in which, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated to the department for purposes of implementing Section 123492. No state funds shall be used in implementing Section 123492.

(b)The department shall only distribute grants established under Section 123492 if the Director of Finance determines, in writing, that there are sufficient funds from private donations available in the account for expenditure for the purposes of the program.

(c)The departmentsadministration costs shall not exceed 5 percent of the moneys in the account created under subdivision (a). Any costs to the department incurred prior to the account receiving funds shall be reimbursed to the department from funds in the account.

(d)The department shall not apply for grants or solicit private funds.

(e)If, as of January 1, 2009, the Director of Finance determines pursuant to subdivision (a) that there are insufficient funds on deposit in the account to implement the voluntary nurse home visiting grant program, the account shall cease to exist.

(Added by Stats. 2006, Ch. 878, Sec. 5. Effective January 1, 2007.)

123495.

(a) The department shall seek any federal waiver or waivers that may be necessary to maximize funds from the federal government including, but not limited to, funds provided under Title 19 of the Social Security Act to provide funds for a full range of preventive perinatal services.

(b) The department shall, in preparing its budget for submission each year, coordinate all funding sources intended primarily for perinatal care made available through the Budget Act to maximize the delivery of perinatal care services and to avoid duplication of programs and funding.

(c) The department shall develop and implement a uniform sliding fee schedule for women provided perinatal care through the perinatal services program. The fee schedule shall be based on family size and income, but in no case shall the fee exceed the actual cost of the services provided. The department shall not implement any schedule developed pursuant to this section sooner than 30 days after the department has provided the chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee of each house with the developed schedule.

All free clinics, as defined in paragraph (2) of subdivision (a) of Section 1204 shall be exempt from this subdivision.

All organizations funded under the Public Health Service Act, Sections 254b and 254c of Title 42 of the United States Code, shall be permitted to utilize those sliding fee scales mandated by federal law or regulation in lieu of the sliding fee scale adopted by the department.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123500.

The department shall monitor the delivery of services under contracts, grants, and agreements provided for in this article through a uniform health data collection system that utilizes epidemiologic methodology. The department may collect data from providers receiving funds through this program as necessary to evaluate program effectiveness.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123505.

The goals of the community-based comprehensive perinatal health care system shall be:

(a) To decrease and maintain the decreased level of perinatal, maternal, and infant mortality and morbidity in the State of California.

(b) To support methods of providing comprehensive prenatal care that prevent prematurity and the incidence of low birth weight infants.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123510.

The program objectives of the community-based comprehensive perinatal health care system shall be the following:

(a) To ensure continuing availability and accessibility to early prenatal care within the areas presently served and to develop a community-based comprehensive perinatal system in other areas of the state that are medically underserved or have demonstrated need.

(b) To assure the appropriate level of maternal, newborn and pediatric care services necessary to provide the healthiest outcome for mother and infant.

(c) To ensure postpartum, family planning, and followup care through the first year of life, and referral to an ongoing primary health care provider.

(d) To include support and ancillary services such as nutrition, health education, public health nursing, and social work that have been demonstrated to decrease maternal, perinatal, and infant mortality and morbidity, as components of comprehensive perinatal care.

(e) To ensure that care shall be available regardless of the patientsfinancial situation.

(f) To ensure, to the extent possible, that the same quality of care shall be available to all pregnant women.

(g) To promote program flexibility by recognizing the needs within an area and providing for unique programs to meet those needs.

(h) To emphasize preventive health care as a major component of any perinatal program, and to support outreach programs directed at low-income pregnant women that will encourage early entry into, and appropriate utilization of, the perinatal health care system.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123515.

In processing and awarding contracts, grants, or agreements pursuant to this article, the department shall evaluate the ability of applicants to meet, to the maximum extent possible, the following criteria:

(a) The applicantsprior experience in providing community-based, comprehensive perinatal care and services to low-income women and infants.

(b) The applicantsability to provide comprehensive perinatal care, either directly or through subcontract. Those services comprising comprehensive perinatal care include, but are not limited to, the following:

(1) Initial and ongoing physical assessment.

(2) Psychosocial assessments and counseling, and referral when appropriate.

(3) Nutrition assessments, counseling and referral to counseling on food supplement programs, vitamins, and breastfeeding.

(4) Health educational assessments, and intervention and referral, including childbirth preparation and parenting.

(5) Outreach and community education.

(6) Laboratory, radiology, and other specialized services as indicated.

(7) Delivery, postpartum followup, and pediatric care through the first year of life.

(c) The quality of care that is being, or has been provided to low-income women and infants by health care providers.

(d) Whether the area that is, or that will be, serviced by the applicant is medically underserved or has otherwise demonstrated the need for comprehensive, community-based perinatal services.

(e) The applicantsability to use an appropriate multidisciplinary staff working as a team, in consultation with obstetricians, pediatricians, and family practitioners when appropriate, to provide a full range of comprehensive perinatal care services. Staffing patterns shall reflect, to the maximum extent feasible, at all levels, the cultural, linguistic, ethnic, and other social characteristics of the community served. This staff shall include at least one of those persons described in paragraphs (1) to (3), inclusive, of this subdivision, as follows, and may include, but not be limited to, a combination of those persons described in paragraphs (4) to (10), inclusive, of this subdivision, as follows:

(1) An obstetrician.

(2) A pediatrician.

(3) (A)A family physician.

(B)For purposes of this paragraph, family physician means a primary care physician and surgeon who renders continued comprehensive and preventative health care services to individuals and families, and who has received specialized training in an approved family medicine residency for three years after graduation from an accredited medical school.

(4) Certified nurse-midwives, public health nurses, nurse practitioners, or physician assistants.

(5) Nutritionists.

(6) Social workers.

(7) Health and childbirth educators.

(8) A family planning counselor.

(9) Community outreach peer workers.

(10) A translator.

(Amended by Stats. 2019, Ch. 632, Sec. 9. (AB 1622) Effective January 1, 2020.)

123516.

(a)The department, in consultation with the program administrators, may contract with one or more qualified organizations to assist the department in ensuring that grantees implement the program as established under Section 123491 and to conduct an annual evaluation of the implementation of the grant program on a statewide basis. The first evaluation shall be due 12 months after the award of grants pursuant to Section 123492.

(b)(1) In conducting its monitoring and evaluation activities, the department shall be guided by program performance standards developed by the department in consultation with the Nurse-Family Partnership program.

(2)The annual evaluation shall contain, but not be limited to, the extent to which each grantee participating in the program has done each of the following:

(A)Recruited a population of low-income, first-time mothers.

(B)Enrolled families early in pregnancy and followed them through the second birthday of the child.

(C)Conducted visits that are of comparable frequency, duration, and content as those delivered in the randomized clinical trials of the program.

(D)Assessed the health and well-being of the mothers and children enrolled in the program according to common indicators of maternal, child, and family health.

(Amended by Stats. 2012, Ch. 728, Sec. 109. (SB 71) Effective January 1, 2013.)

123520.

(a) In developing a comprehensive system, health care providers funded under this article may perform the following activities to ensure that a full range of program components of a comprehensive, community-

based health care system are available, accessible, and utilized by pregnant women and infants:

(1) Coordinate specific linkages with one another.

(2) Subcontract the services specified in this article.

(3) Provide additional services not specifically listed in this article. These additional services shall include, but shall not be limited to the Women, Infants, and Children (WIC) food supplement program, services offered by local health departments, and public and private social welfare agencies. Nothing contained in this article shall be construed to prohibit a subcontractor from being reimbursed pursuant to a fee for service, capitation, or other payment mechanism.

(b) All services and educational materials shall be provided in the primary languages of the clients served, provided that there are at least 5 percent or 100 persons, whichever is less, of the total beneficiary population served annually by each facility, who share language other than English and who are limited-English speaking. Limited-English speaking means a person who uses a language other than English in order to communicate effectively.

(c) Health care providers applying for a contract, grant, or agreement under this article shall indicate the manner in which their service elements will be coordinated with existing community resources and services and with hospitals of all levels in the area to ensure each client receives the appropriate level or care at the appropriate time. The department may require written agreements between contractors and hospital or hospitals in the area regarding delivery services, and protocols for referral and transfer when special treatment services are required. The department may, when requested by the grantee or contractor, assist in achieving coordination and written agreements pertaining to the delivery of these services.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123525.

The provisions contained in this article shall be subject to the normal Budget Act process and shall be operative to the extent funds are appropriated for this purpose.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=4.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Maternal Health [123375 - 123641]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 4. Perinatal Health Care [123550 - 123610]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 8.)

123550.

The Legislature finds and declares that prenatal care, delivery service, postpartum care and neonatal and infant care are essential services necessary to assure maternal and infant health. These services are not currently distributed so as to meet the minimum maternal and infant health needs of many Californians. A regionalized perinatal health system can provide these essential services; however, many underserved areas lack the staff or expertise to develop these systems.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123555.

The department shall develop and implement a uniform sliding fee schedule, based on family size and income, for women provided perinatal care through the Perinatal Care Services Program. The department shall not implement any schedule developed pursuant to this section sooner than 30 days after the department has provided the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committee of each house with the developed schedule.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123560.

Unless the context otherwise requires, the definitions in this section govern the construction of this article:

(a) Perinatal health system means all of the prenatal care, delivery care, postpartum care, and neonatal and infant care services available to a region identified by the department pursuant to this article.

(b) Regionalized perinatal health system means coordinated measures intended to ensure that a perinatal health system provides at least minimum services necessary to meet the maternal and infant health needs of the region and intended to ensure that it does so as efficiently and cost-effectively as possible.

(c) High-risk pregnant woman means a woman considered highly likely for any reason to suffer personal mortality or morbidity from her pregnancy, or to deliver a defective, disabled, high-risk, or stillborn infant.

(d) High-risk infant means a newborn considered highly likely for any reason to suffer personal mortality or morbidity or to suffer long-lasting defect or disability.

(e) High-risk geographic area means a region in this state in which the proportion of high-risk pregnant women or high-risk infants exceeds the average for the population of California as a whole.

(f) High-risk population means a demographic group in which the proportion of high-risk women or high-risk infants exceeds the average for the population of California as a whole.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123565.

The department shall maintain a program that addresses the special needs of high-risk pregnant women and infants. The program shall include the following:

(a) Identification of high-risk geographical areas and populations.

(b) Identification and evaluation of deficiencies in perinatal health systems.

(c) Assistance in the development of regionalized perinatal health systems, particularly in underserved areas, to meet unmet needs.

(d) Assistance in implementing regionalized perinatal health systems.

(e) Collection and analyses of data on perinatal health systems and needs.

(f) Monitoring of results.

(g) Assist in implementing and maintaining a high-risk infant follow-up program.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123570.

(a) In assisting in the development of the regionalized perinatal health systems, the department shall consult

with the office, the State Department of Developmental Services, county health officials, health systems agencies, health professionals and health facilities expected to participate in the systems, and community groups.

(b) In carrying out this article, the department shall coordinate the regionalized perinatal health systems with all other maternal and infant health programs conducted by or for the department, the office, the State Department of Developmental Services, and all other state agencies, to ensure full regional coordination.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123575.

It is the intent of the Legislature that the program created by Sections 123550 to 123570, inclusive, be funded through the normal budgetary process beginning in the 1980"81 fiscal year.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123576.

(a)Subject to an appropriation of funds by the Legislature in the annual Budget Act or another statute for this purpose, the State Department of Public Health, in consultation with subject matter experts, shall do all of the following:

(1)Review available literature on adverse effects of extreme heat on perinatal health.

(2)Develop guidance for safe conditions and healthy considerations for pregnant individuals and infant children who may be exposed to extreme heat, and for pregnant individuals, during both the gestational and postpartum periods. The department shall post this guidance on its internet website and make it accessible to medical and community-based health care organizations.

(3)Provide guidance and supporting information to the Legislature by submitting a report that includes legislative or policy recommendations on best practices for connecting perinatal patients with the appropriate health and well-being information relating to extreme heat.

(b)(1)A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2)Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2027.

(Added by Stats. 2022, Ch. 265, Sec. 2. (AB 2420) Effective January 1, 2023. Repealed as of January 1, 2027, by its own provisions.)

123600.

By July 1, 1991, the Health and Welfare Agency shall develop and disseminate a model needs assessment

protocol for pregnant and postpartum substance abusing women in conjunction with the appropriate professional organizations in the areas of hospital administration, substance abuse prevention and treatment, social services, public health, and appropriate state agencies, including the State Department of Social Services, the department, the State Department of Developmental Services, and the State Department of Alcohol and Drug Programs. This model may be utilized by hospitals and counties pursuant to Section 123605.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123605.

(a) Each county shall establish protocols between county health departments, county welfare departments, and all public and private hospitals in the county, regarding the application and use of an assessment of the needs of, and a referral for, a substance exposed infant to a county welfare department pursuant to Section 11165.13 of the Penal Code.

(b) The assessment of the needs shall be performed by a health practitioner, as defined in Section 11165.8 of the Penal Code, or a medical social worker. The needs assessment shall be performed before the infant is released from the hospital.

(c) The purpose of the assessment of the needs is to do all of the following:

(1) Identify needed services for the mother, child, or family, including, where applicable, services to assist the mother caring for her child and services to assist maintaining children in their homes.

(2) Determine the level of risk to the newborn upon release to the home and the corresponding level of services and intervention, if any, necessary to protect the newbornshealth and safety, including a referral to the county welfare department for child welfare services.

(3) Gather data for information and planning purposes.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123610.

It is the intent of the Legislature that funding for Sections 123600 and 123605 be provided in the annual Budget Act.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=4.2.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Maternal Health [123375 - 123641]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 4.2. Maternal Mental Health [123615 - 123617]__

(Article 4.2 added by Stats. 2018, Ch. 773, Sec. 1.)

123615.

This article shall be known, and may be cited, as the Maternal Mental Health Conditions Education, Early Diagnosis, and Treatment Act.

(Added by Stats. 2018, Ch. 773, Sec. 1. (AB 3032) Effective January 1, 2019.)

123615.5.

The Legislature hereby finds and declares all of the following:

(a)Maternal depression is a common complication of pregnancy. Maternal mental health disorders encompass a range of mental health conditions, such as depression, anxiety, and postpartum psychosis.

(b)Maternal mental health conditions affect one in five women during or after pregnancy, but all women are at risk of suffering from maternal mental health conditions.

(c)Untreated maternal mental health conditions significantly and negatively impact the short- and long-term

health and well-being of affected women and their children.

(d)Untreated maternal mental health conditions cause adverse birth outcomes, impaired maternal-infant bonding, poor infant growth, childhood emotional and behavioral problems, and significant medical and economic costs, estimated to be $22,500 per mother.

(e)Lack of understanding and social stigma of mental health conditions prevent women and families from understanding the signs, symptoms, and risks involved with maternal mental health conditions and disproportionately affect women who lack access to social support networks.

(f)It is the intent of the Legislature to raise awareness of the risk factors, signs, symptoms, and treatment options for maternal mental health conditions among pregnant women and their families, the general public, primary health care providers, and health care providers who care for pregnant women, postpartum women, and newborn infants.

(Amended by Stats. 2019, Ch. 497, Sec. 176. (AB 991) Effective January 1, 2020.)

123616.

For the purposes of this article, the following terms have the following meanings:

(a)Maternal mental health condition means a mental health condition that occurs during pregnancy or during the postpartum period and includes, but is not limited to, postpartum depression.

(b)Perinatal unit is a maternity and newborn service of a hospital for the provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods with appropriate staff, space, equipment, and supplies.

(Added by Stats. 2018, Ch. 773, Sec. 1. (AB 3032) Effective January 1, 2019.)

123616.5.

A general acute care hospital or special hospital, as defined in subdivisions (a) and (f) of Section 1250, that has a perinatal unit, in collaboration with medical staff, shall, by January 1, 2020, develop and implement a program to provide education and information to appropriate health care professionals and patients about maternal mental health conditions.

(Added by Stats. 2018, Ch. 773, Sec. 1. (AB 3032) Effective January 1, 2019.)

123617.

The program developed pursuant to this article shall include all of the following:

(a)Education and information for postpartum women and families about maternal mental health conditions, posthospital treatment options, and community resources.

(b)Education and information for hospital employees regularly assigned to work in the perinatal unit, including, as appropriate, registered nurses and social workers, about maternal mental health conditions.

(c)Any other service the hospital determines should be included in the program to provide optimal patient care.

(Added by Stats. 2018, Ch. 773, Sec. 1. (AB 3032) Effective January 1, 2019.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=4.5.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Maternal Health [123375 - 123641]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 4.5. Fetal Ultrasound [123620 - 123622]__

(Heading of Article 4.5 renumbered from Article 45 by Stats. 2005, Ch. 22, Sec. 136.)

123620.

A person or facility that offers fetal ultrasound, or a similar procedure, for keepsake or entertainment purposes, shall disclose to a client prior to performing the procedure, in writing, the following statement: The

federal Food and Drug Administration has determined that the use of medical ultrasound equipment for other than medical purposes, or without a physiciansprescription, is an unapproved use.

(Added by Stats. 2004, Ch. 78, Sec. 2. Effective January 1, 2005.)

123621.

(a)An ultrasound, or a similar medical imaging device or procedure used for a medical, counseling, or diagnostic service or purpose, shall only be offered in the following settings:

(1)A licensed clinic, as described in Chapter 1 (commencing with Section 1200) of Division 2.

(2)An outpatient setting, as described in Chapter 1.3 (commencing with Section 1248) of Division 2.

(3)A licensed health facility, as described in Chapter 2 (commencing with Section 1250) of Division 2.

(4)A practice of a licensed physician or surgeon, a medical group practice, including a professional medical corporation, as defined in Section 2406 of the Business and Professions Code, another form of corporation controlled by physicians and surgeons, a medical partnership, a medical foundation exempt from licensure, or another lawfully organized group of physicians and surgeons that provides health care services.

(5)A practice of a licensed chiropractor, as described in Chapter 2 (commencing with Section 1000) of Division 2 of the Business and Professions Code, or a lawfully organized group of licensed chiropractors that provides health care services.

(6)A practice of a licensed physical therapist, as described in Chapter 5.7 (commencing with Section 2600) of Division 2 of the Business and Professions Code, or a lawfully organized group of licensed physical therapists that provides health care services.

(7)A facility affiliated with those settings.

(8)An exempt entity as described in Section 1206.

(b)This section does not apply to a practice of a licensed midwife providing care pursuant to Article 24 (commencing with Section 2505) of Chapter 5 of Division 2 of the Business and Professions Code, or a practice of a certified nurse-midwife providing care pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

(Added by Stats. 2023, Ch. 259, Sec. 1. (AB 1720) Effective January 1, 2024.)

123622.

(a)Any person or entity that fails to comply with the requirements of Section 123621 is liable for a civil penalty of two thousand five hundred dollars ($2,500) for a first offense and five thousand dollars ($5,000) for each subsequent offense. The Attorney General, a district attorney, a city attorney, or a county counsel may bring an action to impose a civil penalty pursuant to this section. For purposes of this subdivision, an offense is each ultrasound conducted in violation of Section 123621.

(b)Any person or entity that violates this section is liable for any costs, fees, and civil penalties. Costs, fees, and civil penalties collected pursuant to this section shall be paid to the office that brought the action as follows:

(1)To the Office of the Attorney General.

(2)To the treasurer of the city for the city attorney.

(3)To the treasurer of the county for the district attorney.

(4)To the treasurer of the county for the county counsel.

(Added by Stats. 2023, Ch. 259, Sec. 2. (AB 1720) Effective January 1, 2024.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=4.6.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Maternal Health [123375 - 123641]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 4.6. California Dignity in Pregnancy and Childbirth Act [123630 - 123630.5]__

(Article 4.6 added by Stats. 2019, Ch. 533, Sec. 3.)

123630.

This article shall be known, and may be cited, as the California Dignity in Pregnancy and Childbirth Act.

(Added by Stats. 2019, Ch. 533, Sec. 3. (SB 464) Effective January 1, 2020.)

123630.1.

The Legislature hereby finds and declares all of the following:

(a)Every person should be entitled to dignity and respect during and after pregnancy and childbirth. Patients should receive the best care possible regardless of their race, gender, age, class, sexual orientation, gender identity, disability, language proficiency, nationality, immigration status, gender expression, or religion.

(b)The United States has the highest maternal mortality rate in the developed world. About 700 women die each year from childbirth, and another 50,000 suffer from severe complications. In California, since 2006, the rate of maternal death has decreased 55 percent, in contrast to the steady increase in the United States as a whole.

(c)However, for women of color, particularly Black women, the maternal mortality rate remains three to four times higher than White women. Black women make up 5 percent of the pregnancy cohort in California, but 21 percent of the pregnancy-related deaths.

(d)Forty-one percent of all pregnancy-related deaths had a good to strong chance of preventability. California has a responsibility to decrease the number of preventable pregnancy-related deaths.

(e)Pregnancy-related deaths among Black women are also more likely to be miscoded. Thirty-five percent of pregnancy-related deaths among Black women in California were miscoded, misidentifying pregnancy-related deaths as other deaths.

(f)Access to prenatal care, socioeconomic status, and general physical health do not fully explain the disparity seen in Black womensmaternal mortality and morbidity rates. There is a growing body of evidence that Black women are often treated unfairly and unequally in the health care system.

(g)Implicit bias is a key cause that drives health disparities in communities of color. At present, health care providers in California are not required to undergo any implicit bias testing or training. Nor does there exist any system to track the number of incidents where implicit prejudice and implicit stereotypes have led to negative birth and maternal health outcomes.

(h)It is the intent of the Legislature to reduce the effects of implicit bias in pregnancy, childbirth, and postnatal care so that all people are treated with dignity and respect by their health care providers.

(Added by Stats. 2019, Ch. 533, Sec. 3. (SB 464) Effective January 1, 2020.)

123630.2.

For the purposes of this article, the following terms have the following meanings:

(a)Pregnancy-related death is the death of a person while pregnant or within 365 days of the end of a pregnancy, irrespective of the duration or site of the pregnancy, from any cause related to, or aggravated by, the pregnancy or its management, but not from accidental or incidental causes.

(b)Implicit bias is a bias in judgment or behavior that results from subtle cognitive processes, including implicit prejudice and implicit stereotypes that often operate at a level below conscious awareness and without intentional control.

(c)Implicit prejudice is prejudicial negative feelings or beliefs about a group that a person holds without being aware of them.

(d)Implicit stereotypes are the unconscious attributions of particular qualities to a member of a certain social group. Implicit stereotypes are influenced by experience and are based on learned associations between various qualities and social categories, including race or gender.

(e)Perinatal care is the provision of care during pregnancy, labor, delivery, and postpartum and neonatal periods.

(Added by Stats. 2019, Ch. 533, Sec. 3. (SB 464) Effective January 1, 2020.)

123630.3.

(a)A hospital as defined in subdivision (a) or (f) of Section 1250 that provides perinatal care, and an alternative birth center or primary care clinic subject to Section 1204.3, shall implement an evidence-based implicit bias program for all health care providers involved in the perinatal care of patients within those facilities.

(b)An implicit bias program implemented pursuant to subdivision (a) shall include all of the following:

(1)Identification of previous or current unconscious biases and misinformation.

(2)Identification of personal, interpersonal, institutional, structural, and cultural barriers to inclusion.

(3)Corrective measures to decrease implicit bias at the interpersonal and institutional levels, including ongoing policies and practices for that purpose.

(4)Information on the effects, including, but not limited to, ongoing personal effects, of historical and contemporary exclusion and oppression of minority communities.

(5)Information about cultural identity across racial or ethnic groups.

(6)Information about communicating more effectively across identities, including racial, ethnic, religious, and gender identities.

(7)Discussion on power dynamics and organizational decisionmaking.

(8)Discussion on health inequities within the perinatal care field, including information on how implicit bias impacts maternal and infant health outcomes.

(9)Perspectives of diverse, local constituency groups and experts on particular racial, identity, cultural, and provider-community relations issues in the community.

(10)Information on reproductive justice.

(c)(1)A health care provider described in subdivision (a) shall complete initial basic training through the implicit bias program based on the components described in subdivision (b).

(2)Upon completion of the initial basic training, a health care provider shall complete a refresher course under the implicit bias program every two years thereafter, or on a more frequent basis if deemed necessary by the facility, in order to keep current with changing racial, identity, and cultural trends and best practices in decreasing interpersonal and institutional implicit bias.

(d)A facility described in subdivision (a) shall provide a certificate of training completion to another facility or a training attendee upon request. A facility may accept a certificate of completion from another facility described in subdivision (a) to satisfy the training requirement described in subdivision (c) from a health care provider who works in more than one facility.

(e)Notwithstanding subdivisions (a) to (d), inclusive, if a physician involved in the perinatal care of patients is not directly employed by a facility, the facility shall offer the training to the physician.

(Added by Stats. 2019, Ch. 533, Sec. 3. (SB 464) Effective January 1, 2020.)

123630.4.

(a)The State Department of Public Health shall track data on severe maternal morbidity, including, but not limited to, all of the following health conditions:

(1)Obstetric hemorrhage.

(2)Hypertension.

(3)Preeclampsia and eclampsia.

(4)Venous thromboembolism.

(5)Sepsis.

(6)Cerebrovascular accident.

(7)Amniotic fluid embolism.

(b)The data on severe maternal morbidity collected pursuant to subdivision (a) shall be published at least once every three years, after all of the following have occurred:

(1)The data has been aggregated by state regions, as defined by the State Department of Public Health, to

ensure data reflects how regionalized care systems are or should be collaborating to improve maternal health outcomes, or other smaller regional sorting based on standard statistical methods for accurate dissemination of public health data without risking a confidentiality or other disclosure breach.

(2)The data has been disaggregated by racial and ethnic identity.

(c)The State Department of Public Health shall track data on pregnancy-related deaths, including, but not limited to, all of the conditions listed in subdivision (a), indirect obstetric deaths, and other maternal disorders predominantly related to pregnancy and complications predominantly related to the puerperium.

(d)The data on pregnancy-related deaths collected pursuant to subdivisions (a) and (c) shall be published, at least once every three years, after all of the following have occurred:

(1)The data has been aggregated by state regions, as defined by the State Department of Public Health, to ensure data reflects how regionalized care systems are or should be collaborating to improve maternal health outcomes, or other smaller regional sorting based on standard statistical methods for accurate dissemination of public health data without risking a confidentiality or other disclosure breach.

(2)The data has been disaggregated by racial and ethnic identity.

(Added by Stats. 2019, Ch. 533, Sec. 3. (SB 464) Effective January 1, 2020.)

123630.5.

(a)A hospital, as defined in subdivision (a) of Section 1250, shall implement an evidence-based implicit bias program, as described in subdivision (b) of Section 123630.3, as part of its new graduate training program that hires and trains new nursing program graduates.

(b)If the hospital hires and trains new nursing program graduates who are subject to subdivision (c) of Section 123630.3, compliance by the hospital with Section 123630.3 shall meet the requirements of subdivision (a) only with respect to those new nursing program graduates subject to subdivision (c) of Section 123630.3.

(Added by Stats. 2021, Ch. 445, Sec. 3. (AB 1407) Effective January 1, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=4.7.

123636.

(a)The California Pregnancy-Associated Review Committee is hereby established under the State Department of Public Health to continuously engage in the comprehensive, regular, and uniform review and reporting of maternal deaths throughout the state. The department, in collaboration with the designated state perinatal quality collaborative, shall oversee the committee. The committee may incorporate the membership of the

California Pregnancy-Associated Mortality Review Committee, as it existed on December 31, 2021.

(b)The purposes of the committee include, but are not limited to, all of the following:

(1)Identifying and reviewing all pregnancy-related deaths, including the cause, contributing factors, and disseminating findings.

(2)Analyzing common indicators of severe maternal morbidity to identify prevention opportunities and reduce near-miss experiences.

(3)Making recommendations on best practices to prevent maternal mortality and morbidity, including, but not limited to, addressing socioeconomic impacts, as well as various environmental impacts, including global warming, on pregnancy outcomes.

(4)Examining racial disparities and making recommendations on the prevention of racial disparities.

(5)Tracking and examining disparities experienced by lesbian, bisexual, transgender, intersex, and gender-nonconforming individuals and reporting findings, to the extent possible.

(6)Collecting and reviewing data from maternal death investigations and making recommendations about how to improve or streamline data collection and investigatory processes.

(c)(1)In addition to reviewing medical records, death certificates, and other pertinent reports, committee review of maternal deaths shall include, to the degree practicable, for populations experiencing disparity, voluntary interview with the following individuals:

(A)Pertinent surviving family members or support people present with direct knowledge of, or involvement in, the event, including the patient in cases of severe maternal morbidity. The committee shall transcribe or summarize in writing any oral statements received pursuant to this paragraph.

(B)Members of the medical team who were present or involved in the deceased individualsdirect care.

(2)In determining the practicality of the interviews pursuant to subparagraphs (A) and (B), the committee may prioritize interviews with populations that have a documented higher rate of maternal death.

(d)The committee shall publish its findings to the public every three years as part of the publication of data on severe maternal morbidity, as required pursuant to Section 123630.4. The committeesfindings shall also include recommendations on how to prevent severe maternal morbidity and maternal mortality and how to reduce racial disparities.

(e)(1)The committee shall be composed of a minimum of 13 members. The members shall be comprised of multidisciplinary personnel and experts in the field of maternal mortality and morbidity, data analysis in maternal and fetal health, womenshealth, clinicians in maternal health, anesthesiology, pathology, and perinatology, and representatives from various public health entities, and shall include all of the following:

(A)At least one obstetrician.

(B)At least one certified nurse-midwife.

(C)At least one certified professional midwife.

(D)At least one hospital-based registered nurse or advanced practice nurse experienced in perinatal health.

(E)A clinician or patient advocate from a birthing center, if not already represented by a member otherwise listed.

(F)At least one public member with relevant personal experience related to maternal morbidity or maternal mortality who has experienced birth and does not fit in another classification.

(G)At least one doula.

(H)At least one person from a community-based organization that works in perinatal health.

(I)At least one person from an organization that works with populations that have disproportionately high occurrences of maternal mortality and morbidity.

(J)At least one person who is an expert on mental and behavioral health, preferably with experience in perinatal health.

(K)At least one person from a native tribe, preferably with experience in perinatal health.

(L)At least one representative of the Maternal, Child, and Adolescent Health Division of the department.

(M)At least one family physician.

(N)At least one emergency room physician familiar with perinatal health.

(2)The committee shall prioritize for membership members who are representative of the diversity and geographic locations of the pregnant people in populations with disproportionately high occurrences of maternal mortality and morbidity.

(3)The State Public Health Officer shall appoint a maternal mortality expert to be a member of the committee as the chair of the committee. The chair shall appoint the other members of the committee in accordance with the criteria specified in paragraph (1).

(4)The committee may create subcommittees, as needed, to carry out its duties.

(f)The committee may request from any state department, division, commission, local health department, or other agency of the state or political subdivision thereof, or any public authority, as well as hospitals, birthing facilities, medical examiners, coroners, coroner physicians, and any other facility or individual providing services associated with maternal mortality, and those individuals and entities shall provide information, including, but not limited to, death records, medical records, autopsy reports, toxicology reports, hospital discharge records, birth records, and any other information that will help the committee to properly carry out its functions, powers, and duties. The committee shall not request, and health care providers shall not provide, reports, testimony, or other information produced as a result of activities undertaken by organized committees of a hospital medical staff or peer review body, as defined in Section 805 of the Business and Professions Code, that has the responsibility to evaluate or improve the quality of care rendered in a hospital.

(g)Except as otherwise provided by this article, all proceedings and activities of the committee, all opinions of the members of the committee that are formed as a result of the committeesproceedings and activities, and all records obtained, created, or maintained by the committee, including written reports and records of interviews or oral statements, shall be confidential, and in accordance with Sections 1157 and 1157.5 of the

Evidence Code, shall not be subject to public inspection, discovery, subpoena, or introduction into evidence in any civil, criminal, legislative, administrative, or other proceeding.

(h)In no case shall the committee disclose any personally identifiable information to the public, or include any personally identifiable information in a case summary that is prepared pursuant to this article, or in any report that is prepared.

(i)To the extent prescribed by Sections 1157 and 1157.5 of the Evidence Code, members of the committee shall not be questioned in any civil, criminal, legislative, administrative, or other proceeding regarding information that has been presented in, or opinions that have been formed as a result of, a meeting or communication of the committee. However, nothing in this paragraph shall prohibit a committee member from being questioned, or from testifying, in relation to publicly available information or information that was obtained independently of the membersparticipation on the committee, or as an expert witness in maternal death cases unrelated to their case review as a member of the committee.

(j)This section does not prohibit the committee from publishing, or from otherwise making available for public inspection, statistical compilations or reports that are based on confidential information, provided that those compilations and reports do not contain personally identifying information or other information that could be used to ultimately identify the individuals concerned, and shall utilize standard public health reporting practices for accurate dissemination of these data elements, especially with regard to the reporting of small numbers so as to inadvertently risk a breach of confidentiality or other disclosure.

(k)A health care provider, health care facility, or pharmacy providing access to medical records pursuant to this section shall not be held liable for civil damages or be subject to any criminal or disciplinary action for good faith efforts in providing the records.

(Added by Stats. 2021, Ch. 449, Sec. 3. (SB 65) Effective January 1, 2022. Operative August 1, 2022, pursuant to Section 123637.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=2.&chapter=2.&article=5.

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=6.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Maternal Health [123375 - 123641]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 6. Maternal Mental Health [123640- 123640.]__

(Article 6 added by Stats. 2018, Ch. 755, Sec. 2.)

123640.

(a)A licensed health care practitioner who provides prenatal, postpartum, or interpregnancy care for a patient shall ensure that the mother is offered screening or is appropriately screened for maternal mental health conditions.

(b)This section shall not apply to a licensed health care practitioner when providing emergency services or care, as defined in Section 1317.1.

(c)This section does not preclude any licensed or certified provider acting within their scope of practice from screening for maternal mental health conditions.

(d)For purposes of this section, the following definitions apply:

(1)Health care practitioner means a physician and surgeon, naturopathic doctor, nurse practitioner, physician assistant, nurse midwife, or a midwife licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or an initiative act referred to in that division and who is acting within their scope of practice.

(2)Maternal mental health condition means a mental health condition that occurs during pregnancy, the postpartum period, or interpregnancy and includes, but is not limited to, postpartum depression.

(Amended by Stats. 2021, Ch. 535, Sec. 1. (AB 1477) Effective January 1, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=2.&article=7.

123641.

(a)(1)Of the amounts appropriated in Schedule (3) of Item 4260-101-0001 of the Budget Act of 2022 for this purpose, twenty million dollars ($20,000,000) is available for encumbrance and expenditure until June 30, 2028, to establish the Los Angeles County Abortion Access Safe Haven Pilot Program for the purpose of expanding and improving access to the full spectrum of sexual and reproductive health care, including abortion, in the County of Los Angeles.

(2)Up to 8 percent of funds allocated may be used by a program administrator, as designated by the County of Los Angeles, to cover administrative costs related to completing activities consistent with this section.

(b)Funds allocated to the County of Los Angeles or its program administrator for the Los Angeles County Abortion Access Safe Haven Pilot Program shall be used to administer a pilot project to support innovative approaches and patient-centered collaborations to safeguard patient access to abortions. Funds may be used for the purpose of implementing recommendations from the County of Los Angeles, including, but not limited to, any of the following:

(1)Providing medically accurate education and training tools to the community.

(2)Providing training to health care workers and abortion providers.

(3)Building secure infrastructure.

(4)Countering misinformation campaigns and providing medically accurate information to health care providers and patients.

(5)Coordinating care and patient support services.

(6)Advancing and improving access to abortion.

(c)(1)The Los Angeles County Abortion Access Safe Haven Pilot program administrator shall use funds allocated under this section to maintain a system of financial reporting on all aspects of the fund. The financial reporting shall include information on expenditures and activities using the funds associated with this provision to ensure the use of the funds are consistent with the purposes of this section.

(2)For purposes of this section, the program administrator shall not require the submission of any identifying personal information about individuals providing, participating in, or receiving any service as part of an application for a grant or reporting of expenditures and activities using grant funds under this article. Information required by the program administrator shall only include information in summary, statistical, or other forms that do not identify particular individuals.

(d)The program administrator, as designated by the County of Los Angeles, shall determine a funding

framework to prioritize funding for pilot programs and projects in consultation with stakeholders, including representatives from the local departments of public health, the Los Angeles County Chief Executive Office, sexual and reproductive health providers that serve the region, and reproductive health, rights, and justice community-based organizations.

(e)The program administrator shall provide an annual report to the Legislature summarizing the projects and collaborations funded under this section. The report shall also include data on the balances of funds available under this division for expenditures in that fiscal year and future fiscal years. The first annual report shall be submitted on or before January 1, 2025, and shall cover the period of July 1, 2023, to July 1, 2024, inclusive. Each subsequent annual report shall be submitted on or before January 1, and shall cover the previous fiscal year. The report shall be submitted in compliance with Section 9795 of the Government Code.

(f)An application for a grant under this article and financial reporting by grantees are exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(g)The State Department of Health Care Services may enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis for purposes of implementing this section. Contracts entered into or amended pursuant to this section are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and the State Administrative Manual, and are exempt from the review or approval of any division of the Department of General Services.

(Added by Stats. 2022, Ch. 567, Sec. 2. (SB 1245) Effective January 1, 2023.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=2.&chapter=3.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=1.

123650.

(a) The department shall develop a plan to identify causes of infant mortality and morbidity in California and to study recommendations on the reduction of infant mortality and morbidity in California.

(b) The study plan shall be completed on or before July 1, 1988, and shall be developed in conjunction with, and reviewed by, each of the following organizations:

(1) The California Medical Association.

(2) The California Nurses Association.

(3) The California Hospital Association.

(4) The American College of Obstetrics and Gynecologists.

(5) The American College of Nurse Midwives.

(6) The California Academy of Family Physicians.

(7) The American Academy of Pediatrics.

(8) The California Association of Freestanding Birth Centers.

(9) The American Public Health Association.

(10) The Medical Board of California.

(11) The Board of Registered Nurses.

(12) The Department of Consumer Affairs.

(13) The office.

(14) The California Association of Midwives.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123660.

(a)The Legislature finds that the Fetal and Infant Mortality Review process is used to identify and take action to prevent a wide range of local social, economic, public health, education, environmental, and safety factors that contribute to the tragedy of fetal and infant loss.

(b)(1)Each county shall annually report infant deaths to the local health department.

(A)The data shall be aggregated to ensure data reflects how regionalized care systems are, or should be, collaborating to improve fetal and infant health outcomes based on standard statistical methods for accurate dissemination of public health data without risking a confidentiality or other disclosure breach.

(B)The data shall be disaggregated by racial and ethnic identity.

(2)A local health department shall, subject to subdivision (e), establish a Fetal and Infant Mortality Review committee to investigate infant deaths to prevent fetal and infant death if both of the following apply with

respect to the county:

(A)The county has five or more infant deaths in a single year.

(B)The county has a death rate that is higher than the statesdeath rate for two consecutive years.

(c)A local public health department that participates in the Fetal and Infant Mortality Review process established by the department shall do all of the following:

(1)Annually investigate, track, and review a minimum amount of 20 percent of the countyscases of term infants who were born following labor with the outcome of intrapartum stillbirth, early neonatal death, or postneonatal death, focusing on demographic groups that are disproportionately impacted by infant death. A county that has less than five deaths in a year shall investigate at least one death. For purposes of this section, term infants means infants who are at 36 weeks or more of gestation.

(2)Establish a committee for fetal and infant mortality reviews led by local health departments. The committee shall include members of the community, and shall not include anyone employed by a law enforcement agency. In counties where the coroner, medical examiner, or other medical professional is employed by law enforcement, these individuals can share information with the committee in their medical professional capacity only.

(A)All data and records obtained, prepared, created, and maintained in anticipation of a review meeting shall be confidential. Data and records prepared, created, and maintained in anticipation of a review meeting shall not be subject to public records requests, subpoena, or civil processes and shall not be admissible in evidence in connection with any administrative, judicial, executive, legislative, or other proceeding.

(B)All participants engaged in and associated with the review process shall sign a confidentiality agreement that states they will not discuss or share information about individual cases and the proceedings of the review meeting, outside of the meeting. This shall not preclude the committee from publishing, or from otherwise making available for public inspection, statistical compilations or reports that are based on confidential information, provided that those compilations or reports do not contain personally identifying information or other information that could be used to ultimately identify the individuals concerned, and shall utilize standard public health reporting practices for accurate dissemination of these data elements, especially with regard to the reporting of small numbers so as to inadvertently risk a breach of confidentiality or other disclosure.

(C)To the extent prescribed by Sections 1157 and 1157.5 of the Evidence Code, members of a team, persons attending a team meeting, and persons who present information to a team may not be questioned in any administrative, civil, or criminal proceeding regarding information presented in, or opinions formed as a result of, a meeting. This subparagraph does not prohibit a person from testifying to information obtained independently of the team or that is public information. A health care provider, health care facility, or pharmacy providing access to medical records pursuant to this section shall not be held liable for civil damages or be subject to any criminal or disciplinary action for good faith efforts in providing the records.

(3)Conduct voluntary interviews with individuals who have experienced child loss or surviving family members of maternal or infant death who have knowledge of the event. The interview shall include questions to determine if the pregnant person had concerns about perinatal care during any point in their pregnancy or postpartum care, whether there were disagreements about care offered and received, and whether the pregnant person had asked for certain care that was denied or not received.

(4)Conduct a report or investigation, to the degree practicable, with all medical staff involved with the event.

(5)Offer grief counseling to surviving family members.

(d)Counties, hospitals, birthing centers, and state entities shall provide to local health departments death records, medical records, autopsy reports, toxicology reports, hospital discharge records, birth records, and any other information that will help the local health department conduct the fetal and infant mortality review within 30 days of a request made in writing by a local health department. The local health department shall not request, and health care providers shall not provide, reports, testimony, or other information produced as a result of activities undertaken by organized committees of a hospital medical staff or peer review body, as defined in Section 805 of the Business and Professions Code, that has the responsibility to evaluate or improve the quality of care rendered in a hospital.

(e)The requirements of this section apply to a local health department only upon the appropriation of funds by the Legislature for these purposes in the annual Budget Act or another act.

(Added by Stats. 2021, Ch. 449, Sec. 4. (SB 65) Effective January 1, 2022.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=2.&chapter=3.&article=2.

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=2.5.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. Child Health [123650 - 124174.6]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2.5. Infant Botulism Treatment and Prevention Program [123700 - 123709]__

(Heading of Article 2.5 renumbered from Article 3.55 (and relocated from Chapter 2 of Part 1 of Division 1) by Stats. 1996, Ch. 1023, Sec. 116.)

123700.

(a) Infant botulism is an acute, life-threatening paralytic disease of babies caused by a potent bacterial neurotoxin.

(b) Half of all cases of infant botulism in the United States occur in California, where the causative bacterial spores are known to be highly endemic. In any given year between 30 and 50 infants with botulism are hospitalized in California, thus qualifying infant botulism as an orphan disease as defined by the federal Orphan Drug Act of 1983 (P.L. 97-414, as amended).

(c) The cost of hospitalization of these afflicted babies for the five years 1988"92 were approximately fourteen million dollars ($14,000,000). Over two million seven hundred thousand dollars ($2,700,000) of these costs were paid by the State Department of Health Services through its Medi-Cal and California ChildrensServices programs, while over one million four hundred thousand ($1,400,000) of these costs were absorbed as operating losses by California hospitals.

(d) Hospital stay for these critically-ill infants averages five weeks and costs approximately seventy thousand dollars ($70,000) per case. In 1992 a single case was hospitalized over six months at a cost in excess of five hundred five thousand dollars ($505,000). In 1988 a single infant was hospitalized for 10 months at a cost of over six hundred thirty-five thousand dollars ($635,000).

(e) In an effort to reduce these costs, the State Department of Health Services began in early 1992 a four-year clinical trial of a potential new medicine, human Botulism Immune Globulin (BIG), specifically designed for the treatment of infant botulism. The funding for this clinical trial is being provided by the United States Food and Drug Administration.

(f) As defined in the federal Orphan Drug Act, the State Department of Health Services is the official sponsor of BIG. As such, the department is responsible for providing and distributing an ongoing supply of BIG to infant botulism patients nationwide if the clinical trial shows that BIG is safe and effective treatment for infant botulism. The clinical trial is expected to end in 1996.

(g) If human-derived BIG proves to be effective, then physicians can choose to use it to treat foodborne botulism and wound botulism, rather than using the existing horse-serum-derived botulism antitoxin, which has serious side effects. Foodborne botulism and wound botulism also qualify as orphan diseases under the

federal Orphan Drug Act.

(h) Other scientific evidence indicates that infant botulism and related illnesses may be responsible for one of every 20 sudden infant death cases in California. More sudden infant deaths occur in California each year than in any other state.

(i) The Legislature finds and declares that the enactment of this article is necessary for the protection of the publicshealth, investigations and further research into the optimal medical treatment of infant botulism, including product improvement of BIG, and into the causes and prevention of infant botulism and related sudden infant death cases, and providing expert medical consultation for the care of infants with this disease.

(Added by renumbering Section 330.10 (as added by Stats. 1995, Ch. 674) by Stats. 1996, Ch. 1023, Sec. 117. Effective September 29, 1996.)

123702.

(a) The State Department of Health Services shall establish an Infant Botulism Treatment and Prevention Unit. This unit shall have responsibility for ensuring the production and distribution of BIG to patients in California and nationwide suspected of having infant botulism or other forms of human botulism in accord with applicable federal law.

(b) As permitted by federal law, the state department shall charge a fee for BIG, and the fees shall be deposited in the special Infant Botulism Treatment and Prevention Fund established by Section 123709.

(c) Notwithstanding any other provision of law, the funds generated by the sale of BIG are to be expended only for the purposes authorized by this article.

(d) The amount of the fee shall be established by regulation and periodically adjusted by the State Director of Health Services in order to meet but not exceed the total costs of this article. This adjustment of fees shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, except that upon adoption of the adjusted fee by the director, the provision revising the fee shall be filed with the Secretary of State and shall be printed in the California Code of Regulations.

(e) It is the intent of the Legislature that the state department consider providing BIG to low-income families at no charge.

(Added by renumbering Section 330.15 (as added by Stats. 1995, Ch. 674) by Stats. 1996, Ch. 1023, Sec. 118. Effective September 29, 1996.)

123704.

The Infant Botulism Treatment and Prevention Unit shall provide all the following services:

(a) Produce, or cause to have produced, and maintain, a supply of BIG sufficient to treat the expected number of annual cases of infant botulism in the United States, and to store, or arrange storage for, same.

(b) Distribute BIG to patients suspected of having infant botulism or other forms of botulism in California and in the rest of the United States on appropriate medical indications.

(c) Investigate ways to improve the treatment of infant botulism and related illness, including technical improvement of BIG, and implement them as appropriate.

(d) Provide diagnostic laboratory services and medical and public health expertise about infant botulism and related illnesses to all physicians, hospitals, laboratories, and parents statewide.

(e) Investigate all cases or suspected cases of infant botulism with both field and laboratory techniques as appropriate, in order to acquire the broadest data base for prevention and optimal treatment.

(f) Develop and implement control measures for the prevention of infant botulism and related illnesses.

(g) Share with other public health agencies the expertise gained in the development of BIG as it relates to other toxin-mediated infectious diseases of public health importance, and apply that expertise as appropriate.

(h) Establish scientific collaborations with university, forensic, hospital, public health, pharmaceutical, and biotechnology institutions, as appropriate as determined by the unit, that have resources and expertise to contribute to the study, prevention, or treatment of infant botulism and related illnesses.

(Added by renumbering Section 330.20 (as added by Stats. 1995, Ch. 674) by Stats. 1996, Ch. 1023, Sec. 119. Effective September 29, 1996.)

123705.

It is the intent of the Legislature that the program carried out pursuant to this article shall be fully supported from the fees collected for providing BIG to patients with suspected infant botulism or other forms of botulism and that these fees be made available for expenditure by the state department as appropriated by the Legislature in the annual Budget Act. However, it is the intent of the Legislature that until June 30, 1999, the Legislature may appropriate in the annual Budget Act the funds necessary for the support of programs authorized in this article in excess of fee revenues collected. It is, further, the intent of the Legislature that these appropriations be provided as a loan from the General Fund to be repaid with interest to the General Fund over the subsequent five years with interest at the rate earned by moneys invested in the Pooled Money Investment Account.

(Added by renumbering Section 330.25 (as added by Stats. 1995, Ch. 674) by Stats. 1996, Ch. 1023, Sec. 120. Effective September 29, 1996.)

123707.

(a)The State Department of Health Services may manufacture, test, distribute, and maintain licensure of the product Botulism Immune Globulin Intravenous (Human) if all necessary federal licenses are obtained. The department was issued United States License No. 1622 on October 23, 2003, by the United States Food and Drug Administration under the authority of Section 351(a) of the Public Health Service Act controlling the manufacture and sale of biological products. The product may be labeled with the proprietary name

BabyBIGÂ®.

(b)The United States Food and Drug Administration license agreement stipulated the contracts and commodity purchases required to manufacture, test, distribute, and maintain licensure of Botulism Immune Globulin Intravenous (Human). Therefore, contracts and commodity purchases for any manufacture, testing, distribution, packaging, development, and licensure of Botulism Immune Globulin Intravenous (Human) by the department shall be exempt from competitive bidding and shall be exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(c)Since the incidence of infant botulism in California can vary by as much as 60 percent from year to year, and since continuity of program operations is critical to the health and well-being of these infants, any funds not expended at the end of the fiscal year shall be carried forward into the next fiscal year, notwithstanding any other provision of law.

(d)In carrying out this article, the Infant Botulism Treatment and Prevention Unit may adopt regulations, make and receive grants, and enter into contracts and interagency agreements.

(Amended by Stats. 2004, Ch. 228, Sec. 6. Effective August 16, 2004.)

123709.

The Infant Botulism Treatment and Prevention Fund is hereby established as a special fund in the State Treasury. All moneys collected by the state department pursuant to this article shall be deposited in the Infant Botulism Treatment and Prevention Fund, and shall be made available to the state department for expenditure for the purposes of this article as appropriated by the Legislature in the annual Budget Act.

(Added by renumbering Section 330.35 (as added by Stats. 1995, Ch. 674) by Stats. 1996, Ch. 1023, Sec. 122. Effective September 29, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=3.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. Child Health [123650 - 124174.6]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 3. Sudden Infant Death Syndrome [123725 - 123745]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 8.)

123725.

(a) For purposes of this section, the following definitions shall apply:

(1) SIDS means sudden infant death syndrome.

(2) SIDS Advisory Council or advisory council means the Sudden Infant Death Syndrome Advisory Council established pursuant to subdivision (b).

(b) The department shall establish a Sudden Infant Death Syndrome Advisory Council. The advisory council shall consist of nine members who shall be chosen by the director in consultation with regional SIDS parent advisory councils. At least one-third of the members of the advisory council chosen by the director shall be representatives of SIDS parents™ groups. The membership of the advisory council shall also include, but not be limited to, a coroner, a medical examiner, a public health nurse, a physician and surgeon with expertise in SIDS, and a representative from a police or fire department.

(c) The SIDS Advisory Council shall do all of the following:

(1) Provide guidance to the state department in the development of training, educational, and research programs regarding SIDS.

(2) Provide ongoing guidance to the Governor and the Legislature regarding the need for specific programs regarding SIDS for specific targeted groups of persons.

(3) In conjunction with the state department or a person with whom the state department contracts to provide SIDS education, convene a statewide conference annually to examine the progress in discovering the cause of SIDS, explore the progress of newly established programs and services related to SIDS, identify future needs for legislation and program development regarding SIDS, and make recommendations on the needs of programs regarding SIDS. Conference participants shall include professionals and service providers in the area of SIDS, family members of SIDS victims, and the staff of members of the Legislature and departments of the state.

(d) The members of the advisory council shall serve at the pleasure of the director. The members of the

advisory council shall serve without compensation, but shall be reimbursed for necessary and travel expenses incurred in the performance of the duties of the advisory council.

(e) The requirements contained in this section shall be subject to the annual Budget Act and shall be operative only to the extent that funds are appropriated for the purposes of this section.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123730.

The department shall keep each county health officer advised of the most current knowledge relating to the nature and causes of sudden infant death syndrome.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123735.

(a) As used in this section, SIDS means sudden infant death syndrome.

(b) The department shall contract with a person to provide regular and ongoing SIDS education and training programs for those who interact with parents and caregivers following a death from SIDS, including, but not limited to, the following:

(1) County public health nurses.

(2) Coroners and coroners™ investigators.

(3) Forensic pathologists.

(4) Emergency room physicians and surgeons, nurses, and other staff.

(5) Licensed day care providers.

(6) SIDS parent groups.

(7) Medical examiners.

(c) The department shall contract with a person to produce, update, and distribute literature on SIDS for specific target populations of persons who interact with parents and caregivers following a death from SIDS, including, but not limited to, the following:

(1) Clergy.

(2) Fire and police departments.

(3) Emergency medical service staff.

(4) Morticians.

(5) Funeral directors.

(6) SIDS parent groups.

(d) The requirements of this section shall be subject to the annual Budget Act and shall be operative only to the extent funds are appropriated for the purposes of this section.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123740.

(a) For purposes of this section the following definitions shall apply:

(1) Appropriately trained public health professional means a public health nurse or a social worker who is knowledgeable about the incidence of sudden infant death syndrome and the care and support of persons who have experienced a death of this nature, and who has basic grief counseling skills.

(2) Contact is a face-to-face visit, a group visit, or a telephone call that provides one or more of the following services:

(A) An assessment of the family, child care provider, or both.

(B) Crisis intervention and counseling.

(C) A referral to a community service.

(D) A followup assessment of the family™s, the child care provider™s, or both familysand child care providersprogress.

(3) Immediately means within three working days of receiving notice from the coroner or other reporting agent of a death presumedly caused by sudden infant death syndrome.

(4) Local health officer means a health officer for a city, county, or city and county.

(b) Upon being informed by the coroner pursuant to Section 102865 of any case in which sudden infant death syndrome is the presumed cause of death, the local health officer or his or her designated agent, who is an appropriately trained public health professional, after consultation with the infantsphysician of record, when possible, shall immediately contact the person or persons who had custody and control of the infant, including foster parents, when applicable, for the purposes of providing to that person information, support, referral, and followup services relating to sudden infant death syndrome. If the infant was in child care, the local health officer or his or her designated agent who is an appropriately trained public health professional also shall immediately contact the child care provider.

(c) The local health officer shall perform the duties required by this section throughout the jurisdiction of that local health officer.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123745.

The department shall monitor, or contract with a person to monitor, whether the county health officer or his or her designated agent is performing the duties required by Section 123740 and whether they are being performed within the timeframes specified in Section 123740.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=4.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. Child Health [123650 - 124174.6]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 4. Infant Medical Dispatch Centers [123750 - 123775]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 8.)

123750.

The Legislature finds that intensive care nurseries for at-risk infants are often at capacity. It further finds that serious delays can occur in placing critically ill newborn infants in intensive care nurseries due to calls being placed to many hospitals. Additionally, valuable staff time is often taken by a capacity nursery in attempting to find another nursery with an available bed. It is further found that, due to the lack of a centralized dispatch system, at-risk infants are often not placed in the intensive care nursery nearest their homes.

Therefore, the Legislature finds that in order to protect the health of critically ill newborn children and to more efficiently utilize space and staff in intensive care nurseries it is necessary to establish 24-hour-a-day, year-round medical dispatch centers linking all hospitals providing obstetrical services with intensive care nurseries.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123753.

The department shall establish two dispatch centers, each to be located at a hospital containing an intensive care nursery that has been approved by the department.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123755.

One of the centers established pursuant to Section 123750 shall be located to serve the region of the state north of the Tehachapi Mountains, and one of the centers shall be located to serve the region south of the Tehachapi Mountains.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123760.

The centers shall locate bedspace for critically ill newborn infants nearest their homes, locate and dispatch transport for the infants and for appropriate medical personnel, advise the obstetrical nursery regarding maintenance care of the infant until transport is effected, and keep a daily record of the availability of bedspace in all intensive care nurseries.

Nothing in this article shall obligate the state for transport costs other than those already authorized by law.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123765.

Funds appropriated to carry out the purposes of this article shall be used for leasing or purchasing communication equipment or time; and for hiring, training, or contracting for personnel and administration

of the centers.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123770.

Public and private nonprofit health facilities, organizations, and educational institutions are eligible to receive center funds under this article.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123775.

Each infant medical dispatch center established pursuant to this article shall annually report on the progress of the project, the status of the data base obtained pursuant to Section 123760, and any necessary changes to meet the goals prescribed in Section 123760 to the Legislature upon request of either the Joint Legislative Budget Committee or other interested committees or Members of the Legislature.

(Amended by Stats. 2001, Ch. 745, Sec. 153. Effective October 12, 2001.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=5.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. Child Health [123650 - 124174.6]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 5. California ChildrensServices [123800 - 123995]__

(Article 5 added by Stats. 1995, Ch. 415, Sec. 8.)

123800.

This article shall be known and may be cited as the Robert W. Crown California ChildrensServices Act.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123805.

The department shall establish and administer a program of services for physically defective or handicapped persons under the age of 21 years, in cooperation with the federal government through its appropriate agency or instrumentality, for the purpose of developing, extending and improving the services. The department shall receive all funds made available to it by the federal government, the state, its political subdivisions or from other sources. The department shall have power to supervise those services included in the state plan that are not directly administered by the state. The department shall cooperate with the medical, health, nursing and welfare groups and organizations concerned with the program, and any agency of the state charged with the administration of laws providing for vocational rehabilitation of physically handicapped children.

The reference to the age of 21 years in this section is unaffected by Section 1 of Chapter 1748 of the Statutes of 1971 or any other provision of that chapter.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123810.

The department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the State Department of Benefit Payments with respect to moneys, funds, and appropriations available to the department for the purposes of processing, audit, and payment of claims received for the purposes of this article.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123815.

The department shall have possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Benefit Payments in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the department by Section 123810.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123820.

All officers and employees of the Director of Benefit Payments who on July 1, 1978, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the department by Section 123810 shall be transferred to the department. The status, positions, and rights of these persons shall not be affected by the transfer and shall be retained by them as officers and employees of the department pursuant to the State Civil Service Act, except as to positions exempt from civil service.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123822.

All claims for services provided under this article shall be submitted to the state fiscal intermediary for payment no later than January 1, 1999. The State Department of Health Services shall work in cooperation with the counties to develop a timeline for implementing the centralized billing system. If a department review of those counties participating in the centralized billing system demonstrates that as of January 1, 2000, any county has incurred increased costs as a result of submitting claims for services to the state fiscal intermediary, that county may be exempt from this section.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123825.

It is the intent of the Legislature through this article to provide, to the extent practicable, for the necessary medical services required by physically handicapped children whose parents are unable to pay for these services, wholly or in part. This article shall also include the necessary services rendered by the program to physically handicapped children treated in public schools that provide services for physically handicapped children.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123830.

Handicapped child,□ as used in this article, means a physically defective or handicapped person under the age of 21 years who is in need of services. The director shall establish those conditions coming within a definition of handicapped child□ except as the Legislature may otherwise include in the definition. Phenylketonuria, hyaline membrane disease, cystic fibrosis, and hemophilia shall be among these conditions.

The reference to the age of 21 years in this section is unaffected by Section 1 of Chapter 1748 of the Statutes of 1971 or any other provision of that chapter.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123835.

(a)The department shall keep the California ChildrensServices (CCS) program abreast of advances in medical science, leading to the inclusion of other handicapping conditions and services within the limits of and consistent with the most beneficial use of funds appropriated for this purpose. With the approval of the agency administrator the department may carry out pilot studies to determine the need for, or the feasibility of, including other handicapping conditions and services in the program within the limits of available funds appropriated for the program.

(b)To the extent that any changes in CCS medical eligibility are proposed by the department, there shall be a stakeholder process that shall include both of the following:

(1)A draft of the proposed regulatory changes shall be shared publicly at least 120 days prior to the filing of a regulatory change. The proposed changes shall also be shared with the appropriate policy and fiscal committees of the Legislature and posted publicly on the departmentsInternet Web site.

(2)The department shall utilize existing stakeholder committees to receive input and comments on any proposed changes and shall provide written comments back after input is provided. This input may be provided to all stakeholders, including, but not limited to, advocates, clinical experts, associations, county CCS program administrators, families, and CCS providers.

(Amended by Stats. 2016, Ch. 625, Sec. 2. (SB 586) Effective January 1, 2017.)

123840.

Services, as used in this article, means any or all of the following:

(a) Expert diagnosis.

(b) Medical treatment.

(c) Surgical treatment.

(d) Hospital care.

(e) Physical therapy.

(f) Occupational therapy.

(g) Special treatment.

(h) Materials.

(i) Appliances and their upkeep, maintenance, care and transportation.

(j) Maintenance, transportation, or care incidental to any other form of services.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123845.

California ChildrensServices Program, as used in this article, means the program of services established and operated pursuant to this article.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123850.

(a)The board of supervisors of each county shall designate the county department of public health or the county department of social welfare as the designated agency to administer the California ChildrensServices (CCS) program. Counties with total population under 200,000 persons may administer the county program independently or jointly with the department. Counties with a total population in excess of 200,000 persons shall administer the county program independently. Except as otherwise provided in this article, the director shall establish standards relating to the local administration and minimum services to be offered by counties in the conduct of the CCS program.

(b)(1)Upon a determination by the director that a Medi-Cal managed care plan and participating county have met all of the State Department of Health Care Services™ readiness requirements, the designated county agency and a Medi-Cal managed care health plan serving the county, as determined by the director, shall provide for the transition of CCS program services, except for services provided pursuant to subdivision (c), into the Medi-Cal managed care health plan contract in Whole Child Model counties pursuant to Article 2.985 (commencing with Section 14094.4) for children who are enrolled in the Medi-Cal managed care plan and CCS. For children enrolled in a Medi-Cal managed care plan and CCS in Whole Child Model counties pursuant to Article 2.985 (commencing with Section 14094.4), the case management, care coordination, provider referral, and service authorization administrative functions of the CCS program shall then be the responsibility of the Medi-Cal managed care health plan in accordance with Section 14094.13 and a written transition plan prepared by the designated county agency and the Medi-Cal managed care health plan. The director shall provide an implementation date for the transition and identify how the state shall continue to fulfill the requirements set forth in Sections 123855, 123925, and 123960. CCS program eligibility determination shall remain the responsibility of the designated county agency in accordance with the provisions of this article.

(2)The case management, care coordination, provider referral, and service authorization functions of the CCS program shall remain the responsibility of the county for CCS beneficiaries exempt from mandatory enrollment in the Medi-Cal managed care plan.

(c)The CCS Medical Therapy program shall remain responsible for the provision of medically necessary occupational and physical therapy services prescribed by the CCS Medical Therapy Unit Conference Team

Physician or the CCS-paneled physician who is providing the medical direction for occupational and physical therapy services.

(d)Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this article, Article 2.97 (commencing with Section 14093) and Article 2.985 (commencing with Section 14094.4) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, and any applicable federal waivers and state plan amendments by means of all-county letters, plan letters, CCS numbered letters, plan or provider bulletins, or similar instructions, without taking regulatory action in order to implement the Whole Child Model established pursuant to Article 2.985 (commencing with Section 14094.4). By July 1, 2020, the department shall adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Commencing January 1, 2018, the department shall provide a status report to the Legislature on a semiannual basis, in compliance with Section 9795 of the Government Code, until regulations have been adopted.

(Amended by Stats. 2016, Ch. 625, Sec. 3. (SB 586) Effective January 1, 2017.)

123853.

(a)The department may enter into contracts with one or more manufacturers on a negotiated or bid basis as the purchaser, but not the dispenser or distributor, of factor replacement therapies under the California ChildrensServices Program for the purpose of enabling the department to obtain the full range of available therapies and services required for clients with hematological disorders at the most favorable price and to enable the department, notwithstanding any other provision of state law, to obtain discounts, rebates, or refunds from the manufacturers based upon the large quantities purchased under the program. Nothing in this subdivision shall interfere with the usual and customary distribution practices of factor replacement therapies. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this section is necessary. Therefore, a contract under this subdivision may be on a negotiated basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code. Contracts entered pursuant to this subdivision shall be confidential and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(b)(1)Factor replacement therapy manufacturers shall calculate and pay interest on late or unpaid rebates. The interest shall not apply to any prior period adjustments of unit rebate amounts or department utilization adjustments. Manufacturers shall calculate and pay interest on late or unpaid rebates for quarters that begin on or after the effective date of the act that added this subdivision.

(2)Following the final resolution of any dispute regarding the amount of a rebate, any underpayment by a manufacturer shall be paid with interest calculated pursuant to paragraph (4), and any overpayment, together with interest at the rate calculated pursuant to paragraph (4), shall be credited by the department against future rebates due.

(3)Interest pursuant to paragraphs (1) and (2) shall begin accruing 38 calendar days from the date of mailing the invoice, including supporting utilization data sent to the manufacturer. Interest shall continue to accrue until the date of mailing of the manufacturerspayment.

(4)Interest rates and calculations pursuant to paragraphs (1) and (2) shall be identical to interest rates and

calculations set forth in the federal Centers for Medicare and Medicaid Services™ Medicaid Drug Rebate Program Releases or regulations.

(c)If the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, a factor replacement therapy manufacturerscontract with the department shall be deemed to be in default and the contract may be terminated in accordance with the terms of the contract. This subdivision does not limit the departmentsright to otherwise terminate a contract in accordance with the terms of that contract.

(d)The department may enter into contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of pharmaceuticals, appliances, durable medical equipment, medical supplies, and other product-type health care services and laboratories for the purpose of obtaining the most favorable prices to the state and to assure adequate access and quality of the product or service. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this subdivision is necessary. Therefore, contracts under this subdivision may be on a negotiated basis and shall be exempt from the provisions of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of the Government Code.

(e)The department may contract with one or more manufacturers of each multisource prescribed product or supplier of outpatient clinical laboratory services on a bid or negotiated basis. Contracts for outpatient clinical laboratory services shall require that the contractor be a clinical laboratory licensed or certified by the State of California or certified under Section 263a of Title 42 of the United States Code. Nothing in this subdivision shall be construed as prohibiting the department from contracting with less than all manufacturers or clinical laboratories, including just one manufacturer or clinical laboratory, on a bid or negotiated basis.

(Amended by Stats. 2021, Ch. 615, Sec. 283. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

123855.

The department or designated county agency shall cooperate with, or arrange through, local public or private agencies and providers of medical care to seek out handicapped children, bringing them expert diagnosis near their homes. Case finding shall include, but not be limited to, children with impaired sense of hearing. This section does not give the department or designated agency power to require medical or other form of physical examination without consent of parent or guardian.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123860.

In accordance with applicable regulations of the United States ChildrensBureau, the department and designated county agencies shall provide a diagnosis for handicapped children. Within the limits of available funds, the department and designated local agencies may accept for diagnosis a handicapped child believed to have a severe chronic disease or severe physical handicap, as determined by the director, irrespective of whether the child actually has an eligible medical condition specified in Section 123830. The department

shall cause a record to be kept listing all conditions diagnosed by the program and shall publish the information annually, including data on the number and kinds of diagnosed medical conditions that do not come within the definition of handicapped child as specified in Section 123830.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123865.

If the parents or estate of a handicapped child is wholly or partly unable to furnish for the child necessary services, the parents or guardian may apply to the agency of the county that has been designated by the board of supervisors of the county of residence under the terms of Section 123850 to administer the provisions for handicapped children. Residence shall be determined in accordance with Sections 243 and 244 of the Government Code.

(Amended by Stats. 2012, Ch. 28, Sec. 3. (AB 1494) Effective June 27, 2012.)

123870.

(a)The department shall establish standards of financial eligibility for treatment services under the California ChildrensServices Program (CCS program).

(1)Financial eligibility for treatment services under this program shall be limited to persons in families with an adjusted gross income of forty thousand dollars ($40,000) or less in the most recent tax year, as calculated for California state income tax purposes. If a person is enrolled in the Medi-Cal program pursuant to Section 14005.26 of the Welfare and Institutions Code, or enrolled in the Medi-Cal Access Program pursuant to Chapter 2 (commencing with Section 15810) of Part 3.3 of Division 9 of the Welfare and Institutions Code, the financial documentation required to establish eligibility for the respective programs may be used instead of the personsCalifornia state income tax return. However, the director may authorize treatment services for persons in families with higher incomes if the estimated cost of care to the family in one year is expected to exceed 20 percent of the familysadjusted gross income.

(2)Children enrolled in the Medi-Cal program pursuant to Section 14005.26 of the Welfare and Institutions Code or the Medi-Cal Access Program pursuant to Chapter 2 (commencing with Section 15810) of Part 3.3 of Division 9 of the Welfare and Institutions Code, who have a CCS program eligible medical condition under Section 123830, and whose families do not meet the financial eligibility requirements of paragraph (1), shall be deemed financially eligible for CCS program benefits.

(b)Necessary medical therapy treatment services under the California ChildrensServices Program rendered in the public schools shall be exempt from financial eligibility standards and enrollment fee requirements for the services when rendered to any handicapped child whose educational or physical development would be impeded without the services.

(c)All counties shall use the uniform standards for financial eligibility and enrollment fees established by the department. All enrollment fees shall be used in support of the California ChildrensServices Program.

(d)Annually, every family with a child eligible to receive services under this article shall pay a fee of twenty dollars ($20), that shall be in addition to any other program fees for which the family is liable. This

assessment shall not apply to any child who is eligible for full scope Medi-Cal benefits without a share of cost, for children receiving therapy through the California ChildrensServices Program as a related service in their individualized education plans, for children from families having incomes of less than 100 percent of the federal poverty level, or for children covered under the Medi-Cal program pursuant to Section 14005.26 of the Welfare and Institutions Code or the Medi-Cal Access Program.

(Amended by Stats. 2016, Ch. 733, Sec. 3. (SB 1477) Effective January 1, 2017.)

123872.

In addition to the other eligibility requirements set forth in this article, prior to being determined financially eligible for services under this article, the applicant family shall agree to repay the California ChildrensServices Program for any treatment services authorized by the program in an amount not to exceed the proceeds of any judgment, award, or settlement for damages as a result of a lawsuit or pursuant to an agreement relating to a California ChildrensServices medically eligible condition.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123875.

If the California ChildrensService medical therapy unit conference team, based on a medical referral recommending medically necessary occupational or physical therapy in accordance with subdivision (b) of Section 7575 of the Government Code, finds that a handicapped child, as defined in Section 123830, needs medically necessary occupational or physical therapy, that child shall be determined to be eligible for therapy services. If the California ChildrensServices medical consultant disagrees with the determination of eligibility by the California ChildrensServices medical therapy unit conference team, the medical consultant shall communicate with the conference team to ask for further justification of its determination, and shall weigh the conference teamsarguments in support of its decision in reaching his or her own determination.

This section shall not change eligibility criteria for the California ChildrensServices programs as described in Sections 123830 and 123860.

This section shall not apply to children diagnosed as specific learning disabled, unless they otherwise meet the eligibility criteria of the California ChildrensServices.

(Amended by Stats. 2012, Ch. 28, Sec. 5. (AB 1494) Effective June 27, 2012.)

123880.

The department and designated agencies shall not deny eligibility or aid under the California ChildrensServices Program because an otherwise eligible person is receiving treatment services under a teaching program at an accredited medical school facility or accredited school or college of podiatric medicine, whether or not all or part of the treatment services are performed by the staff at the facility, school, or college, provided that treatment services at the facility, school, or college are under the general supervision of a California ChildrensServices Program panel physician and surgeon, including a family

physician, and podiatrist.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123885.

Panel members as set forth in Section 123880 shall be board-certified and have expertise in the care of children.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123890.

(a) The state department shall not deny a hospitalsrequest to provide treatment to burn victims who are eligible under the California ChildrensServices Program solely on the basis that the hospital does not have separate facilities for child and adult burn victims, provided that the hospital has approval from the department to operate a burn center pursuant to Section 1255.

(b) Subdivision (a) shall only be applied to burn units located in hospitals where there are no regional burn centers, or any other existing burn center, within an 85-mile radius of the hospital.

(c) Subdivision (a) shall only apply if the hospital seeking the exemption had a state-approved burn center in operation as of January 1, 1982, and if there is no hospital specializing in childrensservices within an 85-mile radius of the hospital seeking the subdivision (a) exemption.

(d) Hospitals having qualified and received a subdivision (a) exemption, shall demonstrate, at the request of the department, that the nursing staff providing burn care to children victims have satisfactorily completed post-graduate training in pediatrics.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123895.

The designated agency shall determine the financial eligibility of the family according to standards established by the department. The agency will also determine if the parents are residents of the county, if the guardian of the child is a resident of the county, or if the emancipated minor is a resident of the county where application for services is made. If the agency finds that the family, guardian, or emancipated minor is a resident of the county and financially eligible for services, it shall make a record of the facts and shall certify this child for care under the program.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123900.

(a)Beginning September 1, 1991, in addition to any other standards of eligibility pursuant to this article, each family with a child otherwise eligible to receive services under this article shall pay an annual enrollment fee as a requirement for eligibility for services, except as specified in subdivision (f).

(b) The department shall determine the annual enrollment fee, which shall be a sliding fee scale based upon family size and income, and shall be adjusted by the department to reflect changes in the federal poverty level.

(c) Family size shall include the child, his or her natural or adoptive parents, siblings, and other family members who live together and whose expenses are dependent upon the family income.

(d) Family income for purposes of this article, shall include the total gross income, or their equivalents, of the child and his or her natural or adoptive parents.

(e) Payment of the enrollment fee is a condition of program participation. The enrollment fee is independent of any other financial obligation to the program.

(f) The enrollment fee shall not be charged in any of the following cases:

(1) The only services required are for diagnosis to determine eligibility for services, or are for medically necessary therapy pursuant to Section 123875.

(2) The child is otherwise eligible to receive services and is eligible for full Medi-Cal benefits at the time of application or reapplication.

(3) The family of the child otherwise eligible to receive services under this article has a gross annual income of less than 200 percent of the federal poverty level.

(4) The family of a child otherwise eligible to receive services under this article who is enrolled in the Medi-Cal program pursuant to Section 14005.26 of the Welfare and Institutions Code.

(g) Failure to pay or to arrange for payment of the enrollment fee within 60 days of the due date shall result in disenrollment and ineligibility for coverage of treatment services 60 days after the due date of the required payment.

(h) The county shall apply the enrollment fee scale established by the department and shall collect the enrollment fee. The county may arrange with the family for periodic payment during the year if a lump-sum payment will be a hardship for the family. The agency director of California ChildrensServices may, on a case-by-case basis, waive or reduce the amount of a familysenrollment fee if, in the directorsjudgment, payment of the fee will result in undue hardship.

(i) By thirty days after the effective date of this section or August 1, 1991, whichever is later, the department shall advance to each county, as a one-time startup amount, five dollars and fifty cents ($5.50) for each county child who was receiving services under this article on June 30, 1990, and who was not a Medi-Cal beneficiary. This one-time payment shall be in addition to the 4.1 percent of the gross total expenditures for diagnoses, treatment, and therapy by counties allowed under Section 123955.

(j) Each county shall submit to the state, as part of its quarterly claim for reimbursement, an accounting of all revenues due and revenues collected as enrollment fees.

(Amended by Stats. 2016, Ch. 733, Sec. 4. (SB 1477) Effective January 1, 2017.)

123905.

A county of under 200,000 population, administering its county program jointly with the department, shall forward to the department a statement certifying the family of the handicapped child as financially eligible for treatment services. The department shall authorize necessary services within the limits of available funds. Payment for services shall be made by the department, with reimbursement from the county for its proportionate share as specified in this article.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123910.

The department may, without the possession of a county certification, pay the expenses for services required by any physically handicapped child out of any funds received by it through gift, devise, or bequest or from private, state, federal, or other grant or source.

The department may authorize or contract with any person or institution properly qualified to furnish services to handicapped children. It may pay for services out of any funds appropriated for the purpose or from funds it may receive by gift, devise, or bequest.

The department may receive gifts, legacies, and bequests and expend them for the purpose of this article, but not for administrative expense.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123915.

When the department provides, or arranges for the provision of, services to physically handicapped children directly, as in the case of nonresident physically handicapped children, it shall enter into an agreement with parents, guardians or persons responsible for the care of handicapped children for payment of the enrollment fee.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123920.

Upon the request of another state or of a federal agency, the department may pay the expenses of services required by any physically handicapped child who is not a resident of the state; provided, that the cost of the services is fully covered by special grants or allotments received from the state or federal agency for that purpose.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123925.

The department and designated agencies shall maintain surveillance and supervision over the services provided handicapped children under authorization by the program to assure a high quality of service and shall cause a record to be kept showing the condition and improvement of these handicapped children.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123929.

(a)Except as otherwise provided in this section and Section 14133.05 of the Welfare and Institutions Code, California ChildrensServices Program services provided pursuant to this article require prior authorization by the department or its designee. Prior authorization is contingent on determination by the department or its designee of all of the following:

(1)The child receiving the services is confirmed to be medically eligible for the CCS program.

(2)The provider of the services is approved in accordance with the standards of the CCS program.

(3)The services authorized are medically necessary to treat the childsCCS-eligible medical condition.

(b)The department or its designee may approve a request for a treatment authorization that is otherwise in conformance with subdivision (a) for services for a child participating in the Medi-Cal program pursuant to Section 14005.26 of the Welfare and Institutions Code or the Medi-Cal Access Program pursuant to Chapter 2 (commencing with Section 15810) of Part 3.3 of Division 9 of the Welfare and Institutions Code, received by the department or its designee after the requested treatment has been provided to the child.

(c)If a provider of services who meets the requirements of paragraph (2) of subdivision (a) incurs costs for services described in paragraph (3) of subdivision (a) to treat a child described in subdivision (b) who is subsequently determined to be medically eligible for the CCS program, as determined by the department or its designee, the department may reimburse the provider for those costs. Reimbursement under this section shall conform to the requirements of Section 14105.18 of the Welfare and Institutions Code.

(d)(1)By July 1, 2016, or a subsequent date determined by the department, requests for authorization of services, excluding requests for authorization of services submitted by dental providers enrolled in the Medi-Cal Dental program, shall be submitted in an electronic format determined by the department and shall be submitted via the departmentsInternet Web site or other electronic means designated by the department. The department may implement this requirement in phases.

(2)The department shall designate an alternate format for submitting requests for authorization of services when the departmentsInternet Web site or other electronic means designated in paragraph (1) are unavailable due to a system disruption.

(3)Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may, without taking regulatory action, implement, interpret, or make

specific this subdivision and any applicable waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions. Thereafter, the department shall adopt regulations by July 1, 2017, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall consult with interested parties and appropriate stakeholders in implementing this subdivision.

(Amended by Stats. 2016, Ch. 733, Sec. 5. (SB 1477) Effective January 1, 2017.)

123930.

This article does not authorize any treatment service without the written consent of a parent or guardian except as a person under 18 years of age is an emancipated minor.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123935.

A handicapped child shall not be denied services pursuant to this article because he or she has an intellectual disability.

(Amended by Stats. 2012, Ch. 457, Sec. 32. (SB 1381) Effective January 1, 2013.)

123940.

(a)(1)Annually, the board of supervisors shall appropriate a sum of money for services for handicapped children of the county, including diagnosis, treatment, and therapy services for physically handicapped children in public schools, equal to 25 percent of the actual expenditures for the county program under this article for the 1990“91 fiscal year, except as specified in paragraph (2).

(2)If the state certifies that a smaller amount is needed in order for the county to pay 25 percent of costs of the countysprogram from this source. The smaller amount certified by the state shall be the amount that the county shall appropriate.

(b)In addition to the amount required by subdivision (a), the county shall allocate an amount equal to the amount determined pursuant to subdivision (a) for purposes of this article from revenues allocated to the county pursuant to Chapter 6 (commencing with Section 17600) of Part 5 of Division 9 of the Welfare and Institutions Code.

(c)(1)The state shall match county expenditures for this article from funding provided pursuant to subdivisions (a) and (b).

(2)County expenditures shall be waived for payment of services for children who are eligible pursuant to paragraph (2) of subdivision (a) of Section 123870.

(d)The county may appropriate and expend moneys in addition to those set forth in subdivisions (a) and (b)

and the state shall match the expenditures, on a dollar-for-dollar basis, to the extent that state funds are available for this article.

(e)County appropriations under subdivisions (a) and (b) shall include county financial participation in the nonfederal share of expenditures for services for children who are enrolled in the Medi-Cal program pursuant to Section 14005.26 of the Welfare and Institutions Code, or the Medi-Cal Access Program pursuant to Chapter 2 (commencing with Section 15810) of Part 3.3 of Division 9 of the Welfare and Institutions Code, and who are eligible for services under this article pursuant to paragraph (1) of subdivision (a) of Section 123870, to the extent that federal financial participation is available at the enhanced federal reimbursement rate under Title XXI of the federal Social Security Act (42 U.S.C. Sec. 1397aa et seq.) and funds are appropriated for the California ChildrensServices Program in the State Budget.

(f)This section shall not require the county to expend more than the amount set forth in subdivision (a) plus the amount set forth in subdivision (b), nor shall it require the state to expend more than the amount of the match set forth in subdivision (c).

(g)Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, without taking further regulatory action, shall implement this section by means of California ChildrensServices numbered letters.

(Amended by Stats. 2016, Ch. 733, Sec. 6. (SB 1477) Effective January 1, 2017.)

123945.

For those counties with a total appropriation of county funds not exceeding one hundred twenty-five thousand dollars ($125,000), and upon the expenditure of the county funds equivalent to a county appropriation pursuant to Section 123940, the department may, to the extent funds are available from state appropriated funds for the California ChildrensServices Program and upon certification of the county that there are insufficient revenues from the account established pursuant to Chapter 6 (commencing with Section 17600) of Division 9 of the Welfare and Institutions Code, pay for services for cases deemed by the department to represent emergencies or cases where medical care cannot be delayed without great harm to the child.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123950.

The designated county agency shall administer the medical-therapy program in local public schools for physically handicapped children. As provided in Section 123940, the state and counties will share in the cost of support of therapist salaries in these schools in the ratio of one dollar ($1) of state or federal funds reimbursed quarterly to one dollar ($1) of county funds. The director shall establish standards for the maximum number of therapists employed in the schools eligible for state financial support in this program, the services to be provided, and the county administrative services subject to reimbursement by the state.

The department may adopt regulations to implement this section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed an

emergency and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law.

Notwithstanding any other provision of law, if the department determines that emergency regulations are necessary to implement any part of this article, there shall be deemed to be good cause for the regulations to take effect prior to public notice and hearing.

Notwithstanding subdivision (h) of Section 11346.1 and Section 11349.6 of the Government Code, the department shall transmit these regulations directly to the Secretary of State for filing. The regulations shall become effective immediately upon filing by the Secretary of State.

The Office of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these regulations shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the department.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123955.

(a)The state and the counties shall share in the cost of administration of the California ChildrensServices program at the local level.

(b)(1)The director shall adopt regulations establishing minimum standards for the administration, staffing, and local implementation of this article subject to reimbursement by the state.

(2)The standards shall allow necessary flexibility in the administration of county programs, taking into account the variability of county needs and resources, and shall be developed and revised jointly with state and county representatives.

(c)The director shall establish minimum standards for administration, staffing, and local operation of the program subject to reimbursement by the state.

(d)Until July 1, 1992, reimbursable administrative costs, to be paid by the state to counties, shall not exceed 4.1 percent of the gross total expenditures for diagnosis, treatment, and therapy by counties as specified in Section 123940.

(e)Beginning July 1, 1992, this subdivision applies with respect to all of the following:

(1)Counties shall be reimbursed by the state for 50 percent of the amount required to meet state administrative standards for that portion of the county caseload under this article that is ineligible for Medi-Cal to the extent funds are available in the State Budget for the California ChildrensServices program.

(2)Counties shall be reimbursed by the state for 50 percent of the nonfederal share of the amount required to meet state administrative standards for that portion of the county caseload under this article that is enrolled in the Medi-Cal program pursuant to Section 14005.26 of the Welfare and Institutions Code or the Medi-Cal Access Program pursuant to Chapter 2 (commencing with Section 15810) of Part 3.3 of Division 9

of the Welfare and Institutions Code, and who are eligible for services under this article pursuant to subdivision (a) of Section 123870, to the extent that federal financial participation is available at the enhanced federal reimbursement rate under Title XXI of the federal Social Security Act (42 U.S.C. Sec. 1397aa et seq.) and funds are appropriated for the California ChildrensServices program in the State Budget.

(3)On or before September 15 of each year, each county program implementing this article shall submit an application for the subsequent fiscal year that provides information as required by the state to determine if the county administrative staff and budget meet state standards.

(4)The state shall determine the maximum amount of state funds available for each county from state funds appropriated for California ChildrensServices county administration. If the amount appropriated for any fiscal year in the Budget Act for county administration under this article differs from the amounts approved by the department, each county shall submit a revised application in a form and at the time specified by the department.

(f)The department and counties shall maximize the use of federal funds for administration of the programs implemented pursuant to this article, including using state and county funds to match funds claimable under Title XIX or Title XXI of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.; 42 U.S.C. Sec. 1397aa et seq.).

(Amended by Stats. 2017, Ch. 561, Sec. 135. (AB 1516) Effective January 1, 2018.)

123960.

The department shall require of participating local governments the provision of program data including, but not limited to, the number of children treated, the kinds of disabilities, and the costs of treatment, to enable the department, the Department of Finance, and the Legislature to evaluate in a timely fashion and to adequately fund the California ChildrensServices Program.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123965.

A handicapped child placed for adoption, determined to be financially eligible for care at the time of placement, shall not be denied services pursuant to this article based upon the income of the adopting parents, nor shall the adopting parents be required to enter into any agreement to pay toward the costs of services authorized for the care. This section shall only apply to physical handicaps present, and diagnosed, at the time of adoption. Residence, for the purposes of this section, shall be that of the adopting parents.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123970.

The department and the placing adoption agency at the time of placement shall notify all prospective adopting parents in writing, that funds received under the California ChildrensServices Program shall

terminate if the adopting parents move out of the state. However, the department and the placing adoption agency shall advise the prospective adopting parents that they may be eligible for the funds in the new state, subject to any applicable qualifications.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123975.

(a) The department, in consultation with selected representatives of participating neonatal intensive care units, shall establish a system to screen all newborns and infants for hearing loss as defined in subdivision (e) of Section 124116 and create and maintain a system of assessment and followup services for newborns and infants identified by the screening in approved neonatal intensive care units participating in the California ChildrensServices Program. Screening, assessment and followup services and reporting of these services shall be provided in a manner consistent with Article 6.5 (commencing with Section 124115) of Chapter 3.

This section shall not be applicable to a newborn child whose parent or guardian objects to the tests on the ground that the tests conflict with his or her religious beliefs or practices.

(b) It is the intent of the Legislature, in enacting this section, to ensure the establishment and maintenance of protocols and quality of standards.

(c) The department shall implement this section for newborns and infants in neonatal intensive care units participating in the California ChildrensServices Program.

(Amended by Stats. 1998, Ch. 310, Sec. 22. Effective August 19, 1998.)

123980.

If the recipient of services provided by the California ChildrensServices Program, his or her guardian, conservator, personal representative, estate, or survivors, or any of them brings an action against a third person who may be liable for the injury, notice of institution of legal proceedings, notice of settlement, and all other notices required by this code shall be given to the State Director of Health Services in Sacramento and to the county-managed California ChildrensServices Program. The director may provide notice to the Attorney General. All of these notices shall be given by the attorney retained to assert the beneficiarysclaim, or by the injured party beneficiary, his or her guardian, conservator, personal representative, estate, or survivors, if no attorney is retained.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123982.

Except as otherwise provided by law, the amount of any judgment, award, or settlement relating to a medical condition for which treatment services have been provided under the California ChildrensServices Program shall be subject to a claim by the state department and the designated county agency for reimbursement of the costs of the benefits provided, and to any lien filed against that judgment, award, or settlement. The

department or the county designated agency, through its civil legal adviser, may, to enforce this right, institute and prosecute legal proceedings against the person who has received benefits under this article, his or her guardian, conservator, or other personal representative, or his or her estate. In the event of a judgment, award, or settlement in a suit or claim against a third person who is liable for the medical condition for which treatment services have been provided under the California ChildrensServices Program, the court or other agency shall first order paid from the judgment, award, or settlement the actual costs of the care and treatment furnished, or to be furnished, under the California ChildrensServices Program.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123985.

(a) A bone marrow transplant for the treatment of cancer shall be reimbursable under this article, when all of the following conditions are met:

(1) The bone marrow transplant is recommended by the recipientsattending physician.

(2) The bone marrow transplant is performed in a hospital that is approved for participation in the California ChildrensServices program.

(3) The bone marrow transplant is a reasonable course of treatment and is approved by the appropriate hospital medical policy committee.

(4) The bone marrow transplant has been deemed appropriate for the recipient by the programsmedical consultant. The medical consultant shall not disapprove the bone marrow transplant solely on the basis that it is classified as experimental or investigational.

(b) The program shall provide reimbursement for both donor and recipient surgery.

(c) Any county that has a population of not more than 600,000, as determined by the most recent decennial census conducted by the United States Bureau of the Census, shall be exempt from complying with the 25-percent matching requirement provided for under this article, for any bone marrow transplant reimbursable under this section.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123990.

The department shall adopt regulations to implement the amendments of this article in 1991. The adoption of the regulations shall be deemed to be an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

123995.

(a) The department shall require all applicants to the program who may be eligible for cash grant assistance or for Medi-Cal benefits to apply for Medi-Cal.

(b) This section shall not be interpreted to prohibit the coverage of services in emergency cases.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=5.5.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. Child Health [123650 - 124174.6]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 5.5. Assistance To Children At Home Demonstration Project [124010 - 124015]__

(Article 5.5 added by Stats. 1998, Ch. 891, Sec. 1.)

124010.

(a) It is the intent of the Legislature to establish demonstration projects to assist medically fragile infants, children, and adolescents.

(b) It is further the intent of the Legislature that these demonstration projects serve as models for methods of providing primary care services and coordination of health care for medically fragile infants, children, and adolescents.

(c) The Legislature finds and declares that the use of care management services under these demonstration projects will lead to savings in medical costs through reduced emergency room visits, hospital admissions, and other medical indicators and measures.

(Amended by Stats. 2000, Ch. 93, Sec. 28. Effective July 7, 2000.)

124011.

There is hereby established demonstration projects to provide a medical home and coordination of care model in order to reduce avoidable health problems of chronically, seriously ill infants, children, and adolescents. The demonstration projects may operate for a period of up to three years. Existing demonstration projects may be extended for up to two years, if outcome data display effectiveness as determined by the State Department of Health Services.

(Amended by Stats. 2000, Ch. 93, Sec. 29. Effective July 7, 2000.)

124012.

The department shall award funding appropriated for purposes of this article, on a competitive basis, to any nonprofit childrenshospitals, as defined in Section 10727 of the Welfare and Institutions Code, and other hospitals that operate at least 10 special care centers, as certified by the California Childrens™ Services Program.

(Amended by Stats. 2000, Ch. 93, Sec. 30. Effective July 7, 2000.)

124013.

The demonstration projects shall provide care management services to children enrolled in the demonstration projects pursuant to proposals accepted by the department.

Demonstration projects shall meet all of the following requirements:

(a) Establish and function as a medical home to a population of infants, children, and adolescents whose medical conditions requires multidisciplinary and multispecialty care.

(b) Provide care coordination between primary care and specialty health care providers and community agencies for project enrollees.

(c) Provide, or arrange for the provision of, health care services to maintain optimal health status. These services may include, but need not be limited to, physician office or home visits, psychosocial counseling, and medical nutrition evaluation and counseling.

(d) Establish a relationship with an enrolleesparent or guardian in order to enhance the understanding of the childscondition and the parent or guardiansparticipation in the enrolleesmedical treatment plan and decisionmaking.

(e) Maximize the use of third-party reimbursement for the services provided to the population enrolled in the project.

(Amended by Stats. 2000, Ch. 93, Sec. 31. Effective July 7, 2000.)

124014.

In order to most effectively assist children enrolled in the demonstration project, the demonstration project may employ the use of clinic visits, home visits, school visits, inpatient visits, and multidisciplinary conferences, as well as other innovative care management techniques.

(Amended by Stats. 2000, Ch. 93, Sec. 32. Effective July 7, 2000.)

124015.

(a) The hospital receiving funding under this article shall submit a report to the department that evaluates the demonstration project and includes measures of medical costs and improved health outcomes of enrollees.

(b) The report shall address the following outcome measures as identified in the hospitalsdemonstration project submitted to the department for approval.

(c) The report required by subdivision (a) shall include a determination as to whether the demonstration project is deemed to be successful. Unless other outcome measures are used pursuant to subdivision (d), the demonstration project shall be deemed to be successful if all of the following have occurred:

(1) The average number of school days missed is decreased by 50 percent.

(2) The average number of emergency room visits is decreased by 50 percent.

(3) The average number of hospitalizations and hospital days is decreased by 50 percent.

(4) The number of children with up-to-date immunizations is increased by 50 percent.

(d) The demonstration project may use other outcome measures in lieu of those identified in subdivision (c), if deemed appropriate by the department, to measure success.

(e) The determinations made pursuant to this subdivision shall be based on a comparison of the preprogram utilization rates, which is data collected one year prior to enrollment in the program, with the utilization rates one year after enrollment.

(Amended by Stats. 2000, Ch. 93, Sec. 33. Effective July 7, 2000.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=6.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. Child Health [123650 - 124174.6]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 6. Child Health And Disability Prevention Program [124024 - 124110.5]__

(Article 6 added by Stats. 1995, Ch. 415, Sec. 8.)

124024.

(a)Before July 1, 2024, the department shall take the following steps:

(1)Conduct a stakeholder engagement process to inform the department in the development and implementation of a transition plan and defined milestones to guide the transition of Child Health and Disability Prevention (CHDP) to other existing Medi-Cal delivery systems or services.

(A)The stakeholder engagement process shall include representatives of the State Department of Social Services, the State Department of Public Health, the County Health Executives Association of California, the County Welfare Directors Association of California, the California Dental Association, the American Academy of Pediatrics California, the Service Employees International Union, Medi-Cal managed care plans,

childrensadvocates, and subject-matter experts as identified by the department.

(B)The department shall strive to ensure the stakeholder engagement process reflects participation from the various regions throughout the state, including large urban and rural jurisdictions.

(C)The department shall launch the stakeholder engagement process by convening the first meeting no later than October 1, 2022.

(2)Develop a transition plan that shall include, at a minimum, all of the following:

(A)A posttransition oversight and monitoring plan for Medi-Cal children currently served through CHDP, including those in fee-for-service and foster youth.

(B)A plan for how managed care plans will monitor providers serving children for adherence to the Bright Futures Guidelines from the American Academy of Pediatrics and the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Program standards, including, but not limited to, requirements for site reviews, provider training and audits, and coordination of care to needed services, including to dental and behavioral health providers.

(C)A plan to fund the administrative and services costs of the Health Care Program for Children in Foster Care to meet statutory requirements.

(D)An analysis and plan for retaining existing local CHDP positions through the exploration of new partnerships and roles, or through bolstering existing programs that can leverage CHDP expertise, or through both.

(3)Provide an update to the Legislature during the 2023”24 budget hearings on the proposed transition plan.

(4)Take actions necessary to continue Medi-Cal presumptive eligibility for children under 19 years of age, including expanding access within the ChildrensPresumptive Eligibility Program to include all eligible Medi-Cal providers.

(5)Take actions necessary, in consultation with the State Department of Social Services, to continue the Health Care Program for Children in Foster Care, including entering into contracts pursuant to subdivision (f) of Section 16501.3 of the Welfare and Institutions Code.

(6)Take actions necessary, in consultation with the State Department of Public Health, to continue the Childhood Lead Poisoning Prevention Program activities.

(7)Seek any federal approvals the department deems necessary to implement this section. This section shall be implemented only to the extent that any necessary federal approvals are obtained and the department determines that federal financial participation is available and is not otherwise jeopardized.

(b)All qualified providers enrolled in the CHDP Program as of June 30, 2024, will be automatically enrolled as providers under the ChildrensPresumptive Eligibility Program on July 1, 2024. Medi-Cal providers not enrolled in the CHDP Program as of June 30, 2024, must follow all prescribed departmental rules and guidance in order to enroll as a Presumptive Eligibility qualified entity.

(c)Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section, in whole or in part, by means of all-county letters, plan letters, provider bulletins, numbered letters, information notices, or

other similar instructions, without taking any further regulatory action.

(d)The department shall issue a declaration certifying the date that all activities required pursuant to subdivision (a) have been completed. The department shall post the declaration on its internet website and provide a copy of the declaration to the Secretary of State, the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel.

(Added by Stats. 2022, Ch. 47, Sec. 17. (SB 184) Effective June 30, 2022. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124025.

The Legislature finds and declares that many physical and mental disabilities can be prevented, or their impact on an individual lessened, when they are identified and treated before they become chronic and irreversible damage occurs. The Legislature finds and declares that a community-based program of early identification and referral for treatment of potential handicapping conditions will be effective in reducing the incidence of the conditions and will benefit the health and welfare of the citizens of this state.

It is the intent of the Legislature in enacting this article and Section 120475 to establish child health and disability prevention programs, that shall be financed and have standards established at the state level and that shall be operated at the local level, for the purpose of providing early and periodic assessments of the health status of children. It is further intended that child health and disability prevention programs shall make maximum use of existing health care resources and shall utilize, as the first source of screening, the childsusual source of health care so that health screening programs are fully integrated with existing health services, that health care professionals be appropriately represented and utilized in these programs, that outreach programs be developed to stimulate the use of preventive health services, and that services offered pursuant to this article be efficiently provided and be of the highest quality.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124030.

As used in this article and Section 120475:

(a) State board means the State Maternal, Child, and Adolescent Health Board.

(b) Department means the department.

(c) Director means the director.

(d) Governing body means the county board of supervisors or boards of supervisors in the case of counties acting jointly.

(e) Local board means local maternal, child, and adolescent health board.

(f) Local health jurisdiction means county health department or combined health department in the case of

counties acting jointly or city health department within the meaning of Section 101185.

(g) Child Health and Disability Prevention provider or CHDP provider means any of the following, if approved for participation in the Child Health and Disability Prevention program by the community Child Health and Disability program director in accordance with program standards and as certified by the department:

(1) A physician licensed to practice medicine in California.

(2) A family nurse practitioner certified pursuant to Sections 2834 and 2836 of the Business and Professions Code.

(3) A pediatric nurse practitioner certified pursuant to Sections 2834 and 2836 of the Business and Professions Code.

(4) A primary care center, clinic, or other public or private agency or organization that provides outpatient health care services.

(5) A physicians™ group.

(6) A licensed clinical laboratory.

(Amended by Stats. 2002, Ch. 1161, Sec. 11. Effective September 30, 2002. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124033.

(a) Commencing July 1, 2003, all applications for services under the Child Health and Disability Prevention program shall be filed electronically in accordance with subdivision (b) of Section 14011.7 of the Welfare and Institutions Code.

(b) To implement the program described in subdivisions (b) to (e), inclusive, of Section 14011.7 of the Welfare and Institutions Code for the use of an electronic application for the Child Health and Disability Prevention program and for preenrollment into the Medi-Cal program or the Healthy Families Program, the following shall apply:

(1) The department may contract with public or private entities, or utilize existing health care service provider enrollment and payment mechanisms, including the Medi-Cal programsfiscal intermediary, only if services provided under the program are specifically identified and reimbursed in a manner that appropriately claims federal financial reimbursement.

(2) Contracts, including the Medi-Cal program fiscal intermediary contract for the Child Health and Disability Prevention Program, including any contract amendment, any system change pursuant to a change order, and any project or systems development notice shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, Chapter 7 (commencing with Section 11700) of Part 1 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, and any policies, procedures, or regulations authorized by these laws.

_(Added by Stats. 2002, Ch. 1161, Sec. 12. Effective September 30, 2002. Conditionally inoperative on or after

July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)_

124035.

The department shall administer this article and Section 120475 and shall adopt minimum standards for the approval of community child health and disability prevention programs and regulations as necessary. The standards shall allow necessary flexibility in the administration of county programs, taking into account the variability of county needs and resources. Standards shall be adopted for:

(a) Education and experience requirements for directors of community child health and disability prevention programs.

(b) Health screening, evaluation, and diagnostic procedures for child health and disability prevention programs.

(c) Public and private facilities and providers that may participate in community child health and disability prevention programs.

(d) The department shall develop a methodology for allocating child health and disability prevention funds to counties for the administration of this program.

(Amended by Stats. 2001, Ch. 171, Sec. 12.5. Effective August 10, 2001. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124040.

(a)The governing body of each county or counties shall establish a community child health and disability prevention program for the purpose of providing early and periodic assessments of the health status of children in the county or counties by July 1, 1974. However, this shall be the responsibility of the department for all counties that contract with the state for health services. Contract counties, at the option of the board of supervisors, may provide services pursuant to this article in the same manner as other county programs, if the option is exercised prior to the beginning of each fiscal year. Each plan shall include, but is not limited to, the following requirements:

(1)Outreach and educational services.

(2)Agreements with public and private facilities and practitioners to carry out the programs.

(3)Health screening and evaluation services for all children, including a physical examination, immunizations appropriate for the childsage and health history, and laboratory procedures appropriate for the childsage and population group performed by, or under the supervision or responsibility of, a physician licensed to practice medicine in California or by a certified family nurse practitioner or a certified pediatric nurse practitioner.

(4)Referral for diagnosis or treatment when needed, including, for all children eligible for Medi-Cal, referral for treatment by a provider participating in the Medi-Cal program of the conditions detected, and methods for assuring referral is carried out.

(5)Recordkeeping and program evaluations.

(6)The health screening and evaluation part of each community child health and disability prevention program plan shall include, but is not limited to, the following for each child:

(A)A health and development history.

(B)An assessment of physical growth.

(C)An examination for obvious physical defects.

(D)Ear, nose, mouth, and throat inspection, including inspection of teeth and gums, and for all children one year of age and older who are eligible for Medi-Cal, referral to a dentist participating in the Medi-Cal program.

(E)Screening tests for vision, hearing, anemia, tuberculosis, diabetes, and urinary tract conditions.

(7)An assessment of nutritional status.

(8)An assessment of immunization status.

(9)If appropriate, testing for sickle-cell trait, lead poisoning, and other tests that may be necessary to the identification of children with potential disabilities requiring diagnosis and possibly treatment.

(10)For all children eligible for Medi-Cal, necessary assistance with scheduling appointments for services and with transportation.

(b)Dentists receiving referrals of children eligible for Medi-Cal under this section shall employ procedures to advise the childsparent or parents of the need for and scheduling of annual appointments.

(c)Standards for procedures to carry out health screening and evaluation services and to establish the age at which particular tests should be carried out shall be established by the director. At the discretion of the department, these health screening and evaluation services may be provided at the frequency provided under the Healthy Families Program and permitted in managed care plans providing services under the Medi-Cal program, and shall be contingent upon appropriation in the annual Budget Act. Immunizations may be provided at the frequency recommended by the Committee on Infectious Disease of the American Academy of Pediatrics and the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(d) Each community child health and disability prevention program shall, pursuant to standards set by the director, establish a record system that contains a health case history for each child so that costly and unnecessary repetition of screening, immunization and referral will not occur and appropriate health treatment will be facilitated as specified in Section 124085.

(Amended by Stats. 2015, Ch. 18, Sec. 22. (SB 75) Effective June 24, 2015. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124045.

A city that operates an independent health agency may elect to provide the services described in this article with the approval of the department. In this instance, the powers granted a governing body of a county shall be vested in the governing body of the city.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124050.

Each community child health and disability program shall have a director meeting qualification standards by the department, appointed by the governing body, except for counties contracting with the state for health services.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124055.

Any community child health and disability prevention program may contract to furnish services to any other county if the contract is approved by the director.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124060.

(a) On or before September 15 of each year, each county program director shall submit a budget update for the subsequent fiscal year that provides the following information:

(1) A summary of the previous yearsactivity, including the number of children screened, the number of children referred for diagnosis and treatment, by condition, and the cost of screening services.

(2) A summary description of the results of cases in that a treatable disability was identified and referral made.

(3) A projection and cost estimates of the number of children to be screened for the fiscal year for which the budget is being submitted.

(b) The multiyear base community child health and disability prevention plan shall include the following:

(1) An assessment of the adequacy and availability of the facilities and providers to provide health screening diagnostic and treatment services.

(2) A description of the child health and disability prevention program to be offered, including expected

participating providers and outreach mechanisms to be utilized.

(3) A summary description of the current yearsactivity, including the number of children screened, the number of children referred for diagnosis and treatment, by condition, and the cost of screening services.

(4) A description of how existing school health resources, including school health personnel, are to be utilized for outreach and other services.

(5) Budget estimates, including all sources of revenue, for the budget.

(c) On or before September 15 of each year each governing board shall submit an update to the multiyear base community child health and disability prevention plan.

The director shall determine the amount of state funds available for each county for specified services under an approved multiyear base community child health and disability prevention plan, as updated, from state funds appropriated for child health and disability prevention services.

If the amount appropriated in the Budget Act for the fiscal year as enacted into law differs from the amount in the budget submitted by the Governor for the fiscal year, each governing board shall submit an additional revised update in the form and at the time specified by the department.

Notwithstanding any other provision of this article, no new community child health and disability prevention plan shall be submitted by a county until September 15, 1983. Each county plan and budget approved for the 1981"82 fiscal year shall be updated on or before September 15 by the governing body of each county for the 1982"83 and 1983"84 fiscal years pursuant to regulations adopted by the department. On or before September 15, 1983, the governing body of each county shall prepare and submit to the department a multiyear base plan and budget for the 1984"85 fiscal year that shall be annually updated on or before September 15 of each subsequent year pursuant to regulations adopted by the department.

The department shall develop and implement the format and procedures for the preparation and submission of a multiyear base plan update in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multiyear base plan by September 15, 1983.

For the purposes of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the multiyear base plan, but serve as a progress report both evaluating what has been accomplished over the past year and describing in more detail what will be accomplished in relation to each of the elements in the base plan during the coming year.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124065.

Counties shall be reimbursed for the amount required by the county to carry out its community child health and disability prevention program in accordance with the approved community child health and disability prevention plan. Claims for state reimbursement shall be made in the manner as the director shall provide. Each claim for state reimbursement shall be payable from the appropriation made for the fiscal year when the expenses upon which the claim is based are incurred.

There shall be no reimbursement for expenditures for the treatment of disabilities identified as a result of the program or for capital improvements or the purchase or construction of buildings, except for the equipment items and remodeling expenses as may be allowed by regulations adopted by the director.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124070.

Counties shall be reimbursed for the amount required by the county to carry out its community child health and disability prevention program in accordance with the approved community child health and disability prevention plan. Claims for state reimbursement shall be made in a manner as the director shall provide. Each claim for state reimbursement shall be payable from the appropriation made for the fiscal year in which the expenses upon which the claim is based are incurred.

There shall be no reimbursement for expenditures for the treatment of disabilities identified as a result of the program, except for the costs of immunizations necessary to bring the child current in his or her immunization status as provided for by regulations of the department, or for capital improvements or the purchase or construction of buildings, except for the equipment items and remodeling expenses as may be allowed by regulations adopted by the director.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124075.

(a) In order to ensure the maximum utilization of the California Medical Assistance Program and other potential reimbursement sources, the department shall develop a schedule and method of reimbursement at reasonable rates for services rendered pursuant to this article. The reimbursement schedule shall include provision for well child examinations as well as for administrative expenses incurred by providers pursuant to meeting this article. Inquiry shall be made of all recipients of services under this article as to their entitlement for third-party reimbursement for medical services. Where an entitlement exists it shall be billed. Notwithstanding subdivision (c) of Section 14000 of the Welfare and Institutions Code and Section 14005 of that code, the California Medical Assistance Program shall be billed for services rendered pursuant to this article for every Medi-Cal eligible beneficiary.

(b) The department and counties shall maximize the use of federal funds for carrying out this article, including using state or county funds to match funds claimable under Title 19 of the Social Security Act. Services and administrative support costs claimable under federal law shall include, but not be limited to, outreach, health education, case management, resource development, and training at state and local levels. Any federal funds received shall augment and not replace funds appropriated from the General Fund for carrying out the purposes of this article.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124080.

The department may contract with a private entity for the performance of processing claims for state reimbursement, so long as the cost of the contract is no more than 85 percent of the cost of the service if performed in state service and there is compliance with other applicable provisions of the Government Code including, but not limited to, Sections 19130 to 19132, inclusive.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124085.

On and after July 1, 1976, each child eligible for services under this article shall, within 90 days after entrance into the first grade, provide a certificate approved by the department to the school where the child is to enroll documenting that within the prior 18 months the child has received the appropriate health screening and evaluation services specified in Section 124040. A waiver signed by the childsparents or guardian indicating that they do not want or are unable to obtain the health screening and evaluation services for their children shall be accepted by the school in lieu of the certificate. If the waiver indicates that the parent or guardian was unable to obtain the services for the child, then the reasons why should be included in the waiver.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124090.

Any child between birth and 90 days after entrance into the first grade and all persons under 21 years of age who are eligible for the California Medical Assistance Program shall be eligible for services from the child health and disabilities prevention program in the county where they are a resident. The department, with review and recommendation by the board, shall adopt regulations specifying age groups that shall be given certain types of screening tests and recommendations for referral.

The first source of referral shall be the childsusual source of health care. If referral is required and no regular source of health care can be identified, the facility or provider providing health screening and evaluation services shall provide a list of three qualified sources of care, without prejudice for or against any specific source.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124095.

Each community child health and disability prevention program shall provide the child or his or her parent or guardian with a copy of the results of the health screening and evaluation, as well as an explanation of the

meaning of the results, and shall, where the need indicates, refer the child for further diagnosis and treatment.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124100.

(a)In cooperation with the county child health and disability prevention program, the governing body of every school district or private school that has children enrolled in kindergarten shall provide information to the parents or guardians of all children enrolled in kindergarten of this article and Section 120475.

(b)Each county child health and disability prevention program shall reimburse school districts for information provided pursuant to this section. The Superintendent of Public Instruction may withhold state average daily attendance funds to any school district for any child for whom a certification or parental waiver is not obtained as required by Section 124085.

(Amended by Stats. 2004, Ch. 895, Sec. 15. Effective January 1, 2005. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124105.

(a)This section shall be known and may be cited as the Hughes ChildrensHealth Enforcement Act.

(b)The Legislature recognizes the importance of health to learning and to a successful academic career. The Legislature also recognizes the important role of schools in ensuring the health of pupils through health education and the maintenance of minimal health standards among the pupil population. Therefore, it is the intent of the Legislature that schools ensure that pupils receive a health screening before the end of the first grade.

(c)The governing board of each school district shall exclude from school, for not more than five days, any first grade pupil who has not provided either a certificate or a waiver, as specified in Section 124085, on or before the 90th day after the pupilsentrance into the first grade. The exclusion shall commence with the 91st calendar day after the pupilsentrance into the first grade, unless school is not in session that day, then the exclusion shall commence on the next succeeding schoolday. A child shall not be excluded under this section if the pupilsparent or guardian provides to the district either a certificate or a waiver as specified in Section 124085.

(d)The governing board of a school district may exempt any pupil from the exclusion described in subdivision (c) if, at least twice between the first day and the 90th day after the pupilsentrance into the first grade, the district has contacted the pupilsparent or guardian and the parent or guardian refuses to provide either a certificate or a waiver as specified in Section 124085. The number of exemptions from exclusion granted by a school district pursuant to this subdivision may not exceed 5 percent of a school districtsfirst grade enrollment. It is the intent of the Legislature that exemptions from exclusion be used in extraordinary circumstances, including, but not limited to, family situations of great dysfunction or disruption, including substance abuse by parents or guardians, child abuse, or child neglect.

(e)It is the intent of the Legislature that, upon a pupilsenrollment in kindergarten or first grade, the governing board of the school district notify the pupilsparent or guardian of the obligation to comply with Section 124085 and of the availability for low-income children of free health screening for up to 18 months prior to entry into first grade through the Child Health Disabilities Prevention Program.

(f)It is the intent of the Legislature that school districts provide information to parents regarding the requirements of Section 124085 within the notification of immunization requirements. Moreover, the Legislature intends that the information sent to parents encourage parents to obtain health screenings simultaneously with immunizations.

(Amended by Stats. 2004, Ch. 895, Sec. 16. Effective January 1, 2005. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124110.

All information and results of the health screening and evaluation of each child shall be confidential and shall not be released without the informed consent of a parent or guardian of the child.

The results of the health screening and evaluation shall not be released to any public or private agency, even with the consent of a parent or guardian, unless accompanied by a professional interpretation of what the results mean.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996. Conditionally inoperative on or after July 1, 2024, pursuant to Section 124110.5. Repealed January 1 following the inoperative date.)

124110.5.

This article shall become inoperative on July 1, 2024, or on the date certified by the department pursuant to subdivision (d) of Section 124024, whichever date is later, and shall be repealed on January 1 of the year following the inoperative date.

(Added by Stats. 2022, Ch. 47, Sec. 18. (SB 184) Effective June 30, 2022. Conditionally repealed as prescribed by its own provisions. Note: Repeal affects Article 6 commencing with Section 124024.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=6.4.

__ARTICLE 6.4. Newborn Eye Pathology Screening [124111 - 124112]__

(Article 6.4 added by Stats. 2000, Ch. 325, Sec. 2.)

124111.

(a) The Newborn Eye Pathology Screening Task Force is established and shall advise the State Department of Health Services on the newborn eye pathology screening protocol.

(b) The task force shall be composed of the following 12 members:

(1) The Director of Health Services as a nonvoting ex officio member.

(2) The 11 voting members shall be appointed by the Director of Health Services as follows:

(A) One ophthalmologist with a background in or knowledge of providing services to infants with retinoblastoma.

(B) One pediatric ophthalmologist who sees general pediatric patients and is a designee of the American Association for Pediatric Ophthalmology and Strabismus.

(C) One academic pediatrician with a background in or knowledge of infant eye pathology screening.

(D) One parent representing families with a child with blindness or other ocular abnormalities affecting vision.

(E) One representative from the California Academy of Family Physicians.

(F) One representative recommended by the State Department of Health Services.

(G) One representative from the American Academy of Pediatrics, California District.

(H) One community pediatrician with a background in or experience with the routine instillation of dilating eye drops as part of red reflex screening.

(I) One nurse with a background in or knowledge of the current department program for the instillation of eye drops to prevent conjunctivitis.

(J) One retinal specialist with research experience in detecting the signs of treatable congenital eye disease.

(K) One optometrist with a background in or experience with pupil dilation in infants and red reflex screening for intraocular pathology.

(c) Task force members shall serve without compensation, but shall be reimbursed for necessary travel expenses incurred in the performance of the duties of the task force.

(Added by Stats. 2000, Ch. 325, Sec. 2. Effective January 1, 2001.)

124112.

(a) On or before June 30, 2002, the department shall adopt the protocol developed by the American Academy of Pediatrics to optimally detect the presence of treatable causes of blindness in infants by two

months of age. If a protocol is not developed on or before June 30, 2002, the department, in consultation with representatives of the Newborn Eye Pathology Task Force, shall establish a protocol to optimally detect the presence of treatable causes of blindness in infants by two months of age on or before January 1, 2003.

(b) If the American Academy of Pediatrics develops a protocol to optimally detect the presence of treatable causes of blindness by two months of age after the adoption of the protocol developed by the department, the department shall conform its protocol to the protocol adopted by the American Academy of Pediatrics.

(c) Nothing in the section shall be construed to supersede the clinical judgment of the licensed health care provider.

(d) Any screening examination recommended pursuant to subdivision (a) shall not be conducted on a newborn if a parent or guardian of the newborn objects to the examination on the grounds that the examination conflicts with the religious beliefs or practices of the parent or guardian.

(Added by Stats. 2000, Ch. 325, Sec. 2. Effective January 1, 2001.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=6.5.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. Child Health [123650 - 124174.6]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 6.5. Newborn and Infant Hearing Screening, Tracking, and Intervention Program [124115 - 124120.5]__

(Article 6.5 added by Stats. 1998, Ch. 310, Sec. 23.)

124115.

This article shall be known, and may be cited as, the Newborn and Infant Hearing Screening, Tracking and Intervention Act.

(Added by Stats. 1998, Ch. 310, Sec. 23. Effective August 19, 1998.)

124115.5.

(a) The Legislature finds and declares all of the following:

(1) Hearing loss occurs in newborns more frequently than any other health condition for which newborn screening is currently required.

(2) Early detection of hearing loss, early intervention, and followup services before six months of age, have been demonstrated to be highly effective in facilitating the development of a childshealth and communication and cognitive skills.

(3) The State of California supports the National Healthy People 2000 goals, which promote early identification of children with hearing loss.

(4) Children of all ages can receive reliable and valid screening for hearing loss in a cost-effective manner.

(5) Appropriate screening and identification of newborns and infants with hearing loss will facilitate early intervention during this critical time for development of communication, and may, therefore, serve the public purposes of promoting the healthy development of children and reducing public expenditure for health care and special education and related services.

(b) The purposes of this article shall be to do all of the following:

(1) Provide early detection of hearing loss in newborns, as soon after birth as possible, to enable children who fail a hearing screening and their families and other caregivers to obtain needed confirmatory tests or multidisciplinary evaluation, or both, and intervention services, at the earliest opportunity.

(2) Prevent or mitigate delays of language and communication development that could lead to academic failures associated with late identification of hearing loss.

(3) Provide the state with the information necessary to effectively plan, establish, and evaluate a comprehensive system of appropriate services for parents with newborns and infants who have a hearing loss.

(Added by Stats. 1998, Ch. 310, Sec. 23. Effective August 19, 1998.)

124116.

As used in this article:

(a) Birth admission means the time after birth that the newborn remains in the hospital nursery prior to discharge.

(b) CCS means the California ChildrensServices program administered through the State Department of Health Services.

(c) Department means the State Department of Health Services.

(d) Followup services means all of the following:

(1) All services necessary to diagnose and confirm a hearing loss.

(2) Ongoing audiological services to monitor hearing.

(3) Communication services, including, but not limited to, aural rehabilitation, speech, language, social, and psychological services.

(4) Necessary support of the infant and family.

(e) Hearing loss means a hearing loss of 30 decibels or greater in the frequency region important for speech recognition and comprehension in one or both ears (from 500 through 4000 Hz). However, as technology allows for changes to this definition through the detection of less severe hearing loss, the department may modify this definition by regulation.

(f) Infant means a child 29 days through 12 months old.

(g) Intervention services means the early intervention services described in Part C of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1475 et seq.).

(h) Newborn means a child less than 29 days old.

(i) Newborn hearing screening services means those hearing screening tests that are necessary to achieve the identification of all newborns and infants with a hearing loss.

(j) Parent means a natural parent, adoptive parent, or legal guardian of a child.

(Added by Stats. 1998, Ch. 310, Sec. 23. Effective August 19, 1998.)

124116.5.

(a)(1)Every general acute care hospital with licensed perinatal services in this state shall administer to every newborn, upon birth admission, a hearing screening test for the identification of hearing loss, using protocols approved by the department or its designee.

(2)In order to meet the departmentscertification criteria, a general acute care hospital shall be responsible for developing a screening program that provides competent hearing screening, utilizes appropriate staff and equipment for administering the testing, completes the testing prior to the newbornsdischarge from a newborn nursery unit, refers infants with abnormal screening results, maintains and reports data as required by the department, and provides physician and family-parent education.

(b)A hearing screening test provided for pursuant to subdivision (a) shall be performed by a licensed physician, licensed registered nurse, licensed audiologist, or an appropriately trained individual who is supervised in the performance of the test by a licensed health care professional.

(c)Every general acute care hospital that has not been approved by the California ChildrensServices (CCS) program and that has licensed perinatal services that provide care in fewer than 100 births annually shall, if it does not directly provide a hearing screening test, enter into an agreement with an outpatient infant hearing screening provider certified by the department to provide hearing screening tests.

(d)This section shall not apply to any newborn whose parent or guardian objects to the test on the grounds that the test is in violation of his or her beliefs.

(Amended (as amended by Stats. 2006, Ch. 335) by Stats. 2007, Ch. 130, Sec. 176. Effective January 1, 2008.)

124117.

The department or its designee shall approve hospitals for participation as newborn hearing screening providers. These facilities shall then receive payment from the department for the newborn hearing screening services provided to newborns and infants eligible for the Medi-Cal or CCS programs in accordance with this article.

(Added by Stats. 1998, Ch. 310, Sec. 23. Effective August 19, 1998.)

124118.

The department or its designee shall provide every general acute care hospital that has licensed perinatal services, or neonatal intensive care unit (NICU), as specified in Section 123975, written information on the current and most effective means available to screen the hearing of newborns and infants, and shall provide technical assistance and consultation to these hospitals in developing a system of screening each newborn and infant receiving care at the facility. The information shall also include the mechanism for referral of newborns and infants with abnormal test results.

(Amended by Stats. 2006, Ch. 335, Sec. 2. Effective January 1, 2007. Operative January 1, 2008, by Sec. 5 of Ch. 335.)

124118.5.

(a)The department shall establish a system of early hearing detection and intervention centers that shall provide technical assistance and consultation to hospitals in the startup and ongoing implementation of a

facility hearing screening program and followup system.

(b)The early hearing detection and intervention centers shall be chosen by the department according to standards and criteria developed by the California ChildrensServices (CCS) program. Each center shall be responsible for a separate geographic catchment area as determined by the program.

(c)Each center shall be required to develop a system that shall provide outreach and education to hospitals in its catchment area, approve hospitals on behalf of the department for participation as newborn hearing screening providers, maintain a database of all newborns and infants screened in the catchment area, ensure appropriate followup for newborns and infants with an abnormal hearing screening, including diagnostic evaluation and referral to intervention services programs if the newborn or infant is found to have a hearing loss, and provide coordination with the CCS and local early intervention programs as defined in Title 14 (commencing with Section 95000) of the Government Code.

(Amended by Stats. 2006, Ch. 335, Sec. 3. Effective January 1, 2007. Operative January 1, 2008, by Sec. 5 of Ch. 335.)

124119.

(a)The department shall develop and implement a reporting and tracking system for newborns and infants tested for hearing loss.

(b)The system shall provide the department with information and data to effectively plan, establish, monitor, and evaluate the Newborn and Infant Hearing Screening, Tracking and Intervention Program, including the screening and followup components, as well as the comprehensive system of services for newborns and infants who are deaf or hard-of-hearing and their families.

(c)Every general acute care hospital with licensed perinatal services, or NICU in this state shall report to the department or the departmentsdesignee information as specified by the department to be included in the departmentsreporting and tracking system.

(d)All providers of audiological followup and diagnostic services provided under this article shall report to the department or the departmentsdesignee information as specified by the department to be included in the departmentsreporting and tracking system.

(e)The information compiled and maintained in the tracking system shall be kept confidential in accordance with Chapter 5 (commencing with Section 10850) of Part 1 of Division 9 of the Welfare and Institutions Code, the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), and the applicable requirements and provisions of Part C of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1475 et seq.).

(f)Data collected by the tracking system obtained directly from the medical records of the newborn or infant shall be for the confidential use of the department and for the persons or public or private entities that the department determines are necessary to carry out the intent of the reporting and tracking system.

(g)A health facility, clinical laboratory, audiologist, physician, registered nurse, or any other officer or employee of a health facility or laboratory or employee of an audiologist or physician, shall not be criminally or civilly liable for furnishing information to the department or its designee pursuant to the requirements of this section.

(Amended by Stats. 2006, Ch. 335, Sec. 4. Effective January 1, 2007. Operative January 1, 2008, by Sec. 5 of Ch. 335.)

124119.5.

Parents of all newborns and infants diagnosed with a hearing loss shall be provided written information on the availability of community resources and services for children with hearing loss, including those provided in accordance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), through the reporting and tracking system followup procedures. Information shall include listings of local and statewide nonprofit deaf and hard-of-hearing consumer-based organizations, parent support organizations affiliated with deafness, and programs offered through the State Department of Social Services, Office of Deaf Access, State Department of Developmental Services, and the State Department of Education.

(Added by Stats. 1998, Ch. 310, Sec. 23. Effective August 19, 1998.)

124120.

The department may conduct a community outreach and awareness campaign to inform medical providers, pregnant women, and the families of newborns and infants on the availability of the newborn hearing screening program and the value of early hearing testing. The outreach and awareness campaign shall be conducted by an independent contractor.

(Amended by Stats. 2002, Ch. 1161, Sec. 14. Effective September 30, 2002.)

124120.5.

A newborn hearing screening test shall not be performed without the written consent of the parent.

(Added by Stats. 1998, Ch. 310, Sec. 23. Effective August 19, 1998.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=6.6.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. Child Health [123650 - 124174.6]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 6.6. Newborn Critical Congenital Heart Disease Screening Program [124121 - 124122]__

(Article 6.6 added by Stats. 2012, Ch. 336, Sec. 2.)

124121.

For purposes of this article, CCHD means critical congenital heart disease.

(Added by Stats. 2012, Ch. 336, Sec. 2. (AB 1731) Effective January 1, 2013.)

124122.

(a)(1)Beginning July 1, 2013, a general acute care hospital that has a licensed perinatal service shall offer to parents of a newborn, prior to discharge, a pulse oximetry test for the identification of CCHD.

(2)The State Department of Health Care Services shall issue guidance stating that hospitals perform this test in a manner consistent with the federal Centers for Disease Control and Prevention guidelines for CCHD screening.

(3)A hospital described in paragraph (1) shall be responsible for developing a screening program that provides competent CCHD screening, utilizes appropriate staff and equipment for administering the testing, completes the testing prior to the newbornsdischarge from a newborn nursery unit, refers infants with abnormal screening results for appropriate care, maintains and reports data as required by the department, and provides physician and family-parent education.

(b)A pulse oximetry test provided for pursuant to subdivision (a) shall be performed by a licensed physician, licensed registered nurse, or an appropriately trained individual who is supervised in the performance of the test by a licensed health care professional.

(c)This section shall not apply to a newborn whose parent or guardian objects to the test on the grounds that the test is in violation of his or her beliefs.

(Added by Stats. 2012, Ch. 336, Sec. 2. (AB 1731) Effective January 1, 2013.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=7.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. Child Health [123650 - 124174.6]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 7. Childhood Lead Poisoning Prevention Act [124125 - 124165]__

(Article 7 added by Stats. 1995, Ch. 415, Sec. 8.)

124125.

(a)The Legislature hereby finds and declares that childhood lead exposure represents the most significant childhood environmental health problem in the state today; that too little is known about the prevalence, long-term health care costs, severity, and location of these problems in California; that it is well known that the environment is widely contaminated with lead; that excessive lead exposure causes acute and chronic damage to a childsrenal system, red blood cells, and developing brain and nervous system; that at least one

in every 25 children in the nation has an elevated blood lead level; and that the cost to society of neglecting this problem may be enormous.

(b)The Legislature further finds and declares that knowledge about where and to what extent harmful childhood lead exposures are occurring in the state could lead to the prevention of these exposures, and to the betterment of the health of Californiasfuture citizens. Therefore, the enactment of this article establishes a state Childhood Lead Poisoning Prevention Program. The department shall accomplish all of the following:

(1)Compile information concerning the prevalence, causes, and geographic occurrence of high childhood blood lead levels.

(2)Identify and target areas of the state where childhood lead exposures are especially significant.

(3)Analyze information collected pursuant to this article and, where indicated, design and implement a program of medical followup and environmental abatement and followup that will reduce the incidence of excessive childhood lead exposures in California.

(4)Work, as necessary, with the State Department of Health Care Services to advance lead testing of children enrolled in Medi-Cal.

(c)(1)By March 1, 2019, and by March 1 of each year thereafter, the department shall prepare and prominently post on its Internet Web site information that evaluates the departmentsprogress in meeting the goals of this section. The information shall also include all of the following:

(A)An annually updated analysis of the data and information identified and compiled relative to paragraphs (1) and (2) of subdivision (b).

(B)To the greatest extent possible, a list of the census tracts in which children test positive at a rate higher than the national average for blood lead in exceedance of the federal Centers for Disease Control and Preventionsreference level for elevated blood lead based on the data and information received during the previous calendar year.

(C)The report developed pursuant to Section 105295.

(2)All uses and disclosures of data made pursuant to this section shall comply with all applicable state and federal laws for the protection of the privacy and security of data, including, but not limited to, the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), Title 1.81 (commencing with Section 1798.80) of Part 4 of Division 3 of the Civil Code, the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), and the federal Health Information Technology for Economic and Clinical Health Act, Title XIII of the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and implementing regulations.

(Amended by Stats. 2018, Ch. 690, Sec. 5. (SB 1041) Effective January 1, 2019.)

124130.

(a)A laboratory that performs a blood lead analysis on a specimen of human blood drawn in California shall report the information specified in this section to the department for each analysis on every person tested.

(b)(1)The analyzing laboratory shall report all of the following:

(A)The test results in micrograms of lead per deciliter.

(B)The name of the person tested.

(C)The personsbirth date.

(D)The personsaddress, including the ZIP Code, and telephone number.

(E)The name, address, telephone number, and National Provider Identifier (NPI) of the health care provider that ordered the analysis.

(F)The name, address, telephone number, Clinical Laboratory Improvement Amendments (CLIA) number, and NPI of the analyzing laboratory.

(G)The accession number of the specimen.

(H)The date the analysis was performed.

(I)The personsMedi-Cal client identification number (CIN) or, for other health plans, the name of the health plan and the medical plan identification number.

(J)The personssex.

(K)The personsrace and ethnicity.

(L)The personspregnancy status.

(M)The name, address, and telephone number of the personsemployer, if any.

(N)The date the specimen was drawn.

(O)The source of the specimen, specified as venous, capillary, arterial, cord blood, or other.

(P)The name, address, telephone number, and CLIA number of the referring laboratory, if any.

(Q)The testing methodology used for blood lead analysis specified as point of care, inductively coupled plasma mass spectrometry, graphite furnace atomic spectroscopy, or other.

(2)The changes made to this subdivision by the act adding this paragraph shall become operative on July 1, 2023.

(c)The analyzing laboratory may report to the department other information that directly relates to the blood lead analysis or to the identity, location, health care management, or environmental management of the person tested.

(d)If the result of the blood lead analysis is a blood lead level equal to or greater than the most recent federal Centers for Disease Control and Prevention (CDC) reference level for an elevated blood lead level (BLL), the report required by this section shall be submitted within three working days of the analysis. If the

result is less than the CDC reference level for an elevated BLL, the report required by this section shall be submitted within 30 calendar days of the analysis. Timing of reporting shall be based on rounding of results to the nearest whole number.

(e)A report required by this section shall be submitted by electronic transfer.

(f)All information reported pursuant to this section shall be confidential, as provided in Section 100330, except that the department may share the information as follows:

(1)To the individual to whom the information pertains.

(2)With the prior written voluntary consent of the individual to whom the information pertains or the person authorized to give consent on behalf of the individual, such as a childsparent or guardian.

(3)When required by state or federal law.

(4)When compelled by an order of the court or an administrative hearing officer, if a protective order that prohibits any further disclosure is secured prior to disclosure.

(5)For the purpose of surveillance, case management, coordination of care, investigation, environmental assessment, environmental remediation, or abatement with the local health department, environmental health agency authorized pursuant to Section 101275, building department, health care providers treating patients with elevated blood levels or receiving case management services, or a federal, state, or local governmental agency.

(6)For research, as defined in Part 46 of Title 45 of the Code of Federal Regulations, as may be amended, if the request for information is approved by the Committee for the Protection of Human Subjects (CPHS) for the California Health and Human Services Agency, the requesting entity provides documentation to the department that demonstrates, to the departmentssatisfaction, that the entity has established the procedures and ability to maintain the confidentiality of the information, and the requesting entity has agreed, in writing, to maintain the confidentiality of the information.

(7)With the State Department of Health Care Services for the purpose of determining whether children enrolled in Medi-Cal are being screened for lead poisoning and receiving appropriate related services.

(g)(1)The State Department of Health Care Services and health care providers may further disclose the information reported pursuant to this section to a managed health care plan in which a beneficiary who is the subject of the information is enrolled, who may further disclose this information to the beneficiaryshealth care provider to proactively offer and coordinate care and treatment services and administer payment programs.

(2)The local health department, environmental health agency, building department, researcher, or federal, state, or local governmental entity shall not further disclose the information and shall otherwise maintain the confidentiality of the information in the manner provided in Section 100330.

(3)Notwithstanding any other law, a disclosure authorized pursuant to this section, except to the State Department of Health Care Services and to health care providers, shall include only the information necessary for the stated purpose of the requested disclosure, be used only for the approved purpose, and not be further disclosed.

(4)The State Department of Health Care Services and health care providers shall use, disclose, and maintain

the confidentiality of information shared with it pursuant to this subdivision in accordance with the federal Health Insurance Portability and Accountability Act of 1996, as may be amended, and pursuant to regulations promulgated thereto, and other laws applicable to information in possession of the State Department of Health Care Services and health care providers.

(h)The director may assess a fine up to five hundred dollars ($500) against a laboratory that knowingly fails to meet the reporting requirements of this section.

(i)A laboratory shall not be fined or otherwise penalized for failure to provide the patient information required by this section if the result of the blood lead analysis is a blood lead level less than the most recent CDC reference level for an elevated BLL and if all of the following circumstances exist:

(1)The test sample was sent to the laboratory by another health care provider.

(2)The laboratory requested the information from the health care provider who obtained the sample.

(3)The health care provider who obtained the sample and sent it to the laboratory failed to provide the patientsinformation.

(j)A laboratory shall request from the health care provider who obtained the blood sample or ordered the test all information required by this section, as applicable. If the health care provider cannot, or will not, provide the requested information, the laboratory is not required to report the information.

(Amended by Stats. 2022, Ch. 528, Sec. 1. (AB 2326) Effective January 1, 2023.)

124150.

The Legislature hereby finds and declares that the activities conducted by the department pursuant to Section 124130 have confirmed and supported the findings specified in Section 124125 and, in addition, have resulted in the following findings:

(a)Very few children are currently tested for elevated blood lead levels in California. The lead registry established pursuant to Section 124130 has been effective at identifying incidents of occupational lead poisoning; however, because childhood lead screening is not now required in California, the registry is unable to serve as the exclusive mechanism to identify children with elevated blood lead levels. Additional blood lead screening needs to be done to identify children at high risk of lead poisoning.

(b)Based on emerging information about the severe deleterious effects of low levels of lead on childrenshealth, the lead danger level is expected to continue to be lowered.

(c)Lead poisoning poses a serious health threat for significant numbers of California children. Based on lead registry reports and targeted screening results, the department has estimated that tens of thousands of California children may be suffering from blood lead levels greater than the danger level.

(d)The implications of lead exposure to children and pregnant women from lead brought home on the clothing of workers are unknown, but may be significant.

(e)Levels of lead found in soil and paint around and on housing constitute a health hazard to children living in the housing. No regulations currently exist to limit allowable levels of lead in paint surfaces in California

housing.

(Amended by Stats. 2017, Ch. 507, Sec. 8. (AB 1316) Effective January 1, 2018.)

124151.

The department shall use an electronic database consistent with the goals outlined in Section 124125 to support electronic laboratory reporting of blood lead tests reported pursuant to Section 124130, management of lead-exposed children, and assessment of sources of lead exposures.

(Added by Stats. 2017, Ch. 507, Sec. 9. (AB 1316) Effective January 1, 2018.)

124155.

(a) The department shall design and implement a screening program for lead exposure of children not older than seven years old in migrant labor camps where lead-based paint has been identified pursuant to Section 50710.5.

(b) The department may implement the screening program through the local health departments utilizing the departmentsprotocols. Notwithstanding any other provision of law, the department may contract with a nonprofit organization to assist in administration of the program. The contract shall not be subject to competitive bidding requirements.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124160.

The department shall continue to direct the Childhood Lead Poisoning Prevention Program to implement a program to identify and conduct medical followup of high-risk children, and to establish procedures for environmental abatement and followup designed to reduce the incidence of excessive childhood lead exposures in California. In implementing this program, the department shall utilize its own studies, as well as relevant information from the scientific literature and childhood lead poisoning programs from outside California. The particular activities specified in this section shall be initiated by January 1, 1990, and completed on or before January 1, 1993. The program shall include at least all of the following components:

(a)Lead screening. The department shall:

(1)Design and implement at least one pilot blood lead screening project targeting children at high risk of elevated blood lead levels. In designing any pilot projects, the department shall give special consideration to conducting screening through the Child Health Disability and Prevention Program.

(2)Conduct a pilot screening project to evaluate blood lead levels among children of workers exposed to lead in their occupations.

(3)Develop and issue health advisories urging health care providers to conduct routine annual screening of

high-risk children between the ages of one and five years of age.

(4)Develop a program to assist local health departments in identifying and following up cases of elevated blood lead levels.

(5)Develop and conduct programs to educate health care providers regarding the magnitude and severity of, and the necessary responses to, the childhood lead poisoning problem in California.

(b)The department, in consultation with the Department of Housing and Community Development, shall adopt regulations governing the abatement of lead paint in and on housing, including, but not limited to, standards for enforcement, testing, abatement, and disposal.

(c)The department shall conduct a study to evaluate whether abatement of lead in soil is effective at reducing blood lead levels in children.

(Amended by Stats. 2004, Ch. 193, Sec. 128. Effective January 1, 2005.)

124165.

After January 1, 1993, the department, through the Childhood Lead Poisoning Prevention Program, shall continue to take steps that it determines are necessary to reduce the incidence of excessive childhood lead exposure in California.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=8.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. Child Health [123650 - 124174.6]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 8. Female Genital Mutilation Prevention [124170- 124170.]__

(Article 8 added by Stats. 1996, Ch. 790, Sec. 3.)

124170.

The State Department of Health Services, in consultation with the State Department of Social Services and the appropriate federal agency or department, shall establish and implement appropriate education, preventative, and outreach activities, focusing on the new immigrant populations that traditionally practice female genital mutilation, for the purpose of informing members of those communities of the health risks and emotional trauma inflicted by this practice and informing those communities and the medical community of the prohibition and ramifications of Section 273.4 of the Penal Code.

(Added by Stats. 1996, Ch. 790, Sec. 3. Effective January 1, 1997.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=9.

124172.

(a)Except for an influenza vaccine described in subdivision (b), on and after July 1, 2006, a person who is knowingly pregnant or who is under three years of age shall not be vaccinated with a mercury-containing vaccine or injected with a mercury-containing product that contains more than 0.5 micrograms of mercury per 0.5 milliliter dose.

(b)On and after July 1, 2006, a person who is knowingly pregnant or who is under three years of age shall not be vaccinated with a mercury-containing influenza vaccine that contains more than 1.0 microgram of mercury per 0.5 milliliter dose.

(c)The Secretary of the Health and Human Services Agency may exempt the use of a vaccine from this section if the secretary finds, and the Governor concurs, that an actual or potential bioterrorist incident or other actual or potential public health emergency, including an epidemic or shortage of supply of a vaccine that would prevent children under three years of age and knowingly pregnant women from receiving the needed vaccine, makes necessary the administration of a vaccine containing more mercury than the maximum level set forth in subdivision (a), or subdivision (b) in the case of influenza vaccine. The exemption shall meet all of the following conditions:

(1)It shall not be issued for more than 12 months.

(2)At the end of the effective period of the exemption, the secretary may issue another exemption for up to 12 months for the same incident or public health emergency, if the secretary makes a determination that the exemption is necessary as set forth in this subdivision, the Governor concurs with the exemption, and the secretary notifies the Legislature and interested parties pursuant to paragraphs (3), (4), and (5).

(3)Upon issuing an exemption, the secretary and the Governor shall, within 48 hours, notify the Legislature about the exemption and about the secretarysfindings justifying the exemptionsapproval.

(4)Upon request for an exemption, the secretary shall notify interested parties, who have expressed their interest to the secretary in writing, that an exemption request has been made.

(5)Upon issuing an exemption, the secretary shall, within seven days, notify interested parties, who have expressed their interest to the secretary in writing, about the exemption and about the secretarysfindings justifying the exemptionsapproval.

(Added by Stats. 2004, Ch. 837, Sec. 1. Effective January 1, 2005.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=3.&article=10.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. Child Health [123650 - 124174.6]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 10. Public School Health Center Support Program [124174 - 124174.6]__

(Article 10 added by Stats. 2006, Ch. 334, Sec. 1.)

124174.

The following definitions shall govern the construction of this article, unless the context requires otherwise:

(a)Program means a Public School Health Center Support Program.

(b)School health center means a center or program, located at or near a local educational agency, that provides age-appropriate health care services at the program site or through referrals. A school health center may conduct routine physical, mental health, and oral health assessments, and provide referrals for any services not offered onsite. A school health center may serve two or more nonadjacent schools or local educational agencies.

(c)For purposes of this section, local educational agency means a school, school district, charter school, or county office of education if the county office of education serves students in kindergarten, or any grades from 1 to 12, inclusive.

(d)Department means the State Department of Public Health.

(Amended by Stats. 2008, Ch. 381, Sec. 2. Effective January 1, 2009.)

124174.2.

(a)The department, in cooperation with the State Department of Education, shall establish a Public School Health Center Support Program.

(b)The program, in collaboration with the State Department of Education, shall perform the following program functions:

(1)Provide technical assistance to school health centers on effective outreach and enrollment strategies to identify children who are eligible for, but not enrolled in, the Medi-Cal program, the Healthy Families Program, or any other applicable program.

(2)Serve as a liaison between organizations within the department, including, but not limited to, prevention services, primary care, and family health.

(3)Serve as a liaison between other state entities, as appropriate, including, but not limited to, the State Department of Health Care Services, the Department of Managed Health Care, the Office of Emergency Services, and the Managed Risk Medical Insurance Board.

(4)Provide technical assistance to facilitate and encourage the establishment, retention, or expansion of, school health centers. For purposes of this paragraph, technical assistance may include, but is not limited to, identifying available public and private sources of funding, which may include federal Medicaid funds, funds

from third-party reimbursements, and available federal or foundation grant moneys.

(c)The department shall consult with interested parties and appropriate stakeholders, including the California School Health Centers Association and representatives of youth and parents, in carrying out its responsibilities under this article.

(Amended by Stats. 2013, Ch. 22, Sec. 71. (AB 75) Effective June 27, 2013. Operative July 1, 2013, by Sec. 110 of Ch. 22.)

124174.3.

(a)The department shall establish standardized data collection procedures and collect data specified in subdivisions (c) and (d) from school health centers on an ongoing basis.

(b)The data collected pursuant to this section shall be submitted in a format determined by the department in accordance with applicable state and federal requirements for confidentiality and protected health information.

(c)Data collected pursuant to this section shall include the following:

(1)The name of the primary contact person, telephone numbers, including facsimile physical address, and the e-mail address, if applicable, for each school health center.

(2)The annual number of schoolage children receiving health services or mental health services from the school health center.

(3)The type and volume of services provided by the school health centers.

(4)The funding mechanisms used by the school health centers.

(5)Information on other programs offered by school health centers with an emphasis on preventative health services that address health issues unique to schoolage children, including, but not limited to, childhood obesity, asthma, immunizations against communicable diseases, and child and adolescent mental health disorders.

(d)To the extent feasible, the department shall collect data on health services provided at a local educational agency outside a school health center.

(e)This section shall be implemented only to the extent funds are appropriated for this purpose in the Budget Act or pursuant to the enactment of legislation subsequent to the addition of this section.

(Added by Stats. 2006, Ch. 334, Sec. 1. Effective January 1, 2007.)

124174.4.

The State Department of Education, in collaboration with the department, shall perform the following functions:

(a)Coordination of programs within the State Department of Education that support school health centers and programs within the State Department of Health Care Services, where appropriate.

(b)The provision of technical assistance to facilitate and encourage the establishment, retention, and expansion of school health centers in public schools. For purposes of this subdivision, technical assistance may include the provision of information to local educational agencies and other entities regarding the utilization of facilities, liability insurance, cooperative agreements with community-based providers, and other issues pertinent to school health centers.

(Amended by Stats. 2013, Ch. 22, Sec. 72. (AB 75) Effective June 27, 2013. Operative July 1, 2013, by Sec. 110 of Ch. 22.)

124174.5.

The program, in collaboration with the State Department of Education, shall act as a liaison for school-based health centers.

(Amended by Stats. 2012, Ch. 728, Sec. 110. (SB 71) Effective January 1, 2013.)

124174.6.

The department shall establish a grant program within the Public School Health Center Support Program to provide technical assistance, and funding for the expansion, renovation, and retrofitting of existing school health centers, and the development of new school health centers, in accordance with the following procedures and requirements:

(a)A school health center receiving grant funds pursuant to this section shall meet or have a plan to meet the following requirements:

(1)Strive to provide a comprehensive set of services including medical, oral health, mental health, health education, and related services in response to community needs.

(2)Provide primary and other health care services, provided or supervised by a licensed professional, which may include all of the following:

(A)Physical examinations, immunizations, and other preventive medical services.

(B) Diagnosis and treatment of minor injuries and acute medical conditions.

(C)Management of chronic medical conditions.

(D)Basic laboratory tests.

(E)Referrals to and followup for specialty care.

(F)Reproductive health services.

(G)Nutrition services.

(H)Mental health services provided or supervised by an appropriately licensed mental health professional may include: assessments, crisis intervention, counseling, treatment, and referral to a continuum of services including emergency psychiatric care, community support programs, inpatient care, and outpatient programs. School health centers providing mental health services as specified in this section shall consult with the local county mental health department for collaboration in planning and service delivery.

(I)Oral health services that may include preventive services, basic restorative services, and referral to specialty services.

(3)Work in partnership with the school nurse, if one is employed by the school or school district, to provide individual and family health education; school or districtwide health promotion; first aid and administration of medications; facilitation of student enrollment in health insurance programs; screening of students to identify the need for physical, mental health, and oral health services; referral and linkage to services not offered onsite; public health and disease surveillance; and emergency response procedures. A school health center may receive grant funding pursuant to this section if the school or school district does not employ a school nurse. However, it is not the intent of the Legislature that a school health center serve as a substitute for a school nurse employed by a local school or school district.

(4)Have a written contract or memorandum of understanding between the school district and the health care provider or any other community providers that ensures coordination of services, ensures confidentiality and privacy of health information consistent with applicable federal and state laws, and integration of services into the school environment.

(5)Serve all registered students in the school regardless of ability to pay.

(6)Be open during all normal school hours, or on a more limited basis if resources are not available, or on a more expansive basis if dictated by community needs and resources are available.

(7)Establish protocols for referring students to outside services when the school health center is closed.

(8)Facilitate transportation between the school and the health center if the health center is not located on school or school district property.

(b)Planning grants shall be available in amounts between twenty-five thousand dollars ($25,000) and fifty thousand dollars ($50,000) for a 6- to 12-month period to be used for the costs associated with assessing the need for a school health center in a particular community or area, and developing the partnerships necessary for the operation of a school health center in that community or area. Applicants for planning grants shall be required to have a letter of interest from a school or district if the applicant is not a local education agency. Grantees provided funding pursuant to this subdivision shall be required to do all of the following:

(1)Seek input from students, parents, school nurses, school staff and administration, local health providers, and if applicable, special population groups, on community health needs, barriers to health care and the need for a school health center.

(2)Collect data on the school and community to estimate the percentage of students that lack health insurance and the percentage that are eligible for Medi-Cal benefits, or other public programs providing free or low-cost health services.

(3)Assess capacity and interest among health care providers in the community to provide services in a school health center.

(4)Assess the need for specific cultural or linguistic services or both.

(c)Facilities and startup grants shall be available in amounts between twenty thousand dollars ($20,000) and two hundred fifty thousand dollars ($250,000) per year for a three-year period for the purpose of establishing a school health center, with the potential addition of one hundred thousand dollars ($100,000) in the first year for facilities construction, purchase, or renovation. Grant funds may be used to cover a portion or all of the costs associated with designing, retrofitting, renovating, constructing, or buying a facility, for medical equipment and supplies for a school health center, or for personnel costs at a school health center. Preference will be given to proposals that include a plan for cost sharing among schools, health providers, and community organizations for facilities construction and renovation costs. Applicants for facilities and startup grants offered pursuant to this subdivision shall be required to meet the following criteria:

(1)Have completed a community assessment determining the need for a school health center.

(2)Have a contract or memorandum of understanding between the school district and the health care provider, if other than the district, and any other provider agencies describing the relationship between the district and the school health center.

(3)Have a mechanism, described in writing, to coordinate services to individual students among school and school health center staff while maintaining confidentiality and privacy of health information consistent with applicable state and federal laws.

(4)Have a written description of how the school health center will participate in the following:

(A)School and districtwide health promotion, coordinated school health, health education in the classroom or on campus, program/activities that address nutrition, fitness, or other important public health issues, or promotion of policies that create a healthy school environment.

(B)Outreach and enrollment of students in health insurance programs.

(C)Public health prevention, surveillance, and emergency response for the school population.

(5)Have the ability to provide the linguistic or cultural services needed by the community. If the school health center is not yet able to provide these services due to resource limitations, the school health center shall engage in an ongoing assessment of its capacity to provide these services.

(6)Have a plan for maximizing available third-party reimbursement revenue streams.

(d)Sustainability grants shall be available in amounts between twenty-five thousand dollars ($25,000) and one hundred twenty-five thousand dollars ($125,000) per year for a three-year period for the purpose of operating a school health center, or enhancing programming at a fully operational school health center, including oral health or mental health services. Applicants for sustainability grants offered pursuant to this subdivision shall be required to meet all of the criteria described in subdivision (c), in addition to both of the following criteria:

(1)The applicant shall be eligible to become or already be an approved Medi-Cal provider.

(2)The applicant shall have ability and procedures in place for billing public insurance programs and managed care providers.

(3)The applicant shall seek reimbursement and have procedures in place for billing public and private insurance that covers students at the school health center.

(e)The department shall award technical assistance grants through a competitive bidding process to qualified contractors to support grantees receiving grants under subdivisions (b), (c), and (d). A qualified contractor means a vendor with demonstrated capacity in all aspects of planning, facilities development, startup, and operation of a school health center.

(f)The department shall also develop a request for proposal (RFP) process for collecting information on applicants, and determining which proposals shall receive grant funding. The department shall give preference for grant funding to the following schools:

(1)Schools in areas designated as federally medically underserved areas or in areas with medically underserved populations.

(2)Schools with a high percentage of low-income and uninsured children and youth.

(3)Schools with large numbers of limited English proficient (LEP) students.

(4)Schools in areas with a shortage of health professionals.

(5)Low-performing schools with Academic Performance Index (API) rankings in the deciles of three and below of the state.

(g)Moneys shall be allocated to the department annually for evaluation to be conducted by an outside evaluator that is selected through a competitive bidding process. The evaluation shall document the number of grantees that establish and sustain school health centers, and describe the challenges and lessons learned in creating successful school health centers. The evaluator shall use data collected pursuant to Section 124174.3, if it is available, and work in collaboration with the Public School Health Center Support Program. The department shall post the evaluation on its Internet Web site.

(h)This section shall be implemented only to the extent that funds are appropriated to the department in the annual Budget Act or other statute for implementation of this article.

(Added by Stats. 2008, Ch. 381, Sec. 4. Effective January 1, 2009.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=2.&chapter=4.&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=2.&chapter=4.&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=4.&article=1.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 4. Adolescent Health [124175 - 124260]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 1. California Adolescent Family Life Act of 1988 [124175 - 124200]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 8.)

124175.

The Legislature hereby finds and declares that:

(a) Adolescent pregnancy and parenthood is a problem with significant social, medical, educational, and economic consequences to the teen parent and child, her family, and the State of California.

(b) In an attempt to address the problems of pregnant and parenting adolescents, the Governor, in 1985, created the Adolescent Family Life Demonstration Program, that was designed to bring pregnant and parenting teenagers into programs that provide services of demonstrated cost benefit and effectiveness by organizing networks of local agencies focused on providing services to adolescents and ensuring the most timely and effective utilization of services.

(c) Independent evaluations indicate that the program has been successful and effective in achieving its intended goals of providing pregnant adolescents with prenatal care, reducing the incidence of low birthweight babies born to adolescent mothers, keeping or reenrolling pregnant and parenting adolescents in school, and reducing the rate of repeat teen pregnancies.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124180.

(a) The department may conduct the Adolescent Family Life Program to assure that pregnant adolescents receive comprehensive continuous prenatal care in order to deliver healthy babies; to establish networks within regions to provide to pregnant and parenting teens and their children necessary services including medical care, psychological and nutritional counseling, maternity counseling, adoption counseling, academic and vocational programs, and day care; to provide a continuous case manager to each family unit; and to maintain a data base to measure outcomes of adolescent pregnancies. Specific procedures to operate this program will be defined and carried out through standards and guidelines established by the department.

(b) No grant funds may be used for essential services to pregnant adolescents or schoolage parents unless the services are not available in the county or are insufficient to meet the basic needs of the population to be served; in that case, funds may be used for essential services only as set forth in the approved grant application. No grant funds may be expended for abortions, abortion referrals, or abortion counseling.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124185.

(a) The department, through its program of maternal and child health, shall award contract augmentations to four Adolescent Family Life Programs that meet the requirements of this section and develop plans for a comprehensive coordinated substance abuse prevention, intervention, and counseling program, designed specifically to meet the developmental, social, and educational needs of high-risk pregnant or parenting adolescents. The program shall, to the extent practicable, feasible, and appropriate, leverage existing programs and funding rather than creating new, duplicative programs and services.

(b) The department shall adopt guidelines and criteria setting forth the terms and conditions upon which the department will offer contract augmentations pursuant to this section. The department also shall disseminate information designed to publicize the availability of contract augmentations for a comprehensive coordinated substance abuse prevention, intervention, and counseling program to high-risk pregnant or parenting adolescents.

(c) The department shall encourage Adolescent Family Life Programs with small caseloads to develop plans and submit applications that reflect sharing of services among two or more programs.

(d) At least one program that is awarded a contract augmentation shall be located in northern California, at least one program shall be located in central California, and at least one program shall be located in southern California.

(e) This section shall become operative on July 1, 1994.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124190.

A comprehensive coordinated substance abuse prevention, intervention, and counseling program, as used in Section 124185, shall include, but not be limited to, programs that:

(a) Have demonstrated a capacity for developing interagency cooperative approaches to reduce the incidence of high-risk pregnant or parenting adolescents. This shall include documentation of program development and plans for coordination and collaboration with existing perinatal substance abuse programs in the county, including state pilot projects on perinatal substance abuse established under the direction of the Local Perinatal Substance Abuse Coordinating Council.

(b) Employ maximum utilization of existing available programs and facilities.

(c) Have developed goals and objectives for reducing the incidence of high-risk pregnant and parenting adolescents.

(d) Are culturally and linguistically appropriate to the population being served.

(e) Include staff development training by substance abuse counselors.

(f) This section shall become operative on July 1, 1994.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124195.

The department shall require reports to be prepared by all programs funded pursuant to this article.

(Amended by Stats. 2004, Ch. 193, Sec. 129. Effective January 1, 2005.)

124200.

Funding for the purpose of this article shall be provided through funds appropriated to the department through the annual Budget Act.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=4.&article=2.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=106.&title=&part=2.&chapter=4.&article=2.)

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 4. Adolescent Health [124175 - 124260]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2. Child and Adolescent Resource Program [124225 - 124230]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 8.)

124225.

(a) The Legislature finds that recent responsibilities for assessing and treating the mental disorders of children and adolescents have been required of county mental health programs creating an unmet need for personnel in the field of mental health who have expertise in preventing, diagnosing, and treating the mental and emotional disorders of children.

(b) Recent attention to child abuse cases has increased the awareness of the special needs of children who are victims of abuse and of those who are then called to the courtroom as witnesses. Mental health personnel with special training are also needed for these children.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124230.

It is the purpose of the Legislature, in enacting this article, to encourage the Regents of the University of California to augment the academic child and adolescent programs at the medical schools of the University of California. The programs shall include, but not be limited to, one or more of the following elements:

(a) Clinical or postgraduate educational programs in child and adolescent psychiatry to instruct and train students in recognizing and treating children with mental and emotional problems, both organic and functional.

(b) Provision of continuing education for specialists in the care and treatment of children and adolescents with mental and emotional problems.

(c) Research into the causes, prevention, and treatment of mental disorders of children.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=4.&article=2.5.

124235.

(a)A youth sports organization that elects to offer an athletic program shall comply with all of the following:

(1)(A)An athlete who is suspected of sustaining a concussion or other head injury, or who has passed out or fainted, in an athletic activity shall be immediately removed from the athletic activity for the remainder of the day, and shall not be permitted to return to any athletic activity until the athlete is evaluated by a licensed healthcare provider. The athlete shall not be permitted to return to athletic activity until the athlete receives written clearance to return to athletic activity from a licensed healthcare provider. If the licensed healthcare provider determines that the athlete sustained a concussion or other head injury, the athlete shall also complete a graduated return-to-play protocol of no less than seven days in duration under the supervision of a licensed healthcare provider.

(B)If the licensed healthcare provider suspects that the athlete has a cardiac condition that puts the athlete at risk for sudden cardiac arrest or other heart-related issues, the athlete shall remain under the care of the licensed healthcare provider to pursue followup testing until the athlete is cleared to play.

(2)If an athlete who is 17 years of age or younger has been removed from athletic activity due to a suspected concussion or due to fainting or another suspected cardiac condition, the youth sports organization shall notify a parent or guardian of that athlete of the time and date of the injury, the symptoms observed, and any treatment provided to that athlete for the injury.

(3)(A)On a yearly basis, the youth sports organization shall give both a concussion and head injury and a sudden cardiac arrest information sheet to each athlete. The information sheet shall be signed and returned by the athlete and, if the athlete is 17 years of age or younger, shall also be signed by the athletesparent or guardian, before the athlete initiates practice or competition.

(B)If the athlete is six years of age or younger, only the signature of the athletesparent or guardian shall be

required to comply with this paragraph. If the athlete is 18 years of age or older, only the signature of the athlete shall be required to comply with this paragraph.

(C)The information sheet may be sent and returned through an electronic medium including, but not necessarily limited to, fax or electronic mail.

(4)On a yearly basis, the youth sports organization shall offer concussion and head injury and sudden cardiac arrest prevention education, or related educational materials, or both, to each coach, administrator, and referee, umpire, or other game official of the youth sports organization.

(5)The youth sports organization shall require both of the following:

(A)Each coach, administrator, and referee, umpire, or other game official of the youth sports organization shall be required to successfully complete the concussion and head injury and sudden cardiac arrest prevention education offered pursuant to paragraph (4) at least once, either online or in person, before supervising an athlete in an activity of the youth sports organization.

(B)The youth sports organization shall post related information, as referenced in paragraph (4), online, or provide educational materials to athletes and parents, or both.

(6)The youth sports organization shall identify both of the following:

(A)Procedures to ensure compliance with the requirements for providing concussion and head injury and sudden cardiac arrest prevention education and a concussion and head injury and sudden cardiac arrest prevention information sheet, as referenced in paragraphs (3) to (5), inclusive.

(B)Procedures to ensure compliance with the athlete removal provisions and the return-to-play protocol required pursuant to paragraph (1).

(b)As used in this article, all of the following shall apply:

(1)Concussion and head injury education and educational materials and a concussion and head injury information sheet shall, at a minimum, include information relating to all of the following:

(A)Head injuries and their potential consequences.

(B)The signs and symptoms of a concussion.

(C)Best practices for removal of an athlete from an athletic activity after a suspected concussion.

(D)Steps for returning an athlete to school and athletic activity after a concussion or head injury.

(2)Licensed healthcare provider means either of the following:

(A)A licensed healthcare provider who is trained in the evaluation and management of concussions and is acting within the scope of the providerspractice for evaluation and management of concussions or other head injuries.

(B)A licensed healthcare provider who is trained in the evaluation and management of cardiac conditions and is acting within the scope of that providerspractice for evaluation and management of sudden cardiac arrest, fainting, and shortness of breath.

(3)Sudden cardiac arrest prevention education and educational materials and a sudden cardiac arrest information sheet shall, at a minimum, include information relating to all of the following:

(A)Cardiac conditions and their potential consequences.

(B)The signs and symptoms of sudden cardiac arrest.

(C)Best practices for removal of an athlete from an athletic activity after fainting or a suspected cardiac condition is observed.

(D)Steps for returning an athlete to an athletic activity after the athlete faints or experiences a cardiac condition.

(E)What to do in the event of a cardiac emergency: this shall include calling 911, performing hands-only CPR, and using an automated external defibrillator (AED) if it is available.

(4)Youth sports organization means an organization, business, nonprofit entity, or a local governmental agency that sponsors or conducts amateur sports competitions, training, camps, or clubs in which persons 17 years of age or younger participate.

(c)This section shall apply to all persons participating in the activities of a youth sports organization, irrespective of their ages. This section shall not be construed to prohibit a youth sports organization, or any other appropriate entity, from adopting and enforcing rules intended to provide a higher standard of safety for athletes than the standard established under this section.

(Amended by Stats. 2019, Ch. 174, Sec. 2. (AB 379) Effective January 1, 2020.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=4.&article=2.6.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 4. Adolescent Health [124175 - 124260]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2.6. Nevaeh Youth Sports Safety Act [124238 - 124238.5]__

(Article 2.6 added by Stats. 2023, Ch. 24, Sec. 1.)

124238.

For purposes of this article, the following definitions apply:

(a)Coach means a person appointed by the youth sports organization to supervise or instruct a participant in a sport.

(b)Official practice or match means a sport session in which live action or one or more drills are conducted, or a match, as scheduled by the youth sports organization, the coach, or other designee of the organization.

(c)Youth sports organization has the same meaning as set forth in Section 124235.

(Added by Stats. 2023, Ch. 24, Sec. 1. (AB 1467) Effective January 1, 2024.)

124238.5.

(a)Commencing January 1, 2027, a youth sports organization that elects to offer an athletic program shall ensure that its athletes have access to an automated external defibrillator (AED) during any official practice or match, subject to subdivision (b).

(b)For purposes of subdivision (a), if an AED is administered during an applicable medical circumstance, the AED shall be administered by a medical professional, coach, or other person designated by the youth sports organization, who holds AED certification and who complies with any other qualifications required pursuant to federal and state law applicable to the use of an AED.

(Added by Stats. 2023, Ch. 24, Sec. 1. (AB 1467) Effective January 1, 2024.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=4.&article=2.7.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 2. MATERNAL, CHILD, AND ADOLESCENT HEALTH [123225 - 124250]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 4. Adolescent Health [124175 - 124260]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2.7. California Youth Football Act [124240 - 124243]__

(Article 2.7 added by Stats. 2019, Ch. 158, Sec. 2.)

124240.

(a)This article shall be known, and may be cited, as the California Youth Football Act.

(b)As used in this article:

(1)Coach means a person appointed by a youth sports organization to supervise or instruct a participant in the sport of youth tackle football.

(2)Full-contact portion of practice is defined as the period of time in drills or live action that involves contact at game speed.

(3)Full-contact practice means a session where one or more drills or live action is conducted that involves contact at game speed, as in an actual tackle football game or scrimmage. This includes simulations or drills that involve any number of players.

(4)Heat-related illness includes, but is not necessarily limited to, heat cramps, heat syncope, heat exhaustion, and exertional heat stroke.

(5)Off-season means a period extending from the end of the regular season until 30 days before the

commencement of the next regular season.

(6)Play includes participation in a youth tackle football game, scrimmage, or practice.

(7)Preseason means a period of 30 days before the commencement of the regular season.

(8)Regular season means the period from the first league football game or scrimmage until the completion of the final football game of that season.

(9)Safety equipment includes, but is not necessarily limited to, all of the following:

(A)A helmet and its associated parts, including, but not necessarily limited to, a face mask and mouthguard.

(B)Hip, knee, and shoulder pads.

(C)A jersey.

(D)A tailbone protector.

(E)Pants and thigh guards.

(F)Shoes, including cleats.

(10)Youth sports organization means an organization, business, or nonprofit entity that sponsors or conducts amateur sports competition, training, camps, clinics, practices, or clubs.

(11)Youth tackle football league means the organization that groups together youth sports organizations that conduct youth tackle football, administers rules, and sets game schedules. It may or may not be associated with a national organization.

(Added by Stats. 2019, Ch. 158, Sec. 2. (AB 1) Effective January 1, 2020.)

124241.

On and after January 1, 2021, a youth sports organization that conducts a tackle football program shall comply with all of the following requirements:

(a)A tackle football team shall not conduct more than two full-contact practices per week during the preseason and regular season.

(b)A tackle football team shall not hold a full-contact practice during the off-season.

(c)The full-contact portion of a practice shall not exceed 30 minutes in any single day.

(d)A coach shall annually receive a tackling and blocking certification from a nationally recognized program that emphasizes shoulder tackling, safe contact and blocking drills, and techniques designed to minimize the risk during contact by removing the involvement of youth tackle football participantshead from all tackling and blocking techniques.

(e)Each youth tackle football administrator, coach, and referee shall annually complete all of the following:

(1)The concussion and head injury education pursuant to Section 124235.

(2)The Opioid Factsheet for Patients pursuant to Section 124236.

(3)Training in the basic understanding of the signs, symptoms, and appropriate responses to heat-related illness.

(f)Each parent or guardian of a youth tackle football participant shall receive concussion and head injury information for that athlete pursuant to Section 124235 and the Opioid Factsheet for Patients pursuant to Section 124236.

(g)Each football helmet shall be reconditioned and recertified every other year, unless stated otherwise by the manufacturer. Only entities licensed by the National Operating Committee on Standards for Athletic Equipment shall perform the reconditioning and recertification. Every reconditioned and recertified helmet shall display a clearly recognizable mark or notice in the helmet indicating the month and year of the last certification.

(h)A minimum of one certified emergency medical technician, state-licensed paramedic, or higher-level licensed medical professional shall be present during all preseason, regular season, and postseason games. The certified emergency medical technician, state-licensed paramedic, or higher-level licensed medical professional shall have the authority to provide prehospital emergency medical care or rescue services consistent with their certification or license, and remove any youth tackle football participant from the game who exhibits an injury, including, but not necessarily limited to, symptoms of a concussion or other head injury.

(i)A coach shall annually receive first aid, cardiopulmonary resuscitation, and automated external defibrillator certification.

(j)At least one independent nonrostered individual, appointed by the youth sports organization, shall be present at all practice locations. The individual shall hold current and active certification in first aid, cardiopulmonary resuscitation, automated external defibrillator, and concussion protocols. The individual shall have the authority to evaluate and remove any youth tackle football participant from practice who exhibits an injury, including, but not limited to, symptoms of a concussion or other head injury.

(k)Safety equipment shall be inspected before every full-contact practice or game to ensure that all youth tackle football participants are properly equipped.

(l)Each youth tackle football participant removed pursuant to this section shall comply with Section 124235. The injury shall be reported to the youth tackle football league.

(m)Each youth tackle football participant shall complete a minimum of 10 hours of noncontact practice at the beginning of each season for the purpose of conditioning, acclimating to safety equipment, and progressing to the introduction of full-contact practice. During this noncontact practice, the youth tackle football participants shall not wear any pads, and shall only wear helmets if required to do so by the coaches.

(n)A youth sports organization shall annually provide a declaration to its youth tackle football league stating that it is in compliance with this article, and shall either post the declaration on its internet website or provide the declaration to all youth tackle football participants within its youth sports organization.

(Amended by Stats. 2020, Ch. 49, Sec. 1. (AB 2300) Effective January 1, 2021.)

124242.

On and after January 1, 2021, a youth tackle football league shall comply with both of the following:

(a)Establish youth tackle football participant divisions that are organized by relative age or weight or by both age and weight.

(b)Retain information from which the names of individuals shall not be identified for the tracking of youth sports injuries. This information shall include the type of injury, the medical treatment received by the youth tackle football participant, and return to play protocols followed by the participant pursuant to subdivision (l) of Section 124241.

(Added by Stats. 2019, Ch. 158, Sec. 2. (AB 1) Effective January 1, 2020.)

124243.

Nothing in this article shall prohibit any youth sports organization or youth tackle football league from adopting and enforcing rules intended to provide a higher standard of safety for youth tackle football participants than the requirements established under this article.

(Added by Stats. 2019, Ch. 158, Sec. 2. (AB 1) Effective January 1, 2020.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=4.&article=3.

124260.

(a)As used in this section:

(1)Mental health treatment or counseling services means the provision of outpatient mental health treatment or counseling by a professional person, as defined in paragraph (2).

(2)Professional person means any of the following:

(A)A person designated as a mental health professional in Sections 622 to 626, inclusive, of Title 9 of the California Code of Regulations.

(B)A marriage and family therapist, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(C)A licensed educational psychologist, as defined in Chapter 13.5 (commencing with Section 4989.10) of Division 2 of the Business and Professions Code.

(D)A credentialed school psychologist, as described in Section 49424 of the Education Code.

(E)A clinical psychologist licensed under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(F)Any of the following persons, while working under the supervision of a licensed professional specified in Section 2902 of the Business and Professions Code:

(i)A registered psychologist, as defined in Section 2909.5 of the Business and Professions Code.

(ii)A registered psychological assistant, as defined in Section 2913 of the Business and Professions Code.

(iii)A psychology trainee, as defined in Section 1387 of Title 16 of the California Code of Regulations.

(G)A licensed clinical social worker, as defined in Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code.

(H)An associate clinical social worker, or a social work intern, as defined in Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in Section 4996.20 of the Business and Professions Code.

(I)A person registered as an associate marriage and family therapist or a marriage and family therapist trainee, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (g) of Section 4980.03 of the Business and Professions Code.

(J)A board certified, or board eligible, psychiatrist.

(K)A licensed professional clinical counselor, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

(L)A person registered as an associate professional clinical counselor or a clinical counselor trainee, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (h) of Section 4999.12 of the Business and Professions Code.

(b)(1)Notwithstanding any provision of law to the contrary, a minor who is 12 years of age or older may consent to mental health treatment or counseling services if, in the opinion of the attending professional person, the minor is mature enough to participate intelligently in the mental health treatment or counseling services.

(2)A marriage and family therapist trainee, a clinical counselor trainee, a psychology trainee, or a social work intern, as specified in paragraph (2) of subdivision (a), shall notify his or her supervisor or, if the supervisor is unavailable, an on-call supervisor at the site where the trainee or intern volunteers or is employed within 24 hours of treating or counseling a minor pursuant to paragraph (1). If upon the initial assessment of the minor the trainee or intern believes that the minor is a danger to self or to others, the trainee or intern shall notify the supervisor or, if the supervisor is unavailable, the on-call supervisor immediately after the treatment or counseling session.

(3)Nothing in paragraph (2) is intended to supplant, alter, expand, or remove any other reporting responsibilities required of trainees or interns under law.

(c)Notwithstanding any provision of law to the contrary, the mental health treatment or counseling of a minor authorized by this section shall include involvement of the minorsparent or guardian, unless the professional person who is treating or counseling the minor, after consulting with the minor, determines that the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minorsparent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional personsopinion, it would be inappropriate to contact the minorsparent or guardian.

(d)The minorsparent or guardian is not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the participation of the parent or guardian.

(e)This section does not authorize a minor to receive convulsive treatment or psychosurgery, as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of the minorsparent or guardian.

(Amended by Stats. 2018, Ch. 743, Sec. 57. (AB 93) Effective January 1, 2019.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=2.&chapter=5.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=2.&chapter=6.&article=

124250.

(a)The following definitions shall apply for purposes of this section:

(1)Domestic violence means the infliction or threat of physical harm against past or present adult or adolescent intimate partners, and shall include physical, sexual, and psychological abuse against the partner, and is a part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over, that partner.

(2)Shelter-based means an established system of services where victims of domestic violence and their children may be provided safe or confidential emergency housing on a 24-hour basis, including, but not limited to, hotel or motel arrangements, haven, and safe houses.

(3)Emergency shelter means a confidential or safe location that provides emergency housing on a 24-hour basis for victims of domestic violence and their children.

(b)The California Emergency Management Agency shall administer a comprehensive shelter-based services grant program to shelters for victims of domestic violence pursuant to this section. This program shall comport with the requirements of Section 11135 of the Government Code.

(c)The California Emergency Management Agency shall administer grants, awarded as the result of a request for application process, to shelters for victims of domestic violence that propose to maintain shelters or services previously granted funding pursuant to this section, to expand existing services or create new services, and to establish new shelters to provide services, in any of the following four areas:

(1)Emergency shelter to victims of domestic violence and their children escaping violent family situations.

(2)Transitional housing programs to help victims of domestic violence and their children find housing and jobs so that they are not forced to choose between returning to a violent relationship or becoming homeless. The programs may offer up to 18 months of housing, case management, job training and placement, counseling, support groups, and classes in parenting and family budgeting.

(3)Legal and other types of advocacy and representation to help victims of domestic violence and their children pursue the appropriate legal options.

(4)Other support services for victims of domestic violence and their children.

(d)The agency shall collaborate closely with the advisory council established pursuant to Section 13823.16 of the Penal Code in the development of funding priorities, the framing of the Request for Proposals, and the solicitation of proposals.

(e)(1)The California Emergency Management Agency shall administer grants, awarded as the result of a request for application process, to entities to conduct demonstration projects to serve victims of domestic violence and their children, including, but not limited to, creative and innovative service approaches, such as community response teams and pilot projects to develop new interventions emphasizing prevention and education, and other support projects identified by the advisory council.

(2)For purposes of this subdivision, entity means a state agency, a local government, a community-based organization, or a nonprofit organization.

(f)It is the intent of the Legislature that services funded by this program include services for victims of domestic violence in underserved communities, including the lesbian, gay, bisexual, and transgender community, and ethnic and racial communities. Therefore, the California Emergency Management Agency shall do both of the following:

(1)Fund shelters pursuant to this section that reflect the ethnic, racial, economic, cultural, and geographic diversity of the state.

(2)Target geographic areas and ethnic and racial communities of the state whereby, based on a needs assessment, it is determined that no shelter-based services for victims of domestic violence exist or that

additional resources are necessary.

(g)The director may award additional grants to shelter-based agencies when it is determined that there exists a critical need for shelter or shelter-based services.

(h)As a condition of receiving funding pursuant to this section, shelters for victims of domestic violence shall do both of the following:

(1)Provide matching funds or in-kind contributions equivalent to not less than 20 percent of the grant they would receive. The matching funds or in-kind contributions may come from other governmental or private sources.

(2)Ensure that appropriate staff and volunteers having client contact meet the definition of domestic violence counselor as specified in subdivision (a) of Section 1037.1 of the Evidence Code. The minimum training specified in paragraph (2) of subdivision (a) of Section 1037.1 of the Evidence Code shall be provided to those staff and volunteers who do not meet the requirements of paragraph (1) of subdivision (a) of Section 1037.1 of the Evidence Code.

(i)Notwithstanding subdivision (h), a shelter for victims of domestic violence that received funding pursuant to this section in the previous grant cycle shall be funded upon reapplication, unless its past performance history fails to meet the requirements in paragraph (2) of subdivision (h).

(j)The California Emergency Management Agency may hire the support staff and utilize all resources necessary to carry out the purposes of this section. The agency shall not utilize more than 10 percent of any funds appropriated for the purpose of the program established by this section for the administration of this program.

(Amended by Stats. 2009, 3rd Ex. Sess., Ch. 29, Sec. 1. (SB 13) Effective October 21, 2009.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=3.&chapter=&article=

Code Text

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 3. FAMILY PLANNING [124300- 124300.]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 8.)

124300.

Within any county where 10 percent or more of the population, as determined by the Demographic Research Unit of the Department of Finance, speaks any one language other than English as its native language, every local health department shall make copies of circulars and pamphlets relating to family planning that are made available to the public also available in the other language.

The State Department of Health Care Services, upon request, shall make a translation available in other than English those family planning informational materials normally distributed to the general public.

(Amended by Stats. 2019, Ch. 29, Sec. 122. (SB 82) Effective June 27, 2019.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=4.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4. PRIMARY HEALTH CARE [124400 - 124945]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 1. General Provisions [124400 - 124440]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 8.)

124400.

(a) The Legislature makes the following findings and declarations:

(1) There is a maldistribution of health services in California resulting in underserved rural and urban areas and underserved population groups.

(2) Most rural areas of the state do not have adequate health services because there are insufficient personnel and facilities to provide the services. The lack of adequate services has a negative impact on the health and safety of the public.

(3) In many urban areas of the state there are inadequate health services for low-income populations. Financial barriers create access problems. These barriers to health services have a negative impact on the health and safety of these groups and the public.

(4) Population groups, such as American Indians and seasonal agricultural and migratory workers, lack access to adequate and appropriate health services. The lack of adequate services has a negative impact on the health and safety of these groups and the public.

(5) State assistance will be needed to assure financial stability of primary care resources for these specified population groups.

(b) It is therefore the intent of the Legislature that the state develop an overall strategy to ensure the maintenance of adequate primary health care resources for special population groups.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124405.

(a) The department shall develop a statewide plan for health services for special population groups identified pursuant to subdivision (b) of Section 124425 by January 1, 1985, and shall evaluate and update the plan every two years. The plan shall include, but not be limited to, an assessment of resources, an assessment of unmet needs, an evaluation of prior years program goals and objectives, and a two-year action plan for at least the following program areas:

(1) Health of seasonal agricultural and migratory workers and their families.

(2) American Indian health services.

(3) Rural health services.

(4) California health services corps.

(5) Grants-in-aid to clinics.

(b) The plan shall describe the types, locations, and effectiveness of the programs specified in paragraphs (1) to (5), inclusive, and contain an assessment of resources needed to maintain the plan consistent with the Primary Care Services Act (Section 27).

(c) The plan may be a consolidation of individual program reports due to the Legislature during the year the plan is updated. The plan may also be integrated with other plans the department is required to develop concerning maternal and child health programs and services for special population groups.

(d) The statewide plan shall be initially developed in consultation with the Primary Care Clinics Advisory Committee and the California Conference of Local Health Officers and biannually updated as provided in this section in consultation with individuals and groups representing special populations and areas, with local governments, and with the office.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124410.

Notwithstanding any other provision of law, the department may, if requested by the nonprofit or public agency and to the extent funds are available, provide for advance payments for services to be performed under any agreement entered into pursuant to the Primary Care Services Act (Section 27) and that is otherwise in compliance with the requirements contained in Section 100350. Individual advance payments made to any nonprofit or public agency that requests those payments shall be made in a timely fashion and shall not exceed 25 percent of the total amount of the grant award.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124415.

Notwithstanding any other provision of law, the department may, in addition to the advance payment under Section 124410, provide for prospective payments for services to be performed under any agreement entered into pursuant to the Primary Care Services Act (Section 27). These prospective payments may be provided each month to a contracting agency on one of the following bases:

(a) One-twelfth of the total funding award each month.

(b) One-twelfth of 75 percent of the funding award, if a 25 percent advance payment is also provided.

Prospective payments may be made to those nonprofit or public agencies that request prospective payments and may be adjusted if necessary during the project period after the submission and review of required program reports.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124420.

Each agreement for a project shall require the contracting agency to seek third-party reimbursements, including Medi-Cal and private insurance, for any person served under the agreement and shall require that the reimbursements be used for purposes consistent with the Primary Care Services Act (Section 27). Each agreement may require the contracting agency to provide reports to the department on reimbursements.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124425.

(a) It is the intent of the Legislature that funds authorized by the Primary Care Services Act (Section 27) be provided to organizations and agencies that are located in underserved areas or that are serving population groups identified pursuant to subdivision (b).

(b) Every two years the director shall develop a list of underserved rural and urban areas and underserved population groups. The director shall take into consideration the list of urban and rural areas designated as medically underserved by the California Healthcare Workforce Policy Commission and by the office and federal medically underserved areas and population groups designated by federal agencies.

(c) The director shall develop the list of underserved rural and urban areas and underserved population groups, set forth in subdivision (b), after consulting and receiving written recommendations from the Primary Care Clinics Advisory Committee and after consulting with appropriate groups and individuals, including individuals representing underserved populations and local government.

(Amended by Stats. 2003, Ch. 582, Sec. 7. Effective January 1, 2004.)

124430.

(a) It is the intent of the Legislature that programs in the Primary Care Services Act (Section 27) be funded annually through the budgetary process.

(b) In administering funds pursuant to the Primary Care Services Act (Section 27), the department shall use the funds only for the purpose of funding grants specifically authorized by that act.

(c) No local assistance funds may be used for state administration purposes under the Primary Care Services Act (Section 27).

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124435.

An applicant for funds pursuant to the Primary Care Services Act (Section 27) shall transmit a copy of an application to any person who makes a written request therefor at the same time that the application is transmitted to the state.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124440.

The department may enter into agreements with any clinic that is licensed under subdivision (a) of Section 1204 or exempt from licensure under subdivision (c) of Section 1206, and which requests the agreements, for up to three consecutive years.

The contracts shall be limited to the provision of health services to persons authorized to receive health services under the programs specified in the Primary Care Services Act (Section 27).

The department shall retain the right to terminate contracts under the general provisions of the contract language prior to the three years for failure to comply with the performance terms and conditions set forth in the contracts.

The multiple-year contracts shall be modified to reflect any cost-of-living adjustments that are provided to the programs specified in this section, provided the cost-of-living adjustments are granted pursuant to the Budget Act. The contracts may also be amended to reflect changes in the base budget amount, scope of work, and other contract language changes as necessary. Nothing shall prohibit the department from establishing a three-year budget and annually amending the contract to change the budget amount, scope of work, and other contract language changes as necessary. Nothing shall prohibit the contract from being modified based on the mutual consent of the contractor and the department. Advance payments in the original contract and in each one-year extension are permitted, but shall not exceed 25 percent of the funds provided for each fiscal year.

On or before January 1, 1990, the department at any time shall report to the Legislative Analyst as to the personnel-year and General Fund savings that have been associated with this authority.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=1.5.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4. PRIMARY HEALTH CARE [124400 - 124945]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 1.5. Clinic Services [124450- 124450.]__

(Chapter 1.5 added by Stats. 1997, Ch. 294, Sec. 27.)

124450.

(a) In any emergency or disaster, as declared by the Governor, clinics funded under the seasonal agricultural and migratory workers program provided for by Chapter 3 (commencing with Section 124550), the rural health services development program provided for by Chapter 5 (commencing with Section 124600) or the expanded access to primary care program provided for by Article 2 (commencing with Section 124900) of Chapter 7 shall provide nonelective, primary health care services, utilizing a sliding-fee scale based on income, including a zero payment option, to all persons who are impacted by the emergency or disaster and who present themselves for treatment at the clinic.

(b) The department shall deny or recoup payment under Chapter 3 (commencing with Section 124550), Chapter 5 (commencing with Section 124600), and Article 2 (commencing with Section 124900) of Chapter 7, assess civil penalties, revoke or suspend the license of the clinic pursuant to Section 1229, or impose other sanctions or other penalties authorized by law, when the clinic charges patients for care and fails to utilize a sliding-fee scale based on income, including a zero-payment option, to determine the fees to be charged to any patient pursuant to subdivision (a).

(c) To the extent that the department enters into contracts or renews contracts with clinics identified in subdivision (b) on or after the effective date of this section, those contracts shall require clinics to utilize a sliding-fee scale based on income, including a zero-payment option, when determining fees to be assessed for patients.

(Added by Stats. 1997, Ch. 294, Sec. 27. Effective August 18, 1997.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=4.&chapter=2.&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=4.&chapter=2.&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=2.&article=1.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4. PRIMARY HEALTH CARE [124400 - 124945]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Primary Clinic Revolving Fund [124475 - 124525]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 1. General Provisions [124475 - 124485]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 8.)

124475.

The Legislature finds and declares all of the following:

(a) Clinics are valuable partners in the statesefforts to improve access to health services.

(b) Clinics have an established record of providing quality health services to medically uninsured persons at a reasonable cost.

(c) Clinics are experienced in serving the culturally diverse populations of this state and have developed comprehensive health services packages that meet special population needs.

(d) Clinics are major partners with all levels of government as contractors and grantees in programs that serve the poor, low income, minorities, and other target populations with special needs in both urban and rural areas of California.

(e) The statesgrant and contract approval process are so complicated and time consuming that clinics are faced annually with severe cash-flow problems.

(f) The length of time required for the state to process and execute payment of claims submitted by clinics, creates severe cash-flow problems for the clinics.

(g) Clinics often have no choice but to borrow funds to cover operations pending receipt of state funds and the resulting interest payments reduce the amount of funds available for direct services to the needy population.

(h) Therefore, it is the intent of the Legislature that preliminary advance payment authority be established for the department in order to alleviate clinics™ cash-flow problems to the extent possible.

(i) It is the intent of the Legislature that a clinic revolving fund be established within the department to expedite the payment process and thereby alleviate the cash-flow problems of clinics.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124480.

As used in this chapter, clinic means a primary care clinic as defined in Section 1200.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124485.

(a) The department shall prepare and transmit to the Legislature a report of the departmentsactivities relating to the utilization of clinics to provide comprehensive health services pursuant to the following programs:

(1) Health of seasonal agricultural and migratory workers and their families program.

(2) American Indian health services program.

(3) Rural health services program.

(4) Grants-in-aid to clinic program.

(5) California health services corps program.

(b) A report shall be transmitted to the Legislature by July 1, 1992, and by July 1 of every fourth year thereafter.

(c) The report shall also include any grant funds expended and the resources allocated to the programs by the department, including staff, travel, and support services.

(d) The report shall reflect activities, resources, and expenditures by fiscal year.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=2.&article=2.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4. PRIMARY HEALTH CARE [124400 - 124945]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Primary Clinic Revolving Fund [124475 - 124525]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2. The Clinic Revolving Fund [124500 - 124515]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 8.)

124500.

The Clinic Revolving Fund of the department is hereby established for the purpose of expediting preliminary

advance payments as authorized pursuant to Article 3 (commencing with Section 124525) and to reimburse clinics that are grantees or contractors for services rendered under grants or contracts issued pursuant to this part.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124505.

(a) Notwithstanding Section 16400 of the Government Code or any other provision of law, the department may, to the extent local assistance appropriations are made by the Legislature for programs set forth in this part, without at the time furnishing vouchers or itemized statements, draw up to 50 percent of the funds appropriated for the purposes of the Clinic Revolving Fund, for purposes of preliminary advance payments pursuant to Article 3 (commencing with Section 124525).

(b) The purpose of the Clinic Revolving Fund does not include expenses related to departmental administrative expenses, departmental travel expenses, departmental travel expense advances, or other departmental administrative costs.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124510.

In lieu of actually withdrawing revolving fund moneys from the State Treasury, the Controller, upon the request of the department, shall apply and credit the amount of the Clinic Revolving Fund, or any portion thereof, as repayment and return of any existing funds in the revolving fund to the appropriation for which it was drawn by the department.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124515.

The department shall remain fully accountable for the Clinic Revolving Fund. All disbursements shall be substantiated by vouchers filed with the Controller. Disbursements may be reported, substantiated by vouchers, from time to time to the Controller in connection with claims for reimbursements of the revolving fund. At any time, upon the demand of the Department of Finance or the Controller, the revolving fund shall be accounted for and substantiated by vouchers and itemized statements submitted to the Controller.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=2.&article=3.

__ARTICLE 3. Preliminary Advance Payments [124525- 124525.]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 8.)

124525.

Notwithstanding any provision of law to the contrary, the department may, to the extent funds are available, provide for advance payments for services to be performed under pending grant agreements or contracts with clinics pursuant to the Primary Care Services Act (Section 27), at the time that the notice of award is issued if all of the following conditions are met:

(a) The request for application or the request for proposals contains the terms and conditions under which advance payment may be received pursuant to this section.

(b) That the total amount of the advance shall not exceed 25 percent of the amount of the proposed award, including any advance payments provided under authority of any other provision of law.

(c) That the terms and conditions of the request for application or the request for proposal, specifies that the grantee shall repay the full amount of the advance if the grant or the contract is not finally approved.

(d) That the department has evaluated the financial stability of the clinic and found it to be reasonably financially sound.

(e) That advance payments be made only to those nonprofit agencies that request an advance in writing.

(f) That the application or proposal contains the terms and conditions set forth in the request for application or the request for proposal.

(g) That the application or proposal is signed by an authorized person representing the clinic.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=3.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4. PRIMARY HEALTH CARE [124400 - 124945]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. Health of Seasonal Agricultural and Migratory Workers [124550 - 124570]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 8.)

124550.

The department shall maintain a program for seasonal agricultural and migratory workers and their families, consisting of all of the following:

(a) Studies of the health and health services for seasonal agricultural and migratory workers and their families throughout the state.

(b) Technical and financial assistance to local agencies concerned with the health of seasonal agricultural and migratory workers and their families.

(c) Coordination with similar programs of the federal government, other states, and voluntary agencies.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124555.

(a) (1) It is the intent of the Legislature that funds distributed under this section promote stability for participating clinics, as a part of the stateshealth care safety net, and at the same time be distributed in a manner that best promotes access to health care to seasonal agricultural and migratory workers and their families.

(2) The department shall grant funds, for a minimum of three years per grant, retroactive to funds appropriated in the Budget Act of 2002 (Chapter 379 of the Statutes of 2002), to eligible, private, nonprofit, community-based primary care clinics for the purpose of establishing and maintaining a health services program for seasonal agricultural and migratory workers and their families. The department may continue to pay any grantee whose grant expired on June 30, 2003, until June 30, 2004, as if the grant had been extended, provided that funds are appropriated for this purpose in the Budget Act of 2003 and the grantee agrees in writing to expend the money as if the grant had been extended.

(b) In order to be eligible to receive funds under this program, a clinic shall, at a minimum, meet all of the following conditions:

(1) The clinic shall be licensed under either paragraph (1) or (2) of subdivision (a) of Section 1204.

(2) The clinicspatient population shall include at least 25 percent farmworkers and their dependents.

(3) The clinic shall operate in a medically underserved area, including a Health Professional Shortage Area, or serve a medically underserved population, as designated by the United States Department of Health and Human Services, or shall be able to demonstrate that at least 50 percent of its patients are persons with incomes at or below 200 percent of the federal poverty level.

(c) The department shall seek input from stakeholders in designing the methodology for distribution of funds under this section.

(Amended by Stats. 2003, Ch. 230, Sec. 13. Effective August 11, 2003.)

124560.

(a) The Seasonal Agricultural and Migratory Workers Advisory Committee is hereby established in the State Department of Health Services.

(b) The committee shall advise the department on the level of resources, priorities, criteria, and guidelines necessary to implement this chapter pertaining to the health of seasonal and migratory agricultural workers.

(c) The committee shall be composed of 11 members, appointed by the Director of Health Services, who are knowledgeable concerning the health care needs of seasonal and migratory farm workers and their families. Committee members shall serve two-year terms. Two members shall be nominated by the Speaker of the Assembly, and two by the Senate Committee on Rules. The members of the committee shall be selected from the following categories of persons:

(1) Seasonal and migratory farm workers and their families.

(2) Health care providers from nonprofit community health centers that have a documented history of serving seasonal and migratory agricultural workers.

(3) Health care professionals.

(4) Private citizens with documented experience in serving the seasonal agricultural and migratory worker population.

(Added by Stats. 1998, Ch. 310, Sec. 24. Effective August 19, 1998.)

124570.

(a) Notwithstanding any other provision of law, the department shall, to the extent that funds are available, provide to a grantee semiannual prospective payments during a 12-month fiscal year.

(b) An amount equal to not more than 50 percent of the total grant shall be processed for payment to the

grantee following the enactment of the annual Budget Act, and upon formal execution of the grant by the state. The processing by the department of the granteesfirst semiannual prospective payment shall also be contingent upon both of the following:

(1) A written request for payment from the grantee.

(2) Except as provided in this paragraph, the third quarter progress budget and expenditure report. If the grantee is currently under the first fiscal year of a three-year multiple grant, this requirement shall not apply as a condition for the granteesfirst semiannual prospective payment, unless the grantee is a continuing grantee from the prior three-year multiple year of the grant. If the grantee is currently under the second or third fiscal year of a three-year, multiple-year grant, the departmentsprocessing of the first semiannual prospective payment for the current grant year shall be contingent upon the granteestimely and accurate submission, and the departmentsapproval of, the third quarter progress and budget expenditure report from the previous grant year.

(c) Based upon the granteestimely and accurate submission of the first quarterly progress and budget expenditure report from the grant year, and satisfactory performance under the grant, the processing of a second semiannual prospective payment of not more than 40 percent of the total grant shall be processed by the department for payment to a grantee no earlier than January 1 during the term of the grant year. The processing of the granteessecond semiannual prospective payment by the department shall be contingent upon all of the following:

(1) A written request for payment from the grantee.

(2) The granteestimely and accurate submission, and the departmentsapproval, of the first quarterly progress and budget expenditure report.

(3) If the grantee is currently under the second or third fiscal year of a three-year, multiple-year grant, the granteestimely and accurate submission, and the departmentsapproval, of the fourth quarterly progress and budget expenditure report, and the annual reconciliation report, from the prior year.

(d) An amount equal to 10 percent of the total grant award shall be retained by the department, pending satisfactory submission by the grantee of all quarterly progress and budget expenditure reports and an annual reconciliation report for the grant year. Payment of the withheld 10 percent shall be processed by the department for payment to the grantee upon the granteessatisfactory completion and submission, and the departmentsapproval, of these reports.

(Added by Stats. 1999, Ch. 744, Sec. 3. Effective October 10, 1999. Operative July 1, 2000, by Sec. 10 of Ch. 744.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=4.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4. PRIMARY HEALTH CARE [124400 - 124945]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 4. American Indian Health Services [124575 - 124595]__

(Chapter 4 added by Stats. 1995, Ch. 415, Sec. 8.)

124575.

The department shall maintain a program for American Indians and their families, consisting of all of the following:

(a) Studies of the health and health services available to American Indians and their families throughout the state.

(b) Technical and financial assistance to local agencies concerned with the health of American Indians and their families.

(c) Coordination with similar programs of the federal government, other states, and voluntary agencies.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124580.

The department shall cooperate with local governmental agencies and contract with voluntary nonprofit organizations in connection with the development of local health programs for American Indians and their families.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124585.

(a) All moneys appropriated to the department for the purposes of this chapter shall be used to provide

financial, training, and technical assistance to urban and rural American Indian health programs and to assist these programs in planning, implementing, and upgrading programs to attain a comprehensive health services delivery system for American Indians in urban and rural areas.

(b) The department shall provide technical assistance and shall promote the provision of services for preventive health care, health education, and environmental health.

(c) The department may expend funds, appropriated to it to carry out the purposes of this chapter, by contract or grant, or any combination thereof, to assist any urban or rural American Indian health program.

(d) The department shall adopt regulations establishing criteria for reimbursement for direct services under this chapter, that shall include, but not be limited to, a definition of direct services that are reimbursable and a formula for allocation of funds appropriated to the department.

(e) The department shall provide assistance to American Indian health services programs in maximizing utilization of third party payment systems and in developing programs in health education, nutrition, and family planning, if the assistance is not being provided by agencies of the federal government.

(f) Funds appropriated to carry out the purposes of this chapter shall be supplemental to those available from the federal government and shall not duplicate, and they shall not replace, any commitments made by the federal government to provide health services to American Indians and their families in this state who receive health services pursuant to an urban or rural American Indian health program.

(g) It is the intent of the Legislature that the program established by this chapter shall, commencing with the 1984“85 fiscal year, be funded according to customary budget procedures.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124586.

(a) Notwithstanding any other provision of law, the department shall, to the extent that funds are available, provide to a grantee under this chapter semiannual prospective payments, as specified in this section, during a 12-month fiscal year.

(b) The first semiannual prospective payment, in an amount equal to not more than 50 percent of the total grant, shall be processed for payment to the grantee following the enactment of the annual Budget Act, and upon formal execution of the grant by the state and shall be contingent upon both of the following:

(1) A written request for payment from the grantee.

(2) The granteestimely and accurate submission, and the departmentsapproval, of the progress reports required under the grant, budget expenditure report, and annual reconciliation report, from the prior year.

(c) Based upon the granteestimely and accurate submission of the progress reports and budget expenditure reports from the grant year, and satisfactory performance under the grant, the processing of a second semiannual prospective payment of not more than 40 percent of the total grant shall be processed by the department for payment to a grantee no earlier than January 1 during the term of the grant year. The processing of the granteessecond semiannual prospective payment by the department shall be contingent upon both of the following:

(1) A written request for payment from the grantee.

(2) The granteestimely and accurate submission, and the departmentsapproval, of progress reports and budget expenditure reports.

(d) Any remaining amount, which shall be at least 10 percent of the total grant award, shall be retained by the department, pending satisfactory submission by the grantee of all progress reports required by the grant, budget expenditure reports, and an annual reconciliation report for the grant year. Payment of the withheld amount shall be processed by the department for payment to the grantee contingent upon both of the following:

(1) A written request for payment from the grantee.

(2) The granteestimely and accurate submission, and the departmentsapproval, of all progress reports required under the grant, budget expenditure reports from the grant year, the annual reconciliation report for the grant year, and satisfactory performance under the grant.

(Added by Stats. 2003, Ch. 596, Sec. 1. Effective January 1, 2004.)

124590.

The Legislature finds and declares that the health status of many American Indians in California is not adequate.

It is, therefore, the intent of the Legislature to insure that in addition to funding provided pursuant to the American Indian Health Service program, sufficient funding is provided to American Indians from other programs in order to substantially improve their access to health services. These programs include, but are not limited to, the following:

(a) Rural health services.

(b) Mental health services.

(c) Developmental disability programs.

(d) Maternal and child health programs.

(e) Alcoholism programs.

(f) Programs for the aging.

(g) Environmental health programs.

(Amended by Stats. 2012, Ch. 728, Sec. 111. (SB 71) Effective January 1, 2013.)

124595.

(a)The Indian Health Policy Panel, established by the director pursuant to Section 1520 of Title 17 of the California Administrative Code, is continued in existence and shall be renamed the American Indian Health Policy Panel. The policy panel shall advise the State Department of Health Care Services and the State Department of Public Health on the level of resources, priorities, criteria, and guidelines necessary to implement this chapter. The policy panel shall be composed of 10 members, appointed by the director. Four members shall be appointed from a list of persons submitted by the California Rural Indian Health Board, four members shall be appointed from a list of persons submitted by the California Consortium for Urban Indian Health, and two members shall represent the public. The persons appointed by the director to represent the public may be consumers, consumer advocates, health service providers, representatives of state or county health agencies, health professionals, or private citizens. The terms of the members shall be established pursuant to bylaws adopted by the policy panel.

(b)The director may also seek advice from individuals and groups, other than the policy panel, on program issues.

(c)Those persons who are members of the policy panel on December 31, 1983, shall continue to be members for the remainder of their terms and, upon expiration of their terms, shall be eligible for reappointment by the director.

(Amended by Stats. 2007, Ch. 577, Sec. 15. Effective October 13, 2007.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=4.&chapter=5.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=5.&article=1.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4. PRIMARY HEALTH CARE [124400 - 124945]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 5. Rural Health Services Development [124600 - 124785]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 1. Legislative Intent and General Provisions [124600 - 124625]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 8.)

124600.

The Legislature makes the following findings and declarations:

(a) There is a maldistribution of health services in California. Most rural areas of the state do not have adequate health services because there are insufficient health personnel and facilities and inadequate transportation to such services.

(b) The lack of health services in rural areas has a negative impact on the health and safety of the public.

(c) Existing public programs to meet the problem of inadequate health services in rural areas are not sufficient in scope or properly coordinated to significantly improve the availability of health services.

(d) It is unlikely that the situation will improve without substantial state and local action.

It is, therefore, the intent of the Legislature in enacting this chapter to establish a program of rural health services in the department. The purpose of the program is to improve the coordination of rural health services and to increase the amount and availability of the services.

The Legislature intends that the program consist of all the following:

(1) The California Health Services Corps in which health personnel are assigned to health care delivery organizations.

(2) Health services development projects, in which new health care delivery organizations are established.

(3) An organizational unit within the department to coordinate rural health programs.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124605.

The department shall implement a program to remedy deficiencies in health services in rural areas. The department shall have responsibility for the following elements:

(a) California Health Services Corps.

(b) California Rural Health Services Development Projects.

(c) Coordination of Rural Health Programs.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124610.

The director shall administer this chapter and shall adopt any regulations and standards as are necessary to implement this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124615.

No services provided under this chapter shall substitute for current services and obligations of a county including those required by state law.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124620.

Funds expended pursuant to this chapter shall be supplemental to those made available by the federal government for the National Health Services Corps and shall not duplicate, or replace, but may supplement and complement, any commitments made by the federal government to provide health personnel as needed.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124625.

(a) It is the intent of the Legislature that the Rural Health Services Development Program be funded annually through the budgetary process.

(b) Notwithstanding any other provision of law, the department may, to the extent funds are available, provide for advance payments for services to be performed under any contract entered into pursuant to this chapter with any small community based public or private nonprofit agency with modest reserves and potential cash flow problems, where the department determines that such advance payments will further the purposes of this chapter. Advance payments shall not be made more than once a year.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=5.&article=2.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4. PRIMARY HEALTH CARE [124400 - 124945]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 5. Rural Health Services Development [124600 - 124785]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2. California Health Services Corps [124650 - 124685]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 8.)

124650.

The director shall establish in the department, a California Health Services Corps. The purpose of the corps is to make available health personnel to rural areas that are presently receiving inadequate health services. The corps shall consist of physicians and surgeons, podiatrists, dentists, vision care providers, and other health

professionals, such as nurse practitioners, physician assistants, nurses, dental hygienists, dental assistants, health educators, nutritionists, dietitians, health and nutrition aides, and other personnel as the director finds necessary to meet the purposes of the program.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124655.

Members of the California Health Services Corps may be assigned to the following categories of health services programs:

(a) Any nonprofit primary care clinic or licensed health facility.

(b) Any health provider or group provider.

(c) Any county health program or facility.

(d) Any state health program or facility.

(e) Any federal health program.

Assignments may be made to a health provider or facility, to a health services development project established pursuant to Article 3 (commencing with Section 124700), or directly to an area in California where health services are inadequate.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124660.

Assignments shall be made in accordance with the following:

(a) The authority of any person to supervise any member of the corps shall be subject to approval by the director.

(b) No member of the corps shall be placed in an assignment without the prior agreement of the person or governing board in charge of the health delivery program to which the corps member is assigned.

(c) Corps members directly assigned to rural areas or to state-operated projects shall be contract employees of the California Health Services Corps. Corps members assigned to projects with a nonstate provider or facility may be employees of the provider or facility if specified by contract between the state and the provider or facility. The state shall provide malpractice insurance coverage for all corps personnel.

(d) Local consumers shall be consulted in the placement of California Health Services Corps members.

(e) In making the assignment of a corps member, the director shall seek to match the characteristics and preferences of the member with those of the area, population group, or medical facility where the member may be assigned to the maximum extent possible in order to increase the probability of the member

remaining to serve the area, population group, or medical facility upon completion of his or her assignment period.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124665.

The director shall, by regulation, specify the salary schedules, other terms and conditions of employment, and reimbursement policies with respect to the employment of corps members that shall be followed by institutions, providers, or programs where a member of the California Health Services Corps is assigned.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124670.

Funds expended pursuant to this article may be used for any of the following purposes:

(a) Expenses of the department in administering the program.

(b) Salaries and employee benefits for members of the California Health Services Corps.

(c) Supplies, equipment, minor capital outlay, and minor renovations.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124675.

Assignments shall be made by the department without regard to ability of residents in areas to pay.

Any provider or facility where a California Health Services Corps member is assigned, and any corps member, shall be required to seek third party reimbursements, including Medi-Cal and private insurance, for any person served by the corps member. Any such corps member, provider, or facility may be required to provide reports to the department concerning reimbursements and may be required to contribute all or part of the proceeds of reimbursements to the department for deposit in the State Treasury in accordance with regulations or contracts adopted by the department after regulations have been approved by the Director of Finance.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124680.

No corps member may refuse needed service to any person because of inability to pay for such service, or refuse service to persons on account of their entitlement to medical benefits under Title XVIII or XIX of the

United States Social Security Act.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124685.

The director may, upon request, provide technical assistance to groups preparing applications for assignment of corps personnel.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=5.&article=3.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4. PRIMARY HEALTH CARE [124400 - 124945]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 5. Rural Health Services Development [124600 - 124785]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 3. Health Services and Development Projects [124700 - 124745]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 8.)

124700.

The department shall plan and put into operation a number of health services development projects. The purpose of the projects shall be to demonstrate effective ways of providing health care services in underserved rural health areas. The director shall make the final decision on approval of a project.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124705.

Applications may be made for funds for health services development projects and the projects may be initiated and operated by any agency, including, but not limited to, the following:

(a) A community agency, including a National Health Services Corps site.

(b) An ongoing rural health program, including migrant health or American Indian health program.

(c) A family practice education program.

(d) A county health department.

(e) The department.

(f) Any health facility or licensed nonprofit primary care clinic.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124710.

(a) (1) It is the intent of the Legislature that funds distributed under this section promote stability for participating clinics, as a part of the stateshealth care safety net, and at the same time be distributed in a manner that best promotes access to health care to geographically isolated populations.

(2) The department shall grant funds, for a minimum of three years per grant, retroactive to funds appropriated in the Budget Act of 2002 (Chapter 379 of the Statutes of 2002), to eligible, private, nonprofit, community-based primary care clinics for the purpose of establishing and maintaining rural health services and development projects as specified under this article. The department may continue to pay any grantee whose grant expired on June 30, 2003, until June 30, 2004, as if the grant had been extended, provided that funds are appropriated for this purpose in the Budget Act of 2003 and the grantee agrees in writing to expend the money as if the grant had been extended.

(b) In order to be eligible to receive funds under this program, a clinic shall, at a minimum, meet all of the following conditions:

(1) The clinic shall be licensed under paragraph (1) or (2) of subdivision (a) of Section 1204.

(2) The clinic shall operate in a rural Medical Study Service Area, as defined by the Health Manpower

Commission.

(3) The clinic shall operate in a medically underserved area, including a Health Professional Shortage Area, or serve a medically underserved population, as designated by the United States Department of Health and Human Services, or shall be able to demonstrate that at least 50 percent of its patients are persons with incomes at or below 200 percent of the federal poverty level.

(c) The department shall seek input from stakeholders in designing the methodology for distribution of funds under this section.

(d) If the funds that are available for purposes of this section for any fiscal year are greater than funds that were available for the prior fiscal year, the department shall establish a base funding level that is applicable to all sites funded in the prior fiscal year. To the extent that funds are available, the base funding level shall not be less than seventy-five thousand dollars ($75,000) for each site. To implement this section, the department shall not be required to reduce funding for clinics that are above the minimum awards.

(Amended by Stats. 2003, Ch. 230, Sec. 14. Effective August 11, 2003.)

124715.

The department may assist community agencies to develop grant proposals.

(Amended by Stats. 1999, Ch. 744, Sec. 6. Effective October 10, 1999. Operative July 1, 2000, by Sec. 10 of Ch. 744.)

124720.

Project proposals shall be considered that address the health needs of rural populations, including, but not limited to, migratory and other agricultural workers, American Indians, and senior citizens, who have insufficient access to adequate levels of health care services due to geographical isolation or economic factors.

Projects that are approved shall accomplish one or more of the following:

(a) Provide primary health care, including preventive health services and diagnostic, treatment, referral, and followup services.

(b) Provide comprehensive health care, including specialized physician services, inpatient and outpatient facilities, laboratory and X-ray services, home health services, and other specialized services.

(c) Provide emergency medical services designed to meet the special problems of rural isolation.

(d) Provide transportation appropriate to achieving the goal of making health care services available to residents of rural areas.

(e) Provide electronic communication technology to improve health care delivery and emergency health services in the designated rural areas.

(f) Establish regional health systems, including linkage with both rural and urban health programs and facilities.

(g) Improve the quality of medical care and the administrative capabilities of agencies and management systems in rural areas.

(h) Provide health education programs in the designated rural areas, including health and nutrition education, and continuing education for health professionals.

(i) Promote nurse practitioner and physician assistants programs and other programs for training and placement of health professionals in the designated areas to respond to rural manpower shortages.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124725.

Project funding shall be for up to three years. Continuation of funding for a project shall depend on progress toward achieving the goals of the project. The director shall make the final decision to continue or discontinue a project. In evaluating the success of a project, the director shall take into account the number of additional persons who are receiving quality health care as a result of the operation of the project and the improvement in health status of the population served by the project.

(Amended by Stats. 1999, Ch. 744, Sec. 7. Effective October 10, 1999. Operative July 1, 2000, by Sec. 10 of Ch. 744.)

124730.

Each applicant shall form an advisory committee for the project. The advisory committee shall participate in all of the following:

(a) Planning the project.

(b) Reviewing the progress of the project.

(c) Proposing changes in the project.

(d) Planning for the continuation of the project after the grant period through self-sufficiency.

At least one-half of the members of the advisory committee shall be consumers, as defined by Public Law 93-641. The advisory committee shall include, where feasible, representatives of the health service agencies, the Seasonal Agricultural and Migratory Workers Advisory Committee, the American Indian Health Policy Panel, consumers selected from rural target populations, such as American Indians, senior citizens, Medi-Cal recipients, isolated rural residents, and agricultural and forestry workers, providers from rural areas, and persons with knowledge of rural areas from educational institutions, and state, county, and federal agencies.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124735.

Each grant for a project shall require the grantee agency to seek third-party reimbursements, including Medi-Cal and private insurance, for any person served under the grant. Each grant shall require the grantee agency to provide reports to the department on reimbursements and may require the grantee agencies to contribute all or part of the proceeds of reimbursements to the department for deposit in the State Treasury in accordance with regulations to be adopted by the department after the regulations are approved by the Director of Finance.

(Amended by Stats. 1999, Ch. 744, Sec. 8. Effective October 10, 1999. Operative July 1, 2000, by Sec. 10 of Ch. 744.)

124740.

State-operated projects shall be established only in accordance with all of the following:

(a) The health of the population in a rural area would be substantially improved by the establishment of a project.

(b) There exists no local public or nonprofit agency willing and able to undertake the project.

(c) The project contains two or more of the elements specified in Section 124720.

A project may employ staff, and may purchase, rent, or lease supplies and equipment where required. A project may also rent or lease land and buildings where required.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124745.

(a) Notwithstanding any other provision of law, the department shall, to the extent that funds are available, provide to a grantee semiannual prospective payments during a 12-month fiscal year.

(b) An amount equal to not more than 50 percent of the total grant shall be processed for payment to the grantee following the enactment of the annual Budget Act, and upon formal execution of the grant by the state. The processing by the department of the granteesfirst semiannual prospective payment shall also be contingent upon both of the following:

(1) A written request for payment from the grantee.

(2) Except as provided in this paragraph, the third quarter progress budget and expenditure report. If the grantee is currently under the first fiscal year of a three-year multiple grant, this requirement shall not apply as a condition for the granteesfirst semiannual prospective payment. If the grantee is currently under the second or third fiscal year of a three-year, multiple-year grant, the departmentsprocessing of the first

semiannual prospective payment for the current grant year shall be contingent upon the granteestimely and accurate submission, and the departmentsapproval of, the third quarter progress and budget expenditure report from the previous grant year.

(c) Based upon the granteestimely and accurate submission of the first quarterly progress and budget expenditure report from the grant year, and satisfactory performance under the grant, the processing of a second semiannual prospective payment of not more than 40 percent of the total grant shall be processed by the department for payment to a grantee no earlier than January 1 during the term of the grant year. The processing of the granteessecond semiannual prospective payment by the department shall be contingent upon all of the following:

(1) A written request for payment from the grantee.

(2) The granteestimely and accurate submission, and the departmentsapproval, of the first quarterly progress and budget expenditure report.

(3) If the grantee is currently under the second or third fiscal year of a three-year, multiple-year grant, the granteestimely and accurate submission, and the departmentsapproval, of the fourth quarterly progress and budget expenditure report, and the annual reconciliation report, from the prior year.

(d) An amount equal to 10 percent of the total grant award shall be retained by the department, pending satisfactory submission by the grantee of all quarterly progress and budget expenditure reports and an annual reconciliation report for the grant year. Payment of the withheld 10 percent shall be processed by the department for payment to the grantee upon the granteessatisfactory completion and submission, and the departmentsapproval, of these reports.

(Added by Stats. 1999, Ch. 744, Sec. 9. Effective October 10, 1999. Operative July 1, 2000, by Sec. 10 of Ch. 744.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=5.&article=4.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4. PRIMARY HEALTH CARE [124400 - 124945]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 5. Rural Health Services Development [124600 - 124785]__

(Chapter 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 4. Coordination of Rural Health Programs [124750 - 124785]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 8.)

124750.

The director shall ensure the coordination of state efforts in rural health in order to maximize effective use of scarce medical resources and to coordinate efforts to provide health services through the California Health Services Corps and health services development projects with existing program resources, including, but not limited to, migrant health programs, American Indian health programs, contract county health services programs, the National Health Service Corps, and other related programs administered by the department to ensure minimal duplication and maximum effectiveness.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124760.

The California Healthcare Workforce Policy Commission shall establish a plan that integrates family practice residencies and other health sciences education programs established in rural areas pursuant to Article 8 (commencing with Section 31910) of Chapter 5 of Division 5 of Division 22 of the Education Code with the health services provided pursuant to Article 3 (commencing with Section 124700).

(Amended by Stats. 2003, Ch. 582, Sec. 8. Effective January 1, 2004.)

124765.

The California Healthcare Workforce Policy Commission, in coordination with the Rural Health Section of the department, shall designate the geographical rural areas within California where unmet priority need for medical services exists.

(Amended by Stats. 2003, Ch. 582, Sec. 9. Effective January 1, 2004.)

124770.

The director shall utilize the authority to establish health manpower pilot projects pursuant to Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 to develop personnel with special health and medical skills that may effectively advance the objectives of the Primary Care Services Act (Section 27).

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124775.

Each proposal for health corps personnel or project application under Article 3 (commencing with Section 124700) shall be submitted to the appropriate county health officer or district health officer for review and recommendation. The review and recommendation shall be completed within 30 days of receipt. Any recommendations made shall be based upon the Health Systems Plan and Annual Implementation Plan as required for that area by Public Law 93-641.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124780.

If the director decides to act contrary to the recommendation of a county or district health officer made pursuant to Section 124775, the director shall explain his or her action in writing to the appropriate board of supervisors.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124785.

Nothing in the Primary Care Services Act (Section 27) shall affect the operation of local public health services contracted for by the department with other agencies pursuant to former Section 1157.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=6.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4. PRIMARY HEALTH CARE [124400 - 124945]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 6. Small and Rural Hospitals [124800 - 124870]__

(Chapter 6 added by Stats. 1995, Ch. 415, Sec. 8.)

124800.

The Legislature finds and declares all of the following:

(a) Rural hospitals serve as the hub of health, and through that role attract and retain in their communities physicians, nurses, and other primary care providers. Because of economies of scale compounded by reimbursement reforms, many rural hospitals will close before the end of this decade. This will result in the departure of primary care providers and the loss of emergency medical services both to residents and persons traveling through the area. The smallest and most remote facilities are at highest risk.

(b) The rural hospital is often one of the largest employers in the community. The closure of such a hospital means the loss of a source of employment. This has an economic impact beyond the health sector. Further, economic development of a rural area is, in part, tied to the existence of a hospital. People, for example, tend not to retire to areas where there is not reasonable access to physician and hospital-based services.

(c) Rural hospitals, especially the smaller facilities, lack access to the sophisticated expertise necessary to deal with current reimbursement regulations and the associated bureaucracy.

(d) Most rural hospitals are unable to participate in programs that provide access to short- and long-term financing due to lender requirements for credit enhancement.

(e) Because of economies of scale compounded by regulations under Title 22 of the California Code of Regulations and other regulations, rural hospitals have high, fixed costs that, in the present reimbursement environment, cannot be offset by revenues generated from serving a relatively small population base. Further, in an economically depressed rural area, community contributions are not sufficient to offset deficits.

(f) Rural hospitals are an important link in the Medi-Cal program, and without special consideration that takes into account their unique circumstances, rural hospitals will be unable to continue providing services to Medi-Cal patients. This is especially true for outpatient services that are reimbursed at less than 60 percent of costs.

(g) While only a very small percentage of the Medi-Cal budget for inpatient and outpatient services is spent for services rendered by rural hospitals, their participation is essential to preserve the integrity of the entire Medi-Cal program.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124805.

(a) The Legislature recognizes the need to strengthen, and in some cases salvage, rural hospitals to ensure that adequate access to services is provided to residents of rural areas as well as tourists and travelers who, at certain times, may outnumber the residents. Further, the Legislature recognizes that this will require a comprehensive approach. Therefore, the Legislature intends that:

(1) Expertise be provided to endangered rural hospitals to both of the following:

(A) Carry out a strategic assessment of potential business and diversification of service opportunities.

(B) Develop a specific plan of action when feasible.

(2) Access, when appropriate, be provided to special eligibility programs within the California Health Facilities Financing Authority.

(3) Short-term technical assistance be available on fiscal and program matters.

(4) The department continue to provide regulatory relief through program flexibility.

(5) Inpatient reimbursement limitations be modified so as not to single out rural hospitals for application.

(6) Reimbursement rates for outpatient services be set at a level that will provide incentives for rural hospitals to focus on the provision of outpatient services and that will reduce the financial losses incurred by the facilities in providing those services.

(b) The Legislature recognizes that for certain rural settings, an acute care hospital as defined in subdivision (a) of Section 1250 may no longer be cost-effective. Therefore, a rural alternative model that preserves the primary and emergency care systems must be identified, studied through demonstration projects, and developed as a new category of health facility.

(c) The Legislature recognizes that a rural alternative facility may not conform to what is now depicted in state or federal regulation. Therefore, to identify a model, implement demonstration projects, and establish the rural alternative hospital as a license category of health facility, a cooperative effort will be required between the department, the federal Health Care Financing Administration, and the health care industry. To this end, the Legislature intends that the department inform the federal Health Care Financing Administration of its interest in establishing the rural alternative hospital program and subsequently seek any necessary waivers.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124810.

Unless the context otherwise requires, the definitions contained in this article govern the construction of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124815.

Department means the State Department of Health Services.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124820.

High-risk rural hospital, means a hospital as defined in subdivision (a) of Section 124840 that can demonstrate through audited and interim financial reports and projections that it is probable that it will need to cease operations within one year.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124825.

The department shall, in consultation with an organization of interest, develop recommendations on the type and scope of technical assistance that needs to be available to small and rural hospitals from within the department. The recommendations of an organization of interest shall be given consideration by the department in development of subsequent budgets.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124830.

Director means the State Director of Health Services.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124835.

Organizations of interest means nonprofit organizations that typically represent the interests of hospitals and health systems.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124840.

Small and rural hospital means an acute care hospital that meets either of the following criteria:

(a) Meets the criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(b) Meets the criteria for designation within peer group five or seven and has no more than 76 acute care beds and is located in an incorporated place or census designated place of 15,000 or less population according to the 1980 federal census.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124845.

Strategically located means a hospital as defined in subdivision (a) of Section 124840 that, by virtue of its location, or the location of a major portion of the hospitalsservice area, can demonstrate that its existence is essential to provide health services including emergency services and stabilization to the service area and transient populations.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124850.

The department shall provide expert technical assistance to strategically located, high-risk rural hospitals to assist the hospitals in carrying out an assessment of potential business and diversification of service opportunities. In providing the technical assistance on business opportunities, the department shall consult with other appropriate agencies. The high-risk rural hospital, in cooperation with the department, may develop a short-term plan of action if, in its opinion, the results of the assessment so indicate. The department, in consultation with an organization of interest, shall do all of the following:

(a) Establish a process for identifying strategically located, high-risk rural hospitals and reviewing requests from the hospitals for assistance.

(b) Develop a standard format for the strategic assessment.

(c) Develop a model action plan.

(d) Establish criteria for review of action plans.

(e) Request input and assistance from organizations of interest.

(f) Make the strategic assessment format and model action plan available to all small and rural hospitals.

(Amended by Stats. 2004, Ch. 225, Sec. 56. Effective August 16, 2004.)

124855.

Any small and rural hospital may apply to the California Health Facilities Financing Authority for consideration under special eligibility programs if the hospital has successfully completed the assessment and developed an action plan.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124860.

(a) The department, after consultation with an organization of interest, shall select two strategically located, high-risk rural hospitals to plan and implement rural alternative hospital demonstration projects. To the extent possible, the department shall choose two demonstration sites, with one site serving an isolated mountainous area where access may be impeded by adverse weather conditions, and one site located in a rural agricultural community. Hospitals shall be selected on the basis of their interest in becoming a demonstration site and on their suitability as model rural alternative hospitals. The demonstration projects shall include, but not be limited to, identification of the following:

(1) Appropriate mix and type of services to be provided locally and obtained on referral.

(2) Types and numbers of personnel required.

(3) Probability of, and the amount of, reimbursement under current regulations.

(4) Statutory and regulatory changes necessary to license the facility and maximize reimbursement.

(b) In administering the rural alternative hospital demonstration project, the department shall do all of the following:

(1) Establish two demonstration sites on or before January 1, 1990, and operate the projects for a period of up to 18 months.

(2) Grant exceptions to the licensure requirements for general acute care hospitals that are necessary to serve the purposes of this section when the granting of the exceptions do not jeopardize the health and welfare of patients.

(3) Convey to the Federal Health Care Financing Administration its intent to establish the rural alternative hospital demonstration project and seek any necessary appropriate waivers.

(4) Consider requests for grant funds made by demonstration site hospitals pursuant to subdivision (a) of Section 1188.86 as meeting criteria for priority funding.

(5) Monitor and evaluate demonstration site projects as to the applicability of these models for statewide application.

(c) The department, based on interim findings from the demonstration projects, shall do either of the following:

(1) Prepare and adopt regulations establishing the rural alternative hospital as a licensed health facility by January 1, 1992.

(2) Submit to the Legislature by that date a report detailing why a category of health facility should not be established.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124865.

The department shall continue to provide regulatory relief when appropriate through program flexibility for such items as staffing, space, and physical plant requirements.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124870.

(a) The department shall adopt regulations that will provide for an increase in reimbursement rates for outpatient services rendered to Medi-Cal patients by small and rural hospitals, as defined in Section 124840, over and above those reimbursement rates specified in Section 51509 of the California Code of Regulations. The amount of this increase shall be governed by the funding allocated for this specific purpose in the Budget Act, or in another specific appropriation measure.

(b) The rate adjustment authorized by subdivision (a) shall be allocated to eligible hospitals as follows:

(1) A separate percentage increase shall be calculated for minimum floor and nonminimum floor hospitals based on the ratio of each small and rural hospitals™ Medi-Cal outpatient payments to the total of all small and rural hospitals™ Medi-Cal outpatient payments during the preceding calendar year, as determined by the department. The percentage rate increase for minimum floor hospitals shall be 125 percent of the rate increase percentage calculated for nonminimum floor hospitals. The combined rate increases for minimum floor and nonminimum floor hospitals shall not exceed the funds appropriated for this purpose.

(2) For purposes of this section, minimum floor hospital means a hospital (A) where Medi-Cal payments for outpatient services during the preceding calendar year were less than 1/2 percent of the total of Medi-Cal payments for outpatient services rendered by all small and rural hospitals during that period and (B) where the total gross patient revenue from all sources during that period was less than ten million dollars ($10,000,000).

(3) For purposes of this section, nonminimum floor hospital means a hospital (A) where Medi-Cal payments for outpatient services during the preceding calendar year equaled or exceeded 1/2 percent or of the total of Medi-Cal payments for outpatient services rendered by all small and rural hospitals during that period or (B) where the total gross patient revenue from all sources during that period was ten million dollars ($10,000,000) or more.

(c) For the purpose of calculating the percentage increase, if any eligible hospital had less than a full year of operation upon which to determine the ratio of Medi-Cal expenditures as defined in paragraph (1) of subdivision (b), the department shall extrapolate the Medi-Cal paid claims expenditures for that hospital to estimate a full yearsMedi-Cal claims expenditure.

(d) Payment under this section shall be contingent upon submission of approved claims for Medi-Cal outpatient services rendered after January 1, 1989.

(e) The Director of Health Services shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to implement the rate adjustments required under this section. The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, or safety. Notwithstanding any provision of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the department to implement the rate adjustments required under this section shall not be subject to any review, approval, or disapproval by the Office of Administrative Law at any stage of the rulemaking process. These regulations shall become effective immediately upon their filing with the Secretary of State.

(f) Notwithstanding any other provision of law, reimbursement rates adopted pursuant to this section shall not exceed the hospitalsusual and customary charges for services rendered.

(g) The department shall maximize federal financial participation in implementing this section.

(h) This section shall become operative July 1, 1989.

(Amended by Stats. 2000, Ch. 158, Sec. 1. Effective January 1, 2001.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=4.&chapter=7.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=7.&article=1.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4. PRIMARY HEALTH CARE [124400 - 124945]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 7. Grants in Aid for Clinics [124875 - 124945]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 1. Clinics [124875 - 124890]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 8.)

124875.

The Legislature finds and declares that:

(a) In California there are approximately 300 community clinics and free clinics that provide primary health care at low cost for a significant portion of the medically underserved population.

(b) These clinics account for more than 3,000,000 patient visits annually.

(c) Increasingly large caseloads, the debilitating effects of inflation on purchased goods and services, and a lack of financial resources are forcing many community and free clinics to curtail services needed in their communities.

(d) Recognizing the contribution of community and free clinics to the health care of Californians and the contribution of the clinics to lowering the costs of health care, it is in the interest of the people of this state to ensure continuation of clinic programs by providing necessary funding.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124880.

The department shall conduct a program of grants-in-aid for the following purposes:

(a) To assist in stabilizing the health care operations of community clinics and free clinics that provide a wide range of primary health care services.

(b) To fund innovative and creative programs of such clinics designed to provide a high quality of health services at minimum cost.

Eligibility for grants shall be limited to community clinics, free clinics, clinics exempt from licensure under subdivision (c) of Section 1206, and any nonprofit corporation that is comprised of not less than three such clinics having a combined service area covering an entire county or more. Grants authorized pursuant to this article shall be limited in purpose to defraying operating expenses of the recipient clinic, including personnel costs, and for technical assistance provided to the recipient. Grants shall not be made or used for purchase of equipment, facility renovations, or purchase of land or buildings. As a condition to making a grant pursuant to this chapter, the director shall require the applicant to match not less than 20 or more than 40 percent of the amount granted. The required matching funds shall be determined by the director, based upon the ability of the applicant to provide matching funds. The required match may be in 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. The director may waive all or a portion of the grantee match in individual cases of demonstrated hardship if the director determines that making the grant would effectively serve the purposes of this chapter. The director shall adopt criteria to be applied in determining whether to grant requests for waivers.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124885.

The department shall annually receive and process grant applications submitted by eligible applicants, and shall allocate grant moneys in accordance with the policies and priorities adopted pursuant to this article. Individual grants shall be limited to a maximum of sixty thousand dollars ($60,000), including grants to nonprofit corporations comprised of more than one clinic. However, grants may be renewed on an annual basis, subject to the submission and review of an annual renewal application, that shall be considered with, and subject to the same priorities as, new applications. No applicant shall receive more than one grant in any year.

Each grant shall be subject to a contract between the department and the grantee prescribing the services to be provided by the grantee thereunder and other conditions of the grant. A contract may provide for periodic advance payments for services to be performed, but in no event shall advance payments exceed 25 percent of the grant.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124890.

In developing policies and priorities pertaining to the allocation of grant funds, the department shall give primary consideration to the following factors:

(a) The applicantsneed for funds to continue its current level of operation.

(b) The applicantslong-term prospects for financial stability.

(c) The quality of services provided.

(d) The high-risk or underserved population groups currently being served by the applicant.

All of the above factors being present, clinics primarily serving population groups determined by the director to be medically underserved shall be entitled to first consideration in the allocation of grant funds.

The department shall adopt guidelines for 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 department. The guidelines shall be developed in consultation with the Primary Care Clinics Advisory Committee and other advisory committees and persons as the department determines are appropriate.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.&chapter=7.&article=2.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4. PRIMARY HEALTH CARE [124400 - 124945]__

(Part 4 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 7. Grants in Aid for Clinics [124875 - 124945]__

(Chapter 7 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2. Primary Care [124900 - 124945]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 8.)

124900.

(a)(1)The State Department of Health Care Services shall select primary care clinics that are licensed under subparagraph (A) or (B) of paragraph (1) of subdivision (a) of Section 1204, or are exempt from licensure under subdivision (c) of Section 1206, to be reimbursed for delivering medical services, including preventive health care, and smoking prevention and cessation health education, to program beneficiaries.

(2)In order to be eligible to receive funds under this article a clinic shall meet all of the following conditions, at a minimum:

(A)Provide medical diagnosis and treatment.

(B)Provide medical support services of patients in all stages of illness.

(C)Provide communication of information about diagnosis, treatment, prevention, and prognosis.

(D)Provide maintenance of patients with chronic illness.

(E)Provide prevention of disability and disease through detection, education, persuasion, and preventive treatment.

(F)Meet one or both of the following conditions:

(i)Be located in an area or a facility federally designated as a health professional shortage area, medically underserved area, or medically underserved population.

(ii)Be a clinic that is able to demonstrate that at least 50 percent of the patients served are persons with incomes at or below 200 percent of the federal poverty level.

(3)Notwithstanding the requirements of paragraph (2), all clinics that received funds under this article in the 1997“98 fiscal year shall continue to be eligible to receive funds under this article.

(b)As a part of the award process for funding pursuant to this article, the department shall take into account the availability of primary care services in the various geographic areas of the state. The department shall determine which areas within the state have populations that have clear and compelling difficulty in obtaining access to primary care. The department shall consider proposals from new and existing eligible providers to extend clinic services to these populations.

(c)A primary care clinic applying for funds pursuant to this article shall demonstrate that the funds shall be used to expand medical services, including preventive health care, and smoking prevention and cessation health education, for program beneficiaries above the level of services provided in the 1988 calendar year, or in the year prior to the first year a clinic receives funds under this article if the clinic did not receive funds in the 1989 calendar year.

(d)(1)The department, in consultation with clinics funded under this article, shall develop a formula for allocation of funds available. It is the intent of the Legislature that the funds allocated pursuant to this article

promote stability for those clinics participating in programs under this article as part of the stateshealth care safety net and at the same time be distributed in a manner that best promotes access to health care to uninsured populations.

(2)The formula shall be based on both of the following:

(A)A hold harmless for clinics funded in the 1997“98 fiscal year to continue to reimburse them for some portion of their uncompensated care.

(B)Demonstrated unmet need by both new and existing clinics, as reflected in their levels of uncompensated care reported to the department. For purposes of this article, uncompensated care means clinic patient visits for persons with incomes at or below 200 percent of the federal poverty level for which there is no encounter-based third-party reimbursement which includes, but is not limited to, unpaid expanded access to primary care claims.

(3)The department shall allocate available funds, for a three-year period, as follows:

(A)Clinics that received funding in the prior fiscal year shall receive 90 percent of their prior fiscal year allocation, subject to available funds, provided that the funding award is substantiated by the clinics™ reported levels of uncompensated care.

(B)The remaining funds beyond 90 percent shall be awarded to new and existing applicants based on the clinics™ reported levels of uncompensated care as verified by the department according to subparagraph (A) of paragraph (4). The department shall seek input from stakeholders to discuss adjustments to award levels that the department deems reasonable, such as including base amounts for new applicant clinics.

(C)New applicants shall be awarded funds pursuant to this subdivision if they meet the minimum requirements for funding under this article based on the clinics™ reported levels of uncompensated care as verified by the department according to subparagraph (A) of paragraph (4). New applicants include applicants for new site expansions by existing applicants.

(4)In assessing reported levels of uncompensated care, the department shall utilize the data available from the Office of Statewide Health Planning and Developments(OSHPD™s) completed analysis of the Annual Report of Primary Care Clinics for the prior fiscal year, or if more recent data is available, then the most recent data. If this data is unavailable for an existing applicant to assess reported levels of uncompensated care, the existing applicant shall receive an allocation pursuant to subparagraph (A) of paragraph (3).

(A)The department shall utilize the most recent data available from OSHPDscompleted analysis of the Annual Report of Primary Care Clinics for the prior fiscal year, or if more recent data is available, then the most recent data.

(B)If the funds allocated to the program are less than the prior year, the department shall allocate available funds to existing program providers only.

(5)The department shall establish a base funding level, subject to available funds, of no less than thirty-five thousand dollars ($35,000) for frontier clinics and Native American reservation-based clinics. For purposes of this article, frontier clinics means clinics located in a medical services study area with a population of fewer than 11 persons per square mile.

(6)The department shall develop, in consultation with clinics funded pursuant to this article, a formula for reallocation of unused funds to other participating clinics to reimburse for uncompensated care. The

department shall allocate the unused funds remaining on October 30, for the prior fiscal year to other participating clinics to reimburse for uncompensated care.

(e)In applying for funds, eligible clinics shall submit a single application per clinic corporation. Applicants with multiple sites shall apply for all eligible clinics, and shall report to the department the allocation of funds among their corporate sites in the prior year. A corporation may claim reimbursement only for services provided at a program-eligible clinic site identified in the corporate entitysapplication for funds, and approved for funding by the department. A corporation may increase or decrease the number of its program-eligible clinic sites on an annual basis, at the time of the annual application update for the subsequent fiscal years of any multiple-year application period.

(f)Grant allocations pursuant to this article shall be based on the formula developed by the department, notwithstanding a merger of one of more licensed primary care clinics participating in the program.

(g)A clinic that is eligible for the program in every other respect, but that provides dental services only, rather than the full range of primary care medical services, shall only be eligible to receive funds under this article on an exception basis. A dental-only providersapplication shall include a memorandum of understanding (MOU) with a primary care clinic funded under this article. The MOU shall include medical protocols for making referrals by the primary care clinic to the dental clinic and from the dental clinic to the primary care clinic, and ensure that case management services are provided and that the patient is being provided comprehensive primary care as described in subdivision (a).

(h)(1)For purposes of this article, an outpatient visit shall include diagnosis and medical treatment services, including the associated pharmacy, X-ray, and laboratory services, and prevention health and case management services that are needed as a result of the outpatient visit. For a new patient, an outpatient visit shall also include a health assessment encompassing an assessment of smoking behavior and the patientsneed for appropriate health education specific to related tobacco use and exposure.

(2)Case management includes, for this purpose, the management of all physician services, both primary and specialty, and arrangements for hospitalization, postdischarge care, and followup care.

(i)(1)Payment shall be on a per-visit basis at a rate that is determined by the department to be appropriate for an outpatient visit as defined in this section, and shall be not less than seventy-one dollars and fifty cents ($71.50).

(2)In developing a statewide uniform rate for an outpatient visit as defined in this article, the department shall consider existing rates of payments for comparable outpatient visits. The department shall review the outpatient visit rate on an annual basis.

(j)Not later than June 1 of each year, the department shall adopt and provide each licensed primary care clinic with a schedule for programs under this article, including the date for notification of availability of funds, the deadline for the submission of a completed application, and an anticipated contract award date for successful applicants.

(k)In administering the program created pursuant to this article, the department shall utilize the Medi-Cal program statutes and regulations pertaining to program participation standards, medical and administrative recordkeeping, the ability of the department to monitor and audit clinic records pertaining to program services rendered to program beneficiaries and take recoupments or recovery actions consistent with monitoring and audit findings, and the providersappeal rights. A primary care clinic applying for program participation shall certify that it will abide by these statutes and regulations and other program requirements set forth in this article.

(Amended by Stats. 2008, Ch. 179, Sec. 159. Effective January 1, 2009.)

124905.

For purposes of this article, a program beneficiary is any person whose income level is at or below 200 percent of the federal poverty level as adjusted annually. Program beneficiaries shall not be required to provide any copayment for services that are funded pursuant to this article, except that clinics may charge beneficiaries on a sliding fee scale for services, but no beneficiary shall be denied services because of an inability to pay. The department shall annually adjust this income standard to reflect any changes in the federal poverty level. Payment pursuant to this article shall be made only for services for which payment will not be made through any private or public third-party reimbursement.

(Amended by Stats. 1998, Ch. 883, Sec. 2. Effective January 1, 1999.)

124910.

(a)(1)Each licensed primary care clinic, as specified in subdivision (a) of Section 124900, applying for funds under this article, shall demonstrate in its application that it meets all of the following conditions, at a minimum:

(A)Provides medical diagnosis and treatment.

(B)Provides medical support services of patients in all stages of illness.

(C)Provides communication of information about diagnosis, treatment, prevention, and prognosis.

(D)Provides maintenance of patients with chronic illness.

(E)Provides prevention of disability and disease through detection, education, persuasion, and preventive treatment.

(F)Meets one or both of the following conditions:

(i)Is located in an area or a facility federally designated as a health professional shortage area, medically underserved area, or medically underserved population.

(ii)Is a clinic in which at least 50 percent of the patients served are persons with incomes at or below 200 percent of the federal poverty level.

(2)Any applicant who has applied for and received a federal or state designation for serving a health professional shortage area, medically underserved area, or population shall be deemed to meet the requirements of subdivision (a) of Section 124900.

(b)Each applicant shall also demonstrate to the satisfaction of the department that the proposed services supplement, and do not supplant, those primary care services to program beneficiaries that are funded by any county, state, or federal program.

(c)Each applicant shall demonstrate that it is an active Medi-Cal provider by being enrolled in Medi-Cal and diligently billing the Medi-Cal program for services rendered to Medi-Cal eligible patients during the past three months prior to the application due date. This subdivision shall not apply to clinics that are not currently Medi-Cal providers, and were funded participants pursuant to this article during the 1993"94 fiscal year.

(d)Each application shall be evaluated by the state department prior to funding to determine all of the following:

(1)The applicant shall provide its most recently audited financial statement to verify budget information.

(2)The applicantsability to deliver basic primary care to program beneficiaries.

(3)A description of the applicantsoperational quality assurance program.

(4)The applicantsuse of protocols for the most common diseases in the population served under this article.

(Amended by Stats. 2007, Ch. 188, Sec. 17. Effective August 24, 2007.)

124911.

(a) Commencing in the 1998"99 fiscal year, the department shall release a request for allocation of funds for a period of three succeeding fiscal years. The request for allocation shall include specifications for the clinics to submit uniform data on uncompensated patient visits.

(b) Annual funding awards for a clinic provider in the second and third fiscal years of a three-year funding period shall be contingent upon the clinicssatisfactory performance under the program, and upon the availability of sufficient funds appropriated by the annual Budget Act.

(Added by Stats. 1998, Ch. 883, Sec. 5. Effective January 1, 1999.)

124915.

Services funded pursuant to this article shall be limited to the extent that funds are appropriated for this purpose.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124920.

(a)The department shall utilize existing contractual claims processing services in order to promote efficiency and to maximize use of funds.

(b)The department shall certify which primary care clinics are selected to participate in the program for each

specific fiscal year, and how much in program funds each selected primary care clinic will be allocated each fiscal year.

(c)The department shall pay claims from selected primary care clinics up to each clinicsannual allocation. Once a clinic has exhausted its annual allocation, the state shall stop paying its program claims.

(d)The department may adjust any selected primary care clinicsallocation to take into account:

(1)An increase in program funds appropriated for the fiscal year.

(2)A decrease in program funds appropriated for the fiscal year.

(3)A clinicsprojected inability to fully spend its allocation within the fiscal year.

(4)Surplus funds reallocated from other selected primary care clinics.

(e)The department shall notify all affected primary care clinics in writing prior to adjusting selected primary care clinics™ allocations.

(f)Cessation of program payments under subdivision (e) or adjustment of selected primary care clinicsallocations under subdivision (d) shall not be subject to the Medi-Cal appeals process referenced in subdivision (g) of Section 124900.

(g)A clinicsallocation under this article shall not be reduced solely because the clinic has engaged in supplemental fundraising drives and activities, the proceeds of which have been used to defray the costs of services to the uninsured.

(Amended by Stats. 2006, Ch. 176, Sec. 4. Effective January 1, 2007.)

124930.

(a)For any condition detected as part of a child health and disability prevention screen for any child eligible for services under Section 104395, if the child was screened by the clinic or upon referral by a child health and disability prevention program provider, unless the child is eligible to receive care with no share of cost under the Medi-Cal program, is covered under another publicly funded program, or the services are payable under private coverage, a clinic shall, as a condition of receiving funds under this article, do all of the following:

(1)Insofar as the clinic directly provides these services for other patients, provide medically necessary followup treatment, including prescription drugs.

(2)Insofar as the clinic does not provide treatment for the condition, arrange for the treatment to be provided.

(b)(1)If any child requires treatment the clinic does not provide, the clinic shall arrange for the treatment to be provided, and the name of that provider shall be noted in the patientsmedical record.

(2)The clinic shall contact the provider or the patient or his or her guardian, or both, within 30 days after the arrangement for the provision of treatment is made, and shall determine if the provider has provided

appropriate care, and shall note the results in the patientsmedical record.

(3)If the clinic is not able to determine, within 30 days after the arrangement for the provision of treatment is made, whether the needed treatment was provided, the clinic shall provide written notice to the county child health and disability prevention program director, and shall also provide a copy to the state director of the program.

(Amended by Stats. 2006, Ch. 176, Sec. 6. Effective January 1, 2007.)

124940.

The use of funds granted pursuant to this article for use by school-based clinics shall be limited to those school-based clinics that were licensed and in operation before January 1, 1990.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124945.

Any entity or provider that receives funds pursuant to this article shall expend those funds in accordance with the requirements of Article 2 (commencing with Section 30121) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=4.5.&chapter=&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 4.5. PAIN PATIENT'S BILL OF RIGHTS [124960 - 124962]__

(Part 4.5 added by Stats. 1997, Ch. 839, Sec. 1.)

124960.

The Legislature finds and declares all of the following:

(a)The state has a right and duty to control the illegal use of opiate drugs.

(b)Inadequate treatment of acute and chronic pain originating from cancer or noncancerous conditions is a significant health problem.

(c)For some patients, pain management is the single most important treatment a physician can provide.

(d)A patient suffering from severe chronic intractable pain should have access to proper treatment of his or her pain.

(e)Due to the complexity of their problems, many patients suffering from severe chronic intractable pain may require referral to a physician with expertise in the treatment of severe chronic intractable pain. In some cases, severe chronic intractable pain is best treated by a team of clinicians in order to address the associated physical, psychological, social, and vocational issues.

(f)In the hands of knowledgeable, ethical, and experienced pain management practitioners, opiates administered for severe acute pain and severe chronic intractable pain can be safe.

(g)Opiates can be an accepted treatment for patients in severe chronic intractable pain who have not obtained relief from any other means of treatment.

(h)A patient suffering from severe chronic intractable pain has the option to request or reject the use of any or all modalities to relieve his or her pain.

(i)A physician treating a patient who suffers from severe chronic intractable pain may prescribe a dosage deemed medically necessary to relieve pain as long as the prescribing is in conformance with Section 2241.5 of the Business and Professions Code.

(j)A patient who suffers from severe chronic intractable pain has the option to choose opiate medication for the treatment of the severe chronic intractable pain as long as the prescribing is in conformance with Section 2241.5 of the Business and Professions Code.

(k)The patientsphysician may refuse to prescribe opiate medication for a patient who requests the treatment for severe chronic intractable pain. However, that physician shall inform the patient that there are physicians who treat severe chronic intractable pain with methods that include the use of opiates.

(Amended by Stats. 2011, Ch. 396, Sec. 2. (AB 507) Effective January 1, 2012.)

124961.

Nothing in this section shall be construed to alter any of the provisions set forth in Section 2241.5 of the Business and Professions Code. This section shall be known as the Pain PatientsBill of Rights.

(a)A patient who suffers from severe chronic intractable pain has the option to request or reject the use of any or all modalities in order to relieve his or her pain.

(b)A patient who suffers from severe chronic intractable pain has the option to choose opiate medications to relieve that pain without first having to submit to an invasive medical procedure, which is defined as surgery, destruction of a nerve or other body tissue by manipulation, or the implantation of a drug delivery system or device, as long as the prescribing physician acts in conformance with the California Intractable Pain Treatment Act, Section 2241.5 of the Business and Professions Code.

(c)The patientsphysician may refuse to prescribe opiate medication for the patient who requests a treatment for severe chronic intractable pain. However, that physician shall inform the patient that there are physicians who treat pain and whose methods include the use of opiates.

(d)A physician who uses opiate therapy to relieve severe chronic intractable pain may prescribe a dosage deemed medically necessary to relieve the patientspain, as long as that prescribing is in conformance with Section 2241.5 of the Business and Professions Code.

(e)A patient may voluntarily request that his or her physician provide an identifying notice of the prescription for purposes of emergency treatment or law enforcement identification.

(f)Nothing in this section shall do either of the following:

(1)Limit any reporting or disciplinary provisions applicable to licensed physicians and surgeons who violate prescribing practices or other provisions set forth in the Medical Practice Act, Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or the regulations adopted thereunder.

(2)Limit the applicability of any federal statute or federal regulation or any of the other statutes or regulations of this state that regulate dangerous drugs or controlled substances.

(Amended by Stats. 2011, Ch. 396, Sec. 3. (AB 507) Effective January 1, 2012.)

124962.

The Legislature finds and declares all of the following:

(a)Nonpharmacological therapies for pain management have been proven effective for treatment of chronic pain and their use should be promoted just as are pharmacological analgesic therapies.

(b)The United States Department of Health and Human Services™ Pain Management Best Practices Inter-Agency Task Force identified barriers to accessing nonpharmacological therapies for pain management related to health care providers that include underestimation of patients™ reported level of pain, including unconscious biases, workforce shortages, especially among behavioral and pain management specialists, lack of research on or lack of awareness of novel and effective approaches to pain care, and cost and reimbursement issues specific to the health care system. For patients, cost, time, and transportation barriers, as well as lack of coverage or lack of knowledge and awareness of nonpharmacological options have been identified.

(c)A multimodal and patient-centered approach to treating and managing acute or chronic pain has been

recommended by the task force.

(d)Restorative, interventional, behavioral, complementary, and integrative health approaches have been identified as nonpharmacological therapies for pain management.

(e)The federal Food and Drug Administration has approved behavioral or instrument-based and nonpharmacological immersive therapeutics indicated to manage or treat pain.

(f)Nonpharmacological pain management treatment is pain management treatment without the use of medication, including behavioral therapy, instrument-based therapy, or immersive therapeutics approved by the federal Food and Drug Administration indicated for the use of managing or treating pain.

(g)Medical devices are an important option for the treatment and management of pain and prevention of opioid use disorders. With a shift in how pain is treated, there is a greater need for ensuring appropriate coverage and payment policies for effective emerging technologies.

(h)The health care system, including health care providers, health care service plans, and health insurers, should encourage the use of evidence-based nonpharmacological therapies for pain management.

(Added by Stats. 2022, Ch. 160, Sec. 1. (AB 2585) Effective January 1, 2023.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=5.&chapter=&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=5.&chapter=1.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.&chapter=1.&article=1.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5. HEREDITARY DISEASES/CONGENITAL DEFECTS [124975 - 125292.10]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 1. Genetic Prevention Services [124975 - 125119.5]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 1. Hereditary Disorders Act [124975 - 124996]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 8.)

124975.

The Legislature hereby finds and declares that:

(a) Each person in the State of California is entitled to health care commensurate with his or her health care needs, and to protection from inadequate health services not in the personsbest interests.

(b) Hereditary disorders, such as sickle cell anemia, cystic fibrosis, and hemophilia, are often costly, tragic, and sometimes deadly burdens to the health and well-being of the citizens of this state.

(c) Detection through screening of hereditary disorders can lead to the alleviation of the disability of some hereditary disorders and contribute to the further understanding and accumulation of medical knowledge about hereditary disorders that may lead to their eventual alleviation or cure.

(d) There are different severities of hereditary disorders, that some hereditary disorders have little effect on the normal functioning of individuals, and that some hereditary disorders may be wholly or partially alleviated through medical intervention and treatment.

(e) All or most persons are carriers of some deleterious recessive genes that may be transmitted through the

hereditary process, and that the health of carriers of hereditary disorders is substantially unaffected by that fact.

(f) Carriers of most deleterious genes should not be stigmatized and should not be discriminated against by any person within the State of California.

(g) Specific legislation designed to alleviate the problems associated with specific hereditary disorders may tend to be inflexible in the face of rapidly expanding medical knowledge, underscoring the need for flexible approaches to coping with genetic problems.

(h) State policy regarding hereditary disorders should be made with full public knowledge, in light of expert opinion and should be constantly reviewed to consider changing medical knowledge and ensure full public protection.

(i) The extremely personal decision to bear children should remain the free choice and responsibility of the individual, and should not be restricted by the state.

(j) Participation of persons in hereditary disorders programs in the State of California should be wholly voluntary, except for initial screening for phenylketonuria (PKU) and other genetic disorders treatable through the California newborn screening program. All information obtained from persons involved in hereditary disorders programs in the state should be held strictly confidential.

(k) In order to minimize the possibility for the reoccurrence of abuse of genetic intervention in hereditary disorders programs, all programs offering screening programs for heredity disorders shall comply with the principles established in the Hereditary Disorders Act (Section 27). The Legislature finds it necessary to establish a uniform statewide policy for the screening for heredity disorder in the State of California.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124977.

(a)It is the intent of the Legislature that, unless otherwise specified, the genetic disease testing program carried out pursuant to this chapter be fully supported from fees collected for services provided by the program.

(b)(1)The department shall charge a fee to all payers for any tests or activities performed pursuant to this chapter. The amount of the fee shall be established by regulation and periodically adjusted by the director in order to meet the costs of this chapter. Notwithstanding any other law, any fees charged for prenatal screening and followup services provided to persons enrolled in the Medi-Cal program, health care service plan enrollees, or persons covered by health insurance policies, shall be paid in full and deposited in the Genetic Disease Testing Fund or the Birth Defects Monitoring Program Fund consistent with this section.

(2)The department shall expeditiously undertake all steps necessary to implement the fee collection process, including personnel, contracts, and data processing, so as to initiate the fee collection process at the earliest opportunity.

(3)Effective for services provided on and after July 1, 2002, the department shall charge a fee to the hospital of birth, or, for births not occurring in a hospital, to families of the newborn, for newborn screening and followup services. The hospital of birth and families of newborns born outside the hospital shall make

payment in full to the Genetic Disease Testing Fund. The department shall not charge or bill Medi-Cal beneficiaries for services provided pursuant to this chapter.

(4)(A)The department shall charge a fee for prenatal screening to support the pregnancy blood sample storage, testing, and research activities of the Birth Defects Monitoring Program.

(B)The prenatal screening fee for activities of the Birth Defects Monitoring Program shall be ten dollars ($10).

(5)The department shall set guidelines for invoicing, charging, and collecting from approved researchers the amount necessary to cover all expenses associated with research application requests made pursuant to this section, data linkage, retrieval, data processing, data entry, reinventory, and shipping of blood samples or their components, and related data management.

(6)The only funds from the Genetic Disease Testing Fund that may be used for the purpose of supporting the pregnancy blood sample storage, testing, and research activities of the Birth Defects Monitoring Program are those prenatal screening fees assessed and collected prior to the creation of the Birth Defects Monitoring Program Fund specifically to support those Birth Defects Monitoring Program activities.

(7)The Birth Defects Monitoring Program Fund is hereby created as a special fund in the State Treasury. Fee revenues that are collected pursuant to paragraph (4) shall be deposited into the fund and shall be available upon appropriation by the Legislature to support the pregnancy blood sample storage, testing, and research activities of the Birth Defects Monitoring Program. Notwithstanding Section 16305.7 of the Government Code, interest earned on funds in the Birth Defects Monitoring Program Fund shall be deposited as revenue into the fund to support the Birth Defects Monitoring Program.

(c)(1)The Legislature finds that timely implementation of changes in genetic screening programs and continuous maintenance of quality statewide services requires expeditious regulatory and administrative procedures to obtain the most cost-effective electronic data processing, hardware, software services, testing equipment, and testing and followup services.

(2)The expenditure of funds from the Genetic Disease Testing Fund for these purposes shall not be subject to Section 12102 of, and Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of, the Public Contract Code, or to Division 25.2 (commencing with Section 38070) of this code. The department shall provide the Department of Finance with documentation that equipment and services have been obtained at the lowest cost consistent with technical requirements for a comprehensive high-quality program.

(3)The expenditure of funds from the Genetic Disease Testing Fund for implementation of the Tandem Mass Spectrometry screening for fatty acid oxidation, amino acid, and organic acid disorders, and screening for congenital adrenal hyperplasia may be implemented through the amendment of the Genetic Disease Branch Screening Information System contracts and shall not be subject to Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code, Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, and any policies, procedures, regulations, or manuals authorized by those laws.

(4)The expenditure of funds from the Genetic Disease Testing Fund for the expansion of the Genetic Disease Branch Screening Information System to include cystic fibrosis, biotinidase, severe combined immunodeficiency (SCID), adrenoleukodystrophy (ALD), and any other disease that is detectable in blood samples, as specified in subdivision (d) of Section 125001, may be implemented through the amendment of the Genetic Disease Branch Screening Information System contracts, and shall not be subject to Chapter 2 (commencing with Section 10290) or Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code, Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of

Title 2 of the Government Code, or Sections 4800 to 5180, inclusive, of the State Administrative Manual as they relate to approval of information technology projects or approval of increases in the duration or costs of information technology projects. This paragraph shall apply to the design, development, and implementation of the expansion, and to the maintenance and operation of the Genetic Disease Branch Screening Information System, including change requests, once the expansion is implemented.

(d)(1)The department may adopt emergency regulations to implement and make specific this chapter in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. Notwithstanding Sections 11346.1 and 11349.6 of the Government Code, the department shall submit these regulations directly to the Secretary of State for filing. The regulations shall become effective immediately upon filing by the Secretary of State. Regulations shall be subject to public hearing within 120 days of filing with the Secretary of State and shall comply with Sections 11346.8 and 11346.9 of the Government Code or shall be repealed.

(2)The Office of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the regulations adopted pursuant to this chapter shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the department.

(3)The Legislature finds and declares that the health and safety of California newborns is in part dependent on an effective and adequately staffed genetic disease program, the cost of which shall be supported by the fees generated by the program.

(Amended by Stats. 2016, Ch. 393, Sec. 1. (SB 1095) Effective January 1, 2017.)

124980.

The director shall establish any regulations and standards for hereditary disorders programs as the director deems necessary to promote and protect the public health and safety. Standards shall include licensure of master level genetic counselors and doctoral level geneticists. Regulations adopted shall implement the principles established in this section. These principles shall include, but not be limited to, the following:

(a) The public, especially communities and groups particularly affected by programs on hereditary disorders, should be consulted before any regulations and standards are adopted by the department.

(b) The incidence, severity, and treatment costs of each hereditary disorder and its perceived burden by the affected community should be considered and, where appropriate, state and national experts in the medical, psychological, ethical, social, and economic effects or programs for the detection and management of hereditary disorders shall be consulted by the department.

(c) Information on the operation of all programs on hereditary disorders within the state, except for confidential information obtained from participants in the programs, shall be open and freely available to the public.

(d) Clinical testing procedures established for use in programs, facilities, and projects shall be accurate, provide maximum information, and the testing procedures selected shall produce results that are subject to minimum misinterpretation.

(e) No test or tests may be performed on any minor over the objection of the minorsparents or guardian, nor may any tests be performed unless the parent or guardian is fully informed of the purposes of testing for hereditary disorders and is given reasonable opportunity to object to the testing.

(f) No testing, except initial screening for phenylketonuria (PKU) and other diseases that may be added to the newborn screening program, shall require mandatory participation, and no testing programs shall require restriction of childbearing, and participation in a testing program shall not be a prerequisite to eligibility for, or receipt of, any other service or assistance from, or to participate in, any other program, except where necessary to determine eligibility for further programs of diagnoses of or therapy for hereditary conditions.

(g) Pretest and posttest counseling services for hereditary disorders shall be available through the program or a referral source for all persons determined to be or who believe themselves to be at risk for a hereditary disorder. Genetic counseling shall be provided by a physician, a certified advanced practice nurse with a genetics specialty, or other appropriately trained licensed health care professional and shall be nondirective, shall emphasize informing the client, and shall not require restriction of childbearing.

(h) All participants in programs on hereditary disorders shall be protected from undue physical and mental harm, and except for initial screening for phenylketonuria (PKU) and other diseases that may be added to newborn screening programs, shall be informed of the nature of risks involved in participation in the programs, and those determined to be affected with genetic disease shall be informed of the nature, and where possible the cost, of available therapies or maintenance programs, and shall be informed of the possible benefits and risks associated with these therapies and programs.

(i) All testing results and personal information generated from hereditary disorders programs shall be made available to an individual over 18 years of age, or to the individualsparent or guardian. If the individual is a minor or incompetent, all testing results that have positively determined the individual to either have, or be a carrier of, a hereditary disorder shall be given through a physician or other source of health care.

(j) All testing results and personal information from hereditary disorders programs obtained from any individual, or from specimens from any individual, shall be held confidential and be considered a confidential medical record except for information that the individual, parent, or guardian consents to be released, provided that the individual is first fully informed of the scope of the information requested to be released, of all of the risks, benefits, and purposes for the release, and of the identity of those to whom the information will be released or made available, except for data compiled without reference to the identity of any individual, and except for research purposes, provided that pursuant to Subpart A (commencing with Section 46.101) of Part 46 of Title 45 of the Code of Federal Regulations entitled Basic HHS Policy for Protection of Human Subjects,□ the research has first been reviewed and approved by an institutional review board that certifies the approval to the custodian of the information and further certifies that in its judgment the information is of such potentially substantial public health value that modification of the requirement for legally effective prior informed consent of the individual is ethically justifiable.

(k) A physician providing information to patients on expanded newborn screening shall disclose to the parent the physiciansfinancial interest, if any, in the laboratory to which the patient is being referred.

(l) An individual whose confidentiality has been breached as a result of any violation of the provisions of the Hereditary Disorders Act, as defined in subdivision (b) of Section 27, may recover compensatory and civil damages. Any person who negligently breaches the confidentiality of an individual tested under this article

shall be subject to civil damages of not more than ten thousand dollars ($10,000), reasonable attorneysfees, and the costs of litigation. Any person who knowingly breaches the confidentiality of an individual tested under this article shall be subject to payment of compensatory damages, and in addition, may be subject to civil damages of fifty thousand dollars ($50,000), reasonable attorneysfees, and the costs of litigation, or imprisonment in the county jail of not more than one year. If the offense is committed under false pretenses, the person may be subject to a fine of not more than one hundred thousand dollars ($100,000), imprisonment in the county jail of not more than one year, or both. If the offense is committed with the intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, the person may be subject to a fine of not more than two hundred fifty thousand dollars ($250,000), imprisonment in the county jail of not more than one year, or both.

(m) Genetic counseling as used in this section shall not include communications that occur between patients and appropriately trained and competent licensed health care professionals, such as physicians, registered nurses, and physicians assistants who are operating within the scope of their license and qualifications as defined by their licensing authority.

(Amended by Stats. 2004, Ch. 228, Sec. 6.3. Effective August 16, 2004.)

124981.

(a)No person shall use the title of genetic counselor unless the person has applied for and obtained a license from the department.

(b)The applicant for a genetic counselor license shall meet minimum qualifications that include, but are not limited to, both of the following:

(1)Has earned a mastersdegree or above from a program specializing in or having substantial course content in genetics.

(2)Has demonstrated competence by an examination administered or approved by the department.

(c)The license shall be valid for three years unless at any time during that period it is revoked or suspended. The license may be renewed prior to the expiration of the three-year period.

(d)To qualify to renew the license, a licenseholder shall have completed 45 hours of continuing education units during the three-year license renewal period. At least 30 hours of the continuing education units shall be in genetics.

(e)The license fee for an original license and license renewal shall not exceed two hundred dollars ($200).

(f)This section shall become operative on January 1, 2014.

(Repealed (in Sec. 1) and added by Stats. 2010, Ch. 550, Sec. 2. (AB 2300) Effective January 1, 2011. Section operative January 1, 2014, by its own provisions.)

124982.

(a)The department shall issue a temporary genetic counselor license to a person to practice as a licensed genetic counselor who meets all of the following:

(1)The requirements for licensure set forth in subdivision (b) of Section 124981, except passing the certification examination as required by paragraph (2) of subdivision (b) of Section 124981.

(2)Either of the following requirements:

(A)The person meets the requirements to apply for and has applied for the first available certification examination offered. The department may require an applicant for a temporary genetic counselor license to provide documentation of acceptance for the examination.

(B)The person meets the requirements to apply for the certification examination and plans to apply to sit for the examination in the year following the year of the first available examination. The department shall require the applicant to provide documentation showing registration for the examination, when the documentation is received by the applicant. After the applicant takes the examination, the department shall require the applicant to provide documentation showing that the applicant took the examination.

(3)Payment of a fee of two hundred dollars ($200).

(b)A temporary genetic counselor license shall be valid for 24 months and shall not be extended or renewed.

(c)Notwithstanding subdivision (a), a temporary license issued pursuant to this section shall expire upon any of the following events, whichever occurs earlier:

(1)The issuance of a license pursuant to Section 124981.

(2)Thirty days after notification of the department that an applicant has failed the certification examination.

(3)The expiration date on the temporary license.

(d)A person holding a temporary genetic counselor license issued pursuant to this section, shall be required to work under the supervision of a licensed genetic counselor or a licensed physician and surgeon.

(e)The department may revoke the temporary license of a genetic counselor licensed pursuant to this section if the person has been convicted of a felony charge that is substantially related to the qualifications, functions, or duties of a genetic counselor. A plea of guilty or nolo contendere to a felony charge shall be deemed a conviction for the purposes of this subdivision.

(f)This section shall become operative on July 1, 2011.

(Amended (as added by Stats. 2010, Ch. 550) by Stats. 2011, Ch. 296, Sec. 180. (AB 1023) Effective January 1, 2012.)

124985.

A violation of any of the provisions of the Hereditary Disorders Act (Section 27) or any of the regulations adopted pursuant to that act shall be punishable as a misdemeanor.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124990.

For the purposes of the Hereditary Disorders Act (Section 27), hereditary disorders programs shall include, but not be limited to, all antenatal, neonatal, childhood, and adult screening programs, and all adjunct genetic counseling services.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

124991.

(a)(1)The Birth Defects Monitoring Program, within the State Department of Public Health, shall collect and store any umbilical cord blood samples it receives from hospitals for storage and research. For purposes of ensuring financial stability, the Birth Defects Monitoring Program shall ensure that the following conditions, alone or in combination, are met:

(A)The fees paid by researchers pursuant to subdivision (c) shall be used for, and be sufficient to cover the cost of, collecting and storing blood samples, including umbilical cord blood samples.

(B)The department receives confirmation that a researcher has requested umbilical cord blood samples from the Birth Defects Monitoring Program for research or has requested umbilical cord blood samples to be included within a request for pregnancy or newborn blood samples through the program and has provided satisfactory evidence that adequate funding will be provided to the department from the fees paid by the researcher for the request.

(C)The department receives federal grant moneys to pay for initial startup costs for the collection and storage of umbilical cord blood samples.

(2)The department may limit the number of umbilical cord blood samples the program collects each year.

(b)(1)All information relating to umbilical cord blood samples collected and utilized by the department shall be confidential, and shall be used solely for the purposes of the program, or, if approved by the department, research. Access to confidential information shall be limited to authorized persons who agree, in writing, to maintain the confidentiality of that information. Notwithstanding any other provision of law, when the blood samples specified in subdivision (c), including those samples with any information identifying the person from whom the samples were obtained, are stored, processed, analyzed, or otherwise shared for research purposes with nondepartment staff, those samples may be shared by the program with department-authorized researchers for research purposes, and department representatives approved by the department, subject to the confidentiality and security requirements for confidential information established in this section and in Section 103850.

(2)The department shall maintain an accurate record of all persons who are given confidential information pursuant to this section, and any disclosure of confidential information shall be made only upon written agreement that the information will be kept confidential, used for its approved purpose, and not be further disclosed.

(3)A person who, in violation of a written agreement to maintain confidentiality, discloses information provided pursuant to this section, or who uses information provided pursuant to this section in a manner other than as approved pursuant to this section may be denied further access to confidential information maintained by the department, and shall be subject to a civil penalty not exceeding one thousand dollars ($1,000). The penalty provided in this section does not limit or otherwise restrict a remedy, provisional or otherwise, provided by law for the benefit of the department or a person covered by this section.

(c)In order to implement this section, the department shall establish fees in an amount that shall not exceed the costs of administering the program and the collection and storage of these samples, which the department shall collect from researchers who have been approved by the department and who seek to use the following types of blood samples for research:

(1)Umbilical cord blood.

(2)Pregnancy blood collected by the Genetic Disease Screening Program, and stored by the Birth Defects Monitoring Program.

(3)Newborn blood collected by the Genetic Disease Screening Program.

(d)Fees collected pursuant to subdivision (c) shall be collected by the department and deposited into the Birth Defects Monitoring Program Fund, the Genetic Disease Testing Fund, created pursuant to Section 124996, or the Cord Blood Banking Fund, which is hereby created as a special fund in the State Treasury. The amount of fees deposited into each of these funds shall be based on the program that is providing those pregnancy blood samples, and the purpose for which the blood sample was obtained. Notwithstanding any other provision of law, the moneys in the Birth Defects Monitoring Program Fund, the Genetic Disease Testing Fund, and the Cord Blood Banking Fund that are collected pursuant to subdivision (c), may be used by the department, upon appropriation by the Legislature, for the purposes specified in subdivision (e).

(e) Moneys in those funds shall be used for the costs related to data management, including data linkage and entry, and blood collection, storage, retrieval, processing, inventory, and shipping.

(f)The department shall comply with the existing requirements in the Birth Defects Monitoring Program, as set forth in Chapter 1 (commencing with Section 103825) of Part 2 of Division 102.

(g)The department, any entities approved by the department, and researchers shall maintain the confidentiality of patient information and blood samples in accordance with existing law and in the same manner as other medical record information with patient identification that they possess, and shall use the information only for the following purposes:

(1)Research to identify risk factors for childrensand womensdiseases.

(2)Research to develop and evaluate screening tests.

(3)Research to develop and evaluate prevention strategies.

(4)Research to develop and evaluate treatments.

(h)(1)For purposes of ensuring the security of a donorspersonal information, before any blood samples are released pursuant to this section for research purposes, the State Committee for the Protection of Human Subjects (CPHS) shall determine if all of the following criteria have been met:

(A)The department, contractors, researchers, or other entities approved by the department have provided a plan sufficient to protect personal information from improper use and disclosures, including sufficient administrative, physical, and technical safeguards to protect personal information from reasonable anticipated threats to the security or confidentiality of the information.

(B)The department, contractors, researchers, or other entities approved by the department have provided a sufficient plan to destroy or return all personal information as soon as it is no longer needed for the research activity, unless the program contractors, researchers, or other entities approved by the department have demonstrated an ongoing need for the personal information for the research activity and have provided a long-term plan sufficient to protect the confidentiality of that information.

(C)The department, contractors, researchers, or other entities approved by the department have provided sufficient written assurances that the personal information will not be reused or disclosed to a person or entity, or used in a manner not approved in the research protocol, except as required by law or for authorized oversight of the research activity.

(2)As part of its review and approval of the research activity for the purpose of protecting personal information held in agency databases, CPHS shall accomplish at least all of the following:

(A)Determine whether the requested personal information is needed to conduct the research.

(B)Permit access to personal information only if it is needed for the research activity.

(C)Permit access only to the minimum personal information necessary for the research activity.

(D)Require the assignment of unique subject codes that are not derived from personal information in lieu of social security numbers if the research can be conducted without social security numbers.

(E)If feasible, and if cost, time, and technical expertise permit, require the agency to conduct a portion of the data processing for the researcher to minimize the release of personal information.

(i)In addition to the fees described in subdivision (c), the department may bill a researcher for the costs associated with the departmentsprocess of protecting personal information, including, but not limited to, the departmentscosts for conducting a portion of the data processing for the researcher, removing personal information, encrypting or otherwise securing personal information, or assigning subject codes.

(j)This section does not prohibit the department from using its existing authority to enter into written agreements to enable other institutional review boards to approve research activities, projects or classes of projects for the department, provided that the data security requirements set forth in this section are satisfied.

(Amended by Stats. 2010, Ch. 328, Sec. 137. (SB 1330) Effective January 1, 2011.)

124995.

The following programs shall comply with the regulations established pursuant to the Hereditary Disorders Act, as defined in Section 27:

(a) The California ChildrensServices Program under Article 5 (commencing with Section 123800) of Chapter 3

of Part 2.

(b) Prenatal testing programs for newborns under Sections 125050 to 125065, inclusive.

(c) Medical testing programs for newborns under the Maternal and Child Health Program Act, as defined in Section 27.

(d) Programs of the genetic disease unit under Section 125000.

(e) Child health and disability prevention programs under Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 and Section 120475.

(f) Genetically Handicapped Persons Program under Article 1 (commencing with Section 125125) of Chapter 2.

(g) Medi-Cal Benefits Program under Article 4 (commencing with Section 14131) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code.

(Amended by Stats. 2015, Ch. 303, Sec. 352. (AB 731) Effective January 1, 2016.)

124996.

(a) The Genetic Disease Testing Fund is continued in existence as a special fund in the State Treasury. The department may charge a fee for any activities carried out pursuant to the Hereditary Disorders Act, including licensing activities conducted pursuant to Section 124980. All moneys collected by the department under the act shall be deposited in the Genetic Disease Testing Fund, that is continuously appropriated to the department to carry out the purposes of the act.

(b) It is the intent of the Legislature that the program carried out pursuant to the act be fully supported from fees collected under the act.

(c) The director shall adopt regulations establishing the amount of fees for activities carried out pursuant to the act.

(d) The Hereditary Disorders Act or act referred to in this section is the act described in subdivision (b) of Section 27.

(Added by renumbering Section 125005 by Stats. 2000, Ch. 941, Sec. 4. Effective January 1, 2001.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.&chapter=1.&article=2.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5. HEREDITARY DISEASES/CONGENITAL DEFECTS [124975 - 125292.10]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 1. Genetic Prevention Services [124975 - 125119.5]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2. Newborn Screening [125000 - 125002]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 8.)

125000.

(a)It is the policy of the State of California to make every effort to detect, as early as possible, phenylketonuria and other preventable heritable or congenital disorders leading to intellectual disability or physical defects.

The department shall establish a genetic disease unit, that shall coordinate all programs of the department in the area of genetic disease. The unit shall promote a statewide program of information, testing, and counseling services and shall have the responsibility of designating tests and regulations to be used in executing this program.

The information, tests, and counseling for children shall be in accordance with accepted medical practices and shall be administered to each child born in California once the department has established appropriate regulations and testing methods. The information, tests, and counseling for pregnant women shall be in accordance with accepted medical practices and shall be offered to each pregnant woman in California once the department has established appropriate regulations and testing methods. These regulations shall follow the standards and principles specified in Section 124980. The department may provide laboratory testing facilities or contract with any laboratory that it deems qualified to conduct tests required under this section. However, notwithstanding former Section 125005, provision of laboratory testing facilities by the department shall be contingent upon the provision of funding therefor by specific appropriation to the Genetic Disease Testing Fund enacted by the Legislature. If moneys appropriated for purposes of this section are not authorized for expenditure to provide laboratory facilities, the department may nevertheless contract to provide laboratory testing services pursuant to this section and shall perform laboratory services, including,

but not limited to, quality control, confirmatory, and emergency testing, necessary to ensure the objectives of this program.

(b)The department shall charge a fee for any tests performed pursuant to this section. The amount of the fee shall be established and periodically adjusted by the director in order to meet the costs of this section.

(c)The department shall inform all hospitals or physicians and surgeons, or both, of required regulations and tests and may alter or withdraw any of these requirements whenever sound medical practice so indicates. To the extent practicable, the department shall provide notice to hospitals and other payers in advance of an increase in the fees charged for the program.

(d)This section shall not apply if a parent or guardian of the newborn child objects to a test on the ground that the test conflicts with his or her religious beliefs or practices.

(e)The genetic disease unit is authorized to make grants or contracts or payments to vendors approved by the department for all of the following:

(1)Testing and counseling services.

(2)Demonstration projects to determine the desirability and feasibility of additional tests or new genetic services.

(3)To initiate the development of genetic services in areas of need.

(4)To purchase or provide genetic services from any sums as are appropriated for this purpose.

(f)The genetic disease unit shall evaluate and prepare recommendations on the implementation of tests for the detection of hereditary and congenital diseases, including, but not limited to, biotinidase deficiency and cystic fibrosis. The genetic disease unit shall also evaluate and prepare recommendations on the availability and effectiveness of preventative followup interventions, including the use of specialized medically necessary dietary products.

It is the intent of the Legislature that funds for the support of the evaluations and recommendations required pursuant to this subdivision, and for the activities authorized pursuant to subdivision (e), shall be provided in the annual Budget Act appropriation from the Genetic Disease Testing Fund.

(g)Health care providers that contract with a prepaid group practice health care service plan that annually has at least 20,000 births among its membership, may provide, without contracting with the department, any or all of the testing and counseling services required to be provided under this section or the regulations adopted pursuant thereto, if the services meet the quality standards and adhere to the regulations established by the department and the plan pays that portion of a fee established under this section that is directly attributable to the departmentscost of administering the testing or counseling service and to any required testing or counseling services provided by the state for plan members. The payment by the plan, as provided in this subdivision, shall be deemed to fulfill any obligation the provider or the providerspatient may have to the department to pay a fee in connection with the testing or counseling service.

(h)The department may appoint experts in the area of genetic screening, including, but not limited to, cytogenetics, molecular biology, prenatal, specimen collection, and ultrasound to provide expert advice and opinion on the interpretation and enforcement of regulations adopted pursuant to this section. These experts shall be designated agents of the state with respect to their assignments. These experts shall receive no salary, but shall be reimbursed for expenses associated with the purposes of this section. All expenses of

the experts for the purposes of this section shall be paid from the Genetic Disease Testing Fund.

(Amended by Stats. 2012, Ch. 457, Sec. 33. (SB 1381) Effective January 1, 2013.)

125001.

(a)The department shall establish a program for the development, provision, and evaluation of genetic disease testing, and may provide laboratory testing facilities or make grants to, contract with, or make payments to, any laboratory that it deems qualified and cost effective to conduct testing or with any metabolic specialty clinic to provide necessary treatment with qualified specialists. The program shall provide genetic screening and followup services for persons who have the screening.

(b)The department shall expand statewide screening of newborns to include tandem mass spectrometry screening for fatty acid oxidation, amino acid, organic acid disorders, and congenital adrenal hyperplasia as soon as possible. The department shall provide information with respect to these disorders and available testing resources to all women receiving prenatal care and to all women admitted to a hospital for delivery. If the department is unable to provide this statewide screening by August 1, 2005, the department shall temporarily obtain these testing services through a competitive bid process from one or more public or private laboratories that meet the departmentsrequirements for testing, quality assurance, and reporting. If the department determines that contracting for these services is more cost effective, and meets the other requirements of this chapter, than purchasing the tandem mass spectrometry equipment themselves, the department shall contract with one or more public or private laboratories.

(c)The department shall expand statewide screening of newborns to include screening for severe combined immunodeficiency (SCID) as soon as possible. In implementing the SCID screening test, the department shall also screen for other T-cell lymphopenias that are detectable as a result of screening for SCID, insofar as it does not require additional costs or equipment beyond that needed to test for SCID.

(d)The department shall expand statewide screening of newborns to include screening for adrenoleukodystrophy (ALD) and any other disease that is detectable in blood samples as soon as practicable, but no later than two years after the disease is adopted by the federal Recommended Uniform Screening Panel (RUSP), or enrollment of the act amending this subdivision, whichever is later.

(Amended by Stats. 2016, Ch. 393, Sec. 2. (SB 1095) Effective January 1, 2017.)

125002.

(a)In order to align closely related programs and in order to facilitate research into the causes of, and treatment for, birth defects, the Birth Defects Monitoring Program provided for pursuant to Chapter 1 (commencing with Section 103825) of Part 2 of Division 102 shall become part of the Maternal, Child, and Adolescent Health program provided for in Article 1 (commencing with Section 123225) of Chapter 1 of Part 2 of Division 106.

(b)It is the intent of the Legislature that pregnancy blood samples, taken for prenatal screening, shall be stored and made available to any researcher who is approved by the department for the following purposes:

(1)Research to identify risk factors for childrensand womensdiseases.

(2)Research to develop and evaluate screening tests.

(3)Research to develop and evaluate prevention strategies.

(4)Research to develop and evaluate treatments.

(c)Before any pregnancy blood samples are released for research purposes, all of the following conditions must be met:

(1)Individual consent at the time the sample is drawn to allow confidential use of the sample for research purposes by the department or the departmentsapproved researchers.

(2)Protocol review for scientific merit by the department or another entity authorized by the department.

(3)Protocol review by the State Committee for the Protection of Human Subjects.

(d)Since the pregnancy blood samples described in this section will be stored by the California Birth Defects Monitoring Program or another entity authorized by the department, the storage, analysis, and sharing of pregnancy blood samples for research purposes shall be done in compliance with Section 103850, pertaining to confidentiality of information.

(e)The department shall adopt regulations specifying the protocols and conditions under which blood samples will be released for research purposes, in accordance with the procedures set forth in subdivision (d) of Section 124977.

(f)Until such time that regulations are adopted by the department pursuant to subdivision (e), the Genetic Disease Screening Program and the Birth Defects Monitoring Program shall release blood samples to only those researchers who meet the requirements of this section, including all of the following:

(1)The research project was approved by the State Committee for the Protection of Human Subjects.

(2)The research projectsprotocol was approved by the State Committee for the Protection of Human Subjects, and specifically included a description of the number and type of blood samples requested from the Genetic Disease Screening Program or the Maternal, Child, and Adolescent Health Program, including the Birth Defects Monitoring Program for the project.

(3)There is written documentation that the Genetic Disease Screening Program or the Maternal, Child, and Adolescent Health Program, including the Birth Defects Monitoring Program, approved a request for the blood samples for the research project approved by the State Committee for the Protection of Human Subjects.

(4)The researcher has agreed to pay fees to the department to pay reasonable costs for processing the samples and information, including, but not limited to, costs of data management, including data linkage and entry, and costs of blood collection, storage, retrieval, inventory, and shipping.

(g)Subdivision (f) shall become inoperative on the date that the department adopts regulations specifying the protocols and conditions for release of the blood samples for research purposes.

(Amended by Stats. 2008, Ch. 680, Sec. 3. Effective January 1, 2009.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.&chapter=1.&article=3.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5. HEREDITARY DISEASES/CONGENITAL DEFECTS [124975 - 125292.10]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 1. Genetic Prevention Services [124975 - 125119.5]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 3. Sickle Cell Anemia [125025 - 125035]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 8.)

125025.

It is the policy of the State of California to make every effort to detect, as early as possible, sickle cell anemia, a heritable disorder that leads to physical defects.

The department shall have the responsibility of designating tests and regulations to be used in executing this policy. These tests shall be in accordance with accepted medical practices.

Testing for sickle cell anemia may be conducted at the following times:

(a) Upon first enrollment of a child at an elementary school in this state, the child may be tested.

(b) For any child not tested pursuant to subdivision (a), upon first enrollment at a junior high school or senior

high school in this state, as the case may be, the child may be tested.

(c) Upon application of any person for a license to marry, the parties seeking to be married may be tested.

(d) At any other times that the department may designate.

This section shall not apply if a parent or guardian of a minor child sought to be tested or any adult sought to be tested objects to the test on the ground that the test conflicts with his or her religious beliefs or practices.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125030.

The department may require that a test be given for sickle cell anemia pursuant to Section 125025 to any identifiable segment of the population that the department determines is susceptible to sickle cell anemia at a disproportionately higher ratio than is the balance of the population.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125035.

The department is authorized to make grants or contracts for demonstration projects to determine the feasibility of alternate methods of testing for sickle cell anemia, to provide counseling services, to evaluate the social consequences of the identification of sickle cell trait carriers, to provide training in genetic counseling, and to conduct research on the prevention of sickle cell anemia.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.&chapter=1.&article=4.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5. HEREDITARY DISEASES/CONGENITAL DEFECTS [124975 - 125292.10]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 1. Genetic Prevention Services [124975 - 125119.5]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 4. Prenatal Testing [125050 - 125119.5]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 8.)

125050.

The department shall administer a statewide program for the prenatal testing for genetic disorders and birth defects, including, but not limited to, ultrasound, amniocentesis, chorionic villus sampling, and blood testing for genetic disorders and birth defects.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125055.

The department shall:

(a)Establish criteria for eligibility for the prenatal testing program. Eligibility shall include definition of conditions and circumstances that result in a high risk of a detectable genetic disorder or birth defect.

(b)(1)Develop an education program designed to educate physicians and surgeons and the public concerning the uses of prenatal testing and the availability of the program.

(2)(A)Include information regarding environmental health in the California Prenatal Screening Program patient educational information. This environmental health information shall include the following statement:

We encounter chemicals and other substances in everyday life that may affect your developing fetus. Fortunately, there are steps you can take to reduce your exposure to these potentially harmful substances at home, in the workplace, and in the environment. Many Californians are unaware that a number of everyday consumer products may pose potential harm. Prospective parents should talk to their doctor and are encouraged to read more about this topic to learn about simple actions to promote a healthy pregnancy.□

(B)The department shall include in the patient educational information links to educational materials derived from peer-reviewed materials based on the best available evidence relating to environmental health and

reproductive toxins.

(C)The department shall post the environmental health information described in subparagraphs (A) and (B) on its Internet Web site.

(D)The department shall send a notice to all distributors of the patient educational information informing them of the change to that information. In the notice, the department shall encourage obstetrician-gynecologists and midwives to discuss environmental health with their patients and to direct their patients to the appropriate page or pages in the patient educational information to provide their patients with additional information.

(E)In order to minimize costs, the environmental health information described in this paragraph shall be included when the patient educational information is otherwise revised and reprinted.

(F)The department may modify the language in the patient educational information after consultation with medical and scientific experts in the field of environmental health and reproductive toxins.

(c)Ensure that genetic counseling be given in conjunction with prenatal testing at the approved prenatal diagnosis centers.

(d)Designate sufficient prenatal diagnosis centers to meet the need for these services. Prenatal diagnosis centers shall have equipment and staff trained and capable of providing genetic counseling and performing prenatal diagnostic procedures and tests, including the interpretation of the results of the procedures and tests.

(e)Administer a program of subsidy grants for approved nonprofit prenatal diagnosis centers. The subsidy grants shall be awarded based on the reported number of low-income women referred to the center, the number of prenatal diagnoses performed in the previous year at that center, and the estimated size of unmet need for prenatal diagnostic procedures and tests in its service area. This subsidy shall be in addition to fees collected under other state programs.

(f)Establish any rules, regulations, and standards for prenatal diagnostic testing and the allocation of subsidies as the director deems necessary to promote and protect the public health and safety and to implement the Hereditary Disorders Act (Section 27).

(g)(1)The department shall expand prenatal screening to include all tests that meet or exceed the current standard of care as recommended by nationally recognized medical or genetic organizations, including, but not limited to, inhibin.

(2)The prenatal screening fee increase for expanding prenatal screening to include those tests described in paragraph (1) is forty dollars ($40).

(3)The department shall report to the Legislature regarding the progress of the program with regard to implementing prenatal screening for those tests described in paragraph (1) on or before July 1, 2007. The report shall include the costs of screening, followup, and treatment as compared to costs and morbidity averted by this testing under the program.

(4)(A)The expenditure of funds from the Genetic Disease Testing Fund for the expansion of the Genetic Disease Branch Screening Information System to include the expansion of prenatal screenings, pursuant to paragraph (1), may be implemented through the amendment of the Genetic Disease Branch Screening Information System contracts, and shall not be subject to Chapter 2 (commencing with Section 10290) or

Chapter 3 (commencing with Section 12100) of Part 2 of Division 2 of the Public Contract Code, Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, or Sections 4800 to 5180, inclusive, of the State Administrative Manual as they relate to approval of information technology projects or approval of increases in the duration or costs of information technology projects. This paragraph shall apply to the design, development, and implementation of the expansion, and to the maintenance and operation of the Genetic Disease Branch Screening Information System, including change requests, once the expansion is implemented.

(B)(i)The department may adopt emergency regulations to implement and make specific the amendments to this section made during the 2006 portion of the 2005"06 Regular Session in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. Notwithstanding Sections 11346.1 and 11349.6 of the Government Code, the department shall submit these regulations directly to the Secretary of State for filing. The regulations shall become effective immediately upon filing by the Secretary of State. Regulations shall be subject to public hearing within 120 days of filing with the Secretary of State and shall comply with Sections 11346.8 and 11346.9 of the Government Code or shall be repealed.

(ii)The Office of Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the regulations adopted pursuant to this chapter shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the department.

(Amended by Stats. 2013, Ch. 667, Sec. 1. (SB 460) Effective January 1, 2014.)

125060.

The participation by any individual in the prenatal testing program shall be wholly voluntary and shall not be a prerequisite to eligibility for, or receipt of, any other service or assistance from, or to participation in, any other program.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125065.

All prenatal diagnosis centers shall meet standards developed by the department and shall agree to accept patients from state funded or administered programs, including, but not limited to, Medi-Cal, Regional Centers, Maternal and Child Health, California ChildrensServices, Genetically Handicapped Persons Program, and Family Planning. Only prenatal diagnosis centers meeting standards developed by the department shall be eligible for reimbursement under these state programs.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125070.

Laboratories licensed by the department shall not offer the maternal serum-alpha fetoprotein screening test for prenatal detection of neural tube defects of the fetus until the department has developed regulations, under the authorization granted by Section 124980. However, laboratories providing this testing, as of July 21, 1983, may continue to provide this testing until these regulations become operative. The department shall adopt regulations pursuant to this section.

(Amended by Stats. 1998, Ch. 310, Sec. 26. Effective August 19, 1998.)

125080.

A licensed physician and surgeon or other person engaged in the prenatal care of a pregnant woman or attending the woman at the time of delivery shall obtain or cause to be obtained a blood specimen of the woman. Prior to obtaining the blood specimen, the woman shall be notified of the fact that the blood specimen is going to be obtained. If the blood specimen is not obtained prior to delivery, it shall be obtained at the time of delivery.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125085.

(a) As early as possible during prenatal care, a blood specimen obtained pursuant to Section 125080 shall be submitted to a clinical laboratory licensed by the department or to an approved public health laboratory for a determination of rhesus (Rh) blood type and the results shall be reported to both of the following:

(1) The physician and surgeon or other person engaged in the prenatal care of the woman or attending the woman at the time of delivery.

(2) The woman tested.

(b) (1) In addition, as early as possible during prenatal care, a blood specimen obtained pursuant to Section 125080 shall be submitted to a clinical laboratory licensed by the department or to an approved public health laboratory for a test to determine the presence of hepatitis B surface antigen and the human immunodeficiency virus (HIV), and the results shall be reported to both of the following:

(A) The physician and surgeon or other person engaged in the prenatal care of the women or attending the woman at the time of delivery who ordered the test, and who shall subsequently inform the woman tested.

(B) A positive test result shall be reported to the local health officer, with the information required and within the timeframes established by the department, pursuant to Chapter 4 (commencing with Section 2500) of Title 17 of the California Code of Regulations.

(2) In the event that other tests to determine hepatitis B infection or HIV infection become available, the department may approve additional tests.

(Amended by Stats. 2003, Ch. 749, Sec. 2. Effective January 1, 2004.)

125090.

(a)Subdivision (a) of Section 125085 shall not be applicable if the licensed physician and surgeon or other person engaged in the prenatal care of a pregnant woman or attending the woman at the time of delivery has knowledge of the womansblood type and accepts responsibility for the accuracy of the information.

(b)Subdivision (b) of Section 125085 shall not be applicable if the licensed physician and surgeon or other person engaged in the prenatal care of a pregnant woman or attending the woman at the time of delivery has knowledge that the woman has previously been determined to be chronically infected with hepatitis B or human immunodeficiency virus (HIV) and accepts responsibility for the accuracy of the information.

(c)Prior to obtaining a blood specimen collected pursuant to subdivision (b) of Section 125085 or this section, the physician and surgeon or other person engaged in the prenatal care of a pregnant woman, or attending the woman at the time of labor or delivery, shall ensure that the woman is informed of the intent to perform a test for HIV infection, the routine nature of the test, the purpose of the testing, the risks and benefits of the test, the risk of perinatal transmission of HIV, that approved treatments are known to decrease the risk of perinatal transmission of HIV, and that the woman has a right to decline this testing.

(d)If, during the final review of standard of prenatal care medical tests, the medical records of the pregnant woman do not document a test for rhesus (Rh) antibody blood type, a test for hepatitis B, or a test for HIV, the physician and surgeon or other person engaged in the prenatal care of the woman, or attending the woman at the time of labor or delivery, shall obtain a blood specimen from the woman for the tests that have not been documented. Prior to obtaining this blood specimen, the provider shall ensure that the woman is informed of the intent to perform the tests that have not been documented prior to this visit, including a test for HIV infection, the routine nature of the test, the purpose of the testing, the risks and benefits of the test, the risk of perinatal transmission of HIV, that approved treatments are known to decrease the risk of perinatal transmission of HIV, and that the woman has a right to decline the HIV test. The blood shall be tested by a method that will ensure the earliest possible results, and the results shall be reported to both of the following:

(1)The physician and surgeon or other person engaged in the prenatal care of the woman or attending the woman at the time of delivery.

(2)The woman tested.

(e)After the results of the tests done pursuant to this section and Section 125085 have been received, the physician and surgeon or other person engaged in the prenatal care of the pregnant woman or attending the woman at the time of labor, delivery, or post partum care at the time the results are received shall ensure that the woman receives information and counseling, as appropriate, to explain the results and the implications for the mothersand infantshealth, including any followup testing and care that are indicated. If the woman tests positive for HIV antibodies, she shall also receive, whenever possible, a referral to a provider, provider group, or institution specializing in prenatal and post partum care for HIV-positive women and their infants. Health care providers are also strongly encouraged to seek consultation with HIV specialists who provide care for pregnant and post partum HIV-positive women and their infants.

(f)The provisions of Section 125107 for counseling are equally applicable to every pregnant patient covered

by subdivisions (c) and (d).

(g)Nothing in this section shall be construed to permit a licensed physician and surgeon or other person engaged in the prenatal care of a pregnant woman or attending the woman at the time of delivery to unlawfully disclose an individualsHIV status, or to otherwise violate provisions of Section 54 of the Civil Code, the Americans With Disabilities Act of 1990 (Public Law 101-336), or the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), which prohibit discrimination against individuals who are living with HIV, or who test positive for HIV, or are presumed to be HIV-positive.

(Amended by Stats. 2007, Ch. 550, Sec. 3. Effective January 1, 2008.)

125092.

The department, in consultation with the Office of AIDS and with other stakeholders, including, but not limited to, representatives of professional medical and public health advocacy groups, providers of health care to women and infants infected with or exposed to HIV, and women living with HIV, shall develop culturally sensitive informational material adequate to fulfill the requirements of subdivisions (c) and (d) of Section 125090, in English, Spanish, and other languages used by the department when providing information to clients under the Medi-Cal program. This material shall also include information on available referral and consultation resources of experts in prenatal HIV treatment. This material shall be completed by December 31, 2004.

(Added by Stats. 2003, Ch. 749, Sec. 4. Effective January 1, 2004.)

125095.

The department may adopt regulations as it determines are reasonably necessary for the implementation of the Maternal and Child Health Program Act (Section 27).

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125100.

(a) Clinical laboratories licensed by the department, approved public health laboratories, local health departments, physicians and surgeons, or other persons engaged in the prenatal care of a pregnant woman or in the care of an infant shall maintain and make available to the department information necessary to evaluate, for public health purposes, the effectiveness of testing and followup treatment for the prevention of perinatally transmitted hepatitis B infection.

(b) The department shall make available, to the extent state funds are appropriated therefor in the annual Budget Act or federal funds are available for that purpose, money to each county requesting funds for testing and followup treatment for the prevention of perinatally transmitted hepatitis B infection or for any functions performed pursuant to subdivision (a). The money shall be allocated by the department on the basis of the incidence of perinatally transmitted hepatitis B infection and the need for necessary followup

treatment and evaluation in the requesting county.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125105.

(a) The blood specimen and test results pursuant to subdivision (b) of Section 125085 shall be confidential and shall not be disclosed, except as otherwise provided by law.

(b) No person shall be compelled in any state, county, city, or other local civil, criminal, administrative, legislative, or other proceeding to provide test results determined pursuant to Section 125080 and Section 125085.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125107.

(a)For purposes of this section, prenatal care provider means a licensed health care professional providing prenatal care within his or her lawful scope of practice. This definition shall not include a licensed health care professional who provides care other than prenatal care to a pregnant patient.

(b)The prenatal care provider primarily responsible for providing prenatal care to a pregnant patient shall offer human immunodeficiency virus (HIV) information and counseling to every pregnant patient. This information and counseling shall include, but shall not be limited to, all of the following:

(1)A description of the modes of HIV transmission.

(2)A discussion of risk reduction behavior modifications including methods to reduce the risk of perinatal transmission.

(3)If appropriate, referral information to other HIV prevention and psychosocial services including anonymous and confidential test sites approved by the Office of AIDS.

(c)Nothing in this section shall be construed to require mandatory testing. Any documentation or disclosure of HIV-related information shall be made in accordance with Chapter 7 (commencing with Section 120975) of Part 4 of Division 105 regarding confidentiality and informed consent.

(d)Nothing in this section shall be construed to permit a prenatal care provider to unlawfully disclose an individualsHIV status, or to otherwise violate provisions of Section 54 of the Civil Code, or the Americans With Disabilities Act of 1990 (Public Law 101-336), or the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), which prohibit discrimination against individuals who are living with HIV, or who test positive for HIV, or are presumed to be HIV-positive.

(Amended by Stats. 2007, Ch. 550, Sec. 4. Effective January 1, 2008.)

125110.

The Maternal and Child Health Program Act (Section 27) shall not apply if the pregnant woman objects to the test required by that act on the ground that the test conflicts with her religious beliefs or practices.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125118.

(a)The State Department of Public Health shall develop guidelines for research involving the derivation or use of human embryonic stem cells in California.

(b)In developing the guidelines specified in subdivision (a), the department may consider other applicable guidelines developed or in use in the United States and in other countries, including, but not limited to, the Guidelines for Research Using Human Pluripotent Stem Cells developed by the National Institutes of Health and published in August 2000, and corrected in November 2000, and the Guidelines for Human Embryonic Stem Cell Research issued by the National Research Council and Institute of Medicine of the National Academies in 2005.

(Amended by Stats. 2007, Ch. 483, Sec. 33. Effective January 1, 2008.)

125119.

(a)(1)All research projects involving the derivation or use of human embryonic stem cells shall be reviewed and approved by a stem cell research oversight committee prior to being undertaken. Any stem cell research oversight committee shall, in its review of human embryonic stem cell research projects, consider and apply the guidelines developed by the department pursuant to Section 125118. A stem cell research oversight committee may require modifications to the plan or design of a proposed human embryonic stem cell research project as a condition of approving the research project.

(2)A stem cell research oversight committee for purposes of this article shall be established substantially in accordance with Guidelines for Human Embryonic Stem Cell Research issued by the National Research Council and the Institute of Medicine of the National Academies in 2005. This committee shall be established in accordance with standards issued by the California Institute for Regenerative Medicine (CIRM) as authorized by Article XXXV of the California Constitution. The intent of the Legislature is to avoid inconsistencies for stem cell research oversight committees established pursuant to this article with other existing standards for research conducted in California.

(b)Not less than once per year, a stem cell research oversight committee shall conduct continuing review of human embryonic stem cell research projects reviewed and approved under this section in order to ensure that the research continues to meet the standards for stem cell research oversight committee approval. Pursuant to its review in accordance with this subdivision, a stem cell research oversight committee may revoke its prior approval of research under this section and require modifications to the plan or design of a continuing research project before permitting the research to continue.

(c)A stem cell research oversight committee may provide scientific and ethical review of research consistent

with this article.

(Amended by Stats. 2006, Ch. 483, Sec. 3. Effective January 1, 2007.)

125119.3.

(a)Each stem cell research oversight committee that has reviewed human embryonic stem cell research pursuant to Section 125119 shall report to the department, annually, on the number of human embryonic stem cell research projects that the stem cell research oversight committee has reviewed, and the status and disposition of each of those projects, including the information collected pursuant to Section 125342.

(b)Each stem cell research oversight committee shall also report to the department regarding unanticipated problems, unforeseen issues, or serious continuing investigator noncompliance with the requirements or determinations of the stem cell research oversight committee with respect to the review of human embryonic stem cell research projects, and the actions taken by the stem cell research oversight committee to respond to these situations.

(Amended by Stats. 2006, Ch. 483, Sec. 4. Effective January 1, 2007.)

125119.5.

(a)The department shall at least annually review reports from stem cell research oversight committees, and may revise the guidelines developed pursuant to Section 125118, as it deems necessary.

(b) The department shall provide a biennial review to the Legislature on human embryonic stem cell research activity. These biennial reviews shall be compiled from the reports from stem cell research oversight committees.

(Amended by Stats. 2006, Ch. 483, Sec. 5. Effective January 1, 2007.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=5.&chapter=2.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.&chapter=2.&article=1.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5. HEREDITARY DISEASES/CONGENITAL DEFECTS [124975 - 125292.10]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Genetic Disease Services [125125 - 125286.35]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 1. Genetically Handicapped Persons Program [125125 - 125191]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 8.)

125125.

This article shall be known and may be cited as the Holden-Moscone-Garamendi Genetically Handicapped Persons Program.

(Amended by Stats. 2015, Ch. 303, Sec. 353. (AB 731) Effective January 1, 2016.)

125130.

(a)The Director of Health Care Services shall establish and administer a program for the medical care of persons with genetically handicapping conditions, including cystic fibrosis, hemophilia, sickle cell disease, Huntingtonsdisease, FriedreichsAtaxia, Josephsdisease, Von Hippel-Landau syndrome, and the following hereditary metabolic disorders: phenylketonuria, homocystinuria, branched chain amino acidurias, disorders of propionate and methylmalonate metabolism, urea cycle disorders, hereditary orotic aciduria, WilsonsDisease, galactosemia, disorders of lactate and pyruvate metabolism, tyrosinemia, hyperornithinemia, and other genetic organic acidemias that require specialized treatment or service available from only a

limited number of program-approved sources.

(b)The program shall also provide access to social support services, that may help ameliorate the physical, psychological, and economic problems attendant to genetically handicapping conditions, in order that the genetically handicapped person may function at an optimal level commensurate with the degree of impairment.

(c)The medical and social support services may be obtained through physicians and surgeons Genetically Handicapped Persons Program specialized centers, and other providers that qualify pursuant to the regulations of the department to provide the services. Medical care, as used in this section, is limited to noncustodial medical and support services.

(d)The director shall adopt regulations that are necessary for the implementation of this article.

(Amended by Stats. 2015, Ch. 303, Sec. 354. (AB 731) Effective January 1, 2016.)

125135.

As used in this article, genetically handicapping condition shall mean a disease that is accepted as being genetic in origin by the American Society of Human Genetics.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125140.

The program established under this article shall include any or all of the following medical and social support services:

(a) Initial intake and diagnostic evaluation.

(b) The cost of blood transfusion and use of blood derivatives, or both.

(c) Rehabilitation services, including reconstructive surgery.

(d) Expert diagnosis.

(e) Medical treatment.

(f) Surgical treatment.

(g) Hospital care.

(h) Physical and speech therapy.

(i) Occupational therapy.

(j) Special treatment.

(k) Materials.

(l) Appliances and their upkeep, maintenance, and care.

(m) Maintenance, transportation, or care incidental to any other form of services.

(n) Respite care or other existing resources (e.g., sheltered workshops).

(o) Genetic and long-term psychological counseling.

(p) Appropriate administrative staff resources to carry out this article. The staff shall include, but not be limited to, at least one case manager per each 350 clients.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125150.

The director shall establish the rate structure for reimbursement of physicians and supportive services. The rates shall not be less than the amounts paid for provider services under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125155.

Reimbursement under this article shall not be made for any services that are available to the recipient under any other private, state, or federal programs or under other contractual or legal entitlements, except for those instances where the department determines that prolonged use of employer health insurance would jeopardize the recipientsemployment. However, no provision in this article shall be construed as limiting in any way state participation in any federal governmental program for medical care of persons with genetically handicapping conditions.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125155.1.

(a)Any person found eligible for services under this article whose employer-sponsored health coverage is later terminated or any person who applied for services provided under this article whose employer-sponsored health coverage was terminated during the six-month period prior to the date he or she applied for services pursuant to this article shall be determined ineligible for the services, unless the reason his or her employer-sponsored health coverage was terminated was because of one of the following:

(1)The individual for whom the employer-sponsored coverage had been available lost coverage because of one or more of the following reasons:

(A)A loss of employment or a change in employment status.

(B)A change of address to a ZIP Code that is not covered by the employer-sponsored health coverage.

(C)The individualsemployer discontinued health benefits to all employees or dependents, or ceased to provide coverage or contributions for the category of employees or dependents applicable to the person or applicant.

(D)The death of, or a legal separation or divorce from, the individual through whom the applicant was covered.

(2)The applicantsemployer-sponsored health coverage became unavailable because the services paid for under that coverage attained the lifetime coverage limit.

(3)Coverage was under a COBRA policy and the COBRA coverage period has ended.

(b)A person who applies for services provided pursuant to this article shall certify, at the time of application, under penalty of perjury, that he or she was not covered by employer-sponsored health coverage during the six-month period prior to the date of his or her application or, if he or she was covered by employer-sponsored health coverage, attest to why one of the reasons listed in subdivision (a) is applicable to him or her and provide documentation from the employer-sponsored health coverage that supports his or her attestation.

(c)A person who has been found eligible for services provided pursuant to this article who is covered by employer-sponsored health coverage that is terminated shall notify the Genetically Handicapped Persons Program within 45 days of the effective date of the termination and, when applicable, provide the program with the certification described in subdivision (b).

(d)An applicant or eligible person who fails to comply with subdivisions (b) and (c) shall be ineligible for services pursuant to this article for six months. The department shall provide written notice to all persons found to be ineligible pursuant to this section. The notice shall provide information on the ability of the person to appeal or seek a waiver of determinations of ineligibility.

(e)The department shall provide a process to appeal decisions of ineligibility based on this section in accordance with the procedures for resolution of complaints and appeals established for applicants and persons eligible for services pursuant to Article 5 (commencing with Section 123800) of Chapter 3 of Part 2.

(f)The director, on a case-by-case basis, may waive determinations of ineligibility pursuant to this section, or reduce the time periods set forth in subdivision (a) or subdivision (d), if the director determines that the determination or the time periods will result in undue hardship.

(g)Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section by means of Genetically Handicapped Persons Program policy letters. Following consultation with a stakeholder workgroup consisting of, but not limited to, provider associations, provider representatives, and consumer groups to ensure stakeholder participation in the implementation of this section, including, but not limited to, any changes deemed necessary by the department and the stakeholder workgroup to update the application for enrollment form and the development of regulations, the department shall, within 18 months from the effective date of this section, adopt any necessary regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 2009, 4th Ex. Sess., Ch. 5, Sec. 14. Effective July 28, 2009.)

125157.

(a)The department may require a client under this article to apply to enroll or otherwise participate in any other state or federal program or other contractual or legal entitlement that would provide services to the client that would otherwise be reimbursed pursuant to this article.

(b)The department may, when it determines that it is cost effective, pay the premium for, or otherwise subsidize the subscriber cost-sharing obligation for, third-party health coverage for a person eligible for services under this article.

(c)The department may, for a person eligible for services under this article, when the personsthird-party health coverage would lapse due to loss of employment, change in health status, lack of sufficient income or financial resources, or any other reason, continue the health coverage by paying the costs of continuation of group coverage pursuant to federal law or converting from a group to individual plan, when the department determines that it is cost effective.

(d)Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section by means of Genetically Handicapped Persons Program policy letters. Following consultation with a stakeholder workgroup consisting of, but not limited to, provider associations, provider representatives, and consumer groups to ensure stakeholder participation in the implementation of this section, including, but not limited to, any changes deemed necessary by the department and the stakeholder workgroup to update the application for enrollment form and the development of regulations, the department shall, within 18 months from the effective date of this section, adopt any necessary regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 2009, 4th Ex. Sess., Ch. 5, Sec. 15. Effective July 28, 2009.)

125160.

The department shall receive and expend all funds made available to it by the federal government, the state, its political subdivisions or from other sources for the purposes of this article. Payment for the Genetically Handicapped Persons Program shall be made by the department.

(Amended by Stats. 2015, Ch. 303, Sec. 355. (AB 731) Effective January 1, 2016.)

125166.

(a)Commencing July 1, 2009, except as provided in subdivision (d), each client determined or redetermined by the department to be eligible for services provided pursuant to this article shall pay an annual enrollment fee to the department as set forth in this section.

(b)(1) There shall be an annual enrollment fee based on the clientsadjusted gross income or, if the client is a minor, the clientsparents™ or legal guardians™ combined adjusted gross income, as reported on the relevant state or federal income tax forms for the previous tax year. In calculating the enrollment fee where both a state and a federal income tax form has been filed, the higher of the two adjusted gross income amounts shall be used.

(2)For adjusted gross income between 200 and 299 percent of the federal poverty level, the annual enrollment fee shall be 1.5 percent of adjusted gross income.

(3)For adjusted gross income equal to or greater than 300 percent of the federal poverty level, the annual enrollment fee shall be 3 percent of adjusted gross income.

(4)In the event the annual enrollment fee determined pursuant to paragraph (2) or (3) exceeds the cost of care incurred during the applicable year, the department shall reduce the enrollment fee by refund or credit to an amount equal to the cost of care.

(c)(1) Payment of the enrollment fee is a condition of program participation.

(2)The department may arrange for periodic payment of the fee during the year.

(3)The director, on a case-by-case basis, may waive or reduce the amount of an enrollment fee if the director determines payment of the fee will result in undue hardship for the family. Otherwise, failure to pay or arrange for payment of the enrollment fee within 60 days of the due date shall result in disenrollment and ineligibility for coverage of treatment services effective 60 days after the due date of the fee.

(d)The enrollment fee shall not be charged in the following cases:

(1)The client is eligible for the full scope of Medi-Cal benefits, without being required to pay a share of cost, at the time of enrollment fee determination.

(2)The client who is otherwise eligible to receive services has, or if the client is a minor, the clientsparents or guardians have, an adjusted gross income of less than 200 percent of the federal poverty level.

(e)All enrollment fees shall be used in support of the program for services provided pursuant to this article.

(f)Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement this section by means of Genetically Handicapped Persons Program policy letters. Following consultation with a stakeholder workgroup consisting of, but not limited to, provider associations, provider representatives, and consumers groups to ensure stakeholder participation in the implementation of this section, including, but not limited to, any changes to update the application for enrollment form and the development of regulations, the department shall, within 18 months from the effective date of this section, adopt regulations in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 2009, 4th Ex. Sess., Ch. 5, Sec. 17. Effective July 28, 2009.)

125170.

The department shall maintain sufficient, appropriate staff to carry out this article.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125175.

The health care benefits and services specified in this article, to the extent that the benefits and services are neither provided under any other federal or state law nor provided nor available under other contractual or legal entitlements of the person, shall be provided to any patient who is a resident of this state and is made eligible by this article. After the patient has utilized the contractual or legal entitlements, the payment liability under Section 125166 shall then be applied to the remaining cost of genetically handicapped persons™ services.

(Amended by Stats. 2015, Ch. 303, Sec. 356. (AB 731) Effective January 1, 2016.)

125180.

The department shall require all applicants to the program who may be eligible for cash grant public assistance or for Medi-Cal to apply for Medi-Cal eligibility prior to becoming eligible for funded services.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125185.

(a)(1)By July 1, 2016, or a subsequent date determined by the department, Genetically Handicapped Persons Program (GHPP) requests for authorization of services, excluding requests for authorization of services submitted by dental providers enrolled in the Medi-Cal Dental program, shall be submitted in an electronic format determined by the department and shall be submitted via the departmentsInternet Web site or other electronic means designated by the department. The department may implement this requirement in phases.

(2)The department shall designate an alternate format for submitting requests for authorization of services when the departmentsInternet Web site or other electronic means designated in paragraph (1) are unavailable due to a system disruption.

(b)Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may, without taking regulatory action, implement, interpret, or make specific this section and any applicable waivers and state plan amendments by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions. Thereafter, the department shall adopt regulations by July 1, 2017, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall consult with interested parties and appropriate stakeholders in implementing this section.

(Added by Stats. 2014, Ch. 849, Sec. 2. (SB 1457) Effective January 1, 2015.)

125190.

Notwithstanding any other law, the department is considered to be the purchaser, but not the dispenser or distributor, of blood factor products under the Genetically Handicapped Persons Program. The department may receive manufacturers™ discounts, rebates, or refunds based on the quantities purchased under the Genetically Handicapped Persons Program. The discounts, rebates, or refunds received pursuant to this section shall be separate from any agreements for discounts, rebates, or refunds negotiated pursuant to Section 14105.3 of the Welfare and Institutions Code or any other program.

(Amended by Stats. 2015, Ch. 303, Sec. 357. (AB 731) Effective January 1, 2016.)

125191.

(a)The department may enter into contracts with one or more manufacturers on a negotiated or bid basis as the purchaser, but not the dispenser or distributor, of factor replacement therapies under the Genetically Handicapped Persons Program for the purpose of enabling the department to obtain the full range of available therapies and services required for clients with hematological disorders at the most favorable price and to enable the department, notwithstanding any other state law, to obtain discounts, rebates, or refunds from the manufacturers based upon the large quantities purchased under the program. This subdivision does not interfere with the usual and customary distribution practices of factor replacement therapies. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this section is necessary. Therefore, a contract under this subdivision may be entered into on a negotiated basis and is exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code. Contracts entered pursuant to this subdivision shall be confidential and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(b)(1)Factor replacement therapy manufacturers shall calculate and pay interest on late or unpaid rebates. The interest does not apply to any prior period adjustments of unit rebate amounts or department utilization adjustments. Manufacturers shall calculate and pay interest on late or unpaid rebates for quarters that begin on or after the effective date of the act that added this subdivision.

(2)Following the final resolution of any dispute regarding the amount of a rebate, any underpayment by a manufacturer shall be paid with interest calculated pursuant to paragraph (4), and any overpayment, together with interest at the rate calculated pursuant to paragraph (4), shall be credited by the department against future rebates due.

(3)Interest pursuant to paragraphs (1) and (2) shall begin accruing 38 calendar days from the date of mailing the invoice, including supporting utilization data sent to the manufacturer. Interest shall continue to accrue until the date of mailing of the manufacturerspayment.

(4)Interest rates and calculations pursuant to paragraphs (1) and (2) shall be identical to interest rates and calculations set forth in the federal Centers for Medicare and Medicaid Services™ Medicaid Drug Rebate Program Releases or regulations.

(c)If the department has not received a rebate payment, including interest, within 180 days of the date of mailing of the invoice, including supporting utilization data, a factor replacement therapy manufacturerscontract with the department shall be deemed to be in default and the contract may be

terminated in accordance with the terms of the contract. This subdivision does not limit the departmentsright to otherwise terminate a contract in accordance with the terms of that contract.

(d)The department may enter into contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of pharmaceuticals, appliances, durable medical equipment, medical supplies, and other product-type health care services and laboratories for the purpose of obtaining the most favorable prices to the state and to assure adequate access and quality of the product or service. In order to achieve maximum cost savings, the Legislature hereby determines that an expedited contract process under this subdivision is necessary. Therefore, contracts under this subdivision may be entered into on a negotiated basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code.

(e)The department may contract with one or more manufacturers of each multisource prescribed product or supplier of outpatient clinical laboratory services on a bid or negotiated basis. Contracts for outpatient clinical laboratory services shall require that the contractor be a clinical laboratory licensed or certified by the State of California or certified under Section 263a of Title 42 of the United States Code. This subdivision shall not be construed as prohibiting the department from contracting with less than all manufacturers or clinical laboratories, including just one manufacturer or clinical laboratory, on a bid or negotiated basis.

(Amended by Stats. 2021, Ch. 615, Sec. 284. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.&chapter=2.&article=2.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5. HEREDITARY DISEASES/CONGENITAL DEFECTS [124975 - 125292.10]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Genetic Disease Services [125125 - 125286.35]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 2. Long-Term Care for Degenerative Genetic Disease [125200 - 125220]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 8.)

125200.

The Legislature finds and declares that there are many persons in California who are victims of chronic and degenerative genetic conditions, who experience a wide range of degenerating conditions including mental and physical deterioration. For some of these conditions, there is no known prior detection or subsequent treatment.

The Legislature further finds and declares that appropriate supportive care services, both in and out of the home, are very often unavailable, due to the lack of resource identification and referral, and the lack of case management services.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125205.

The department and the State Department of Social Services shall, after consultation with the Genetically Handicapped Persons Program of the department and consumer organizations representing persons with chronic and degenerative conditions, as defined in Section 125210, compile a list of long-term care resources that serve adults with chronic and degenerative conditions, as defined. The list of resources shall include those that have already been identified by the Genetically Handicapped Persons Program as serving persons with Huntingtonsdisease, Josephsdisease, and Friedrichsataxia, and shall include those that have already been identified by consumer organizations representing persons with chronic and degenerative conditions. The list of resources shall include, but not be limited to, the following:

(a) Public and private skilled nursing facilities and intermediate care facilities.

(b) Public and private community residential care facilities.

(c) Public and private out-of-home long-term care resources such as day activity programs, and in-home support service programs. Nothing in this section shall require the State Department of Health Care Services to undertake a survey of long-term care facilities or programs in the state for the purposes of carrying out the requirements of this section.

The information shall be made available to the public, upon request, through the Genetically Handicapped Persons Program of the department.

(Amended by Stats. 2012, Ch. 23, Sec. 38. (AB 1467) Effective June 27, 2012.)

125210.

For the purposes of this article, chronic and degenerative diseases shall include those conditions that are neurological and neuromuscular in origin, including such disorders as Huntingtonsdisease, Friedrichsataxia, Josephsdisease, and other disorders that are determined by the department to be similar in origin and clinical manifestation to the named disorders, and that affect adults.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125215.

The department and the State Department of Social Services shall review regulations that currently provide disincentives to providers of in-home and out-of-home long-term care resources, as defined in Section 125205, to accept and serve persons with chronic and degenerative disorders. The review shall be conducted with assistance and input from the Genetically Handicapped Persons Program of the department. These departments shall provide a list of those regulations to the Legislature by September 1, 1982. The regulations subject to review shall be those regulations that do the following:

(a) Affect the admission of patients to state-licensed skilled nursing facilities, intermediate care facilities, and community residential care facilities.

(b) Affect the staffing ratios necessary to care for persons with chronic and degenerative conditions, as defined, within those facilities.

(c) Affect the likelihood of facilities, or of day care programs and in-home support service programs, to refuse the admission of persons with chronic and degenerative conditions, solely on the basis of anticipated jeopardy to their licensing, or on the basis of anticipated liability to the facilities arising from instances where a personsdegenerative condition, by its own clinical merits, results in medical complications that are, in fact, entirely unrelated to the quality of care provided by the facility or program.

(Amended by Stats. 2012, Ch. 23, Sec. 39. (AB 1467) Effective June 27, 2012.)

125220.

The actions undertaken pursuant to this article shall not impose additional state obligations or expenditures for the care of persons with chronic and degenerative conditions, as defined by this article, unless the Legislature enacts a statute specifically appropriating money for the additional obligations or expenditures.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.&chapter=2.&article=3.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5. HEREDITARY DISEASES/CONGENITAL DEFECTS [124975 - 125292.10]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Genetic Disease Services [125125 - 125286.35]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 3. HuntingtonsDisease Research and Workshop Grants [125225 - 125250]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 8.)

125225.

The Legislature hereby finds and declares that:

(a) Huntingtonsdisease is a chronic progressive inherited disorder of the central nervous system.

(b) The constellation of mental and physical symptoms, the insidious onset of the disorder, and the torment of those at-risk, waiting throughout their lives to learn if they have been spared, conspire to make Huntingtonsdisease one of the most diabolical diseases known to man. Each child of a patient with Huntingtonsdisease has a 50/50 chance of getting the disease.

(c) Males, females, and all ethnic groups may be affected and there is no effective treatment or cure. Because so little is known about the disease, many people are misdiagnosed and mistreated.

(d) The suicide rate among Huntingtonsdisease patients is estimated to be seven times the national rate.

(e) The advancement of scientific knowledge about Huntingtonsdisease, that, because of its extraordinary range of symptoms, serves as an excellent prototype for other major chronic genetic, neurologic, and psychiatric illnesses and diseases of aging, such as epilepsy, muscular dystrophy, and Parkinsonsdisease, will

reveal fundamental scientific information that may lead to treatment, prevention, and ultimately a cure for an array of inherited disorders that affect millions.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125230.

The director may establish any rules or criteria for grants under this article as the director deems necessary.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125235.

There is hereby created a Scientific Advisory Review Committee. The membership of the committee shall be composed of 11 members who shall be representatives from each of the following:

(a) Two from the University of California.

(b) One from Stanford University.

(c) One from the California Institute of Technology.

(d) One from the Hereditary Disease Foundation.

(e) One from the City of Hope.

(f) One from the Health and Welfare Agency appointed by the Secretary of the Health and Welfare Agency.

(g) One appointed by the Speaker of the Assembly.

(h) One appointed by the President pro Tempore of the California Senate.

(i) One from the National HuntingtonsDisease Association.

(j) One from the Committee to Combat HuntingtonsDisease.

Except as otherwise provided in this section, members of the committee shall be appointed by the director, who shall make the appointments based upon recommendations from the entity or organization represented.

The members of the committee shall serve at the pleasure of the appointing power. The members of the committee shall serve without compensation, but shall be reimbursed for necessary and travel expenses incurred in the performance of the duties on the committee.

The Scientific Advisory Review Committee is hereby abolished one year after the grants under this article have been made by the director.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125240.

Pursuant to the rules or criteria as the director may deem necessary, the Scientific Advisory Review Committee shall review and recommend approval of grant applications and monitor programs receiving grants under this article.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125245.

The director may make grants as follows:

(a) Individual research grants to scientists and facilities residing in this state that have research experience with basic and clinical investigations on Huntingtonsdisease and related disorders. Individual research grants shall not exceed twenty thousand dollars ($20,000).

(b) Interdisciplinary workshop grants to scientists and facilities for the purposes of facilitating interchange among an interdisciplinary group of investigators regarding problems in the treatment and care of patients as well as basic research, all of which may be applicable to a variety of genetic or neuro-degenerative disorders in addition to Huntingtonsdisease. Individual workshop grants shall not exceed twelve thousand five hundred dollars ($12,500).

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125250.

Not more than 10 percent of any money appropriated for purposes of this article shall be utilized for the administration of this article.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.&chapter=2.&article=4.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5. HEREDITARY DISEASES/CONGENITAL DEFECTS [124975 - 125292.10]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Genetic Disease Services [125125 - 125286.35]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 4. AlzheimersDisease [125275 - 125285]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 8.)

125275.

(a) The Legislature finds that Alzheimersdisease, a devastating disease which destroys certain vital cells of the brain, affects more than 1,500,000 Americans. The Legislature also finds that Alzheimersdisease and related disorders are responsible for 50 percent of all nursing home admissions and Alzheimersdisease is the fourth leading cause of death in adults. The Legislature recognizes that the disease has serious emotional, financial, and social consequences for its victims and their families.

(b) The Legislature recognizes that the cause of Alzheimersdisease is presently unknown, and there is no established treatment which can cure, reverse, or stop the progression of Alzheimersdisease. The Legislature also recognizes that research is the only hope for victims and families. The Legislature finds that existing diagnostic and treatment centers have improved the quality of care available to the victims of Alzheimersdisease and increased knowledge with respect to Alzheimersdisease and related disorders. These centers provide clinical opportunities for research and facilitate the collection of essential data regarding Alzheimersdisease and related disorders, while at the same time providing valuable services such as information and referral, counseling, and training to victims and their families. It is the intent of the Legislature, in enacting this article, to encourage the establishment of geographically dispersed diagnostic and treatment centers for Alzheimersdisease within every postsecondary higher educational institution with a medical center, and to encourage research to discover the cause of, and a cure for, Alzheimersdisease.

(c) The functions of the diagnostic and treatment centers shall be designed to serve all of the following purposes:

(1) To provide diagnostic and treatment services and improve the quality of care to victims of Alzheimersdisease.

(2) To increase research by faculty and students in discovering the cause of, and a cure for, Alzheimersdisease.

(3) To provide training, monitoring, consultation, and continuing education to the families of those who are affected by Alzheimersdisease.

(4) To increase the training of health care professionals with respect to Alzheimersdisease and other acquired brain impairments to the extent that the centers have the requisite expertise.

(d) The diagnostic and treatment centers may collaborate with the Statewide Resources Consultant designated pursuant to Section 4364 of the Welfare and Institutions Code, to the extent that the centers deem necessary in order to fulfill the functions set forth in subdivision (c).

(Added by renumbering Section 412 (as amended by Stats. 1995, Ch. 551) by Stats. 1996, Ch. 1023, Sec. 134. Effective September 29, 1996.)

125280.

(a) Any postsecondary higher educational institution with a medical center may establish diagnostic and treatment centers for Alzheimersdisease subject to the departmentsgrants review process.

(b) The department shall administer grants to postsecondary higher educational institutions that establish diagnostic and treatment centers pursuant to subdivision (a).

(c) Funds appropriated for the purposes of this article by the Statutes of 1987 shall first be used to maintain and enhance, as determined by the department, existing centers and to prevent program cutbacks under subdivision (b).

(d) Alzheimersdisease grants for the purpose of establishing a diagnostic and treatment center shall be used only for the purposes of this article, including, but not limited to, all of the following:

(1) Salary and benefits for faculty, residents, fellows, and staff of the diagnostic and treatment center.

(2) Costs of supplies and equipment.

(3) Research grants for faculty research to discover the cause of, and a cure for, Alzheimersdisease.

(4) Research grants for students, residents, and fellows.

(5) General administrative costs of up to 8 percent of the total grant.

(e) The department shall establish criteria for requests for Alzheimersdisease diagnostic and treatment center grants and Alzheimersdisease research grants, and for program evaluation.

(f) No grant awarded pursuant to this article shall be approved for any amount that exceeds 25 percent of the total amount of funds appropriated for this purpose in the 1987“88 Regular Session of the Legislature.

(g) The department shall administer a grant program for the purpose of research into the causes, treatment,

cure, strategies for coping with, prevention, incidence, and prevalence of Alzheimersdisease and related disorders. Priority shall be given to grant applications for feasibility studies, startup grants, and matching funds for federal and privately funded research grants. Consideration shall be given to proposals that link service delivery and collect data relative to patient care and the delivery of social services. This research may include, but is not limited to, examinations and recommendations for the improvement of the family, community-based and health care support systems available to Alzheimersdisease victims, and their caregivers.

(h) Upon request, the department shall make available to the Legislature information regarding the progress of the grant programs established pursuant to this article.

(i) The department shall reduce any grant pursuant to this article by the amount of any federal funds available for the same purposes to the same grantee.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125281.

From funds appropriated to the department in the Budget Act of 2016 for these purposes, the department shall allocate funds to the diagnostic and treatment centers for Alzheimersdisease established pursuant to Section 125280 to be used for all of the following purposes:

(a)To determine the standard of care in early and accurate diagnosis drawing on peer-reviewed evidence, best practices, Medicare and Medicaid policy and reimbursement, and experience working with patients seeking services at a center.

(b)To conduct targeted outreach to health professionals through medical school instruction, hospital grant rounds, continuing education, community education, and free online resources.

(c)To provide low-cost, accessible detection and diagnosis tools that the center shall make available via open source portals of the postsecondary higher educational institution that established the center. Furthermore, the department shall post these tools on its Internet Web site to serve as a resource for the state.

(d)To endorse and disseminate low-cost, accessible detection and diagnosis tools for broad use by health professionals practicing in a variety of settings.

(e)To address unique health disparities that exist within diverse populations, with special focus and attention on reaching African Americans, Latinos, and women.

(f)To evaluate the educational effectiveness and measure the impact of these efforts, including pretests and posttests for health professionals, metrics, and documented practice change.

(Added by Stats. 2016, Ch. 30, Sec. 8. (SB 833) Effective June 27, 2016.)

125283.

(a)The Center for Healthy Communities, within the State Department of Public Health, shall, on or before

January 1, 2021, update the 2009 AlzheimersDisease Facts and Figures in California: Current Status and Future Projections to quantify the burden of Alzheimersdisease on at-risk and underrepresented populations, including African Americans, Asian-Pacific Islanders, Latinos, Hispanics, and women.

(b)This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Added by Stats. 2018, Ch. 737, Sec. 1. (SB 1292) Effective January 1, 2019. Repealed as of January 1, 2025, by its own provisions.)

125285.

The department shall provide public and professional education on Alzheimersdisease to educate consumers, caregivers, and health care providers, and to increase public awareness. If the department determines that contracts are required to implement this section, the department may award these contracts on a sole source basis. The contracts shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code. Notwithstanding any other provision of law, the balance of funds appropriated pursuant to the Budget Act of 2000 for Alzheimersdisease education shall be available for encumbrance and expenditure until June 30, 2003.

(Added by Stats. 2000, Ch. 93, Sec. 35. Effective July 7, 2000.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.&chapter=2.&article=5.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5. HEREDITARY DISEASES/CONGENITAL DEFECTS [124975 - 125292.10]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Genetic Disease Services [125125 - 125286.35]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

__ARTICLE 5. Standards of Service for Providers of Blood Clotting Products for Home Use Act

[125286.10 - 125286.35]__

(Article 5 added by Stats. 2012, Ch. 75, Sec. 1.)

125286.10.

This article shall be known, and may be cited, as the Standards of Service for Providers of Blood Clotting Products for Home Use Act.

(Added by Stats. 2012, Ch. 75, Sec. 1. (AB 389) Effective January 1, 2013.)

125286.15.

The Legislature hereby finds and declares all of the following:

(a)Hemophilia is a rare, hereditary, bleeding disorder affecting at least 4,000 persons in California and is a chronic, lifelong, and incurable, but treatable, disease.

(b)Von Willebrand disease is a human bleeding disorder caused by a hereditary deficiency or abnormality of the von Willebrand factor in human blood, which is a protein that helps clot blood. Von Willebrand disease is a chronic, lifelong, incurable, but treatable, disease affecting at least 360,000 Californians.

(c)Until the 1970s, people with severe hemophilia suffered from uncontrollable internal bleeding, crippling orthopedic deformities, and a shortened lifespan. More recently, the production of highly purified blood clotting factors has provided people with hemophilia and other bleeding disorders the opportunity to lead normal lives, free of pain and crippling arthritis.

(d)The preferred method of treatment of hemophilia today is intravenous injection, or infusion, of prescription blood clotting products several times per week, along with case management and specialized medical care at a federally designated regional hemophilia treatment center.

(e)Pharmacies and other entities specializing in the delivery of blood clotting products and related equipment, supplies, and services for home use form a growing enterprise in California.

(f)Timely access to federally designated regional hemophilia centers and appropriate products and services in the home, including infusion of blood clotting products and related equipment, and supplies and services for persons with hemophilia and other bleeding disorders, reduces mortality and bleeding-related hospitalizations according to the federal Centers for Disease Control and Prevention and the Medical and Scientific Advisory Council of the National Hemophilia Foundation.

(g)Eligible persons with hemophilia or other bleeding disorders may receive treatment through the Genetically Handicapped Persons Program, the California ChildrensServices Program, and the Medi-Cal

program.

(h)For the benefit of persons with hemophilia or other bleeding disorders, the purposes of this article are to do the following:

(1)Establish standards of service for entities that deliver blood clotting products and related equipment, supplies, and services for home use.

(2)Promote access to a full range of essential, cost-effective, lifesaving, blood clotting products and related equipment, supplies, and high-quality services for home use for persons with hemophilia and other bleeding disorders.

(Added by Stats. 2012, Ch. 75, Sec. 1. (AB 389) Effective January 1, 2013.)

125286.20.

Unless the context otherwise requires, the following definitions shall apply for purposes of this article:

(a)Assay means the amount of a particular constituent of a mixture or of the biological or pharmacological potency of a drug.

(b)Ancillary infusion equipment and supplies means the equipment and supplies required to infuse a blood clotting product into a human vein, including, but not limited to, syringes, needles, sterile gauze, field pads, gloves, alcohol swabs, numbing creams, tourniquets, medical tape, sharps or equivalent biohazard waste containers, and cold compression packs.

(c)Bleeding disorder means a medical condition characterized by a deficiency or absence of one or more essential blood clotting proteins in the human blood, often called factors, including all forms of hemophilia and other bleeding disorders that, without treatment, result in uncontrollable bleeding or abnormal blood clotting.

(d)Blood clotting product means an intravenously administered medicine manufactured from human plasma or recombinant biotechnology techniques, approved for distribution by the federal Food and Drug Administration, that is used for the treatment and prevention of symptoms associated with bleeding disorders. Blood clotting products include, but are not limited to, factor VII, factor VIIa, factor VIII, and factor IX products, von Willebrand factor products, bypass products for patients with inhibitors, and activated prothrombin complex concentrates.

(e)Emergency means care as defined in Section 1317.1.

(f)Hemophilia means a human bleeding disorder caused by a hereditary deficiency of the factor I, II, V, VIII, IX, XI, XII, or XIII blood clotting protein in human blood.

(g)Hemophilia treatment center means a facility for the treatment of bleeding disorders, including, but not limited to, hemophilia, that receives funding specifically for the treatment of patients with bleeding disorders from federal government sources, including, but not limited to, the federal Centers for Disease Control and Prevention and the federal Health Resources and Services Administration (HRSA) of the United States Department of Health and Human Services.

(h)Home use means infusion or other use of a blood clotting product in a place other than a state-recognized hemophilia treatment center or other clinical setting. Places where home use occurs include, without limitation, a home or other nonclinical setting.

(i)Patient means a person needing a blood clotting product for home use.

(j)(1)Provider of blood clotting products for home use means all the following pharmacies, except as described in Section 125286.35, that dispense blood clotting factors for home use:

(A)Hospital pharmacies.

(B)Health system pharmacies.

(C)Pharmacies affiliated with hemophilia treatment centers.

(D)Specialty home care pharmacies.

(E)Retail pharmacies.

(2)The providers described in this subdivision shall include a health care service plan and all its affiliated providers if the health care service plan exclusively contracts with a single medical group in a specified geographic area to provide professional services to its enrollees.

(Amended by Stats. 2013, Ch. 76, Sec. 129. (AB 383) Effective January 1, 2014.)

125286.25.

Each provider of blood clotting products for home use shall meet all of the following requirements:

(a)Have sufficient knowledge and understanding of bleeding disorders to accurately follow the instructions of the prescribing physician and ensure high-quality service for the patient and the medical and psychosocial management thereof, including, but not limited to, home therapy.

(b)Have access to a provider with sufficient clinical experience providing services to persons with bleeding disorders that enables the provider to know when patients have an appropriate supply of clotting factor on hand and about proper storage and refrigeration of clotting factors.

(c)Maintain 24-hour on-call service seven days a week for every day of the year, adequately screen telephone calls for emergencies, acknowledge all telephone calls within one hour or less, and have access to knowledgeable pharmacy staffing on call 24 hours a day, to initiate emergency requests for clotting factors.

(d)Have the ability to obtain all brands of blood clotting products approved by the federal Food and Drug Administration in multiple assay ranges (low, medium, and high, as applicable) and vial sizes, including products manufactured from human plasma and those manufactured with recombinant biotechnology techniques, provided manufacturer supply exists and payer authorization is obtained.

(e)Supply all necessary ancillary infusion equipment and supplies with each prescription, as needed.

(f)Store and ship, or otherwise deliver, all blood clotting products in conformity with all state and federally

mandated standards, including, but not limited to, the standards set forth in the productsapproved package insert (PI).

(g)Upon receiving approved authorization for a nonemergency prescription, provided manufacturer supply exists, ship the prescribed blood clotting products and ancillary infusion equipment and supplies to the patient within two business days or less for established and new patients.

(h)Upon receiving approved authorization to dispense a prescription for an emergency situation, provided manufacturer supply exists, deliver prescribed blood products, ancillary infusion equipment and supplies, and medications to the patient within 12 hours for patients living within 100 miles of a major metropolitan airport, and within one day for patients living more than 100 miles from a major metropolitan airport.

(i)Provide patients who have ordered their products with a designated contact telephone number for reporting problems with a delivery and respond to these calls within a reasonable time period.

(j)Provide patients with notification of Class 1 and Class 2 recalls and withdrawals of blood clotting products and ancillary infusion equipment within 24 hours of the provider of blood clotting products for home use receiving notification and participate in the National Patient Notification System for blood clotting product recalls.

(k)Provide language interpretive services over the telephone or in person, as needed by the patient.

(l)Have a detailed plan for meeting the requirements of this article in the event of a natural or manmade disaster or other disruption of normal business operations.

(m)Provide appropriate and necessary recordkeeping and documentation as required by state and federal law and retain copies of the patientsprescriptions.

(n)Comply with the privacy and confidentiality requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

(Added by Stats. 2012, Ch. 75, Sec. 1. (AB 389) Effective January 1, 2013.)

125286.30.

The California State Board of Pharmacy shall administer and enforce this article.

(Added by Stats. 2012, Ch. 75, Sec. 1. (AB 389) Effective January 1, 2013.)

125286.35.

Nothing in this article shall apply to either hospital pharmacies or health system pharmacies that dispense blood clotting products due only to emergency, urgent care, or inpatient encounters, or if an inpatient is discharged with a supply of blood clotting products for home use.

(Added by Stats. 2012, Ch. 75, Sec. 1. (AB 389) Effective January 1, 2013.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=5.&chapter=3.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.&chapter=3.&article=1.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5. HEREDITARY DISEASES/CONGENITAL DEFECTS [124975 - 125292.10]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. California Stem Cell Research and Cures Bond Act [125290.10 - 125292.10]__

(Chapter 3 added November 2, 2004, by initiative Proposition 71, Sec. 5, a bond act.)

__ARTICLE 1. California Stem Cell Research and Cures Act [125290.10 - 125290.80]__

(Article 1 added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125290.10.

General”Independent CitizensOversight Committee (ICOC)

This chapter implements Article XXXV of the California Constitution, which established the California Institute for Regenerative Medicine (institute).

(Added November 2, 2004, by initiative Proposition 71, Sec. 5. Note: Prop. 71 is titled the California Stem Cell Research and Cures Act.)

125290.15.

Creation of the ICOC

There is hereby created the Independent CitizensOversight Committee, hereinafter, the ICOC, which shall govern the institute and is hereby vested with full power, authority, and jurisdiction over the institute.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125290.20.

ICOC Membership; Appointments; Terms of Office

(a)ICOC Membership

The ICOC shall have 35 members, appointed as follows:

(1)The Chancellors of the University of California at San Francisco, Davis, San Diego, Los Angeles, Irvine, and Riverside shall each appoint an executive officer from his or her campus. In addition, the Chancellor of the University of California at San Francisco (UCSF) shall also appoint a faculty member, physician/scientist, researcher, or executive officer from the UCSF Fresno/Clovis campus to promote geographic diversity and access.

(2)The Governor, the Lieutenant Governor, the Treasurer, and the Controller shall each appoint an executive officer from the following three categories:

(A)A California university, excluding the seven campuses of the University of California described in paragraph (1), that has demonstrated success and leadership in stem cell research, other vital research opportunities, therapy development, or therapy delivery, and that has:

(i)A nationally ranked research hospital and medical school; this criteria will apply to only two of the four appointments.

(ii)A recent proven history of administering scientific and/or medical research grants and contracts in an average annual range exceeding one hundred million dollars ($100,000,000).

(iii)A ranking, within the past five years, in the top 10 United States universities with the highest number of life science patents or that has research or clinical faculty who are members of the National Academy of

Sciences.

(iv)For purposes of this category, the Governor may appoint an executive officer from the California State University system who has an advanced degree in biological sciences.

(B)A California nonprofit academic and research institution that is not a part of the University of California, that has demonstrated success and leadership in stem cell research, other vital research opportunities, therapy development, or therapy delivery and that has:

(i)A nationally ranked research hospital or that has research or clinical faculty who are members of the National Academy of Sciences.

(ii)A proven history in the last five years of managing a research budget in the life sciences exceeding twenty million dollars ($20,000,000) annually.

(C)A California life science commercial entity that is not actively engaged in researching or developing therapies or therapy delivery with pluripotent or progenitor stem cells or genetic medical treatments that has a background in implementing or developing experimental medical therapies, including conducting human clinical trials, and that has not been awarded, or applied for, funding by the institute at the time of appointment. A board member of that entity who generally meets the same qualifications may be appointed in lieu of an executive officer.

(D)Only one member shall be appointed from a single university, institution, or entity for the purposes of paragraph (2). The executive officer of a California university, a nonprofit research institution or life science commercial entity who is appointed as a member, may from time to time delegate those duties to an executive officer of the entity or to the dean of the medical school, if applicable.

(3)The Governor, the Lieutenant Governor, the Treasurer, and the Controller shall appoint members from among California representatives of California regional, state, or national disease advocacy groups, as follows:

(A)The Governor shall appoint three members, one from each of the following disease advocacy groups: spinal cord injury; Alzheimersdisease; and mental health conditions.

(B)The Lieutenant Governor shall appoint three members, one from each of the following disease advocacy groups: type II diabetes; multiple sclerosis or amyotrophic lateral sclerosis; and mental health conditions.

(C)The Treasurer shall appoint two members, one from each of the following disease groups: type I diabetes and heart disease.

(D)The Controller shall appoint two members, one from each of the following disease groups: cancer and Parkinsonsdisease.

(4)The Speaker of the Assembly shall appoint a member from among California representatives of a California regional, state, or national mental health disease or mental health conditions advocacy group.

(5)The President pro Tempore of the Senate shall appoint a member from among California representatives of a California regional, state, or national HIV/AIDS disease advocacy group.

(6)The Treasurer and Controller shall each appoint a nurse with experience in clinical trial management or stem cell or genetic therapy delivery.

(7)A chairperson and vice chairperson who shall be elected by the ICOC members. Each constitutional officer shall nominate a candidate for chairperson and another candidate for vice chairperson. The chairperson and vice chairperson shall each be elected for a term of six years. The chairperson and vice chairperson of ICOC shall be full- or part-time employees of the institute and shall meet the following criteria:

(A)Mandatory Chairperson Criteria

(i)Documented history in successful stem cell research or other vital research opportunity in therapy development or therapy delivery advocacy.

(ii)Experience with state and federal legislative processes that must include some experience with medical legislative approvals of standards and/or funding.

(iii)Qualified for appointment pursuant to paragraph (3), (4), or (5) of subdivision (a).

(iv)Cannot be concurrently employed by or on leave from any prospective grant or loan recipient institutions in California.

(B)Additional Criteria for Consideration:

(i)Experience with governmental agencies or institutions (either executive or board position).

(ii)Experience with the process of establishing government standards and procedures.

(iii)Legal experience with the legal review of proper governmental authority for the exercise of government agency or government institutional powers.

(iv)Direct knowledge and experience in bond financing.

The vice chairperson shall satisfy clauses (i), (iii), and (iv) of subparagraph (A). The vice chairperson shall be selected from among individuals who have attributes and experience complementary to those of the chairperson, preferably covering the criteria not represented by the chairpersonscredentials and experience.

(b)Appointment of ICOC Members

(1)All appointments shall be made within 40 days of the effective date of this act. In the event that any of the appointments are not completed within the permitted timeframe, the ICOC shall proceed to operate with the appointments that are in place, provided that at least 60 percent of the appointments have been made.

(2)Forty-five days after the effective date of this act, the Controller and the Treasurer, or if only one is available within 45 days, the other shall convene a meeting of the appointed members of the ICOC to elect a chairperson and vice chairperson from among the individuals nominated by the constitutional officers pursuant to paragraph (7) of subdivision (a).

(c)ICOC Member Terms of Office

(1)The members appointed pursuant to paragraphs (1), (3), (4), (5), and (6) of subdivision (a) shall serve eight-year terms, and all other members shall serve six-year terms. Members shall serve a maximum of two terms, unless earlier removed pursuant to paragraph (5).

(2)If a vacancy occurs within a term, the appointing authority shall appoint a replacement member within 90 days to serve the remainder of the term.

(3)When a term expires, the appointing authority shall appoint a member within 90 days. ICOC members shall continue to serve until their replacements are appointed.

(4)Notwithstanding paragraph (1), the appointing authority may replace a member, other than the chairperson or vice chairperson, who has served, as of the effective date of the act adding this paragraph, at least half of the memberscurrent term, by appointing a new member, who shall be eligible to serve a full term. These appointments shall be made within 90 days of the effective date of the initiative adding this paragraph.

(5)The ICOC may, by a vote of 60 percent of a quorum, recommend the removal of a member by the membersappointing authority, or in the case of the chairperson and the vice chairperson, the nominating authority or nominating authorities, if more than one constitutional officer nominated the chairperson or vice chairperson. The appointing authority or nominating authority or authorities in the case of the chairperson and vice chairperson, shall have the authority to remove the member, chairperson, or vice chairperson, respectively, upon receipt of the ICOCsrecommendation. If more than one constitutional officer nominated the chairperson or vice chairperson, each of them must agree in order to remove the chairperson or vice chairperson.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 9. Effective December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125290.25.

Majority Vote of Quorum

Actions of the ICOC may be taken only by a majority vote of a quorum of the ICOC.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125290.30.

Public and Financial Accountability Standards

(a)Annual Public Report

The institute shall issue an annual report to the public which sets forth its activities, grants awarded, grants in progress, research accomplishments, and future program directions. Each annual report shall include, but not be limited to, the following: the number and dollar amounts of research and facilities grants; the grantees for the prior year; the institutesadministrative expenses; an assessment of the availability of funding for stem cell research from sources other than the institute; a summary of research findings, including promising new research areas; an assessment of the relationship between the institutesgrants and the overall strategy of its research program; and a report of the institutesstrategic research and financial plans.

(b)Independent Financial Audit for Review by Controller

The institute shall annually commission an independent financial audit of its activities from a certified public accounting firm, which shall be provided to the Controller, who shall review the audit and annually issue a public report of that review.

(c)A performance audit shall be commissioned by the institute every three years beginning with the audit for the 2010"11 fiscal year. The performance audit, which may be performed by the Bureau of State Audits, shall examine the functions, operations, management systems, and policies and procedures of the institute to assess whether the institute is achieving economy, efficiency, and effectiveness in the employment of available resources. The performance audit shall be conducted in accordance with government auditing standards, and shall include a review of whether the institute is complying with ICOC policies and procedures. The performance audit shall not be required to include a review of scientific performance. The first performance audit shall include, but not be limited to, all of the following:

(1)Policies and procedures for the issuance of contracts and grants and a review of a representative sample of contracts, grants, and loans executed by the institute.

(2)Policies and procedures relating to the protection or treatment of intellectual property rights associated with research funded or commissioned by the institute.

(d)All administrative costs of the audits required by subdivisions (b) and (c) shall be paid by the institute.

(e)CitizensFinancial Accountability Oversight Committee

There shall be a CitizensFinancial Accountability Oversight Committee chaired by the Controller. This committee shall review the annual financial audit, the Controllersreport and evaluation of that audit, and the financial practices of the institute. The Controller, the Treasurer, the President pro Tempore of the Senate, the Speaker of the Assembly, and the Chairperson of the ICOC shall each appoint a public member of the committee. Committee members shall have medical or patient advocacy backgrounds and knowledge of relevant financial matters. The committee shall provide recommendations on the institutesfinancial practices and performance. The Controller shall provide staff support. The committee shall hold a public meeting, with appropriate notice, and with a formal public comment period. The committee shall evaluate public comments and include appropriate summaries in its annual report. The ICOC shall provide funds for all costs associated with the per diem expenses of the committee members and for publication of the annual report.

(f)Public Meeting Laws

(1)The ICOC shall hold at least four public meetings per year, one of which will be designated as the institutesannual meeting. The ICOC may hold additional meetings as it determines are necessary or appropriate.

(2)The Bagley-Keene Open Meeting Act, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, shall apply to all meetings of the ICOC, except as otherwise provided in this section. The ICOC shall award all grants, loans, and contracts in public meetings and shall adopt all governance, scientific, medical, and regulatory standards in public meetings.

(3)The ICOC may conduct closed sessions as permitted by the Bagley-Keene Open Meeting Act, under Section 11126 of the Government Code. In addition, the ICOC may conduct closed sessions when it meets to consider or discuss:

(A)Matters involving information relating to patients or medical subjects, the disclosure of which would

constitute an unwarranted invasion of personal privacy.

(B)Matters involving confidential intellectual property or work product, whether patentable or not, including, but not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information, which is not patented, which is known only to certain individuals who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know it or use it.

(C)Matters involving prepublication, confidential scientific research or data.

(D)Matters concerning the appointment, employment, performance, compensation, or dismissal of institute officers and employees. Action on compensation of the institutesofficers and employees shall only be taken in open session.

(4)The meeting required by paragraph (2) of subdivision (b) of Section 125290.20 shall be deemed to be a special meeting for the purposes of Section 11125.4 of the Government Code.

(g)Public Records

(1)The California Public Records Act, Article 1 (commencing with Section 6250) of Chapter 3.5 of Division 7 of Title 1 of the Government Code, shall apply to all records of the institute, except as otherwise provided in this section.

(2)Nothing in this section shall be construed to require disclosure of any records that are any of the following:

(A)Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(B)Records containing or reflecting confidential intellectual property or work product, whether patentable or not, including, but not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information, which is not patented, which is known only to certain individuals who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know it or use it.

(C)Prepublication scientific working papers or research data, including, but not limited to, applications and progress reports.

(3)The institute shall include, in all meeting minutes, a summary of vote tallies and disclosure of each board membersvotes and recusals on all action items.

(h)Competitive Bidding

(1)The institute shall, except as otherwise provided in this section, be governed by the competitive bidding requirements applicable to the University of California, as set forth in Chapter 2.1 (commencing with Section 10500) of Part 2 of Division 2 of the Public Contract Code.

(2)For all institute contracts, the ICOC shall follow the procedures required of the Regents by Chapter 2.1 (commencing with Section 10500) of Part 2 of Division 2 of the Public Contract Code with respect to

contracts let by the University of California.

(3)The requirements of this section shall not be applicable to grants or loans approved by the ICOC.

(4)Except as provided in this section, the Public Contract Code shall not apply to contracts let by the institute.

(i)Conflicts of Interest

(1)The Political Reform Act, Title 9 (commencing with Section 81000) of the Government Code, shall apply to the institute and to the ICOC, except as provided in this section and in subdivision (e) of Section 125290.50.

(A)No member of the ICOC shall make, participate in making, or in any way attempt to use his or her official position to influence a decision to approve or award a grant, loan, or contract to his or her employer, but a member may participate in a decision to approve or award a grant, loan, or contract to an entity in the same field as his or her employer.

(B)A member of the ICOC may participate in a decision to approve or award a grant, loan, or contract to an entity for the purpose of research involving a disease from which a member or his or her family suffers or in which the member has an interest as a representative of a disease advocacy organization.

(C)The adoption of standards, including, but not limited to, strategic plans, concept plans, and research budgets, is not a decision subject to this section.

(2)Service as a member of the ICOC by a member of the faculty or administration of any system of the University of California shall not, by itself, be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of the ICOC member as a member of the faculty or administration of any system of the University of California and shall not result in the automatic vacation of either such office. Service as a member of the ICOC by a representative or employee of a disease advocacy organization, a nonprofit academic and research institution, or a life science commercial entity shall not be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of the ICOC member as a representative or employee of that organization, institution, or entity.

(3)Section 1090 of the Government Code shall not apply to any grant, loan, or contract made by the ICOC except where both of the following conditions are met:

(A)The grant, loan, or contract directly relates to services to be provided by any member of the ICOC or the entity the member represents or financially benefits the member or the entity he or she represents.

(B)The member fails to recuse himself or herself from making, participating in making, or in any way attempting to use his or her official position to influence a decision on the grant, loan, or contract.

(j)Patent Royalties and License Revenues Paid to the State of California

(1)The ICOC shall establish standards that require that all grants and loan awards be subject to intellectual property agreements that balance the opportunity of the State of California to benefit from the patents, royalties, and licenses that result from basic research, therapy development, and clinical trials with the need to ensure that essential medical research is not unreasonably hindered by the intellectual property agreements. All royalty revenues received through the intellectual property agreements established pursuant to this subdivision shall be deposited into an interest-bearing account in the General Fund, and to the extent permitted by law, the amount so deposited and interest thereon shall be appropriated for the purpose of offsetting the costs of providing treatments and cures arising from institute-funded research to California

patients who have insufficient means to purchase such treatment or cure, including the reimbursement of patient-qualified costs for research participants.

(2)These standards shall include, at a minimum, a requirement that CIRM grantees, other than loan recipients and facilities grant recipients, share a fraction of the revenue they receive from licensing or self-commercializing an invention or technology that arises from research funded by CIRM, as set forth below.

(A)(i)A grantee that licenses an invention or technology that arises from a research program funded by CIRM, regardless of the number of grants awarded to that research program, shall pay 25 percent of the revenues it receives in excess of five hundred thousand dollars ($500,000), in the aggregate, to the General Fund. The threshold amount of five hundred thousand dollars ($500,000) shall be adjusted annually by a multiple of a fraction, the denominator of which is the Consumer Price Index, All Urban Consumers, All Items (San Francisco-Oakland-San Jose; 1982"84=100) as prepared by the Bureau of Labor Statistics of the United States Department of Labor and published for the month of October 2009, and the numerator of which is that index published for the month in which the grantee accepts the grant. For awards made on or after November 5, 2020, the threshold amount of five hundred thousand dollars ($500,000) shall be adjusted annually by a multiple of a fraction, the denominator of which is the Consumer Price Index, All Urban Consumers, All Items (San Francisco-Oakland-San Jose; 1982"84=100) as prepared by the Bureau of Labor Statistics of the United States Department of Labor and published for the month of October 2020, and the numerator of which is that index published for the month in which the grantee accepts the grant.

(ii)If funding sources other than CIRM directly contributed to the development of the invention or technology, then the return to the General Fund shall be calculated as follows: The amount of CIRM funding for the invention or technology shall be divided by the total of funding provided by all sources, and that fraction shall be multiplied by 25. That numeral is the percentage due to the General Fund.

(B)(i)A grantee that self-commercializes a product that results from an invention or technology that arises from research funded by CIRM shall pay an amount to the General Fund equal to three times the total amount of the CIRM grant or grants received by the grantee in support of the research that contributed to the creation of the product. The rate of payback of the royalty shall be at a rate of 3 percent of the annual net revenue received by the grantee from the product.

(ii)In addition to the payment required by clause (i), the first time that net commercial revenues earned by the grantee from the product exceed two hundred fifty million dollars ($250,000,000) in a calendar year, the grantee shall make a one-time payment to the General Fund equal to three times the total amount of the grant or grants awarded by CIRM to the grantee in support of the research that contributed to the creation of the product.

(iii)In addition to the payments required by clauses (i) and (ii), the first time that net commercial revenues earned by the grantee from the product exceed five hundred million dollars ($500,000,000) in a calendar year, the grantee shall make an additional one-time payment to the General Fund equal to three times the total amount of the grant or grants awarded by ClRM to the grantee in support of the research that contributed to the creation of the product.

(iv)In addition to the payments required by clauses (i), (ii), and (iii), the first time that net commercial revenues earned by the grantee from the product equal or exceed five hundred million dollars ($500,000,000) in a calendar year, the grantee shall pay the General Fund 1 percent annually of net commercial revenue in excess of five hundred million dollars ($500,000,000) for the life of any patent covering the invention or technology, if the grantee patented its invention or technology and received a CIRM grant or grants amounting to more than five million dollars ($5,000,000) in support of the research that contributed to the creation of the product.

(3)The ICOC shall have the authority to adopt regulations to implement this subdivision. The ICOC shall also have the authority to modify the formulas specified in subparagraphs (A) and (B) of paragraph (2) through regulations if the ICOC determines pursuant to paragraph (1) that a modification is required either in order to ensure that essential medical research, including, but not limited to, therapy development and the broad delivery of therapies to patients, is not unreasonably hindered, or to ensure that the State of California has an opportunity to benefit from the patents, royalties, and licenses that result from basic research, therapy development, and clinical trials. The ICOC shall notify the appropriate fiscal and policy committees of the Legislature 10 calendar days before exercising its authority to vote on the modification of the formulas specified in subparagraphs (A) and (B) of paragraph (2). The amendments made to this subdivision are not intended to affect the institutesauthority to modify the provisions set forth in this subdivision pursuant to this paragraph, including, but not limited to, any modifications that occurred prior to the effective date of the initiative amending this subdivision.

(k)Preference for California Suppliers

The ICOC shall establish standards to ensure that grantees purchase goods and services from California suppliers to the extent reasonably possible, in a good faith effort to achieve a goal of more than 50 percent of such purchases from California suppliers.

(l)Additional Accountability Requirements

To assure strict accountability and transparency, including rigorous conflict of interest rules, ethical research and treatment standards, and independent financial audits, every four years the ICOC shall update, at its discretion, the standards relating to conflict of interest rules, ethical research and treatment, and independent financial audits, to be generally aligned with standards adopted by the National Academy of Sciences to the extent that those standards are consistent with constitutional and statutory requirements applicable to the institute.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 10. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125290.30.

Public and Financial Accountability Standards

(a)Annual Public Report

The institute shall issue an annual report to the public which sets forth its activities, grants awarded, grants in progress, research accomplishments, and future program directions. Each annual report shall include, but not be limited to, the following: the number and dollar amounts of research and facilities grants; the grantees for the prior year; the institutesadministrative expenses; an assessment of the availability of funding for stem cell research from sources other than the institute; a summary of research findings, including promising new research areas; an assessment of the relationship between the institutesgrants and the overall strategy of its research program; and a report of the institutesstrategic research and financial plans.

(b)Independent Financial Audit for Review by Controller

The institute shall annually commission an independent financial audit of its activities from a certified public

accounting firm, which shall be provided to the Controller, who shall review the audit and annually issue a public report of that review.

(c)A performance audit shall be commissioned by the institute every three years beginning with the audit for the 2010”11 fiscal year. The performance audit, which may be performed by the Bureau of State Audits, shall examine the functions, operations, management systems, and policies and procedures of the institute to assess whether the institute is achieving economy, efficiency, and effectiveness in the employment of available resources. The performance audit shall be conducted in accordance with government auditing standards, and shall include a review of whether the institute is complying with ICOC policies and procedures. The performance audit shall not be required to include a review of scientific performance. The first performance audit shall include, but not be limited to, all of the following:

(1)Policies and procedures for the issuance of contracts and grants and a review of a representative sample of contracts, grants, and loans executed by the institute.

(2)Policies and procedures relating to the protection or treatment of intellectual property rights associated with research funded or commissioned by the institute.

(d)All administrative costs of the audits required by subdivisions (b) and (c) shall be paid by the institute.

(e)CitizensFinancial Accountability Oversight Committee

There shall be a CitizensFinancial Accountability Oversight Committee chaired by the Controller. This committee shall review the annual financial audit, the Controllersreport and evaluation of that audit, and the financial practices of the institute. The Controller, the Treasurer, the President pro Tempore of the Senate, the Speaker of the Assembly, and the Chairperson of the ICOC shall each appoint a public member of the committee. Committee members shall have medical or patient advocacy backgrounds and knowledge of relevant financial matters. The committee shall provide recommendations on the institutesfinancial practices and performance. The Controller shall provide staff support. The committee shall hold a public meeting, with appropriate notice, and with a formal public comment period. The committee shall evaluate public comments and include appropriate summaries in its annual report. The ICOC shall provide funds for all costs associated with the per diem expenses of the committee members and for publication of the annual report.

(f)Public Meeting Laws

(1)The ICOC shall hold at least four public meetings per year, one of which will be designated as the institutesannual meeting. The ICOC may hold additional meetings as it determines are necessary or appropriate.

(2)The Bagley-Keene Open Meeting Act, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, shall apply to all meetings of the ICOC, except as otherwise provided in this section. The ICOC shall award all grants, loans, and contracts in public meetings and shall adopt all governance, scientific, medical, and regulatory standards in public meetings.

(3)The ICOC may conduct closed sessions as permitted by the Bagley-Keene Open Meeting Act, under Section 11126 of the Government Code. In addition, the ICOC may conduct closed sessions when it meets to consider or discuss:

(A)Matters involving information relating to patients or medical subjects, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(B)Matters involving confidential intellectual property or work product, whether patentable or not, including, but not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information, which is not patented, which is known only to certain individuals who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know it or use it.

(C)Matters involving prepublication, confidential scientific research, or data.

(D)Matters concerning the appointment, employment, performance, compensation, or dismissal of institute officers and employees. Action on compensation of the institutesofficers and employees shall only be taken in open session.

(4)The meeting required by paragraph (2) of subdivision (b) of Section 125290.20 shall be deemed to be a special meeting for the purposes of Section 11125.4 of the Government Code.

(g)Public Records

(1)The California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) shall apply to all records of the institute, except as otherwise provided in this section.

(2)Nothing in this section shall be construed to require disclosure of any records that are any of the following:

(A)Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(B)Records containing or reflecting confidential intellectual property or work product, whether patentable or not, including, but not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information, which is not patented, which is known only to certain individuals who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know it or use it.

(C)Prepublication scientific working papers or research data, including, but not limited to, applications and progress reports.

(3)The institute shall include, in all meeting minutes, a summary of vote tallies and disclosure of each board membersvotes and recusals on all action items.

(h)Competitive Bidding

(1)The institute shall, except as otherwise provided in this section, be governed by the competitive bidding requirements applicable to the University of California, as set forth in Chapter 2.1 (commencing with Section 10500) of Part 2 of Division 2 of the Public Contract Code.

(2)For all institute contracts, the ICOC shall follow the procedures required of the Regents by Chapter 2.1 (commencing with Section 10500) of Part 2 of Division 2 of the Public Contract Code with respect to contracts let by the University of California.

(3)The requirements of this section shall not be applicable to grants or loans approved by the ICOC.

(4)Except as provided in this section, the Public Contract Code shall not apply to contracts let by the institute.

(i)Conflicts of Interest

(1)The Political Reform Act, Title 9 (commencing with Section 81000) of the Government Code, shall apply to the institute and to the ICOC, except as provided in this section and in subdivision (e) of Section 125290.50.

(A)No member of the ICOC shall make, participate in making, or in any way attempt to use his or her official position to influence a decision to approve or award a grant, loan, or contract to his or her employer, but a member may participate in a decision to approve or award a grant, loan, or contract to an entity in the same field as his or her employer.

(B)A member of the ICOC may participate in a decision to approve or award a grant, loan, or contract to an entity for the purpose of research involving a disease from which a member or his or her family suffers or in which the member has an interest as a representative of a disease advocacy organization.

(C)The adoption of standards, including, but not limited to, strategic plans, concept plans, and research budgets, is not a decision subject to this section.

(2)Service as a member of the ICOC by a member of the faculty or administration of any system of the University of California shall not, by itself, be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of the ICOC member as a member of the faculty or administration of any system of the University of California and shall not result in the automatic vacation of either such office. Service as a member of the ICOC by a representative or employee of a disease advocacy organization, a nonprofit academic and research institution, or a life science commercial entity shall not be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of the ICOC member as a representative or employee of that organization, institution, or entity.

(3)Section 1090 of the Government Code shall not apply to any grant, loan, or contract made by the ICOC except where both of the following conditions are met:

(A)The grant, loan, or contract directly relates to services to be provided by any member of the ICOC or the entity the member represents or financially benefits the member or the entity he or she represents.

(B)The member fails to recuse himself or herself from making, participating in making, or in any way attempting to use his or her official position to influence a decision on the grant, loan, or contract.

(j)Patent Royalties and License Revenues Paid to the State of California

(1)The ICOC shall establish standards that require that all grants and loan awards be subject to intellectual property agreements that balance the opportunity of the State of California to benefit from the patents, royalties, and licenses that result from basic research, therapy development, and clinical trials with the need to ensure that essential medical research is not unreasonably hindered by the intellectual property agreements. All royalty revenues received through the intellectual property agreements established pursuant to this subdivision shall be deposited into an interest-bearing account in the General Fund, and to the extent permitted by law, the amount so deposited and interest thereon shall be appropriated for the purpose of offsetting the costs of providing treatments and cures arising from institute-funded research to California patients who have insufficient means to purchase such treatment or cure, including the reimbursement of patient-qualified costs for research participants.

(2)These standards shall include, at a minimum, a requirement that CIRM grantees, other than loan recipients and facilities grant recipients, share a fraction of the revenue they receive from licensing or self-commercializing an invention or technology that arises from research funded by CIRM, as set forth below.

(A)(i)A grantee that licenses an invention or technology that arises from a research program funded by CIRM, regardless of the number of grants awarded to that research program, shall pay 25 percent of the revenues it receives in excess of five hundred thousand dollars ($500,000), in the aggregate, to the General Fund. The threshold amount of five hundred thousand dollars ($500,000) shall be adjusted annually by a multiple of a fraction, the denominator of which is the Consumer Price Index, All Urban Consumers, All Items (San Francisco-Oakland-San Jose; 1982"84=100) as prepared by the Bureau of Labor Statistics of the United States Department of Labor and published for the month of October 2009, and the numerator of which is that index published for the month in which the grantee accepts the grant. For awards made on or after November 5, 2020, the threshold amount of five hundred thousand dollars ($500,000) shall be adjusted annually by a multiple of a fraction, the denominator of which is the Consumer Price Index, All Urban Consumers, All Items (San Francisco-Oakland-San Jose; 1982"84=100) as prepared by the Bureau of Labor Statistics of the United States Department of Labor and published for the month of October 2020, and the numerator of which is that index published for the month in which the grantee accepts the grant.

(ii)If funding sources other than CIRM directly contributed to the development of the invention or technology, then the return to the General Fund shall be calculated as follows: The amount of CIRM funding for the invention or technology shall be divided by the total of funding provided by all sources, and that fraction shall be multiplied by 25. That numeral is the percentage due to the General Fund.

(B)(i)A grantee that self-commercializes a product that results from an invention or technology that arises from research funded by CIRM shall pay an amount to the General Fund equal to three times the total amount of the CIRM grant or grants received by the grantee in support of the research that contributed to the creation of the product. The rate of payback of the royalty shall be at a rate of 3 percent of the annual net revenue received by the grantee from the product.

(ii)In addition to the payment required by clause (i), the first time that net commercial revenues earned by the grantee from the product exceed two hundred fifty million dollars ($250,000,000) in a calendar year, the grantee shall make a one-time payment to the General Fund equal to three times the total amount of the grant or grants awarded by CIRM to the grantee in support of the research that contributed to the creation of the product.

(iii)In addition to the payments required by clauses (i) and (ii), the first time that net commercial revenues earned by the grantee from the product exceed five hundred million dollars ($500,000,000) in a calendar year, the grantee shall make an additional one-time payment to the General Fund equal to three times the total amount of the grant or grants awarded by CIRM to the grantee in support of the research that contributed to the creation of the product.

(iv)In addition to the payments required by clauses (i), (ii), and (iii), the first time that net commercial revenues earned by the grantee from the product equal or exceed five hundred million dollars ($500,000,000) in a calendar year, the grantee shall pay the General Fund 1 percent annually of net commercial revenue in excess of five hundred million dollars ($500,000,000) for the life of any patent covering the invention or technology, if the grantee patented its invention or technology and received a CIRM grant or grants amounting to more than five million dollars ($5,000,000) in support of the research that contributed to the creation of the product.

(3)The ICOC shall have the authority to adopt regulations to implement this subdivision. The ICOC shall also have the authority to modify the formulas specified in subparagraphs (A) and (B) of paragraph (2) through

regulations if the ICOC determines pursuant to paragraph (1) that a modification is required either in order to ensure that essential medical research, including, but not limited to, therapy development and the broad delivery of therapies to patients, is not unreasonably hindered, or to ensure that the State of California has an opportunity to benefit from the patents, royalties, and licenses that result from basic research, therapy development, and clinical trials. The ICOC shall notify the appropriate fiscal and policy committees of the Legislature 10 calendar days before exercising its authority to vote on the modification of the formulas specified in subparagraphs (A) and (B) of paragraph (2). The amendments made to this subdivision are not intended to affect the institutesauthority to modify the provisions set forth in this subdivision pursuant to this paragraph, including, but not limited to, any modifications that occurred prior to the effective date of the initiative amending this subdivision.

(k)Preference for California Suppliers

The ICOC shall establish standards to ensure that grantees purchase goods and services from California suppliers to the extent reasonably possible, in a good faith effort to achieve a goal of more than 50 percent of such purchases from California suppliers.

(l)Additional Accountability Requirements

To assure strict accountability and transparency, including rigorous conflict of interest rules, ethical research and treatment standards, and independent financial audits, every four years the ICOC shall update, at its discretion, the standards relating to conflict of interest rules, ethical research and treatment, and independent financial audits, to be generally aligned with standards adopted by the National Academy of Sciences to the extent that those standards are consistent with constitutional and statutory requirements applicable to the institute.

(Amended by Stats. 2021, Ch. 615, Sec. 285. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71. Amended November 3, 2020, by initiative Proposition 14, Sec. 10.)

125290.35.

Medical and Scientific Accountability Standards

(a)Medical Standards

In order to avoid duplication or conflicts in technical standards for scientific and medical research, with alternative state programs, the institute will develop its own scientific and medical standards to carry out the specific controls and intent of the act, notwithstanding Sections 125300, 125320, 125118, 125119, 125119.3, and 125119.5, or any other current or future state laws or regulations dealing with the study and research of pluripotent stem cells and/or progenitor cells, or other vital research opportunities, except Section 125315. The ICOC, its working committees, and its grantees shall be governed solely by the provisions of this act in the establishment of standards, the award of grants, and the conduct of grants awarded pursuant to this act.

(b)The ICOC shall establish standards as follows:

(1)Informed Consent

Standards for obtaining the informed consent of research donors, patients, or participants, which initially

shall be generally based on the standards in place on January 1, 2003, for all research funded by the National Institutes of Health, with modifications to adapt to the mission and objectives of the institute.

(2)Controls on Research Involving Humans

Standards for the review of research involving human subjects which initially shall be generally based on the Institutional Review Board standards promulgated by the National Institutes of Health and in effect on January 1, 2003, with modifications to adapt to the mission and objectives of the institute.

(3)Prohibition on Compensation

Standards prohibiting compensation to research donors or participants, while permitting reimbursement of expenses.

(4)Permitted Reimbursement

Standards permitting reimbursement for expenses, including, but not limited to, medical expenses and lodging, meals, and travel expenses, for research participants and caregivers in order to ensure functional access to clinical trials. For purposes of this paragraph, caregivers includes family members, friends, and professional caregivers providing supportive care.

(5)Patient Privacy Laws

Standards to assure compliance with state and federal patient privacy laws.

(6)Limitations on Payments for Cells

Standards limiting payments for the purchase of stem cells or stem cell lines to reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transplantation, or implantation or legal costs or other administrative costs associated with these medical procedures and specifically including any required payments for medical or scientific technologies, products, or processes for royalties, patent, or licensing fees or other costs for intellectual property.

(7)Time Limits for Obtaining Cells

Standards setting a limit on the time during which cells may be extracted from blastocysts, which shall initially be up to 12 days after cell division begins, not counting any time during which the blastocysts and/or cells have been stored frozen.

(8)Standards for Genetic Medical Treatments and Research

Standards for research involving genetic medical treatments that shall, in the ICOCsdiscretion, generally be based on the standards adopted by the National Academy of Sciences.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 11. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125290.40.

ICOC Functions

The ICOC shall perform the following functions:

(a)Oversee the operations of the institute.

(b)Develop annual and long-term strategic research and financial plans for the institute.

(c)Make final decisions on research standards and grant awards in California across the research and therapy development and delivery spectrum, from stem cell discovery research and early development to clinical trials and therapy delivery.

(d)Ensure the completion of an annual financial audit of the institutesoperations.

(e)Issue public reports on the activities of the institute.

(f)Develop and implement programs to enhance patient access to affordable stem cell and related treatments and cures through public hospitals and clinics and establish policies regarding intellectual property rights arising from research funded by the institute.

(g)Establish and oversee the institutesresearch, therapy development, and therapy delivery programs, including, but not limited to, the Alpha Stem Cell Clinics and Community Care Centers of Excellence, training and fellowship, and shared research laboratory programs.

(h)Establish and oversee the development of policies and programs to help make treatments and cures arising from institute-funded research available and affordable for California patients, through engagement with health care providers, research and therapy development institutions, businesses, governmental agencies, philanthropists, foundations, and patient advocacy groups, and based on recommendations made by the Treatments and Cures Accessibility and Affordability Working Group.

(i)Establish rules and guidelines for the operation of the ICOC and its working groups.

(j)Perform all other acts necessary or appropriate in the exercise of its power, authority, and jurisdiction over the institute.

(k)Select members of the working groups.

(l)Adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of this chapter, and to govern the procedures of the ICOC. Except as provided in subdivision (m), these rules and regulations shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 3.5, Sections 11340 et seq.).

(m)Notwithstanding the Administrative Procedure Act (APA), and in order to facilitate the immediate commencement of research covered by this chapter, the ICOC may adopt interim regulations without compliance with the procedures set forth in the APA. The interim regulations shall remain in effect for 270 days unless earlier superseded by regulations adopted pursuant to the APA. For purposes of subdivision (l), requests for applications, program announcements, and notices of award shall not be considered regulations.

(n)Request the issuance of bonds from the California Stem Cell Research and Cures Finance Committee and loans from the Pooled Money Investment Board.

(o)May annually modify its funding and finance programs to optimize the institutesability to achieve the objective that its activities be revenue-positive for the State of California during its first five years of operation without jeopardizing the progress of its core medical and scientific research program.

(p)Notwithstanding Section 11005 of the Government Code, accept additional revenue and real and personal property, including, but not limited to, gifts, royalties, interest, and appropriations that may be used to supplement annual research grant funding and the operations of the institute.

(q)Subject to the restrictions set forth in this article, develop conflict of interest standards, and at its discretion, consult with the National Academy of Sciences and the Scientific and Medical Accountability Standards Working Group, for the consideration of funding awards based on best practices established by the National Academy of Sciences to prevent conflicts of interest in the award of research funding and update those standards no less than every four years to be, at the ICOCsdiscretion, generally aligned with standards adopted by the National Academy of Sciences, subject to the constitutional and statutory requirements applicable to the institute.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 12. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125290.45.

ICOC Operations

(a)Legal Actions and Liability

(1)The institute may sue and be sued.

(2)Based upon ICOC standards, institute grantees shall indemnify or insure and hold the institute harmless against any and all losses, claims, damages, expenses, or liabilities, including attorneys™ fees, arising from research conducted by the grantee pursuant to the grant, and/or, in the alternative, grantees shall name the institute as an additional insured and submit proof of such insurance.

(3)Given the scientific, medical, and technical nature of the issues facing the ICOC, and notwithstanding Section 11042 of the Government Code, the institute is authorized to retain outside counsel when the ICOC determines that the institute requires specialized services not provided by the Attorney Generalsoffice.

(4)The institute may enter into any contracts or obligations which are authorized or permitted by law.

(b)Personnel

(1)The ICOC shall from time to time determine the total number of authorized employees for the institute, which number shall not exceed 70 employees (full-time equivalent), excluding members of the working groups and members of the ICOC, who shall not be considered institute employees, and excluding up to 15 additional institute employees (full-time equivalent) to support the development of policies and programs to help make treatments and cures arising from institute-funded research available and affordable for Californians. The cap on employees shall not apply to employees funded through sources other than bond proceeds or the General Fund. The ICOC shall select a chairperson, vice chairperson, and president who shall exercise all of the powers delegated to them by the ICOC. The following functions apply to the chairperson,

vice chairperson, and president:

(A)The chairpersonsprimary responsibilities are to manage the ICOC agenda and workflow including all evaluations and approvals of scientific and medical working group grants, loans, facilities, and standards evaluations, and to supervise all annual reports and public accountability requirements; to manage and optimize the institutesbond financing plans and funding cashflow plan; to interface with the California Legislature, the United States Congress, the California health care system, and the California public; to optimize all financial leverage opportunities for the institute, including, without limitation, generating matching or supplemental funds through collaborations with other states, nations, territories, or institutions; and to lead negotiations for intellectual property agreements, policies, and contract terms. The chairperson shall also serve as a member of the Treatments and Cures Accessibility and Affordability Working Group, the Scientific and Medical Accountability Standards Working Group, and the Scientific and Medical Research Facilities Working Group and as an ex officio member of the Scientific and Medical Research Funding Working Group. The vice chairpersonsprimary responsibilities are to support the chairperson in all duties and to carry out those duties in the chairpersonsabsence.

(B)The presidentsprimary responsibilities are to serve as the chief executive of the institute; to recruit the highest scientific and medical talent in the United States to serve the institute on its working groups; to serve the institute on its working groups; to direct ICOC staff and participate in the process of supporting all working group requirements to develop recommendations on grants, loans, facilities, and standards as well as to direct and support the ICOC process of evaluating and acting on those recommendations, the implementation of all decisions on these and general matters of the ICOC; to hire, direct, and manage the staff of the institute; to develop the budgets and cost control programs of the institute; to manage compliance with all rules and regulations of the ICOC, including the performance of all grant recipients; and to manage and execute all intellectual property agreements and any other contracts pertaining to the institute or research it funds.

(2)Each member of the ICOC except, the chairperson, vice chairperson, and the members appointed pursuant to paragraphs (3), (4), (5), and (6) of subdivision (a) of Section 125290.20, who shall be compensated pursuant to paragraph (3), shall receive a per diem of one hundred dollars ($100) per day (adjusted annually for cost of living) for each day actually spent in the discharge of the membersduties, plus reasonable and necessary travel and other expenses incurred in the performance of the membersduties.

(3)The ICOC shall establish daily consulting rates and expense reimbursement standards for the members of all of its working groups, including the members of the ICOC appointed pursuant to paragraphs (3), (4), (5), and (6) of subdivision (a) of Section 125290.20. The daily consulting rate shall include time spent in preparation for, and participation in, institute, working group, and ICOC meetings and shall include compensation and expense reimbursement for caregivers when necessary to facilitate a membersparticipation in a meeting as a result of the membersmedical condition.

(4)Notwithstanding Section 19825 of the Government Code, the ICOC shall set compensation for the chairperson, vice chairperson, and president and other officers, and for the scientific, medical, technical, and administrative staff of the institute within the range of compensation levels for executive officers and scientific, medical, technical, and administrative staff of medical schools within the University of California system and the nonprofit academic and research institutions described in paragraph (2) of subdivision (a) of Section 125290.20, and travel expense reimbursement rates and moving and relocation expense limits.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 13. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125290.50.

Scientific and Medical Working Groups"General

(a)The institute shall have, and there is hereby established, four separate scientific and medical working groups as follows:

(1)Scientific and Medical Research Funding Working Group.

(2)Scientific and Medical Accountability Standards Working Group.

(3)Scientific and Medical Research Facilities Working Group.

(4)Treatments and Cures Accessibility and Affordability Working Group.

(b)Working Group Members

(1)Appointments of scientific and medical working group members shall be made by a majority vote of a quorum of the ICOC, within 30 days of the election and appointment of the initial ICOC members. The working group members™ terms shall be six years except that, after the first six-year terms, the members™ terms will be staggered so that one-third of the members shall be elected for a term that expires two years later, one-third of the members shall be elected for a term that expires four years later, and one-third of the members shall be elected for a term that expires six years later. Subsequent terms are for six years. Working group members may serve a maximum of two consecutive terms, provided that the ICOC may, by a two-thirds vote of a quorum, reappoint non-ICOC working group members to serve more than two consecutive terms.

(2)Appointments of members of the Treatments and Cures Accessibility and Affordability Working Group shall be made by a majority vote of a quorum of the ICOC, within 90 days of the effective date of the initiative adding this paragraph. The working group members™ terms shall be six years, and members may serve a maximum of two consecutive terms, provided that the ICOC may, by a two-thirds vote of a quorum, reappoint non-ICOC working group members to serve more than two consecutive terms.

(3)The ICOC may appoint ad hoc voting members to each working group as necessary to obtain expertise for a particular expert review session, not to exceed three members for any one expert review session.

(c)Working Group Meetings

Each group shall hold at least four meetings per year, one of which shall be designated as its annual meeting, except as otherwise determined by the institute.

(d)Working Group Recommendations to the ICOC

Recommendations of each panel of the working groups may be forwarded to the ICOC only by a vote of a majority of a quorum of the members of each panel for that working group. If 35 percent of the members of any working group panel award scores in the funding range, a minority recommendation report, including a summary of the strengths and weaknesses of the application and a rebuttal to the majority recommendation, shall be submitted to the ICOC. The ICOC shall consider the recommendations of the working groups in making its decisions on applications for research and facility grants and loan awards and in adopting regulatory standards, policies, and programs. Each working group shall recommend to ICOC rules,

procedures, and practices for that working group.

(e)Conflict of Interest

(1)The ICOC shall adopt conflict of interest rules, based on standards applicable to members of scientific review committees of the National Institutes of Health, to govern the participation of non-ICOC working group members.

(2)The ICOC shall appoint an ethics officer from among the staff of the institute.

(3)Because the working groups are purely advisory and have no final decisionmaking authority, members of the working groups shall not be considered public officials, employees, or consultants for purposes of the Political Reform Act (Title 9 (commencing with Section 81000) of the Government Code), Sections 1090 and 19990 of the Government Code, and Sections 10516 and 10517 of the Public Contract Code.

(f)Working Group Records

All records of the working groups submitted as part of the working groups™ recommendations to the ICOC for approval shall be subject to the Public Records Act. Except as provided in this subdivision, the working groups shall not be subject to the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, or Article 1 (commencing with Section 6250) of Chapter 3.5 of Division 7 of Title 1 of the Government Code.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 14. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125290.50.

Scientific and Medical Working Groups"General

(a)The institute shall have, and there is hereby established, four separate scientific and medical working groups as follows:

(1)Scientific and Medical Research Funding Working Group.

(2)Scientific and Medical Accountability Standards Working Group.

(3)Scientific and Medical Research Facilities Working Group.

(4)Treatments and Cures Accessibility and Affordability Working Group.

(b)Working Group Members

(1)Appointments of scientific and medical working group members shall be made by a majority vote of a quorum of the ICOC, within 30 days of the election and appointment of the initial ICOC members. The working group members™ terms shall be six years except that, after the first six-year terms, the members™ terms will be staggered so that one-third of the members shall be elected for a term that expires two years later, one-third of the members shall be elected for a term that expires four years later, and one-third of the members shall be elected for a term that expires six years later. Subsequent terms are for six years. Working

group members may serve a maximum of two consecutive terms, provided that the ICOC may, by a two-thirds vote of a quorum, reappoint non-ICOC working group members to serve more than two consecutive terms.

(2)Appointments of members of the Treatments and Cures Accessibility and Affordability Working Group shall be made by a majority vote of a quorum of the ICOC, within 90 days of the effective date of the initiative adding this paragraph. The working group members™ terms shall be six years, and members may serve a maximum of two consecutive terms, provided that the ICOC may, by a two-thirds vote of a quorum, reappoint non-ICOC working group members to serve more than two consecutive terms.

(3)The ICOC may appoint ad hoc voting members to each working group as necessary to obtain expertise for a particular expert review session, not to exceed three members for any one expert review session.

(c)Working Group Meetings

Each group shall hold at least four meetings per year, one of which shall be designated as its annual meeting, except as otherwise determined by the institute.

(d)Working Group Recommendations to the ICOC

Recommendations of each panel of the working groups may be forwarded to the ICOC only by a vote of a majority of a quorum of the members of each panel for that working group. If 35 percent of the members of any working group panel award scores in the funding range, a minority recommendation report, including a summary of the strengths and weaknesses of the application and a rebuttal to the majority recommendation, shall be submitted to the ICOC. The ICOC shall consider the recommendations of the working groups in making its decisions on applications for research and facility grants and loan awards and in adopting regulatory standards, policies, and programs. Each working group shall recommend to ICOC rules, procedures, and practices for that working group.

(e)Conflict of Interest

(1)The ICOC shall adopt conflict of interest rules, based on standards applicable to members of scientific review committees of the National Institutes of Health, to govern the participation of non-ICOC working group members.

(2)The ICOC shall appoint an ethics officer from among the staff of the institute.

(3)Because the working groups are purely advisory and have no final decisionmaking authority, members of the working groups shall not be considered public officials, employees, or consultants for purposes of the Political Reform Act (Title 9 (commencing with Section 81000) of the Government Code), Sections 1090 and 19990 of the Government Code, and Sections 10516 and 10517 of the Public Contract Code.

(f)Working Group Records

All records of the working groups submitted as part of the working groups™ recommendations to the ICOC for approval shall be subject to the Public Records Act. Except as provided in this subdivision, the working groups shall not be subject to the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, or Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code.

_(Amended by Stats. 2021, Ch. 615, Sec. 286. (AB 474) Effective January 1, 2022. Operative January 1, 2023,

pursuant to Sec. 463 of Stats. 2021, Ch. 615. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71. Amended November 3, 2020, by initiative Proposition 14, Sec. 14.)_

125290.55.

Scientific and Medical Accountability Standards Working Group

(a)Membership

The Scientific and Medical Accountability Standards Working Group shall have 19 members as follows:

(1)Five ICOC members from the 10 groups that focus on disease-specific areas described in paragraphs (3), (4), and (5) of subdivision (a) of Section 125290.20 or from the members appointed pursuant to paragraph (6) of subdivision (a) of Section 125290.20.

(2)Nine scientists and clinicians nationally recognized in the field of pluripotent and progenitor cell research.

(3)Four medical ethicists.

(4)The Chairperson of the ICOC.

(b)Functions

The Scientific and Medical Accountability Standards Working Group shall have the following functions:

(1)To recommend to the ICOC scientific, medical, and ethical standards.

(2)To recommend to the ICOC standards for all medical, socioeconomic, and financial aspects of clinical trials and therapy delivery to patients, including, among others, standards for safe and ethical procedures for obtaining materials and cells for research and clinical efforts for the appropriate treatment of human subjects in medical research consistent with paragraph (2) of subdivision (b) of Section 125290.35, and to ensure compliance with patient privacy laws.

(3)To recommend to the ICOC modification of the standards described in paragraphs (1) and (2) as needed.

(4)To make recommendations to the ICOC on the oversight of funded research to ensure compliance with the standards described in paragraphs (1) and (2).

(5)To advise the ICOC, the Scientific and Medical Research Funding Working Group, and the Scientific and Medical Research Facilities Working Group, on an ongoing basis, on relevant ethical and regulatory issues.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 15. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125290.60.

Scientific and Medical Research Funding Working Group

(a)Membership

The Scientific and Medical Research Funding Working Group shall have at least 23 members as follows:

(1)Seven ICOC members from the 12 disease advocacy group members described in paragraphs (3), (4), and (5) of subdivision (a) of Section 125290.20 or from the members described in paragraph (6) of subdivision (a) of Section 125290.20.

(2)At least 15 scientists nationally recognized in the field of stem cell research or other vital research opportunities, 15 of whom shall be designated to serve on each expert review panel.

(3)The Chairperson of the ICOC.

(b)Functions

The Scientific and Medical Research Funding Working Group shall perform the following functions:

(1)Recommend to the ICOC interim and final criteria, standards, and requirements for considering funding applications and for awarding research grants and loans.

(2)Recommend to the ICOC standards for the scientific and medical oversight of awards.

(3)Recommend to the ICOC any modifications of the criteria, standards, and requirements described in paragraphs (1) and (2) above as needed.

(4)Review grant and loan applications based on the criteria, requirements, and standards adopted by the ICOC and make recommendations to the ICOC for the award of research, therapy development, clinical trial, and therapy delivery grants and loans.

(5)Conduct expert peer review and progress oversight reviews of grantees to ensure compliance with the terms of the award, and report to the ICOC any recommendations for subsequent action.

(6)Recommend to the ICOC standards for the evaluation of grantees to ensure that they comply with all applicable requirements. Such standards shall mandate periodic reporting by grantees and shall authorize the Scientific and Medical Research Funding Working Group to audit a grantee and forward any recommendations for action to the ICOC.

(7)Recommend its first grant awards within 60 days of the issuance of the interim standards.

(c)Recommendations for Awards

Award recommendations shall be based upon a competitive evaluation as follows:

An expert peer review panel shall consist of both scientists and patient advocates. There shall be 15 scientists on each expert peer review panel. Only the scientist members of the Scientific and Medical Research Funding Working Group shall score grant and loan award applications for scientific merit. Such scoring shall be based on scientific merit in three separate classifications”research, therapy development, and clinical trials, on criteria including the following:

(1)A demonstrated record of achievement in the areas of pluripotent stem cell and progenitor cell biology

and medicine, or in other vital research opportunities.

(2)The quality of the research proposal, the potential for achieving significant research, or clinical results, the timetable for realizing such significant results, the importance of the research objectives, and the innovativeness of the proposed research.

(3)In order to ensure that institute funding does not duplicate or supplant existing funding, a high priority shall be placed on funding pluripotent stem cell and progenitor cell research that cannot, or is unlikely to, receive timely or sufficient federal funding, unencumbered by limitations that would impede the research. In this regard, other research categories funded by the National Institutes of Health shall not be funded by the institute, unless such research funding is not timely or sufficient.

(4)Notwithstanding paragraph (3), other scientific and medical research and technologies and/or any stem cell research proposal not actually funded by the institute under paragraph (3) may be funded by the institute if at least two-thirds of a quorum of the members of the Scientific and Medical Research Funding Working Group recommend to the ICOC, or if a majority of a quorum of the members of the ICOC determine, that such a research proposal is a vital research opportunity.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 16. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125290.65.

Scientific and Medical Facilities Working Group

(a)Membership

The Scientific and Medical Research Facilities Working Group shall have 11 members as follows:

(1)Six members of the Scientific and Medical Research Funding Working Group.

(2)Four real estate specialists.To be eligible to serve on the Scientific and Medical Research Facilities Working Group, a real estate specialist shall be a resident of California, shall be prohibited from receiving compensation from any construction or development entity providing specialized services for medical research facilities, and shall not provide real estate facilities brokerage services for any applicant for, or any funding by the Scientific and Medical Research Facilities Working Group and shall not receive compensation from any recipient of institute funding grants.

(3)The Chairperson of the ICOC.

(b)Functions

The Scientific and Medical Research Facilities Working Group shall perform the following functions:

(1)Make recommendations to the ICOC on interim and final criteria, requirements, and standards for applications for, and the awarding of, grants and loans for buildings, building leases, and capital equipment; those standards and requirements shall include, among others:

(A)Facility milestones and timetables for achieving such milestones.

(B)Priority for applications that provide for facilities that will be available for research no more than two years after the grant award.

(C)The requirement that all funded facilities and equipment be located solely within California.

(D)The requirement that grantees comply with reimbursable building cost standards, competitive building leasing standards, capital equipment cost standards, and reimbursement standards and terms recommended by the Scientific and Medical Facilities Funding Working Group, and adopted by the ICOC.

(E)The requirement that grantees shall pay all workers employed on construction or modification of the facility funded by facilities grants or loans of the institute, the general prevailing rate of per diem wages for work of a similar character in the locality in which work on the facility is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(F)The requirement that grantees be not-for-profit entities.

(G)The requirement that awards be made on a competitive basis, with the following minimum requirements:

(i)That the grantee secure matching funds from sources other than the institute equal to at least 20 percent of the award. Applications of equivalent merit, as determined by the Scientific and Medical Research Funding Working Group, considering research opportunities to be conducted in the proposed research facility, shall receive priority to the extent that they provide higher matching fund amounts. The Scientific and Medical Research Facilities Working Group may recommend waiving the matching fund requirement in extraordinary cases of high merit or urgency.

(ii)That capital equipment costs and capital equipment loans be allocated when equipment costs can be recovered in part by the grantee from other users of the equipment.

(2)Make recommendations to the ICOC on oversight procedures to ensure grantees™ compliance with the terms of an award.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125290.70.

Appropriation and Allocation of Funding

(a)Moneys in the California Stem Cell Research and Cures Fund shall be allocated as follows:

(1)(A)No less than 97 percent of the proceeds of the bonds authorized pursuant to Section 125291.30, after allocation of bond proceeds to purposes described in paragraphs (4) and (5) of subdivision (a) of Section 125291.20, shall be used for grants and grant oversight as provided in this chapter.

(B)Not less than 90 percent of the amount used for grants shall be used for research grants, with no more than the following amounts as stipulated below to be committed during the first 10 years of grant making by the institute, with each yearscommitments to be advanced over a period of one to seven years, except that any such funds that are not committed may be carried over to one or more following years. The maximum

amount of research funding to be allocated annually as follows: Year 1, 5.6 percent; Year 2, 9.4 percent; Year 3, 9.4 percent; Year 4, 11.3 percent; Year 5, 11.3 percent; Year 6, 11.3 percent; Year 7, 11.3 percent; Year 8, 11.3 percent; Year 9, 11.3 percent; and Year 10, 7.5 percent.

(C)Not more than 3 percent of the proceeds of bonds authorized by Section 125291.30 may be used by the institute for research and research facilities implementation costs, including the development, administration, and oversight of the grant making process and the operations of the working groups.

(2)Not more than 3 percent of the proceeds of the bonds authorized pursuant to Section 125291.30 shall be used for the costs of general administration of the institute.

(3)In any single year any new research funding to any single grantee for any program year is limited to no more than 2 percent of the total bond authorization under this chapter. This limitation shall be considered separately for each new proposal without aggregating any prior year approvals that may fund research activities. This requirement shall be determinative, unless 65 percent of a quorum of the ICOC approves a higher limit for that grantee.

(4)Recognizing the priority of immediately building facilities that ensure the independence of the scientific and medical research of the institute, up to 10 percent of the proceeds of the bonds authorized pursuant to Section 125291.30, net of costs described in paragraphs (2), (4), and (5) of subdivision (a) of Section 125291.20 shall be allocated for grants to build scientific and medical research facilities of nonprofit entities which are intended to be constructed in the first five years.

(5)The institute shall limit indirect costs to 25 percent of a research award, excluding amounts included in a facilities award, except that the indirect cost limitation may be increased by that amount by which the grantee provides matching funds in excess of 20 percent of the grant amount.

(b)To enable the institute to commence operating during the first six months following the adoption of the measure adding this chapter, there is hereby appropriated from the General Fund as a temporary start-up loan to the institute three million dollars ($3,000,000) for initial administrative and implementation costs. All loans to the institute pursuant to this appropriation shall be repaid to the General Fund within 12 months of each loan draw from the proceeds of bonds sold pursuant to Section 125291.30.

(c)The institutesfunding schedule is designed to create a positive tax revenue stream for the State of California during the institutesfirst five calendar years of operations, without drawing funds from the General Fund for principal and interest payments for those first five calendar years.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125290.70.5.

Appropriation and Allocation of Funding

(a)Moneys in the California Stem Cell Research and Cures Fund shall be allocated as follows:

(1)(A)No less than 95.5 percent of the proceeds of the bonds authorized pursuant to Section 125291.110, net of bond proceeds allocated to purposes described in paragraphs (4) and (5) of subdivision (a) of Section 125291.100, shall be used for grants and grant oversight as provided in this chapter.

(B)Not less than 98 percent of the proceeds of bonds used for grants shall be used for research, therapy development, and therapy delivery grants, with no more than the following amounts, as stipulated below, to be committed during the first 10 years following the effective date of the initiative adding this subparagraph, with each yearsfunding commitments to be advanced over a period of one to seven years, except that any such funds that are not committed may be carried over to one or more following years. The maximum amount of research funding to be allocated annually is as follows: year 1, 11 percent; year 2, 11 percent; years 3 through 10, 9 percent; and year 11 and each year thereafter, 6 percent cumulatively. To accomplish the goals of Section 125290.75, up to 2 percent of the amount available for grants may be used for research consulting in support of access to, and the affordability of, treatments and cures arising from institute-funded research and therapy development and delivery, as determined by the governing board of the institute based on the recommendations of the Treatments and Cures Accessibility and Affordability Working Group and the president.

(C)Not more than 3 percent of the proceeds of bonds authorized by Section 125291.110 may be used by the institute for research and research facilities implementation costs, including the development, administration, and oversight of the grant-making process.

(2)(A)Not more than 3.5 percent of the proceeds of the bonds authorized pursuant to Section 125291.110 shall be used for the costs of general administration of the institute.

(B)Not more than 1 percent of the proceeds of the bonds authorized pursuant to Section 125291.110 may be used by the institute to pay for the costs of up to 15 full-time employees over 10 to 15 or more years, including, but not limited to, administrative support, facilities costs, salary, benefits, travel reimbursement, and meeting costs, to support the work of the institute to develop policies and programs to help Californians obtain access to human clinical trials, therapies, mitigating treatments, and cures arising from institute-funded research and to promote the accessibility and affordability of human clinical trials, treatments, and cures for Californians.

(3)In any single year, any new research funding to any single grantee for any program year is limited to no more than 1 percent of the total bonds authorized pursuant to Section 125291.110. This limitation shall be considered separately for each new proposal without aggregating any prior year approvals that may fund research activities. This requirement shall be determinative, unless 65 percent of a quorum of the ICOC approves a higher limit for that grantee.

(4)Up to 1.5 percent of the proceeds of the bonds authorized pursuant to Section 125291.110, net of costs described in paragraphs (2), (4), and (5) of subdivision (a) of Section 125291.100, shall be allocated for grants to build, equip, or fund operations of Community Care Centers of Excellence and up to one-half of 1 percent shall be allocated to build or equip shared labs, which are intended to be operational in the first five years following the effective date of the initiative adding this section. Funding received by a grantee from an institute award for construction shall be subject to prevailing wage laws.

(5)The institute shall limit indirect costs to no more than 25 percent of a research award, excluding amounts included in a facilities award, except that the indirect cost limitation may be increased by that amount by which the grantee provides matching funds in excess of 20 percent of the grant amount.

(b)The institutesfunding schedule is designed to create a positive tax revenue stream for the State of California during the first five calendar years following the voters™ approval of the initiative adding this section, without drawing funds from the state General Fund for principal and interest payments for those first five calendar years.

(c)The institute shall allocate at least one billion five hundred million dollars ($1,500,000,000) of the proceeds

of the bonds authorized pursuant to Section 125291.110 to make grants for research, therapy development, and therapy delivery involving diseases and conditions of the brain and central nervous system, including, but not limited to, Alzheimersdisease, Parkinsonsdisease, stroke, dementia, epilepsy, schizophrenia, depression, traumatic brain injury, brain cancer, and autism, and for grant oversight and general administration costs associated with these grants and loans, subject to the limits in subparagraph (C) of paragraph (1) and subparagraph (A) of paragraph (2) of subdivision (a).

(d)The allocation of the proceeds of bonds authorized pursuant to Section 125291.30 shall continue to be governed by Section 125290.70.

(Added November 3, 2020, by initiative Proposition 14, Sec. 17. Effective on December 16, 2020.)

125290.71.

Under the guidance of the ICOC, the institute shall, by January 31, 2012, create a transition plan addressing the expiration of current bond funding. A copy of the transition plan shall be transmitted to the Governor, the Controller, and the Legislature within 30 days of its completion.

(Added by Stats. 2010, Ch. 637, Sec. 7. (SB 1064) Effective January 1, 2011.)

125290.72.

Expand Alpha Stem Cell Clinic Program and Establish Community Care Centers of Excellence Program

(a)The institute shall expand the Alpha Stem Cell Clinic Program and establish the Community Care Centers of Excellence Program to fund the establishment of centers of excellence where clinical trials are conducted and treatments and cures are made available for all patients. The goal of the Community Care Centers of Excellence Program is to expand the capacity of the Alpha Stem Cell Clinic Program to promote access to human clinical trials and the accessibility of treatments and cures arising from institute-funded research for patients in California by establishing geographically diverse centers of excellence to conduct clinical trials and to seek to make the resulting treatments and cures broadly available to California patients.

(b)The institute shall prioritize the funding of applications for Community Care Centers of Excellence that enhance the geographic distribution of Community Care Centers of Excellence across the state, considering the location of the Alpha Stem Cell Clinics, to promote patient access. The institute shall prioritize applications for Alpha Stem Cell Clinics and Community Care Centers of Excellence that offer matching funds or verified in-kind support, consistent with the highest medical standards, as established by the governing board of the institute.

(c)Applications for Alpha Stem Cell Clinic and Community Care Centers of Excellence grants shall be required to include a plan for enhancing access to clinical trials for California patients and making treatments and cures that arise from institute-funded research more widely available to California patients, including addressing how the applicant will support the ancillary hospital and access costs of patients participating in clinical trials to enhance access to trials for California patients, regardless of their economic means and geographical location.

(d)Alpha Stem Cell Clinic and Community Care Centers of Excellence awards shall be made pursuant to the

procedures set forth in Article 1 (commencing with Section 125290.10) of Chapter 3 of Part 5 of Division 106.

(Added November 3, 2020, by initiative Proposition 14, Sec. 4. Effective on December 16, 2020.)

125290.73.

Scientific and Medical Training and Fellowship Programs

(a)The institute shall establish training and fellowship programs. The goal of the training and fellowship programs shall be to:

(1)Ensure that California has the workforce necessary to move new discoveries from the research stage to the clinic.

(2)Accelerate the accessibility of treatments and cures, and make treatments and cures arising from institute-funded research available to California patients.

(3)Prepare California undergraduates and mastersstudents for careers in stem cell research and other vital research opportunities and in the development and delivery of treatments and cures.

(4)Support graduate students, postdoctoral students, and medical students, including, but not limited to, interns, residents, and graduate fellows who work in the fields of stem cell and other vital research opportunities and in the development and delivery of treatments and cures, with fellowships.

(b)(1)(A)The program shall provide awards to California Community Colleges and California State University campuses to establish training programs to prepare undergraduates and provide fellowships for mastersgraduate students for advanced degrees and technical careers in stem cell research and other vital research opportunities and the development and delivery of treatments and cures, including hands-on training and education in stem cell research and other vital research opportunities and in the development and delivery of treatments and cures. Direct patient engagement and outreach activities that engage Californiasdiverse communities to ensure that all communities are aware of, and have access to, institute-funded treatments and cures shall be a priority outcome of this program. The institute shall prioritize the funding of applications from institutions that enhance the geographic distribution of training across the state and socio-economic diversity and applications that offer matching funds or verified in-kind support.

(B)The institute may establish coinvestment, sponsored apprenticeships as part of the training program in order to leverage the institutesfunding and create employment opportunities for students in technical positions that advance the fields of stem cell and other vital research opportunities and the development and delivery of treatments and cures.

(2)(A)The fellowship program shall provide awards to academic and nonprofit research institutions in California to administer fellowship awards to graduate and postdoctoral students and medical school students, including, but not limited to, interns, residents, and graduate fellows, engaged in stem cell research and other vital research opportunities and the development and delivery of treatments and cures. Fellowship awards may be freestanding or supplemental of other sources of funding.

(B)The institute may establish a program to empower fellows to work in Alpha Stem Cell Clinics and Community Care Centers of Excellence as part of their participation in the fellowship program.

(c)Training and fellowship program awards shall be made pursuant to the procedures set forth in Article 1 (commencing with Section 125290.10) of Chapter 3 of Part 5 of Division 106.

(Added November 3, 2020, by initiative Proposition 14, Sec. 5. Effective on December 16, 2020.)

125290.74.

Shared Research Laboratory Program

(a)The institute shall reestablish a Shared Research Laboratory Program to provide funding to academic and nonprofit research institutions in California for specialized instrumentation, a supply of cell lines, culture materials, and instruction and training in research methods and techniques. Awardees of Shared Research Laboratory grants shall be required to offer use of the research laboratory to investigators conducting research at the awardee institution and provide a reasonable access plan for neighboring research institutions, and to offer instruction and training opportunities to students and investigators at the awardee institution and provide a reasonable access plan for neighboring research institutions.

(b)The institute shall prioritize the funding of applications that enhance the geographic distribution of Shared Research Laboratories across the state and applications that offer matching funds or verified in-kind support.

(c)Shared Research Laboratory Program awards shall be made pursuant to the procedures set forth in Article 1 (commencing with Section 125290.10) of Chapter 3 of Part 5 of Division 106.

(Added November 3, 2020, by initiative Proposition 14, Sec. 6. Effective on December 16, 2020.)

125290.75.

Treatments and Cures Accessibility and Affordability Working Group

(a)Membership

The Treatments and Cures Accessibility and Affordability Working Group shall have 17 members, nominated by the chairperson or vice chairperson and approved by the board, as follows:

(1)Five members of the ICOC (the governing board), with at least two of those members drawn from the appointments made pursuant to paragraph (3), (4), (5), or (6) of subdivision (a) of Section 125290.20.

(2)An individual who has private sector experience in innovative therapy medical coverage terms, qualifications, and the process for reimbursement, including, if possible, experience with coverage negotiations with private insurers, health management organizations, or corporate self-insurance health plans.

(3)An expert or a highly knowledgeable individual with experience in federal therapy coverage, qualifications, and process for reimbursement, including, if possible, experience with the federal Centers for Medicare and Medicaid Services.

(4)An expert or a highly knowledgeable individual with experience in Californiaspublic insurance program (Covered California), coverage, qualifications, and the process for reimbursement of innovative therapies.

(5)Two representatives from hospitals in California that are participating in stem cell clinical trials or that are treating patients with federal Food and Drug Administration approved stem cell or genetic therapies.

(6)A representative from a philanthropic organization who has experience assisting patients with clinical trial access and affordability or with access to, and the affordability of, innovative therapies.

(7)Two representatives from patient advocacy organizations who have technical expertise or experience in coverage, qualifications, and the process for reimbursement of innovative therapies.

(8)A health care economist with experience in advising or negotiating with private insurers, government insurers, or corporate self-insurance programs on coverage for innovative therapies or human trials, including experience in assisting hospitals and clinics in covering financial gaps in coverage of the direct and indirect costs of innovative therapies.

(9)A patient navigator with training and experience helping patients obtain financial support from private insurers, public support, or nonprofit support, and helping patients obtain social service support to facilitate their participation in federal Food and Drug Administration approved human trials or their qualification for access and financial assistance for innovative therapies.

(10)The chairperson and vice chairperson of the governing board.

(b)Functions

The Treatments and Cures Accessibility and Affordability Working Group shall have the following functions:

(1)Examine, develop, and assist with the implementation of financial models to enhance the accessibility and affordability of treatments and cures arising from institute-funded research for Californians and to enhance access to clinical trials, including reimbursement alternatives for patient-qualified costs to help achieve the objective that reimbursement covers patient expenses, including, but not limited to, medical expenses, lodging, meals, and travel for research participants and their caregivers.

(2)Recommend to the governing board policies and programs to help Californians obtain access to human clinical trials and to make treatments and cures arising from institute-funded research available to California patients throughout California.

(3)Recommend to the governing board policies and programs to help Californians afford to participate in human clinical trials and to make treatments and cures arising from institute-funded research affordable to California patients, regardless of their financial means.

(4)Work with the Alpha Stem Cell Clinics and Community Care Centers of Excellence and other California health care institutions, and health care payors, including private insurers, government programs, and foundations, to develop model programs and coverage models to promote the access and affordability of treatments and cures arising from institute-funded research for California patients, regardless of their financial means, or the disease, injury, or health condition from which they suffer.

(5)Advise the governing board regarding the coverage criteria and the process for reimbursement of innovative therapies and cures arising from institute-funded research and made available to patients through publicly or privately funded programs in California with the goal of expanding access and affordability.

(Added November 3, 2020, by initiative Proposition 14, Sec. 7. Effective on December 16, 2020.)

125290.76.

Advisory Task Forces

(a)Membership

The chairperson and the president may appoint one or more advisory task forces to provide expert guidance to address specific objectives in areas under the institutesjurisdiction, including scientific, policy, ethical, financial, and technical matters. The chairperson and president shall each appoint an equal number of members with expertise in the area or areas for which advice is sought, including at least one member who has a patient advocate perspective.

(b)Functions

The advisory task forces shall advise the board through the chairperson and the president, regarding scientific, policy, financial, ethical, and technical matters under the institutesjurisdiction.

(c)Operations

(1)The advisory task forces shall be advisory only and their operations shall be subject to the requirements applicable to working groups pursuant to Section 125290.50, provided that the advisory task forces shall meet in public when they vote on policy recommendations.

(2)Members of the advisory task forces shall be subject to the conflict of interest requirements applicable to members of the working groups, provided that the advisory task forces shall not review, comment upon, or have jurisdiction over, any individual grant or loan approval.

(Added November 3, 2020, by initiative Proposition 14, Sec. 8. Effective on December 16, 2020.)

125290.80.

The intellectual property standards that the ICOC develops shall include:

(a)A requirement that each grantee or the exclusive licensee of the grantee submit a plan to CIRM to afford access to any drug that is, in whole or in part, the result of research funded by CIRM to Californians who have no other means to purchase the drug. The access plan must be consistent with industry standards at the time of commercialization in California, accounting for the size of the market for the drug, and the resources of the grantee or exclusive licensee.

(b)A requirement that the grantee or exclusive licensee either submit the plan required by subdivision (a), seek an extension from CIRM, or notify CIRM of its intention to seek a waiver, within 10 business days following final approval of the drug by the federal Food and Drug Administration. If the grantee seeks an extension, the plan must be submitted within 30 business days following final approval of the drug by the federal Food and Drug Administration. The plan shall be subject to the approval of CIRM, after a public

hearing and opportunity for public comment.

(c)A process by which the ICOC may waive the requirement in subdivision (a) if the ICOC determines, after a public hearing, that in the absence of the waiver, development and broad delivery of the drug will be unreasonably hindered or that the waiver will provide significant benefits that equal or exceed the benefits that would otherwise flow to the state pursuant to subdivision (a). The process shall include the requirement that a request for a waiver shall be posted on CIRMsInternet Web site for a minimum of 10 business days in advance of the public hearing and that CIRM shall notify the Legislature if the ICOC grants a waiver request, including the reasons that justified the waiver request.

(d)Procedures to protect from public disclosure proprietary information submitted by grantees and exclusive licensees to CIRM pursuant to this section.

(Added by Stats. 2010, Ch. 637, Sec. 8. (SB 1064) Effective January 1, 2011.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.&chapter=3.&article=2.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5. HEREDITARY DISEASES/CONGENITAL DEFECTS [124975 - 125292.10]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. California Stem Cell Research and Cures Bond Act [125290.10 - 125292.10]__

(Chapter 3 added November 2, 2004, by initiative Proposition 71, Sec. 5, a bond act.)

__ARTICLE 2. California Stem Cell Research and Cures Bond Act of 2004 [125291.10 - 125291.85]__

(Article 2 added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125291.10.

This article shall be known, and may be cited, as the California Stem Cell Research and Cures Bond Act of 2004.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125291.15.

As used in this article, the California Stem Cell Research and Cures Bond Act of 2004, the following terms have the following meaning:

(a)Act means the California Stem Cell Research and Cures Bond Act constituting Chapter 3 (commencing with Section 125290.10) of Part 5 of Division 106.

(b)Board or institute means the California Institute for Regenerative Medicine designated in accordance with subdivision (b) of Section 125291.40.

(c)Committee means the California Stem Cell Research and Cures Finance Committee created pursuant to subdivision (a) of Section 125291.40.

(d)Fund means the California Stem Cell Research and Cures Fund created pursuant to Section 125291.25.

(e)Interim debt means any interim loans pursuant to Sections 125291.60 and 125291.65, bond anticipation notes or commercial paper notes issued to make deposits into the fund and which will be paid from the proceeds of bonds issued pursuant to this article.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 18. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125291.20.

(a)Notwithstanding Section 13340 of the Government Code or any other provision of law, moneys in the fund are appropriated without regard to fiscal years to the institute for the purpose of (1) making grants or loans to fund research and construct facilities for research, all as described in and pursuant to the act, (2) paying general administrative costs of the institute (not to exceed 3 percent of the net proceeds of each sale of bonds), (3) paying the annual administration costs of the interim debt or bonds after December 31 of the fifth full calendar year after this article takes effect, (4) paying the costs of issuing interim debt, paying the annual administration costs of the interim debt until and including December 31 of the fifth full calendar year after this article takes effect, and paying interest on interim debt, if such interim debt is incurred or issued on or prior to December 31 of the fifth full calendar year after this article takes effect, and (5) paying the costs of issuing bonds, paying the annual administration costs of the bonds until and including December 31 of the fifth full calendar year after this article takes effect, and paying interest on bonds that accrues on or prior to December 31 of the fifth full calendar year after this article takes effect (except that such limitation does not apply to premium and accrued interest as provided in Section 125291.70). In addition, moneys in the fund or

other proceeds of the sale of bonds authorized by this article may be used to pay principal of or redemption premium on any interim debt issued prior to the issuance of bonds authorized by this article. Moneys deposited in the fund from the proceeds of interim debt may be used to pay general administrative costs of the institute without regard to the 3 percent limit set forth in (2) above, so long as such 3 percent limit is satisfied for each issue of bonds.

(b)Repayment of principal and interest on any loans made by the institute pursuant to this article shall be deposited in the fund and used to make additional grants and loans for the purposes of this act or for paying continuing costs of the annual administration of outstanding bonds.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125291.25.

The proceeds of interim debt and bonds issued and sold pursuant to this article shall be deposited in the State Treasury to the credit of the California Stem Cell Research and Cures Fund, which is hereby created in the State Treasury, except to the extent that proceeds of the issuance of bonds are used directly to repay interim debt.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125291.30.

Bonds in the total amount of three billion dollars ($3,000,000,000), not including the amount of any refunding bonds issued in accordance with Section 125291.75, or as much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this article and to be used and sold for carrying out the purposes of Section 125291.20 and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and shall constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both the principal of, and interest on, the bonds as the principal and interest become due and payable.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125291.35.

The bonds authorized by this article shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, as amended from time to time, except subdivisions (a) and (b) of Section 16727 of the Government Code apply to the bonds and to this article and are hereby incorporated in this article as though set forth in full in this article.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 19. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125291.40.

(a)Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds and interim debt authorized by this article, the California Stem Cell Research and Cures Finance Committee is hereby created. For purposes of this article, the California Stem Cell Research and Cures Finance Committee is the committee as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Controller, the Director of Finance, the Chairperson of the California Institute for Regenerative Medicine, and two other members of the Independent Citizens Oversight Committee (as created by the act) chosen by the Chairperson of the California Institute for Regenerative Medicine, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b)For purposes of the State General Obligation Bond Law, the California Institute for Regenerative Medicine is designated the board.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125291.45.

(a)The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this article in order to carry out the actions specified in this article and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time. The bonds may bear interest which is includable in gross income for federal income tax purposes if the committee determines that such treatment is necessary in order to provide funds for the purposes of the act.

(b)The total amount of the bonds authorized by Section 125291.30 which may be issued in any calendar year, commencing in 2005, shall not exceed three hundred fifty million dollars ($350,000,000). If less than this amount of bonds is issued in any year, the remaining permitted amount may be carried over to one or more subsequent years.

(c)An interest-only floating rate bond structure will be implemented for interim debt and bonds until at least December 31 of the fifth full calendar year after this article takes effect, with all interest to be paid from proceeds from the sale of interim debt or bonds, to minimize debt service payable from the General Fund during the initial period of basic research and therapy development, if the committee determines, with the advice of the Treasurer, that this structure will result in the lowest achievable borrowing costs for the state during that five-year period considering the objective of avoiding any bond debt service payments, by the General Fund, during that period. Upon such initial determination, the committee may delegate, by resolution, to the Treasurer such authority in connection with issuance of bonds as it may determine, including, but not limited to, the authority to implement and continue this bond financing structure (including during any time following the initial five-year period) and to determine that an alternate financing plan would result in significant lower borrowing costs for the state consistent with the objectives related to the General Fund and to implement such alternate financing plan.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125291.50.

There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds maturing each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125291.55.

Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this article, an amount that will equal the total of the following:

(a)The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this article, as the principal and interest become due and payable.

(b)The sum necessary to carry out Section 125291.60 appropriated without regard to fiscal years.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125291.60.

For the purpose of carrying out this article, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts, not to exceed the amount of the unsold bonds that have been authorized by the committee, to be sold for the purpose of carrying out this article, excluding any refunding bonds authorized pursuant to Section 125291.75, less any amount loaned pursuant to Section 125291.65 and not yet repaid, and any amount withdrawn from the General Fund pursuant to this section and not yet returned to the General Fund. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from money received from the sale of bonds for the purpose of carrying out this article.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 20. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125291.65.

The institute may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account in accordance with Section 16312 of the Government Code for the purposes of carrying out this article, excluding any refunding bonds authorized pursuant to Section 125291.75, less any amount loaned pursuant to this section and not yet repaid, and any amount withdrawn from the General Fund

pursuant to Section 125291.60 and not yet returned to the General Fund. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this article. The institute shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the institute in accordance with this article.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 21. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125291.70.

All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest, except that amounts derived from premium may be reserved and used to pay costs of issuance prior to any transfer to the General Fund.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 22. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125291.75.

The bonds issued and sold pursuant to this article may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this article includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this article or any previously issued refunding bonds. Any bond refunded with the proceeds of refunding bonds as authorized by this section may be legally defeased to the extent permitted by law in the manner and to the extent set forth in the resolution, as amended from time to time, authorizing that refunded bond.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 23. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

125291.80.

Notwithstanding any provision of this article or the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this article that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

125291.85.

Inasmuch as the proceeds from the sale of bonds authorized by this article are not proceeds of taxes as that term is used in Article XIII‰B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

(Added November 2, 2004, by initiative Proposition 71, Sec. 5.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.&chapter=3.&article=2.5.

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5. HEREDITARY DISEASES/CONGENITAL DEFECTS [124975 - 125292.10]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 3. California Stem Cell Research and Cures Bond Act [125290.10 - 125292.10]__

(Chapter 3 added November 2, 2004, by initiative Proposition 71, Sec. 5, a bond act.)

__ARTICLE 2.5. California Stem Cell Research, Treatments, and Cures Bond Act of 2020 [125291.90 - 125291.165]__

(Article 2.5 added November 3, 2020, by initiative Proposition 14, Sec. 24.)

125291.90.

This article shall be known, and may be cited, as the California Stem Cell Research, Treatments, and Cures Bond Act of 2020.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.95.

As used in this article, the following terms have the following meanings:

(a)Act means the California Stem Cell Research and Cures Act constituting this chapter, as amended by the California Stem Cell Research, Treatments, and Cures Initiative of 2020.

(b)Board or institute means the California Institute for Regenerative Medicine designated in accordance with subdivision (b) of Section 125291.120.

(c)Committee means the California Stem Cell Research and Cures Finance Committee created pursuant to subdivision (a) of Section 125291.40 and designated in accordance with subdivision (a) of Section 125291.120.

(d)Fund means the California Stem Cell Research, Treatments, and Cures Fund of 2020 created pursuant to Section 125291.105.

(e)Interim debt means any interim loans pursuant to Sections 125291.140 and 125291.145, bond anticipation notes, or commercial paper notes issued to make deposits into the fund and that will be paid from the proceeds of bonds issued pursuant to this article.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.100.

(a)Notwithstanding Section 13340 of the Government Code or any other provision of law, moneys in the fund are appropriated without regard to fiscal years to the institute for the following purposes:

(1)Making grants or loans to fund research and construct facilities for research, all as described in and pursuant to Section 125290.70.5.

(2)Paying general administrative costs of the institute (not to exceed 3.5 percent in accordance with subparagraph (A) of paragraph (2) of subdivision (a) of Section 125290.70.5).

(3)Paying the annual administration costs of any interim debt or bonds after December 31 of the fifth full calendar year after this section takes effect.

(4)Paying the costs of issuing interim debt, paying the annual administration costs of the interim debt until and including December 31 of the fifth full calendar year after this section takes effect, and paying interest on interim debt, if such interim debt is incurred or issued on or prior to December 31 of the fifth full calendar

year after this section takes effect.

(5)Paying the costs of issuing bonds, paying the annual administration costs of the bonds until and including December 31 of the fifth full calendar year after this section takes effect, and paying interest on bonds that accrues on or prior to December 31 of the fifth full calendar year after this section takes effect, except that such limitation does not apply to premium and accrued interest as provided in Section 125291.150.

(b)Moneys in the fund or other proceeds of the sale of bonds authorized by this article may be used to pay principal of, redemption price, including accrued interest, or premium on any interim debt issued prior to the initial issuance of bonds authorized by this article. Moneys deposited in the fund from the proceeds of interim debt may be used to pay general administrative costs of the institute without regard to the 3.5 percent limit set forth in paragraph (2) of subdivision (a), so long as such 3.5 percent limit is satisfied for each issue of bonds.

(c)Repayment of principal and interest on any loans made by the institute pursuant to this article shall be deposited in the fund and used for the purposes of Section 125290.70.5, including the institutesadministrative costs, or for paying continuing costs of the annual administration of outstanding bonds.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.105.

The proceeds of interim debt and bonds issued and sold pursuant to this article shall be deposited in the State Treasury to the credit of the California Stem Cell Research and Cures Fund of 2020, which is hereby created in the State Treasury, except to the extent that proceeds of the issuance of bonds are used directly to repay interim debt.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.110.

Bonds in the total amount of five billion five hundred million dollars ($5,500,000,000), not including the amount of any refunding bonds issued in accordance with Section 125291.155, or as much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this article, to be used and sold for carrying out the purposes of Section 125291.100, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and shall constitute a valid and binding obligation of the state, and the full faith and credit of the state is hereby pledged for the punctual payment of both the principal of, and interest on, the bonds as the principal and interest become due and payable.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.115.

The bonds authorized by this article shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code) and all of the provisions of that law, as amended from time to time, except subdivisions (a) and (b) of Section 16727 apply to the bonds and to this article and are hereby incorporated in this article as though set forth in full in this article.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.120.

(a)Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), of the bonds and interim debt authorized by this article, the California Stem Cell Research and Cures Finance Committee, established pursuant to Section 125291.40, is hereby designated as the committee as that term is used in the State General Obligation Bond Law.

(b)For purposes of the State General Obligation Bond Law, the California Institute for Regenerative Medicine Governing Board is designated the board.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.125.

(a)The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this article in order to carry out the actions specified in this article and, if so, the amount of bonds to be issued and sold. The Treasurer shall use reasonable efforts to sell bonds with pricing at par or better and to pay the issuance costs out of premium if reasonably achievable and in the best interests of the state, at the Treasurersdiscretion. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time. The bonds may bear interest, which is includable in gross income for federal income tax purposes if the committee determines that such treatment is necessary in order to provide funds for the purposes of the act. The costs of each bond issue sold on or after the 61st month after this article takes effect shall be at the discretion of the Treasurer and may be amortized over or up to a 40-year period.

(b)The total amount of the bonds authorized by Section 125291.110 that may be issued in any calendar year, commencing in 2021, shall not exceed a cumulative average of five hundred forty million dollars ($540,000,000). If less than this amount of bonds is issued in any year, the remaining permitted amount may be carried over to one or more subsequent years. Pursuant to Section 125291.140, the Director of Finance may, in the directorsdiscretion, authorize a loan from the General Fund to the institute on or after the effective date of this article.

(c)Until December 31 of the fifth full calendar year after this section becomes effective, all interest on any interim debt or bonds issued under this article will be paid from proceeds from the sale of that interim debt or bonds in accordance with the objective of this initiative of avoiding any debt service payments by the General Fund, both principal and interest, during the initial period of basic research and therapy development following the effective date of this section.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.130.

There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds becoming due each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.135.

Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this article, an amount that will equal the total of the following:

(a)The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this article, as the principal and interest become due and payable.

(b)The sum necessary to carry out Section 125291.140, appropriated without regard to fiscal years.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.140.

For purposes of carrying out this article, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts, not to exceed the amount of the unsold bonds that have been authorized by the committee, to be sold for the purpose of carrying out this article, excluding any refunding bonds authorized pursuant to Section 125291.155, less any amount loaned pursuant to Section 125291.145 and not yet repaid, and any amount withdrawn from the General Fund pursuant to this section and not yet returned to the General Fund. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from money received from the sale of bonds for the purpose of carrying out this article.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.145.

The institute may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account in accordance with Section 16312 of the Government Code for the purposes of carrying

out this article. The amount of the loan shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this article excluding any refunding bonds authorized pursuant to Section 125291.155, less any amount loaned pursuant to this section and not yet repaid, and any amount withdrawn from the General Fund pursuant to Section 125291.140 and not yet returned to the General Fund. The institute shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the institute in accordance with this article.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.150.

All money deposited in the fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest, except the amounts derived from premium may be reserved and used to pay costs of issuance prior to any transfer to the General Fund.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.155.

The bonds issued and sold pursuant to this article may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this article includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this article or any previously issued refunding bonds. Any bond refunded with the proceeds of refunding bonds as authorized by this section may be legally defeased to the extent permitted by law in the manner and to the extent set forth in the resolution, as amended from time to time, authorizing that refunded bond.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.160.

Notwithstanding any provision of this article or the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this article that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, under designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or to take any other action with respect to the investment and use of bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

125291.165.

The proceeds from the sale of bonds authorized by this article are not proceeds of taxes as that term is used in Article XIIIB of the California Constitution, and the disbursement of these proceeds is not subject to the limitations imposed by that article.

(Added November 3, 2020, by initiative Proposition 14, Sec. 24. Effective on December 16, 2020.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.&chapter=3.&article=3.

125292.10.

Definitions

As used in this chapter and in Article XXXV of the California Constitution, the following terms have the following meanings:

(a)Act means the California Stem Cell Research and Cures Bond Act constituting Chapter 3 (commencing with Section 125290.10) of Part 5 of Division 106 of the Health and Safety Code.

(b)Adult stem cell means an undifferentiated cell found in a differentiated tissue in an adult organism that can renew itself and may, with certain limitations, differentiate to yield all the specialized cell types of the tissue from which it originated, including a cell that is committed to make all of the functional cells of the tissue or organ where it resides and regenerates but that is itself undifferentiated.

(c)Basic research means the investigation of basic mechanisms underlying stem cell biology, cellular plasticity, cellular differentiation, and other vital research opportunities.

(d)Capitalized interest means interest funded by bond proceeds.

(e)Committee means the California Stem Cell Research and Cures Finance Committee created pursuant to subdivision (a) of Section 125291.40.

(f)Constitutional officers means the Governor, Lieutenant Governor, Treasurer, and Controller of California.

(g)Early development means discovery of promising new stem cell-based technologies that could be translated to enable broad use and ultimately improve patient care.

(h)Facilities means buildings, building leases, or capital equipment.

(i)Floating-rate bonds means bonds which do not bear a fixed rate of interest until their final maturity date, including commercial paper notes.

(j)Fund means the California Stem Cell Research and Disease Cures Fund created pursuant to Section 125291.25.

(k)Grant means a grant, loan, or guarantee.

(l)Grantee means a recipient of a grant from the institute. All University of California grantee institutions shall be considered as separate and individual grantee institutions.

(m)Human reproductive cloning means the practice of creating or attempting to create a human being by transferring the nucleus from a human cell into an egg cell from which the nucleus has been removed for the purpose of implanting the resulting product in a uterus to initiate a pregnancy.

(n)Indirect costs mean the recipientscosts in the administration, accounting, general overhead, and general support costs for implementing a grant or loan of the institute. NIH definitions of indirect costs will be utilized as one of the bases by the Scientific and Medical Research Standards Working Group to create a guideline for recipients on this definition, with modifications to reflect guidance by the ICOC and this act.

(o)Institute means the California Institute for Regenerative Medicine.

(p)Interim standards means temporary standards that perform the same function as emergency regulations under the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 3.5, Sections 11340 et seq.) except that in order to provide greater opportunity for public comment on the permanent regulations, remain in force for 270 days rather than 180 days.

(q)Life science commercial entity means a firm or organization, headquartered in California, whose business model includes biomedical or biotechnology product development and commercialization.

(r)Medical ethicist means an individual with advanced training in ethics who holds a Ph.D., MA, or equivalent training in the biological sciences or the field of clinical medicine or clinical ethics and who spends or has spent substantial time (1) researching and writing on ethical issues related to medicine, and (2) administering ethical safeguards during the clinical trial process, particularly through service on institutional review boards.

(s)Pluripotent cells means cells that are capable of self-renewal, and have broad potential to differentiate into multiple adult cell types. Pluripotent stem cells may be derived from somatic cell nuclear transfer or from surplus products of in vitro fertilization treatments when such products are donated under appropriate informed consent procedures. These excess cells from in vitro fertilization treatments would otherwise be intended to be discarded if not utilized for medical research.

(t)Progenitor cells means multipotent or precursor cells that are partially differentiated but retain the ability to divide and give rise to differentiated cells.

(u)Quorum means at least 65 percent of the members who are eligible to vote.

(v)Research donor means a human who donates biological materials for research purposes after full disclosure and consent.

(w)Research funding includes interdisciplinary scientific and medical funding for all stages of research, including, but not limited to, stem cell discovery research, early development, translational research, therapy development, and the development of treatments through clinical trials, including, without limitation, the

reimbursement of patient-qualified costs for research participants and their caregivers pursuant to paragraph (4) of subdivision (b) of Section 125290.35; the operations of the working groups, including the costs associated with the expert review of applications; the costs of advisory groups and consultants established or retained to evaluate and advise the governing board, the working groups, and awardees; and research conferences. When a facilitysgrant or loan has not been provided to house all elements of the research, therapy development, and/or clinical trials, research funding shall include an allowance for a market lease rate of reimbursement for the facility. In all cases, operating costs of the facility, including, but not limited to, library and communication services, utilities, maintenance, janitorial, and security, shall be included as direct research funding costs. Legal costs of the institute incurred in order to negotiate standards with federal and state governments and research institutions; to implement standards or regulations; to resolve disputes; and/or to carry out all other actions necessary to defend and/or advance the institutesmission shall be considered direct research funding costs.

(x)Research participant means a human enrolled with full disclosure and consent, and participating in clinical trials.

(y)Research program means research projects that are designed to advance the same ultimate goal along the research continuum and that are conducted by the same or overlapping investigators.

(z)Revenue positive means all state tax revenues generated directly and indirectly by the research and facilities of the institute are greater than the debt service on the state bonds actually paid by the General Fund in the same year.

(aa)Stem cells mean nonspecialized cells that have the capacity to divide in culture and to differentiate into more mature cells with specialized functions.

(ab)Stem cell discovery research means basic research, early development, and the discovery, evaluation, or improvement of tools and technologies in the fields of stem cell and genetic research and other vital research opportunities.

(ac)Vital research opportunity means scientific and medical research and technologies, including, but not limited to, genetics, personalized medicine, and aging as a pathology, and/or any stem cell research not actually funded by the institute under paragraph (3) of subdivision (c) of Section 125290.60 which provides a substantially superior research opportunity, vital to advance medical science as determined by at least a two-thirds vote of a quorum of the members of the Scientific and Medical Research Funding Working Group and recommended as such by that working group to the ICOC, or as determined by the vote of a majority of a quorum of members of the ICOC. Human reproductive cloning shall not be a vital research opportunity.

(Amended November 3, 2020, by initiative Proposition 14, Sec. 25. Effective on December 16, 2020. Note: This section was added on Nov. 2, 2004, by initiative Prop. 71.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=5.5.&chapter=&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=5.5.&chapter=&article=)

Code:Section:

Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.5.&chapter=1.&article=

125315.

(a) A physician and surgeon or other health care provider delivering fertility treatment shall provide his or her patient with timely, relevant, and appropriate information to allow the individual to make an informed and voluntary choice regarding the disposition of any human embryos remaining following the fertility treatment. The failure to provide to a patient this information constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(b) Any individual to whom information is provided pursuant to subdivision (a) shall be presented with the option of storing any unused embryos, donating them to another individual, discarding the embryos, or donating the remaining embryos for research. When providing fertility treatment, a physician and surgeon or other health care provider shall provide a form to the male and female partner, or the individual without a partner, as applicable, that sets forth advanced written directives regarding the disposition of embryos. This form shall indicate the time limit on storage of the embryos at the clinic or storage facility and shall provide, at a minimum, the following choices for disposition of the embryos based on the following circumstances:

(1) In the event of the death of either the male or female partner, the embryos shall be disposed of by one of the following actions:

(A) Made available to the living partner.

(B) Donation for research purposes.

(C) Thawed with no further action taken.

(D) Donation to another couple or individual.

(E) Other disposition that is clearly stated.

(2) In the event of the death of both partners or the death of a patient without a partner, the embryos shall be disposed of by one of the following actions:

(A) Donation for research purposes.

(B) Thawed with no further action taken.

(C) Donation to another couple or individual.

(D) Other disposition that is clearly stated.

(3) In the event of separation or divorce of the partners, the embryos shall be disposed of by one of the

following actions:

(A) Made available to the female partner.

(B) Made available to the male partner.

(C) Donation for research purposes.

(D) Thawed with no further action taken.

(E) Donation to another couple or individual.

(F) Other disposition that is clearly stated.

(4) In the event of the partners™ decision or a patientsdecision who is without a partner, to abandon the embryos by request or a failure to pay storage fees, the embryos shall be disposed of by one of the following actions:

(A) Donation for research purposes.

(B) Thawed with no further action taken.

(C) Donation to another couple or individual.

(D) Other disposition that is clearly stated.

(c) A physician and surgeon or other health care provider delivering fertility treatment shall obtain written consent from any individual who elects to donate embryos remaining after fertility treatments for research. For any individual considering donating the embryos for research, to obtain informed consent, the health care provider shall convey all of the following to the individual:

(1) A statement that the early human embryos will be used to derive human pluripotent stem cells for research and that the cells may be used, at some future time, for human transplantation research.

(2) A statement that all identifiers associated with the embryos will be removed prior to the derivation of human pluripotent stem cells.

(3) A statement that donors will not receive any information about subsequent testing on the embryo or the derived human pluripotent cells.

(4) A statement that derived cells or cell lines, with all identifiers removed, may be kept for many years.

(5) Disclosure of the possibility that the donated material may have commercial potential, and a statement that the donor will not receive financial or any other benefits from any future commercial development.

(6) A statement that the human pluripotent stem cell research is not intended to provide direct medical benefit to the donor.

(7) A statement that early human embryos donated will not be transferred to a womansuterus, will not survive the human pluripotent stem cell derivation process, and will be handled respectfully, as is appropriate for all human tissue used in research.

(Added by renumbering Section 125116 by Stats. 2003, Ch. 507, Sec. 3. Effective January 1, 2004.)

125320.

(a) A person may not knowingly, for valuable consideration, purchase or sell embryonic or cadaveric fetal tissue for research purposes pursuant to this chapter.

(b) For purposes of this section, valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transplantation, or implantation of a part.

(c) Embryonic or cadaveric fetal tissue may be donated for research purposes pursuant to this chapter.

(Added by renumbering Section 125117 by Stats. 2003, Ch. 507, Sec. 4. Effective January 1, 2004.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.5.&chapter=1.5.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5.5. USE OF HUMAN CELLS [125300 - 125356]__

(Part 5.5 heading added by Stats. 2003, Ch. 507, Sec. 5.)

__CHAPTER 1.5. Oocyte Retrieval For Fertility Treatment [125325 - 125325.15]__

(Chapter 1.5 added by Stats. 2009, Ch. 523, Sec. 1.)

125325.

(a)The person or entity posting an advertisement seeking oocyte donation associated with the delivery of fertility treatment that includes assisted oocyte production and a financial payment or compensation of any kind, shall include the following notice in a clear and conspicuous manner:

Egg donation involves a screening process. Not all potential egg donors are selected. Not all selected egg donors receive the monetary amounts or compensation advertised. As with any medical procedure, there may be risks associated with human egg donation. Before an egg donor agrees to begin the egg donation process, and signs a legally binding contract, she is required to receive specific information on the known risks of egg donation. Consultation with your doctor prior to entering into a donor contract is advised.

(b)A summary pertaining to oocyte donation procedures, shall be provided, as required pursuant to Section 125335, to all potential egg donors before signing a legally binding contract to become an egg donor, or beginning any egg donation procedures, as part of compliance with the informed consent requirements.

(c)Persons or entities that certify compliance with the American Society for Reproductive Medicine (ASRM) guidelines by registering with ASRM are exempt from the notice requirements set forth in subdivision (a). Use of the exemption when the guidelines are violated shall constitute false advertising.

(d)Donors recruited through the advertisement shall undergo the same disclosure, counseling, and informed consent process, as required pursuant to Section 125335, as donors recruited by those exempt from subdivision (a).

(Added by Stats. 2009, Ch. 523, Sec. 1. (AB 1317) Effective January 1, 2010.)

125325.15.

The following definitions shall apply to this chapter:

(a)Assisted oocyte production or AOP means surgical extraction of oocytes following pharmaceutically induced manipulation of oocyte production through the use of ovarian stimulation for the purposes of fertility treatment.

(b)Oocyte means a female egg or egg cell of a human female.

(Added by Stats. 2009, Ch. 523, Sec. 1. (AB 1317) Effective January 1, 2010.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=5.5.&chapter=2.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 5.5. USE OF HUMAN CELLS [125300 - 125356]__

(Part 5.5 heading added by Stats. 2003, Ch. 507, Sec. 5.)

__CHAPTER 2. Procuring of Oocytes for Research [125330 - 125356]__

(Chapter 2 added by Stats. 2006, Ch. 483, Sec. 7.)

125330.

The following definitions apply to this chapter:

(a)Alternate method of oocyte retrieval means a method of oocyte retrieval that does not involve the pharmaceutically induced manipulation of oocyte production.

(b)Assisted oocyte production or AOP means surgical extraction of oocytes following pharmaceutically induced manipulation of oocyte production through the use of ovarian stimulation.

(c)Informed consent means a research participant understands the material facts reasonably necessary to make a determination to participate or to refuse from participating in the medical research without the intervention of any element of force, fraud, deceit, duress, coercion, or undue influence on the research participantsdecision.

(d)Institutional review board means a body established in accordance with federal regulations, including Part 46 (commencing with Section 46.101) of Subchapter A of Subtitle A of Title 45 of the Code of Federal Regulations.

(e)Oocyte means a female egg or egg cell of a human female.

(f)Research participant means any person undergoing AOP or any alternative method of ovarian retrieval for research or for the development of medical therapies, including those who would not meet the definition of subject under 45 C.F.R. 46.102. The protections afforded to human subjects under an institutional review board apply to research participants in this chapter.

(Amended by Stats. 2019, Ch. 864, Sec. 2. (AB 922) Effective January 1, 2020.)

125331.

(a)As used in this chapter, Research Participants Undergoing Oocyte Retrieval for Medical Research Purposes Bill of Rights means a list of the rights of a research participant providing human oocytes for the purposes of medical research. The list of rights shall be written in a language in which the research participant is fluent. The list shall incorporate all the rights and protections in this chapter, and include, but not be limited to, all of the following research participant rights as described in Section 24172:

(1)The right to be informed of the nature and purpose of the medical research.

(2)The right to be given an explanation of the procedures to be followed in the medical research, and any drug or device to be utilized.

(3)The right to be given a description of any attendant discomforts and reasonably foreseeable risks expected from participating in the medical research.

(4)The right to be given an explanation of any benefits to the research participant reasonably to be expected from the medical research, if applicable.

(5)The right to be given a disclosure of any appropriate alternative procedures, drugs, or devices that might be advantageous to the research participant, and their relative risks and benefits.

(6)The right to be informed of the avenues of medical treatment, if any, available to the research participant after the medical research if complications should arise.

(7)The right to be given an opportunity to ask any questions concerning the experiment or the procedures involved.

(8)The right to be instructed that consent to participate in the medical research may be withdrawn at any time and the research participant may discontinue participation in the medical research without prejudice.

(9)The right to be given a copy of the signed and dated written consent form as provided for by Section 24173 or Section 24178.

(10)The right to be given the opportunity to decide to consent or not to consent to a medical experiment without the intervention of any element of force, fraud, deceit, duress, coercion, or undue influence on the research participantsdecision.

(b)The rights provided by this section do not supersede, but are in addition to, the rights afforded a research participant pursuant to the Protection of Human Subjects in Medical Experimentation Act (Chapter 1.3 (commencing with Section 24170) of Division 20).

(Added by Stats. 2019, Ch. 864, Sec. 3. (AB 922) Effective January 1, 2020.)

125335.

(a)Prior to obtaining informed consent from a subject for AOP or any alternative method of ovarian retrieval on a subject for the purpose of procuring oocytes for research or the development of medical therapies, a physician and surgeon shall provide to the subject a standardized medically accurate written summary of health and consumer issues associated with AOP and any alternative methods of oocyte retrieval. The failure

to provide to a subject this standardized medically accurate written summary constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(b)The summary shall include, but not be limited to, medically accurate disclosures concerning the potential risks of AOP or any alternative method of oocyte retrieval, including the risks associated with the surgical procedure and with using the drugs, medications, and hormones prescribed for ovarian stimulation during the AOP process or any alternative method of oocyte retrieval.

(c)For purposes of subdivision (a), written summary of health and consumer issues means the guide published and updated by the American Society for Reproductive Medicine entitled, Assisted Reproductive Technology: A Guide for Patients or an alternative written medically accurate document prepared by a recognized authority on oocyte retrieval for medical research that also meets the criteria included in this section. This alternative document may be one that has been approved and recommended by the State Department of Public Health pursuant to Section 125118 and shall include all of the following:

(1)The document shall adhere to simplified reading standards, including, but not limited to, those generally accepted and required for government publications. The document shall be written in laypersonslanguage and shall be made available in languages spoken by subjects in the study if their proficiency is largely in a language other than English. All information in the document shall be conveyed to the subject orally in easy to understand and nontechnical terms.

(2)The document shall include additional resources for, or list additional sources of, medical information on health and safety issues surrounding oocyte retrieval.

(Amended by Stats. 2007, Ch. 483, Sec. 34. Effective January 1, 2008.)

125340.

(a)Prior to providing AOP or any alternative method of ovarian retrieval to a research participant for the purposes of medical research or development of medical therapies, a physician and surgeon shall obtain written and oral informed consent for the procedure from the research participant. Informed consent for the purposes of this chapter shall include a signed acknowledgment of the rights contained in the Research Participants Undergoing Oocyte Retrieval for Medical Research Purposes Bill of Rights and comply with the informed consent requirements of the Protection of Human Subjects in Medical Experimentation Act (Chapter 1.3 (commencing with Section 24170) of Division 20).

(b)The failure to obtain written informed consent from the research participant constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. This section does not relieve the physician and surgeon from other existing duties under the law, including, but not limited to, the duty to obtain a research participantsinformed consent after fully explaining the proposed procedure. The requirement that a physician and surgeon provide the standardized written summary pursuant to Section 125335 is in addition to, and does not supplant, other existing legal requirements regarding informed consent, including, but not limited to, compliance with the Protection of Human Subjects in Medical Experimentation Act (Chapter 1.3 (commencing with Section 24170) of Division 20).

(c)This chapter does not affect the suitability or availability of oocytes procured for research before January 1, 2007, if the oocytes were donated pursuant to protocols or standards that are generally recognized and

accepted by national or international scientific bodies.

(d)A written document required pursuant to this section shall adhere to simplified reading standards, including, but not limited to, those generally accepted and required for government publications, and in laypersonslanguage. The document shall be made available in languages spoken by research participants in the study if their proficiency is largely in a language other than English. All information in the written informed consent document shall also be conveyed to the research participant orally in easy to understand and nontechnical terms.

(e)Research conducted pursuant to this chapter shall adhere to federal regulations governing informed consent pursuant to Section 46.116 of Title 45 of the Code of Federal Regulations.

(f)This section does not limit or expand the right of an injured research participant to recover damages under any applicable law.

(Amended by Stats. 2019, Ch. 864, Sec. 4. (AB 922) Effective January 1, 2020.)

125341.

An institutional review board (IRB) that reviews and approves medical and scientific research shall require all of the following of any research program or project that comes under its review that involves AOP or any alternative method of oocyte retrieval:

(a)That it include a written summary as required under Section 125335 that would include information on health risks and potential adverse consequences of the procedure and describe the manner in which the research participant will receive and review this written summary.

(b)That it inform the research participant that ongoing studies are necessary to assess the long-term health impacts of ovarian stimulation and oocyte retrieval.

(c)That it obtain a signed acknowledgment of the Research Participants Undergoing Oocyte Retrieval for Medical Research Purposes Bill of Rights and obtain informed consent in compliance with the Protection of Human Subjects in Medical Experimentation Act (Chapter 1.3 (commencing with Section 24170) of Division 20), including informed consent for information obtained pursuant to Section 125342.

(d)That it provide the research participant with an objective and accurate statement about the existing state of the research for which the research participant is providing oocytes.

(e)That it perform psychological and physical screening, in accordance with the appropriate standard of care, for all research participants prior to the oocyte retrieval procedure.

(f)That it ensure that after conducting AOP or any alternative method of oocyte retrieval on a research participant the research participant be given a postprocedure medical examination at a time within the standard of care to determine if the research participant has experienced an adverse health effect that is a result of the procedure. The research participant shall be informed that they have the right to a second opinion if they have any medical concerns.

(g)That it ensure that the research participant has access to and coverage for medically appropriate medical care that is required as a direct result of the procedure for research purposes. The research program or

project shall ensure that payment or coverage of resulting medical expenses be provided at no cost to the research participant and that a summary of the arrangements the procuring entity has made for coverage or payment for medical care related to AOP or any alternative method of oocyte retrieval is provided to the research participant prior to the procedure.

(h)That it provide a summary informing the research participant that oocytes may not be sold or transferred for valuable consideration except as set forth in Section 125350.

(i)That it provide disclosure if the physician and surgeon and their immediate family members have any professional interest in the outcome of the research or of the oocyte retrieval procedure and, if so, that it provide disclosure that they carry the interest of both the research participant and the success of the research.

(Amended by Stats. 2019, Ch. 864, Sec. 5. (AB 922) Effective January 1, 2020.)

125342.

(a)A research program or project that involves AOP or any alternative method of oocyte retrieval shall ensure that a written record is established and maintained to include, but not be limited to, all of the following components:

(1)The demographics of subjects, including, but not limited to, their age, race, primary language, ethnicity, income bracket, education level, and the first three digits of the ZIP Code of current residence.

(2)Information regarding every oocyte that has been donated or used. This record should be sufficient to determine the provenance and disposition of those materials.

(3)A record of all adverse health outcomes, including, but not limited to, incidences and degrees of severity, resulting from the AOP or any alternative method of oocyte retrieval.

(b)(1)The information included in the written record pursuant to subdivision (a) shall not disclose personally identifiable information about subjects, and shall be confidential and is deemed protected by subject privacy provisions of law. This information shall be reported to the State Department of Public Health, which shall aggregate the data and make it publicly available, as set forth in paragraph (2), in a manner that does not reveal personally identifiable information about the subjects.

(2)The department shall provide public access to information that it is required to release pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The department shall disseminate the information to the general public via governmental and other websites in a manner that is understandable to the average person. The information shall be made available to the public when the biennial review pursuant to Section 125119.5 is provided to the Legislature.

(Amended by Stats. 2021, Ch. 615, Sec. 287. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

125343.

Any employee who works in the unit conducting stem cell research using human oocytes, persons who report to, or are supervised by, the principal investigator or key personnel of the project, or both, along with the principal investigator and the key personnel of the project, and the immediate family members of any of the above persons are prohibited from being a subject in the research.

(Added by Stats. 2006, Ch. 483, Sec. 7. Effective January 1, 2007.)

125344.

The physician and surgeon performing the AOP or any alternative method of oocyte retrieval shall not have a financial interest in the outcome of the research.

(Added by Stats. 2006, Ch. 483, Sec. 7. Effective January 1, 2007.)

125345.

Pursuant to guidelines adopted by the Research Council and Institute of Medicine of the National Academies, researchers shall offer subjects an opportunity to document their preferences regarding future uses of their donated materials. The consent process shall fully explore whether subjects have objections to any specific forms of research to ensure that their wishes are honored.

(Added by Stats. 2006, Ch. 483, Sec. 7. Effective January 1, 2007.)

125346.

Any procedures for procuring oocytes in this state for research or the development of medical therapies shall meet all of the standards for subjects included in this chapter. All oocytes procured outside of this state for research taking place in this state shall meet these same standards. All egg extractions for research shall be approved by an institutional review board pursuant to Section 125341.

(Added by Stats. 2006, Ch. 483, Sec. 7. Effective January 1, 2007.)

125350.

No human oocyte or embryo shall be acquired, sold, offered for sale, received, or otherwise transferred for valuable consideration for the purposes of medical research or development of medical therapies. For purposes of this section, valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, and storage of oocytes or embryos.

(Added by Stats. 2006, Ch. 483, Sec. 7. Effective January 1, 2007.)

125355.

(a)No payment in excess of the amount of reimbursement of direct expenses incurred as a result of the procedure shall be made to any subject to encourage the subject to produce human oocytes for the purposes of medical research.

(b)This section shall become operative on January 1, 2024.

(Repealed (in Sec. 7) and added by Stats. 2019, Ch. 864, Sec. 8. (AB 922) Effective January 1, 2020. Section operative January 1, 2024, by its own provisions.)

125356.

If an individual providing human oocytes for the purposes of fertility is compensated, and any human oocytes or embryos in excess of those needed for fertility are offered for research, the institutional review board shall disregard the amount of compensation if all of the following conditions are met:

(a)The individual in infertility treatment, after being provided with the necessary disclosures as required for research participants under subdivision (a) of Section 125335, makes the determination that the individual does not want or need the oocytes for their own reproductive success, and provides informed consent to donate the oocytes for medical research.

(b)The procurement and disposition for research purposes of human oocytes that were initially provided for reproductive uses, either for use by the donor or another individual, shall not knowingly compromise the optimal reproductive success of the individual in the infertility treatment.

(c)The infertility treatment protocol is established prior to requesting or obtaining consent for donation for research purposes and the prospect of donation for research does not alter the timing, method, or procedures selected for clinical care.

(d)The clinic performing oocyte retrieval is a member of the Society for Assisted Reproductive Technology.

(e)The donation of oocytes for research is done without valuable consideration.

(Added by Stats. 2019, Ch. 864, Sec. 9. (AB 922) Effective January 1, 2020.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=6.&chapter=&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=6.&chapter=&article=)

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=7.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=7.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 7. CHRONIC DISEASE SERVICES [125500 - 125555]__

(Part 7 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 1. Kidney Diseases-Chronic Uremia [125500 - 125545]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 8.)

125500.

(a) Up to four regional dialysis centers with up to two in the northern and up to two in the southern part of the state, shall be established for the treatment of persons suffering from chronic uremia. Each center shall be located in a metropolitan area and shall have an affiliation with a large hospital or medical school, but shall not be necessarily a physical part of the institution. These institutions, however, shall be able to provide a full range of medical, surgical and rehabilitation services. The department shall only act as a granting agency for state funds that are appropriated for the establishment and the continuation of the four centers.

The department, upon the advice of the review committee that is provided for by Section 125515, may contract with any hospital or medical care institution for the administration and operation of one of the regional dialysis centers. It is not the intent of this section that any new hospital or medical school be established.

(b) Any moneys appropriated by Chapter 1416 of the Statutes of 1972 may be used either in existing dialysis and kidney transplantation programs for children or to establish new programs for such purposes. Any new or existing dialysis center funded pursuant to this subdivision shall provide for children the same center dialysis, home dialysis, and outpatient clinic services as are provided under Section 125530. Any new center funded pursuant to this subdivision shall be designated as a pediatric renal failure center. Funds granted for aid to children under this subdivision shall be based upon need as determined by the Renal Dialysis Review Committee established pursuant to Section 125515 and an evaluation by the department of a countysability to fund their one-fourth share of a childscare under the Crippled ChildrensServices Program. The funds shall only cover costs not recoverable from direct or third party payments. A pediatric renal failure center may use funds provided under this subdivision for payment of costs for kidney transplantation services at any hospital that is authorized to perform these services by the department. For purposes of this subdivision, a child is any person 18 years of age or under.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125505.

The dialysis centers shall be designed primarily to provide lifesaving dialysis services to approximately 30 patients in each center. Funds shall be provided for developing home dialysis treatment services for approximately 20 patients in each center and the necessary specialized personnel and equipment to operate each center. Funds for construction of the centers shall also be provided. The centers shall develop and utilize newer methods of dialysis designed to make the process more efficient and economical and shall take into account other applications of the procedure such as home dialysis. Centers may seek the active participation and consultation from industry in order to streamline equipment and procedures for greater efficiency.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125510.

The dialysis centers shall also serve to provide training for medical and nursing personnel who will carry out dialysis services in other communities in the state. The dialysis centers may also work in close cooperation with other medical specialists who are seeking ways to develop successful means of kidney transplantation. Dialysis services are necessary as an adjunct to this type of medical investigation.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125515.

The director shall appoint a review committee, upon nomination of the represented party, not to exceed nine

members, at least four of whom shall be physicians, including at least one physician specializing in kidney transplantation and at least two physicians specializing in pediatric nephrology, one member to represent the University of California, one to represent a private organization or organizations concerned with kidney disease in California, one to represent the department, and two members to represent the lay public. The chairman of the committee shall be appointed by the Governor. This committee shall establish standards for the expenditure of state funds that are provided for the establishment and support of regional dialysis and transplantation centers to assure the availability of specialized personnel, resources, and equipment necessary to enable the centers to function and care for patients with severe uremia. The director shall choose from a list provided by the review committee the institutions that qualify under the standards established to receive grants of state funds to establish and continue a regional dialysis center. The review committee shall also examine periodically the performance of established regional dialysis centers and recommend continuation grants to the director. The members of the review committee shall serve for a two-year period and may be reappointed. Not more than half the membership of the committee shall be changed during any one year. The committee shall serve without compensation, but shall receive their necessary travel expenses.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125520.

The dialysis centers may also receive and make use of any outside source of funds that may become available from federal, voluntary, philanthropic, or other sources in order to augment state funds.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125525.

No resident of this state shall be denied treatment in any of the regional dialysis centers because of his or her place of residence, so long as he or she is able to transport himself to the center.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125530.

The funds that are provided by the state shall only be expended for the construction and equipment of the regional dialysis centers; equipment for and development of, home dialysis services; training of personnel and other expenses incident to the activation of the regional centers; services of dialysis and directly associated procedures; and treatment of complications that may result from dialysis. These funds shall not be utilized to pay for general medical care services that should come from private, local, other state or federal sources.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125535.

The department succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction heretofore exercised by the Department of Benefit Payments with respect to the payment of grants to and audit responsibility for regional dialysis centers under this chapter and for home dialysis training centers under Chapter 2 (commencing with Section 125550).

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125540.

The department shall have possession and control of all records, papers, equipment, and supplies held for the benefit or use of the Director of Benefit Payments in the performance of his or her duties, powers, purposes, responsibilities, and jurisdiction that are vested in the department by Section 125535.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125545.

All officers and employees of the Director of Benefit Payments who, on July 1, 1978, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the department by Section 125535 shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by them as officers and employees of the department pursuant to the State Civil Service Act, except as to positions exempt from civil service.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=7.&chapter=2.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 7. CHRONIC DISEASE SERVICES [125500 - 125555]__

(Part 7 added by Stats. 1995, Ch. 415, Sec. 8.)

__CHAPTER 2. Home Dialysis Training Center [125550 - 125555]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 8.)

125550.

Up to three home dialysis training centers shall be established for the purpose of training persons suffering from chronic uremia for home dialysis. Each center shall have an affiliation with a large hospital or medical school, but shall utilize the most economical facilities for treatment. These institutions, however, shall be able to provide a full range of home dialysis training services. The department and the review committee established pursuant to Section 125515 shall exercise over the home dialysis training centers the same powers they exercise, pursuant to Chapter 1 (commencing with Section 125500), over regional dialysis centers.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

125555.

Each center shall contain approximately four dialysis bed units. The department shall grant to each center fifty thousand dollars ($50,000) during the first year, twenty-five thousand dollars ($25,000) during the second year, and twelve thousand five hundred dollars ($12,500) during the third year. The department shall grant to each center not to exceed five thousand dollars ($5,000) in the first year for the purchasing or leasing of equipment and not to exceed two thousand five hundred dollars ($2,500) in the first year for construction or remodeling of the physical facility.

(Added by Stats. 1995, Ch. 415, Sec. 8. Effective January 1, 1996.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=8.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=8.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 8. ADULT HEALTH [125700 - 125710]__

(Heading of Part 8 amended by Stats. 2015, Ch. 303, Sec. 359.)

__CHAPTER 1. California Osteoporosis Prevention and Education Act [125700 - 125710]__

(Chapter 1 added by Stats. 1999, Ch. 819, Sec. 2.)

125700.

This chapter shall be known and may be cited as the California Osteoporosis Prevention and Education Act.

(Added by Stats. 1999, Ch. 819, Sec. 2. Effective January 1, 2000.)

125701.

It is the intent of the Legislature to promote public awareness of the causes of and options for the prevention of osteoporosis, to educate the public regarding the prevention and management of osteoporosis, and to improve management of osteoporosis, and thereby to minimize the impact of this debilitating disease.

(Added by Stats. 1999, Ch. 819, Sec. 2. Effective January 1, 2000.)

125702.

There is hereby created within the department the California Osteoporosis Prevention and Education Program. The target population for this program shall be persons of age 50 years or older.

(Added by Stats. 1999, Ch. 819, Sec. 2. Effective January 1, 2000.)

125703.

The department shall, in consultation with the California Department of Aging, do all of the following in the establishment of the program:

(a) Promote public awareness concerning the causes and nature of, the personal risk factors for, the value of prevention of, and the options for management of osteoporosis.

(b) Work with other state and local agencies to promote osteoporosis educational and training programs for physicians and other health professionals.

(c) Convene an advisory panel of individuals with knowledge and expertise in osteoporosis research, womenshealth, healthy aging, prevention strategies, educational programs, and consumer needs to guide program development.

(Added by Stats. 1999, Ch. 819, Sec. 2. Effective January 1, 2000.)

125704.

In consultation with the advisory panel convened pursuant to subdivision (c) of Section 125703, the department shall develop effective protocols for the prevention of falls and fractures and establish these protocols in community practice to improve the prevention and management of osteoporosis.

(Added by Stats. 1999, Ch. 819, Sec. 2. Effective January 1, 2000.)

125710.

The director shall seek private sector financial support, grants, and other appropriate moneys to support the California Osteoporosis Prevention and Education Program.

(Added by Stats. 1999, Ch. 819, Sec. 2. Effective January 1, 2000.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=106.&title=&part=9.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=10.&chapter=&article=

__Health and Safety Code - HSC__

__DIVISION 106. PERSONAL HEALTH CARE (INCLUDING MATERNAL, CHILD, AND ADOLESCENT) [123100 - 125850]__

(Division 106 added by Stats. 1995, Ch. 415, Sec. 8.)

__PART 10. MALE CIRCUMCISION [125850- 125850.]__

(Part 10 added by Stats. 2011, Ch. 398, Sec. 1.)

125850.

(a)The Legislature finds and declares as follows:

(1)Male circumcision has a wide array of health and affiliative benefits.

(2)This section clarifies existing law.

(b)No city, county, or city and county ordinance, regulation, or administrative action shall prohibit or restrict the practice of male circumcision, or the exercise of a parentsauthority to have a child circumcised.

(c)The Legislature finds and declares that the laws affecting male circumcision must have uniform application throughout the state. Therefore, this part shall apply to general law and charter cities, general law and charter counties, and charter city and counties.

(Added by Stats. 2011, Ch. 398, Sec. 1. (AB 768) Effective October 2, 2011.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=&chapter=&article=]

(https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=&chapter=&article=)

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=1.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=1.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 1. DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION [127000 - 127010]__

(Heading of Part 1 amended by Stats. 2021, Ch. 143, Sec. 29.)

__CHAPTER 1. General Provisions [127000 - 127010]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

127000.

There is in the state government, in the Health and Welfare Agency, the Department of Health Care Access and Information.

(Amended by Stats. 2021, Ch. 143, Sec. 30. (AB 133) Effective July 27, 2021.)

127002.

Any reference to the Office of Statewide Health Planning and Development shall be deemed a reference to the Department of Health Care Access and Information.

(Added by Stats. 2021, Ch. 143, Sec. 31. (AB 133) Effective July 27, 2021.)

127005.

The department is under the control of an executive officer known as the Director of the Department of Health Care Access and Information who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. The Director shall receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 2021, Ch. 143, Sec. 32. (AB 133) Effective July 27, 2021.)

127010.

The director of the department shall have the powers of a head of the department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 2021, Ch. 143, Sec. 33. (AB 133) Effective July 27, 2021.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=2.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=1.&article=

127280.

(a)Every health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, except a health facility owned and operated by the state, shall each year be charged a fee established by the department consistent with the requirements of this section.

(b)Commencing in calendar year 2004, every freestanding ambulatory surgery clinic as defined in Section 128700, shall each year be charged a fee established by the department consistent with the requirements of this section.

(c)The fee structure shall be established each year by the department to produce revenues equal to the appropriation made in the annual Budget Act or another statute to pay for the functions required to be performed by the department pursuant to this chapter, Article 2 (commencing with Section 127340) of Chapter 2, or Chapter 1 (commencing with Section 128675) of Part 5, and to pay for any other health-related programs administered by the department. The fee shall be due on July 1 and delinquent on July 31 of each year.

(d)The fee for a health facility that is not a hospital, as defined in subdivision (f) of Section 128700, shall be not more than 0.035 percent of the gross operating cost of the facility for the provision of health care services for its last fiscal year that ended on or before June 30 of the preceding calendar year.

(e)The fee for a hospital, as defined in subdivision (f) of Section 128700, shall be not more than 0.035 percent of the gross operating cost of the facility for the provision of health care services for its last fiscal year that ended on or before June 30 of the preceding calendar year.

(f)(1)The fee for a freestanding ambulatory surgery clinic shall be established at an amount equal to the number of ambulatory surgery data records submitted to the department pursuant to Section 128737 for encounters in the preceding calendar year multiplied by not more than fifty cents ($0.50).

(2)(A)For the calendar year 2004 only, a freestanding ambulatory surgery clinic shall estimate the number of records it will file pursuant to Section 128737 for the calendar year 2004 and shall report that number to the department by March 12, 2004. The estimate shall be as accurate as possible. The fee in the calendar year 2004 shall be established initially at an amount equal to the estimated number of records reported multiplied by fifty cents ($0.50) and shall be due on July 1 and delinquent on July 31, 2004.

(B)The department shall compare the actual number of records filed by each freestanding clinic for the calendar year 2004 pursuant to Section 128737 with the estimated number of records reported pursuant to subparagraph (A). If the actual number reported is less than the estimated number reported, the department shall reduce the fee of the clinic for calendar year 2005 by the amount of the difference multiplied by fifty cents ($0.50). If the actual number reported exceeds the estimated number reported, the department shall increase the fee of the clinic for calendar year 2005 by the amount of the difference multiplied by fifty cents ($0.50) unless the actual number reported is greater than 120 percent of the estimated number reported, in which case the department shall increase the fee of the clinic for calendar year 2005 by the amount of the difference, up to and including 120 percent of the estimated number, multiplied by fifty cents ($0.50), and by the amount of the difference in excess of 120 percent of the estimated number multiplied by one dollar ($1).

(g)There is hereby established the California Health Data and Planning Fund within the department for the purpose of receiving and expending fee revenues collected pursuant to this chapter.

(h)Any amounts raised by the collection of the special fees provided for by subdivisions (d), (e), and (f) that are not required to meet appropriations in the Budget Act for the current fiscal year shall remain in the California Health Data and Planning Fund and shall be available to the department in succeeding years when appropriated by the Legislature in the annual Budget Act or another statute, for expenditure under the provisions of this chapter, Article 2 (commencing with Section 127340) of Chapter 2, and Chapter 1 (commencing with Section 128675) of Part 5, or for any other health-related programs administered by the department, and shall reduce the amount of the special fees that the department is authorized to establish and charge. In no event, however, shall those amounts be used for programs administered by the department pursuant to Sections 127676, 127679, 127681, 127683, and 127685, that become effective on or after January 1, 2019.

(i)(1)No health facility liable for the payment of fees required by this section shall be issued a license or have an existing license renewed unless the fees are paid. A new, previously unlicensed, health facility shall be charged a pro rata fee to be established by the department during the first year of operation.

(2)The license of any health facility, against which the fees required by this section are charged, shall be revoked, after notice and hearing, if it is determined by the department that the fees required were not paid within the time prescribed by subdivision (c).

(j)This section shall become operative on January 1, 2002.

(Amended by Stats. 2021, Ch. 143, Sec. 73. (AB 133) Effective July 27, 2021.)

127285.

(a) Health facilities and clinics, except for chronic dialysis clinics as defined in subdivision (b) of Section 1204, shall annually report to the department all of the following information on forms supplied by the department:

(1) A current inventory of beds and services.

(2) Utilization data by bed type and service.

(3) Acquisitions of diagnostic or therapeutic equipment during the reporting period with a value in excess of five hundred thousand dollars ($500,000).

(4) Commencement of projects during the reporting period that require a capital expenditure for the facility or clinic in excess of one million dollars ($1,000,000).

(b) With respect to chronic dialysis clinics, the department may annually obtain this information to the extent it is available from the Federal End Stage Renal Disease Network.

(Amended by Stats. 2021, Ch. 143, Sec. 74. (AB 133) Effective July 27, 2021.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=2.&chapter=2.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=2.&article=2.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 2. HEALTH POLICY AND PLANNING [127280 - 127697]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 2. Health Policy Research and Evaluation [127340 - 127376]__

(Chapter 2 heading added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 2. Hospitals: Community Benefits [127340 - 127360]__

(Article 2 added by Stats. 1996, Ch. 1023, Sec. 353.)

127340.

The Legislature finds and declares all of the following:

(a) Private not-for-profit hospitals meet certain needs of their communities through the provision of essential health care and other services. Public recognition of their unique status has led to favorable tax treatment by the government. In exchange, nonprofit hospitals assume a social obligation to provide community benefits in the public interest.

(b) Hospitals and the environment in which they operate have undergone dramatic changes. The pace of change will accelerate in response to health care reform. In light of this, significant public benefit would be derived if private not-for-profit hospitals reviewed and reaffirmed periodically their commitment to assist in meeting their communities™ health care needs by identifying and documenting benefits provided to the communities which they serve.

(c) Californiasprivate not-for-profit hospitals provide a wide range of benefits to their communities in addition to those reflected in the financial data reported to the state.

(d) Unreported community benefits that are often provided but not otherwise reported include, but are not limited to, all of the following:

(1) Community-oriented wellness and health promotion.

(2) Prevention services, including, but not limited to, health screening, immunizations, school examinations, and disease counseling and education.

(3) Adult day care.

(4) Child care.

(5) Medical research.

(6) Medical education.

(7) Nursing and other professional training.

(8) Home-delivered meals to the homebound.

(9) Sponsorship of free food, shelter, and clothing to the homeless.

(10) Outreach clinics in socioeconomically depressed areas.

(e) Direct provision of goods and services, as well as preventive programs, should be emphasized by hospitals in the development of community benefit plans.

(Added by Stats. 1996, Ch. 1023, Sec. 353. Effective September 29, 1996.)

127345.

As used in this article, the following terms have the following meanings:

(a)Charity care means free health services provided without expectation of payment to persons who meet

the organizationscriteria for financial assistance and are unable to pay for all or a portion of the services. Charity care shall be reported at cost, as reported to the Department of Health Care Access and Information. Charity care does not include bad debt defined as uncollectible charges that the organization recorded as revenue but wrote off due to a patientsfailure to pay.

(b)Community benefits plan means the written document prepared for annual submission to the Department of Health Care Access and Information that shall include, but shall not be limited to, a description of the activities that the hospital has undertaken in order to address identified community needs within its mission and financial capacity, and the process by which the hospital developed the plan in consultation with the community.

(c)Community means the service areas or patient populations for which the hospital provides health care services.

(d)(1)Solely for the planning and reporting purposes of this article, community benefit means a hospitalsactivities that are intended to address community needs and priorities primarily through disease prevention and improvement of health status, including, but not limited to, any of the following:

(A)Health care services, rendered to vulnerable populations, including, but not limited to, charity care and the unreimbursed cost of providing services to the uninsured, underinsured, and those eligible for Medi-Cal, Medicare, California ChildrensServices Program, or county indigent programs.

(B)The unreimbursed cost of services included in subdivision (d) of Section 127340.

(C)Financial or in-kind support of public health programs.

(D)Donation of funds, property, or other resources that contribute to a community priority.

(E)Health care cost containment.

(F)Enhancement of access to health care or related services that contribute to a healthier community.

(G)Services offered without regard to financial return because they meet a community need in the service area of the hospital, and other services including health promotion, health education, prevention, and social services.

(H)Food, shelter, clothing, education, transportation, and other goods or services that help maintain a personshealth.

(2)Community benefit does not mean activities or programs that are provided primarily for marketing purposes or are more beneficial to the organization than to the community.

(e)Community needs assessment means the process by which the hospital identifies, for its primary service area as determined by the hospital, unmet community needs.

(f)Community needs means those requisites for improvement or maintenance of health status in the community.

(g)Hospital means a private not-for-profit acute hospital licensed under subdivision (a), (b), or (f) of Section 1250 and is owned by a corporation that has been determined to be exempt from taxation under the United States Internal Revenue Code. Hospital does not mean any of the following:

(1)Hospitals that are dedicated to serving children and that do not receive direct payment for services to any patient.

(2)Small and rural hospitals as defined in Section 124840, unless the hospital is part of a hospital system.

(3)A district hospital organized and governed pursuant to the Local Health Care District Law (Division 23 (commencing with Section 32000)) or a nonprofit corporation that is affiliated with the health care district hospital owner by means of the districtsstatus as the nonprofit corporationssole corporate member pursuant to subparagraph (B) of paragraph (1) of subdivision (h) of Section 14169.31 of the Welfare and Institutions Code.

(h)Mission statement means a hospitalsprimary objectives for operation as adopted by its governing body.

(i)Vulnerable populations means any population that is exposed to medical or financial risk by virtue of being uninsured, underinsured, or eligible for Medi-Cal, Medicare, California ChildrensServices Program, or county indigent programs. Vulnerable populations also includes both of the following:

(1)Racial and ethnic groups experiencing disparate health outcomes, including Black/African American, American Indian, Alaska Native, Asian Indian, Cambodian, Chinese, Filipino, Hmong, Japanese, Korean, Laotian, Vietnamese, Native Hawaiian, Guamanian or Chamorro, Samoan, or other nonwhite racial groups, as well as individuals of Hispanic/Latino origin, including Mexicans, Mexican Americans, Chicanos, Salvadorans, Guatemalans, Cubans, and Puerto Ricans.

(2)Socially disadvantaged groups, including all of the following:

(A)The unhoused.

(B)Communities with inadequate access to clean air and safe drinking water, as defined by an environmental California Healthy Places Index score of 50 percent or lower.

(C)People with disabilities.

(D)People identifying as lesbian, gay, bisexual, transgender, or queer.

(E)Individuals with limited English proficiency.

(Amended by Stats. 2021, Ch. 751, Sec. 1. (AB 1204) Effective January 1, 2022.)

127346.

(a)The Department of Healthcare Access and Information may impose a fine not to exceed five thousand dollars ($5,000) on hospitals for failure to adopt, update, or submit community benefit plans consistent with Section 127350.

(b)The department may grant a hospital an automatic 60-day extension for submitting annual community benefit plans.

(c)The department shall annually prepare, and post on its internet website, a report that includes all of the

following:

(1)The amount each hospital spent on community benefits.

(2)The amount of community benefit spending attributable to charity care, the unpaid cost of government-sponsored health care programs, and community benefit programs and activities.

(3)A list of all hospitals that failed to report community benefits spending.

(d)The department shall make all community benefit plans submitted by hospitals pursuant to Section 127350 available to the public on its internet website.

(Amended by Stats. 2021, Ch. 143, Sec. 80. (AB 133) Effective July 27, 2021.)

127350.

Each hospital shall do all of the following:

(a)By July 1, 1995, reaffirm its mission statement that requires its policies integrate and reflect the public interest in meeting its responsibilities as a not-for-profit organization.

(b)By January 1, 1996, complete, either alone, in conjunction with other health care providers, or through other organizational arrangements, a community needs assessment evaluating the health needs of the community serviced by the hospital, that includes, but is not limited to, a process for consulting with community groups and local government officials in the identification and prioritization of community needs that the hospital can address directly, in collaboration with others, or through other organizational arrangement. The community needs assessment shall be updated at least once every three years.

(c)By April 1, 1996, and annually thereafter adopt and update a community benefits plan for providing community benefits either alone, in conjunction with other health care providers, or through other organizational arrangements.

(d)(1)Annually submit its community benefits plan, including, but not limited to, the activities that the hospital has undertaken in order to address community needs within its mission and financial capacity to the Department of Health Care Access and Information. The hospital shall assign and report the economic value of community benefits provided in furtherance of its plan, and include a description of how needs identified in the assessment are being addressed and which needs are not being addressed, and why. Effective with hospital fiscal years, beginning on or after January 1, 1996, each hospital shall file a copy of the plan with the department not later than 150 days after the hospitalsfiscal year ends.

(2)Hospitals under the common control of a single corporation or another entity may file a consolidated report if the report includes each hospitalscommunity benefit financial data and describes the benefits provided to the communities in the hospitals™ geographic area. Hospitals on a consolidated license may file a consolidated community benefit plan report if they serve the same geographic area.

(3)Each hospitalscommunity benefit report shall contain an explanation of the methodology used to determine the hospitalscosts, written in plain English.

(e)Annually post its community benefits plan on its internet website.

(Amended by Stats. 2021, Ch. 143, Sec. 81. (AB 133) Effective July 27, 2021.)

127355.

The hospital shall include all of the following elements in its community benefits plan:

(a) Mechanisms to evaluate the planseffectiveness including, but not limited to, a method for soliciting the views of the community served by the hospital and identification of community groups and local government officials consulted during the development of the plan.

(b) Measurable objectives to be achieved within specified timeframes.

(c) Community benefits categorized into the following framework:

(1) Medical care services.

(2) Other benefits for vulnerable populations.

(3) Other benefits for the broader community.

(4) Health research, education, and training programs.

(5) Nonquantifiable benefits.

(Added by Stats. 1996, Ch. 1023, Sec. 353. Effective September 29, 1996.)

127360.

Nothing in this article shall be used to justify the tax-exempt status of a hospital under state law. Nothing in this article shall preclude the department from requiring hospitals to directly report their charity activities.

(Amended by Stats. 2021, Ch. 143, Sec. 82. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=2.&article=3.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 2. HEALTH POLICY AND PLANNING [127280 - 127697]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 2. Health Policy Research and Evaluation [127340 - 127376]__

(Chapter 2 heading added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 3. The Medical Equity Disclosure Act [127370 - 127376]__

(Article 3 added by Stats. 2021, Ch. 751, Sec. 2.)

127370.

The Legislature finds and declares all of the following:

(a)The COVID-19 health emergency has thrown into sharp relief longstanding health inequities along racial, ethnic, and socioeconomic lines. Black, Hispanic, and Indigenous people have been disproportionately affected during the pandemic; for example, the age-adjusted mortality rate among Black people with COVID-19 is more than three times as high as that of Whites.

(b)Disparities in access to care and quality of care contribute to racial health disparities. The disparate impact of the pandemic has highlighted the tiered nature of the current health care system, a structure that significantly impacts the quality of care patients receive along racial, ethnic, and socioeconomic lines.

(c)Reporting on the racially disproportionate impact of COVID-19 has called attention to the need for further data on racial and ethnic disparities in health care.

(d)Data currently reported by California hospitals that could be used to analyze access to and quality of care by age, sex, race, ethnicity, language, disability status, sexual orientation, gender identity, and socioeconomic status is not available to consumers or the general public.

(e)Although nonprofit hospitals are currently required to develop and report on their community benefits plans to provide services to vulnerable populations in their service areas, the law should be updated to ensure that the needs of vulnerable populations, including racial and ethnic groups experiencing disparate health outcomes and socially disadvantaged groups, are specifically considered and addressed.

(f)All California health systems and large physician providers, whether operated as nonprofit or for-profit, and by a county, the University of California, or other governmental entity, should systematically collect and

publish racial and ethnic data for a range of standard access, quality, and outcome measures, as well as their processes to overcome biases in the provision of and access to health care services.

(g)As part of President Joe BidensJanuary 2021 Executive Order Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, the federal Centers for Medicare and Medicaid Services are developing health equity measures as part of the proposed rules for other Medicare prospective payment systems, which may include stratification of quality measure results by race, ethnicity, dual eligible status, disability status, LGBTQ+ identity, and socioeconomic status and a standardized set of demographic data elements by hospital at the time of admission.

(h)The Agency for Healthcare Research and Quality (AHRQ) Quality Indicators (QIs) are standardized, evidence-based measures of health care access and quality that are readily used with hospital inpatient administrative data for all payor categories to measure and track clinical performance and outcomes. The four areas for which AHRQ has developed indicators focus on adult prevention, pediatric prevention, inpatient quality, and patient safety. The state has used these indicators in the past to explore racial and ethnic disparities at an aggregate level.

(i)The dearth of racially and ethnically disaggregated data reflecting the health of communities of color underlies the challenges of a fully informed public health response, and is a matter of statewide concern. It will benefit the statespublic health response for hospitals and health systems to share information with the state, consumers, and the public using the standardized AHRQ QIs and NCQA HEDIS measures, as it will facilitate input by affected communities into addressing longstanding racial, ethnic, and socioeconomic health disparities, and thereby contribute to well-informed health policy.

(j)Facilitating the public sharing of data on health care disparities will assist the state and civil rights advocates in enforcing existing civil rights laws, including Section 11135 of the Government Code, the Unruh Civil Rights Act (Section 51 of the Civil Code), Title VI of the Civil Rights Act of 1964 (Public Law 88-352), and Section 1557 of the Patient Protection and Affordable Care Act (Public Law 111-148).

(Added by Stats. 2021, Ch. 751, Sec. 2. (AB 1204) Effective January 1, 2022.)

127371.

As used in this article:

(a)Advisory committee means the Health Care Equity Measures Advisory Committee established pursuant to Section 127376.

(b)Disparity reduction means a reduction in variation in disease occurrence, including communicable diseases and chronic conditions, as well as health outcomes for vulnerable populations.

(c)Equity report means a written document prepared for annual submission to the Department of Health Care Access and Information pursuant to this article.

(d)Hospital means an acute hospital licensed pursuant to subdivision (a), (b), or (f) of Section 1250.

(e)Hospital system means an entity or system of entities that includes or owns two or more hospitals within the state, of which at least one is a general acute care hospital, as defined in subdivision (a) of Section 1250.

(f)Integrated system means an entity or system of entities that includes one or more hospitals and is related to one or more hospitals, health plans, or physician groups through parent-subsidiary relationships, contractual relationships, or common boards and shared senior management.

(g)Patient population means all of the people served by a hospital.

(h)Vulnerable populations includes both of the following:

(1)Racial and ethnic groups experiencing disparate health outcomes, including Black/African American, American Indian, Alaska Native, Asian Indian, Cambodian, Chinese, Filipino, Hmong, Japanese, Korean, Laotian, Vietnamese, Native Hawaiian, Guamanian or Chamorro, Samoan, or other nonwhite racial groups, as well as individuals of Hispanic/Latino origin, including Mexicans, Mexican Americans, Chicanos, Salvadorans, Guatemalans, Cubans, and Puerto Ricans.

(2)Socially disadvantaged groups, including all of the following:

(A)The unhoused.

(B)Communities with inadequate access to clean air and safe drinking water, as defined by an environmental California Healthy Places Index score of 50 percent or lower.

(C)People with disabilities.

(D)People identifying as lesbian, gay, bisexual, transgender, or queer.

(E)Individuals with limited English proficiency.

(Added by Stats. 2021, Ch. 751, Sec. 2. (AB 1204) Effective January 1, 2022.)

127372.

(a)A hospital shall prepare an annual equity report. The equity report shall include an analysis of health status and access to care disparities for patients on the basis of age, sex, race, ethnicity, language, disability status, sexual orientation, gender identity, and payor.

(b)On and after September 30, 2025, but not until 12 months after the release of the federal Centers for Medicare and Medicaid Services™ health equity quality measures for their proposed rules for other Medicare prospective payment systems, the annual equity report submitted by a hospital shall report on the Agency for Healthcare Research and QualitysQuality Indicators or any other relevant measures specified by the advisory committee, including measures of access, quality, and outcomes by age, sex, race, ethnicity, language, disability status, sexual orientation, gender identity, and payor for the hospitalspatient populations, pursuant to the recommendations provided by the advisory committee. The equity report shall also include a plan to prioritize and address disparities for vulnerable populations identified in the data, with measurable objectives and specific timeframes, pursuant to the recommendations provided by the advisory committee and consistent with subdivision (d).

(c)A hospital system with more than one hospital shall present the information in the equity report disaggregated at the individual hospital level and aggregated across all hospitals in the system.

(d)A hospitalsequity report shall include a health equity plan to achieve disparity reduction for disparities identified in the data, as specified by the advisory committee, with measurable objectives and specific timeframes for disparity reduction. This shall include addressing both of the following:

(1)The 10 widest disparities in health care quality for vulnerable populations, access, or outcomes, as determined by the advisory committee.

(2)Performance across all of the following priority areas:

(A)Person-centered care.

(B)Patient safety.

(C)Addressing patient social determinants of health.

(D)Effective treatment.

(E)Care coordination.

(F)Access to care.

(Added by Stats. 2021, Ch. 751, Sec. 2. (AB 1204) Effective January 1, 2022.)

127373.

(a)A hospital shall do all of the following with respect to an equity report prepared pursuant to Section 127372:

(1)Include in the equity report an explanation of the methodology used, written in plain English.

(2)Annually submit the equity report to the Department of Health Care Access and Information. A hospital shall file a copy of the report with the department for the relevant calendar years according to the reporting schedule established by the department.

(3)Annually post the equity report on the hospitalsinternet website. The report shall be available via a link that includes the words Equity Report or a substantially similar term, which shall be visible on the main page of the hospitalsinternet website as loaded by a standard internet browser in an easily readable font size without having to scroll down.

(b)A hospital under the common control of a single corporation or another entity may file a consolidated equity report if the report includes each hospitalsequity data.

(c)Hospitals that are part of an integrated system may prepare and submit a single joint equity report if the report separately addresses each hospitalsequity analysis.

(d)Data and information included in annual equity reports shall be reported to the extent information is available and disclosed in a manner that protects the personal information of patients pursuant to state and federal privacy laws, including the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and the federal Health Insurance Portability and Accountability

Act of 1996 (Public Law 104-191).

(Added by Stats. 2021, Ch. 751, Sec. 2. (AB 1204) Effective January 1, 2022.)

127374.

(a)The Department of Health Care Access and Information may impose a fine not to exceed five thousand dollars ($5,000) against a hospital that fails to adopt, update, or submit an equity report consistent with this article and any implementing regulations adopted by the department.

(b)The department may grant a hospital an automatic 60-day extension to submit an equity report.

(c)The department shall annually prepare, and post on its internet website, a report that includes a list of all hospitals that failed to submit equity reports.

(d)The department shall make all equity reports submitted pursuant to this article available to the public on its internet website.

(e)Data and information posted on hospital internet websites and submitted to and made public by the department shall be disclosed in a manner that protects the personal information of patients pursuant to deidentification requirements as specified by the department, as well as any state and federal privacy laws, including the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

(Added by Stats. 2021, Ch. 751, Sec. 2. (AB 1204) Effective January 1, 2022.)

127375.

The Department of Health Care Access and Information shall adopt any rules, regulations, or informal guidance necessary to further the objectives of this article.

(Added by Stats. 2021, Ch. 751, Sec. 2. (AB 1204) Effective January 1, 2022.)

127376.

(a)The Department of Health Care Access and Information shall convene a Health Care Equity Measures Advisory Committee, composed of at least one academic health care quality and measurement expert and at least six stakeholder representatives, including at least one representative of each of the following:

(1)Associations representing public hospitals and health systems.

(2)Associations representing private hospitals and health systems.

(3)Organized labor.

(4)Organizations representing consumers.

(5)Organizations representing vulnerable populations.

(6)A representative of the department.

(b)(1)The advisory committee membership shall consist of no fewer than 9 persons and no more than 11 persons.

(2)The Director of the Department of Health Care Access and Information shall appoint the advisory committee members pursuant to subdivision (a). The initial terms of the committee members shall be established to create staggered terms of office by drawing lots at the first meeting of the committee. One-half of the committee members shall serve a two-year term, and one-half of the committee members shall serve a one-year term. After their initial term of office is complete, a committee member shall serve a two-year term. Each appointed member shall serve a term of two years. Each appointed member shall serve at the discretion of the director and may be removed at any time.

(3)The chairperson of the advisory committee shall be an appointed member and shall be elected by a majority of the appointed members.

(c)(1)The advisory committee shall assist and advise the director in reviewing and amending the appropriate measures that align with the health equity measures developed by the federal Centers for Medicare and Medicaid Services at the hospital-, hospital system-, and integrated system-level related to access, quality, and outcomes, including any relevant Agency for Healthcare Research and QualitysQuality Indicators, that hospitals are required to report in their annual equity reports pursuant to Section 127372.

(2)The advisory committee shall provide recommendations pursuant to paragraph (1) no later than December 31, 2022, or 120 days after the release of the health equity measures by the federal Centers for Medicare and Medicaid Services, whichever occurs later. These recommendations shall be published on the departmentsinternet website.

(d)(1)The advisory committee shall assist and advise the director in reviewing, amending, and evaluating, as necessary, the appropriate disparities and performance areas to be addressed in the health equity plan that a hospital is required to include in their annual equity reports pursuant to Section 127372.

(2)The advisory committee shall consider differences in patient populations and geographic areas served when reviewing health equity plans.

(3)No later than September 30, 2027, or 24 months after the release of the health equity measures by the federal Centers for Medicare and Medicaid Services, whichever occurs later, the advisory committee shall make recommendations to the department regarding the health equity plan, as described in Section 127372. These recommendations shall be published on the departmentsinternet website.

(e)(1)The advisory committee shall, through its meetings, provide a forum for stakeholder and public engagement.

(2)The advisory committee shall meet at least twice per year or when requested by the director.

(Added by Stats. 2021, Ch. 751, Sec. 2. (AB 1204) Effective January 1, 2022.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=2.&chapter=2.5.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=2.5.&article=1.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 2. HEALTH POLICY AND PLANNING [127280 - 127697]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 2.5. Fair Pricing Policies [127400 - 127471]__

(Chapter 2.5 heading added by Stats. 2010, Ch. 445, Sec. 1.)

__ARTICLE 1. Hospital Fair Pricing Policies [127400 - 127446]__

(Heading of Article 1 renumbered from Article 3 (of Chapter 2) by Stats. 2010, Ch. 445, Sec. 2.)

127400.

As used in this article, the following terms have the following meanings:

(a)Allowance for financially qualified patient means, with respect to services rendered to a financially qualified patient, an allowance that is applied after the hospitalscharges are imposed on the patient, due to the patientsdetermined financial inability to pay the charges.

(b)Federal poverty level means the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under authority of subsection (2) of Section 9902 of Title 42 of the United States Code.

(c)Financially qualified patient means a patient who is both of the following:

(1)A patient who is a self-pay patient, as defined in subdivision (f), or a patient with high medical costs, as defined in subdivision (g).

(2)A patient who has a family income that does not exceed 400 percent of the federal poverty level.

(d)Hospital means a facility that is required to be licensed under subdivision (a), (b), or (f) of Section 1250, except a facility operated by the State Department of State Hospitals or the Department of Corrections and Rehabilitation.

(e)Department means the Department of Health Care Access and Information.

(f)Self-pay patient means a patient who does not have third-party coverage from a health insurer, health care service plan, Medicare, or Medicaid, and whose injury is not a compensable injury for purposes of workers™ compensation, automobile insurance, or other insurance as determined and documented by the hospital. Self-pay patients may include charity care patients.

(g)A patient with high medical costs means a person whose family income does not exceed 400 percent of the federal poverty level, as defined in subdivision (b). For these purposes, high medical costs means any of the following:

(1)Annual out-of-pocket costs incurred by the individual at the hospital that exceed the lesser of 10 percent of the patientscurrent family income or family income in the prior 12 months.

(2)Annual out-of-pocket expenses that exceed 10 percent of the patientsfamily income, if the patient provides documentation of the patientsmedical expenses paid by the patient or the patientsfamily in the prior 12 months.

(3)A lower level determined by the hospital in accordance with the hospitalscharity care policy.

(h)Patientsfamily means the following:

(1)For persons 18 years of age and older, spouse, domestic partner, as defined in Section 297 of the Family Code, and dependent children under 21 years of age, whether living at home or not.

(2)For persons under 18 years of age, parent, caretaker relatives, and other children under 21 years of age of the parent or caretaker relative.

(i)Reasonable payment plan means monthly payments that are not more than 10 percent of a patientsfamily income for a month, excluding deductions for essential living expenses. Essential living

expenses means, for purposes of this subdivision, expenses for any of the following: rent or house payment and maintenance, food and household supplies, utilities and telephone, clothing, medical and dental payments, insurance, school or child care, child or spousal support, transportation and auto expenses, including insurance, gas, and repairs, installment payments, laundry and cleaning, and other extraordinary expenses.

(Amended (as amended by Stats. 2021, Ch. 143, Sec. 83) by Stats. 2021, Ch. 473, Sec. 5. (AB 1020) Effective January 1, 2022.)

127401.

Each general acute care hospital licensed pursuant to subdivision (a) of Section 1250 shall comply with the provisions of this article. The State Department of Public Health shall be responsible for the enforcement of these provisions for violations occurring prior to January 1, 2024. The Department of Health Care Access and Information shall be responsible for the enforcement of these provisions for violations occurring on or after January 1, 2024.

(Amended by Stats. 2021, Ch. 473, Sec. 6. (AB 1020) Effective January 1, 2022.)

127405.

(a)(1)(A)Each hospital shall maintain an understandable written policy regarding discount payments for financially qualified patients as well as an understandable written charity care policy. Uninsured patients or patients with high medical costs who are at or below 400 percent of the federal poverty level, as defined in subdivision (b) of Section 127400, shall be eligible to apply for participation under a hospitalscharity care policy or discount payment policy. Notwithstanding any other provision of this article, a hospital may choose to grant eligibility for its discount payment policy or charity care policies to patients with incomes over 400 percent of the federal poverty level. Both the charity care policy and the discount payment policy shall state the process used by the hospital to determine whether a patient is eligible for charity care or discounted payment. In the event of a dispute, a patient may seek review from the business manager, chief financial officer, or other appropriate manager as designated in the charity care policy and the discount payment policy.

(B)The written policy regarding discount payments shall also include a statement that an emergency physician, as defined in Section 127450, who provides emergency medical services in a hospital that provides emergency care is also required by law to provide discounts to uninsured patients or patients with high medical costs who are at or below 400 percent of the federal poverty level. This statement shall not be construed to impose any additional responsibilities upon the hospital.

(2)Rural hospitals, as defined in Section 124840, may establish eligibility levels for financial assistance and charity care at less than 400 percent of the federal poverty level as appropriate to maintain their financial and operational integrity.

(b)A hospitalsdiscount payment policy shall clearly state eligibility criteria based upon income consistent with the application of the federal poverty level. The discount payment policy shall also include an extended payment plan to allow payment of the discounted price over time. The policy shall provide that the hospital and the patient shall negotiate the terms of the payment plan, and take into consideration the patientsfamily

income and essential living expenses. If the hospital and the patient cannot agree on the payment plan, the hospital shall use the formula described in subdivision (i) of Section 127400 to create a reasonable payment plan.

(c)The charity care policy shall state clearly the eligibility criteria for charity care. In determining eligibility under its charity care policy, a hospital may consider income and monetary assets of the patient. For purposes of this determination, monetary assets shall not include retirement or deferred compensation plans qualified under the Internal Revenue Code, or nonqualified deferred compensation plans. Furthermore, the first ten thousand dollars ($10,000) of a patientsmonetary assets shall not be counted in determining eligibility, nor shall 50 percent of a patientsmonetary assets over the first ten thousand dollars ($10,000) be counted in determining eligibility.

(d)A hospital shall limit expected payment for services it provides to a patient at or below 400 percent of the federal poverty level, as defined in subdivision (b) of Section 127400, eligible under its discount payment policy to the amount of payment the hospital would expect, in good faith, to receive for providing services from Medicare or Medi-Cal, whichever is greater. If the hospital provides a service for which there is no established payment by Medicare or Medi-Cal, the hospital shall establish an appropriate discounted payment. Patients eligible under this article shall not be required to undergo an independent dispute resolution process.

(e)A patient, or patientslegal representative, who requests a discounted payment, charity care, or other assistance in meeting their financial obligation to the hospital shall make every reasonable effort to provide the hospital with documentation of income and health benefits coverage. If the person requests charity care or a discounted payment and fails to provide information that is reasonable and necessary for the hospital to make a determination, the hospital may consider that failure in making its determination.

(1)For purposes of determining eligibility for discounted payment, documentation of income shall be limited to recent pay stubs or income tax returns.

(2)For purposes of determining eligibility for charity care, documentation of assets may include information on all monetary assets, but shall not include statements on retirement or deferred compensation plans qualified under the Internal Revenue Code, or nonqualified deferred compensation plans. A hospital may require waivers or releases from the patient or the patientsfamily, authorizing the hospital to obtain account information from financial or commercial institutions, or other entities that hold or maintain the monetary assets, to verify their value.

(3)Information obtained pursuant to paragraph (1) or (2) shall not be used for collections activities. This paragraph does not prohibit the use of information obtained by the hospital, collection agency, or assignee independently of the eligibility process for charity care or discounted payment.

(4)Eligibility for discounted payments or charity care may be determined at any time the hospital is in receipt of information specified in paragraph (1) or (2), respectively.

(Amended by Stats. 2021, Ch. 473, Sec. 7. (AB 1020) Effective January 1, 2022.)

127410.

(a)Each hospital shall provide patients with a written notice that shall contain information about availability of the hospitalsdiscount payment and charity care policies, including information about eligibility, as well as

contact information for a hospital employee or office from which the person may obtain further information about these policies. The notice shall also include the internet address for the Health Consumer Alliance (https://healthconsumer.org), and shall explain that there are organizations that will help the patient understand the billing and payment process, as well as information regarding Covered California and Medi-Cal presumptive eligibility, if the hospital participates in the presumptive eligibility program. The notice shall also include the internet address for the hospitalslist of shoppable services, pursuant to Section 180.60 of Title 45 of the Code of Federal Regulations. This written notice shall be provided in addition to the estimate provided pursuant to Section 1339.585. The notice shall also be provided to patients who receive emergency or outpatient care and who may be billed for that care, but who were not admitted. The notice shall be provided in English, and in languages other than English. The languages to be provided shall be determined in a manner similar to that required pursuant to Section 12693.30 of the Insurance Code. Written correspondence to the patient required by this article shall also be in the language spoken by the patient, consistent with Section 12693.30 of the Insurance Code and applicable state and federal law.

(b)The written notice shall be provided at the time of service if the patient is conscious and able to receive written notice at that time. If the patient is not able to receive notice at the time of service, the notice shall be provided during the discharge process. If the patient is not admitted, the written notice shall be provided when the patient leaves the facility. If the patient leaves the facility without receiving the written notice, the hospital shall mail the notice to the patient within 72 hours of providing services.

(c)Notice of the hospitalspolicy for financially qualified and self-pay patients shall be clearly and conspicuously posted in locations that are visible to the public, including, but not limited to, all of the following:

(1)Emergency department, if any.

(2)Billing office.

(3)Admissions office.

(4)Other outpatient settings, including observation units.

(5)Prominently displayed on the hospitalsinternet website, with a link to the policy itself.

(Amended by Stats. 2021, Ch. 473, Sec. 8.5. (AB 1020) Effective January 1, 2022.)

127420.

(a)Each hospital shall make all reasonable efforts to obtain from the patient or the patientsrepresentative information about whether private or public health insurance or sponsorship may fully or partially cover the charges for care rendered by the hospital to a patient, including, but not limited to, any of the following:

(1)Private health insurance, including coverage offered through the California Health Benefit Exchange.

(2)Medicare.

(3)The Medi-Cal program, the California ChildrensServices program, or other state-funded programs designed to provide health coverage.

(b)If a hospital bills a patient who has not provided proof of coverage by a third party at the time the care is provided or upon discharge, as a part of that billing, the hospital shall provide the patient with a clear and conspicuous notice that includes all of the following:

(1)A statement of charges for services rendered by the hospital.

(2)A request that the patient inform the hospital if the patient has health insurance coverage, Medicare, Medi-Cal, or other coverage.

(3)A statement that, if the consumer does not have health insurance coverage, the consumer may be eligible for Medicare, Medi-Cal, coverage offered through the California Health Benefit Exchange, California ChildrensServices program, other state- or county-funded health coverage, or charity care.

(4)A statement indicating how patients may obtain applications for the Medi-Cal program, coverage offered through the California Health Benefit Exchange, or other state- or county-funded health coverage programs and that the hospital will provide these applications. The hospital shall also provide patients with a referral to a local consumer assistance center housed at legal services offices. If the patient does not indicate coverage by a third-party payer specified in subdivision (a) or requests a discounted price or charity care, then the hospital shall provide an application for the Medi-Cal program or other state- or county-funded health coverage programs. This application shall be provided prior to discharge if the patient has been admitted or to patients receiving emergency or outpatient care.

(5)Information regarding the financially qualified patient and charity care application, including the following:

(A)A statement that indicates that if the patient lacks, or has inadequate, insurance, and meets certain low- and moderate-income requirements, the patient may qualify for discounted payment or charity care.

(B)The name and telephone number of a hospital employee or office from whom or which the patient may obtain information about the hospitalsdiscount payment and charity care policies, and how to apply for that assistance.

(C)If a patient applies, or has a pending application, for another health coverage program at the same time that the patient applies for a hospital charity care or discount payment program, neither application shall preclude eligibility for the other program.

(Amended by Stats. 2021, Ch. 473, Sec. 9. (AB 1020) Effective January 1, 2022.)

127425.

(a)A hospital shall not sell patient debt to a debt buyer, as defined in Section 1788.50 of the Civil Code, unless all of the following apply:

(1)The hospital has found the patient ineligible for financial assistance or the patient has not responded to any attempts to bill or offer financial assistance for 180 days.

(2)The hospital includes contractual language in the sales agreement in which the debt buyer agrees to return, and the hospital agrees to accept, any account in which the balance has been determined to be incorrect due to the availability of a third-party payer, including a health plan or government health coverage program, or the patient is eligible for charity care or financial assistance.

(3)The debt buyer agrees to not resell or otherwise transfer the patient debt, except to the originating hospital or a tax-exempt organization described in Section 127444, or if the debt buyer is sold or merged with another entity.

(4)The debt buyer agrees not to charge interest or fees on the patient debt.

(5)The debt buyer is licensed as a debt collector by the Department of Financial Protection and Innovation.

(b)A hospital shall have a written policy about when and under whose authority patient debt is advanced for collection, whether the collection activity is conducted by the hospital, an affiliate or subsidiary of the hospital, or by an external collection agency, or debt buyer.

(c)A hospital shall establish a written policy defining standards and practices for the collection of debt, and shall obtain a written agreement from any agency that collects hospital receivables that it will adhere to the hospitalsstandards and scope of practices. This agreement shall require the affiliate, subsidiary, debt buyer, or external collection agency of the hospital that collects the debt to comply with the hospitalsdefinition and application of a reasonable payment plan, as defined in subdivision (i) of Section 127400. The policy shall not conflict with other applicable laws and shall not be construed to create a joint venture between the hospital and the external entity, or otherwise to allow hospital governance of an external entity that collects hospital receivables. In determining the amount of a debt a hospital may seek to recover from patients who are eligible under the hospitalscharity care policy or discount payment policy, the hospital may consider only income and monetary assets as limited by Section 127405.

(d)At time of billing, a hospital shall provide a written summary consistent with Section 127410, which includes the same information concerning services and charges provided to all other patients who receive care at the hospital.

(e)Before assigning a bill to collections, or selling patient debt to a debt buyer, a hospital shall send a patient a notice with all of the following information:

(1)The date or dates of service of the bill that is being assigned to collections or sold.

(2)The name of the entity the bill is being assigned or sold to.

(3)A statement informing the patient how to obtain an itemized hospital bill from the hospital.

(4)The name and plan type of the health coverage for the patient on record with the hospital at the time of services or a statement that the hospital does not have that information.

(5)An application for the hospitalscharity care and financial assistance.

(6)The date or dates the patient was originally sent a notice about applying for financial assistance, the date or dates the patient was sent a financial assistance application, and, if applicable, the date a decision on the application was made.

(f)A hospital, any assignee of the hospital, or other owner of the patient debt, including a collection agency or debt buyer, shall not report adverse information to a consumer credit reporting agency or commence civil action against the patient for nonpayment before 180 days after initial billing.

(g)If a patient is attempting to qualify for eligibility under the hospitalscharity care or discount payment

policy and is attempting in good faith to settle an outstanding bill with the hospital by negotiating a reasonable payment plan or by making regular partial payments of a reasonable amount, the hospital shall not send the unpaid bill to any collection agency, debt buyer, or other assignee, unless that entity has agreed to comply with this article.

(h)(1)The hospital or other assignee that is an affiliate or subsidiary of the hospital shall not, in dealing with patients eligible under the hospitalscharity care or discount payment policies, use wage garnishments or liens on primary residences as a means of collecting unpaid hospital bills.

(2)A collection agency, debt buyer, or other assignee that is not a subsidiary or affiliate of the hospital shall not, in dealing with any patient under the hospitalscharity care or discount payment policies, use as a means of collecting unpaid hospital bills, any of the following:

(A)A wage garnishment, except by order of the court upon noticed motion, supported by a declaration filed by the movant identifying the basis for which it believes that the patient has the ability to make payments on the judgment under the wage garnishment, which the court shall consider in light of the size of the judgment and additional information provided by the patient prior to, or at, the hearing concerning the patientsability to pay, including information about probable future medical expenses based on the current condition of the patient and other obligations of the patient.

(B)Notice or conduct a sale of the patientsprimary residence during the life of the patient or the patientsspouse, or during the period a child of the patient is a minor, or a child of the patient who has attained the age of majority is unable to take care of themselves and resides in the dwelling as their primary residence. In the event a person protected by this paragraph owns more than one dwelling, the primary residence shall be the dwelling that is the patientscurrent homestead, as defined in Section 704.710 of the Code of Civil Procedure, or was the patientshomestead at the time of the death of a person other than the patient who is asserting the protections of this paragraph.

(3)This requirement does not preclude a hospital, collection agency, debt buyer, or other assignee from pursuing reimbursement and any enforcement remedy or remedies from third-party liability settlements, tortfeasors, or other legally responsible parties.

(i)Extended payment plans offered by a hospital to assist patients eligible under the hospitalscharity care policy, discount payment policy, or any other policy adopted by the hospital for assisting low-income patients with no insurance or high medical costs in settling outstanding past due hospital bills, shall be interest free. The hospital extended payment plan may be declared no longer operative after the patientsfailure to make all consecutive payments due during a 90-day period. Before declaring the hospital extended payment plan no longer operative, the hospital, collection agency, debt buyer, or assignee shall make a reasonable attempt to contact the patient by telephone and, to give notice in writing, that the extended payment plan may become inoperative, and of the opportunity to renegotiate the extended payment plan. Prior to the hospital extended payment plan being declared inoperative, the hospital, collection agency, debt buyer, or assignee shall attempt to renegotiate the terms of the defaulted extended payment plan, if requested by the patient. The hospital, collection agency, debt buyer, or assignee shall not report adverse information to a consumer credit reporting agency or commence a civil action against the patient or responsible party for nonpayment prior to the time the extended payment plan is declared to be no longer operative. For purposes of this section, the notice and telephone call to the patient may be made to the last known telephone number and address of the patient.

(j)This section does not diminish or eliminate any protections consumers have under existing federal and state debt collection laws, or any other consumer protections available under state or federal law. If the patient fails to make all consecutive payments for 90 days and fails to renegotiate a payment plan, this

subdivision does not limit or alter the obligation of the patient to make payments on the obligation owing to the hospital pursuant to any contract or applicable statute from the date that the extended payment plan is declared no longer operative, as set forth in subdivision (i).

(Amended by Stats. 2021, Ch. 473, Sec. 10. (AB 1020) Effective January 1, 2022.)

127426.

(a)The period described in Section 127425 shall be extended if the patient has a pending appeal for coverage of the services, until a final determination of that appeal is made, if the patient makes a reasonable effort to communicate with the hospital about the progress of any pending appeals.

(b)For purposes of this section, pending appeal includes any of the following:

(1)A grievance against a contracting health care service plan, as described in Chapter 2.2 (commencing with Section 1340) of Division 2, or against an insurer, as described in Chapter 1 (commencing with Section 10110) of Part 2 of Division 2 of the Insurance Code.

(2)An independent medical review, as described in Section 10145.3 or 10169 of the Insurance Code.

(3)A fair hearing for a review of a Medi-Cal claim pursuant to Section 10950 of the Welfare and Institutions Code.

(4)An appeal regarding Medicare coverage consistent with federal law and regulations.

(Added by Stats. 2006, Ch. 755, Sec. 1. Effective January 1, 2007.)

127430.

(a)Prior to commencing collection activities against a patient, the hospital, any assignee of the hospital, or other owner of the patient debt, including a collection agency, shall provide the patient with a clear and conspicuous written notice containing both of the following:

(1)A plain language summary of the patientsrights pursuant to this article, the Rosenthal Fair Debt Collection Practices Act (Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code), and the federal Fair Debt Collection Practices Act (Subchapter V (commencing with Section 1692) of Chapter 41 of Title 15 of the United States Code). The summary shall include a statement that the Federal Trade Commission enforces the federal act.

The summary shall be sufficient if it appears in substantially the following form: State and federal law require debt collectors to treat you fairly and prohibit debt collectors from making false statements or threats of violence, using obscene or profane language, and making improper communications with third parties, including your employer. Except under unusual circumstances, debt collectors may not contact you before 8:00 a.m. or after 9:00 p.m. In general, a debt collector may not give information about your debt to another person, other than your attorney or spouse. A debt collector may contact another person to confirm your location or to enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission by telephone at 1-877-FTC-HELP (382-4357) or online at www.ftc.gov.

(2)A statement that nonprofit credit counseling services may be available in the area.

(b)The notice required by subdivision (a) shall also accompany any document indicating that the commencement of collection activities may occur.

(c)The requirements of this section shall apply to the entity engaged in the collection activities. If a hospital assigns or sells the debt to another entity, the obligations shall apply to the entity, including a collection agency, engaged in the debt collection activity.

(Amended by Stats. 2007, Ch. 347, Sec. 4. Effective January 1, 2008.)

127435.

(a)A hospital shall provide to the department a copy of its discount payment policy, charity care policy, eligibility procedures for those policies, review process, and the application for charity care or discounted payment programs, as well as a copy of its debt collection policy. The department may determine whether the information is to be provided electronically or in some other similar manner. The information shall be provided at least biennially on January 1, or when a significant change is made. If no significant change has been made by the hospital since the information was previously provided, notifying the department of the lack of change shall meet the requirements of this section. The department shall make this information available to the public on its internet website.

(b)The department shall review a hospitalspolicy for compliance with this article by January 1, 2023, and whenever a significant change is made and submitted to the department.

(c)A patient shall not be denied financial assistance that would be available pursuant to the policy published on the departmentsinternet website at the time of service.

(Amended (as amended by Stats. 2021, Ch. 143, Sec. 84) by Stats. 2021, Ch. 473, Sec. 11. (AB 1020) Effective January 1, 2022.)

127436.

(a)Upon promulgation of regulations as required in subdivisions (b) and (c) no later than January 1, 2024, the Director of the Department of Health Care Access and Information shall impose an administrative penalty for each violation against a hospital that fails to comply with this article, unless the administrative penalty is waived pursuant to this section. For purposes of this section, multiple violations identified during the same investigation shall constitute a single violation for purposes of assessing an administrative penalty.

(b)Upon receipt of a complaint by a patient that a hospital has not followed the requirements of Sections 127405 to 127435, inclusive, the director shall do all of the following:

(1)Review the patientseligibility for charity care or financial assistance under the hospitalspublished financial assistance policy in effect at the time the patient was first billed.

(2)Review the hospitalscompliance with this article.

(3)If, after completing the actions in paragraphs (1) and (2), the director believes that the hospital may have violated this article, issue a notice to the hospital describing the alleged violation. The notice shall state all of the facts supporting the alleged violation. The hospital shall have 30 days after issuance of the notice to file a response with the director.

(4)If, after considering all of the information included in any response filed by the hospital, the director determines that a violation has occurred, assess an administrative penalty. The administrative penalty may be up to forty thousand dollars ($40,000), which amount shall be adjusted every five years to reflect the percentage change in the calendar year average, for the five-year period, of the medical care index of the Consumer Price Index, as published by the United States Bureau of Labor Statistics. The department shall promulgate regulations establishing criteria to determine the amount of an administrative penalty. The criteria shall include, at a minimum, all of the following:

(A)The actual financial harm to patients, if any.

(B)The nature, scope, and severity of the violation, including whether the hospitalspolicies, postings, and screening practices are in compliance with Sections 127405 to 127435, inclusive, or whether the violation was a mistake that resulted in a violation of those policies and practices.

(C)The facilityshistory of compliance with related state and federal statutes and regulations.

(D)Factors beyond the facilityscontrol that restrict the facilitysability to comply with this chapter or the rules and regulations promulgated thereunder.

(E)The demonstrated willfulness of the violation.

(F)The extent to which the facility detected the violation and took steps to immediately correct the violation and prevent the violation from recurring.

(G)The special circumstances of small and rural hospitals, as defined in Section 124840, if that consideration is needed to protect access to quality care in those hospitals.

(5)Notify the patient of the violation and the patientsright to reimbursement pursuant to Section 127440.

(6)Begin collection efforts for the penalty after the deadline to appeal pursuant to subdivision (c) has passed, or, if the hospital files an appeal, when all appeals have been exhausted and the departmentsfindings have been upheld.

(c)The department shall promulgate regulations to establish a process whereby a hospital may appeal the directorsdetermination that a violation has occurred or the amount of any penalty assessed, subject to the following requirements:

(1)A hospital shall have 30 days from issuance to appeal any determination or penalty.

(2)A hospital may submit any relevant evidence during the appeal process.

(3)The department shall provide the patient who filed a complaint with timely notice of the appeal and a copy of any evidence submitted by the hospital, and offer the patient 30 days to submit a response, including any additional evidence in support of the complaint.

(4)The department shall consider all relevant evidence.

(5)The department may reduce or waive an assessment in the interest of fairness.

(6)The department may reduce or waive a penalty if a violation was due to factors beyond the hospitalscontrol, such as a patient failing to provide accurate information or an unauthorized person removing signage from hospital walls.

(Added by Stats. 2021, Ch. 473, Sec. 12. (AB 1020) Effective January 1, 2022.)

127440.

The hospital shall reimburse the patient or patients any amount actually paid in excess of the amount due under this article, including interest. Interest owed by the hospital to the patient shall accrue at the rate set forth in Section 685.010 of the Code of Civil Procedure, beginning on the date payment by the patient is received by the hospital. However, a hospital is not required to reimburse the patient or pay interest if the amount due is less than five dollars ($5.00). The hospital shall refund the patient within 30 days.

(Amended by Stats. 2021, Ch. 473, Sec. 13. (AB 1020) Effective January 1, 2022.)

127443.

The rights, remedies, and penalties established by this article are cumulative, and shall not supersede the rights, remedies, or penalties established under other laws.

(Added by Stats. 2006, Ch. 755, Sec. 1. Effective January 1, 2007.)

127444.

(a)This article does not prohibit a hospital from uniformly imposing charges from its established charge schedule or published rates or preclude the recognition of a hospitalsestablished charge schedule or published rates for purposes of applying any payment limit, interim payment amount, or other payment calculation based upon a hospitalsrates or charges under the Medi-Cal program, the Medicare Program, workers™ compensation, or other federal, state, or local public program of health benefits.

(b)This article does not prohibit a hospital, debt collector, or debt buyer from selling or otherwise transferring patient debt to an organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code for the explicit purpose of the tax-exempt organization abolishing the patient debt by cancellation of the indebtedness, or otherwise prohibit payment of the patientsdebt by a third party.

(c)A health care service plan, insurer, or any other person shall not reduce the amount it would otherwise reimburse a claim for hospital services because a hospital has waived, or will waive, collection of all or a portion of a patientsbill for hospital services in accordance with the hospitalscharity care or discount payment policy, notwithstanding any contractual provision.

(Amended by Stats. 2021, Ch. 473, Sec. 14. (AB 1020) Effective January 1, 2022.)

127445.

Notwithstanding any other provision of law, the amounts paid by parties for services resulting from reduced or waived charges under a hospitalsdiscounted payment or charity care policy shall not constitute a hospitalsuniform, published, prevailing, or customary charges, its usual fees to the general public, or its charges to non-Medi-Cal purchasers under comparable circumstances, and shall not be used to calculate a hospitalsmedian non-Medicare or Medi-Cal charges, for purposes of any payment limit under the federal Medicare Program, the Medi-Cal program, or any other federal or state-financed health care program.

(Added by Stats. 2006, Ch. 755, Sec. 1. Effective January 1, 2007.)

127446.

To the extent that any requirement of Section 127400, 127401, or 127405 results in a federal determination that a hospitalsestablished charge schedule or published rates are not the hospitalscustomary or prevailing charges for services, the requirement in question shall be inoperative for all general acute care hospitals, including, but not limited to, a hospital that is licensed to and operated by a county or a hospital authority established pursuant to Section 101850. The State Department of Public Health shall seek federal guidance regarding modifications to the requirement in question. All other requirements of this article shall remain in effect.

(Amended by Stats. 2007, Ch. 483, Sec. 36. Effective January 1, 2008.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=2.5.&article=2.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 2. HEALTH POLICY AND PLANNING [127280 - 127697]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 2.5. Fair Pricing Policies [127400 - 127471]__

(Chapter 2.5 heading added by Stats. 2010, Ch. 445, Sec. 1.)

__ARTICLE 2. Emergency Physician Fair Pricing Policies [127450 - 127462]__

(Article 2 added by Stats. 2010, Ch. 445, Sec. 4.)

127450.

As used in this article, the following terms have the following meanings:

(a)Allowance for financially qualified patient means, with respect to emergency care rendered to a financially qualified patient, an allowance that is applied after the emergency physicianscharges are imposed on the patient, due to the patientsdetermined financial inability to pay the charges.

(b)Emergency care means emergency medical services and care, as defined in Section 1317.1, that is provided by an emergency physician in the emergency department of a hospital.

(c)Emergency physician means a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code who is credentialed by a hospital and either employed or contracted by the hospital to provide emergency medical services in the emergency department of the hospital, except that an emergency physician shall not include a physician specialist who is called into the emergency department of a hospital or who is on staff or has privileges at the hospital outside of the emergency department.

(d)Federal poverty level means the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under authority of subsection (2) of Section 9902 of Title 42 of the United States Code.

(e)Financially qualified patient means a patient who is both of the following:

(1)A patient who is a self-pay patient or a patient with high medical costs.

(2)A patient who has a family income that does not exceed 350 percent of the federal poverty level.

(f)Hospital means a facility that is required to be licensed under subdivision (a) of Section 1250, except a facility operated by the State Department of State Hospitals or the Department of Corrections and Rehabilitation.

(g)Department means the Department of Health Care Access and Information.

(h)Self-pay patient means a patient who does not have third-party coverage from a health insurer, health care service plan, Medicare, or Medicaid, and whose injury is not a compensable injury for purposes of

workers™ compensation, automobile insurance, or other insurance as determined and documented by the emergency physician. Self-pay patients may include charity care patients.

(i)A patient with high medical costs means a person whose family income does not exceed 350 percent of the federal poverty level if that individual does not receive a discounted rate from the emergency physician as a result of their third-party coverage. For these purposes, high medical costs means any of the following:

(1)Annual out-of-pocket costs incurred by the individual at the hospital that provided emergency care that exceed 10 percent of the patientsfamily income in the prior 12 months.

(2)Annual out-of-pocket expenses that exceed 10 percent of the patientsfamily income, if the patient provides documentation of the patientsmedical expenses paid by the patient or the patientsfamily in the prior 12 months. The emergency physician may waive the request for documentation.

(3)A lower level determined by the emergency physician in accordance with the emergency physiciansdiscounted payment policy.

(j)Patientsfamily means the following:

(1)For persons 18 years of age and older, spouse, domestic partner, as defined in Section 297 of the Family Code, and dependent children under 21 years of age, whether living at home or not.

(2)For persons under 18 years of age, parent, caretaker relatives, and other children under 21 years of age of the parent or caretaker relative.

(k)Reasonable payment formula means monthly payments that are not more than 10 percent of a patientsfamily income for a month, excluding deductions for essential living expenses. Essential living expenses means, for purposes of this subdivision, expenses for all of the following: rent or house payment and maintenance, food and household supplies, utilities and telephone, clothing, medical and dental payments, insurance, school or child care, child or spousal support, transportation and auto expenses, including insurance, gas, and repairs, installment payments, laundry and cleaning, and other extraordinary expenses.

(Amended by Stats. 2021, Ch. 143, Sec. 85. (AB 133) Effective July 27, 2021.)

127451.

A violation of this article shall not constitute a violation of the terms of a physician and surgeonslicensure.

(Added by Stats. 2010, Ch. 445, Sec. 4. (AB 1503) Effective January 1, 2011.)

127452.

(a)Uninsured patients or patients with high medical costs who are at or below 350 percent of the federal poverty level shall be eligible to apply to an emergency physician for a discount payment pursuant to a discount payment policy. Notwithstanding any other provision of this article, an emergency physician may choose to grant eligibility for a discount payment policy to patients with incomes over 350 percent of the

federal poverty level.

(b)An emergency physician shall limit expected payment for services provided to a patient at or below 350 percent of the federal poverty level and who is eligible under the emergency physiciansdiscount payment policy to an amount that is no greater than 50 percent of the median of billed charges based on a nationally recognized database of physician and surgeon charges until the nonprofit FAIR Health, Inc. creates a database that makes available the rate of payment received by physician and surgeons from commercial insurers for the same services in the same or similar geographic region. When FAIR Health, Inc. makes available the rate of payment received by physicians and surgeons from commercial insurers for the same services in the same or similar geographic region, the amount of expected payment under this section shall be no greater than the median or average of rates paid by commercial insurers for the same or similar services in the same or similar geographic region.

(c)(1)If an emergency physician seeks reimbursement from the Maddy Fund pursuant to Section 1797.98c, then the emergency physician shall, at that time, cease any further billing or collection activity for that patient.

(2)If the emergency physician does not receive reimbursement from the Maddy Fund after attempting to obtain reimbursement from the Maddy Fund, then the provisions of this article shall apply.

(3)If the emergency physician does not attempt to seek reimbursement from the Maddy Fund, the provisions of this article shall apply.

(d)A patient, or patientslegal representative, who requests a discounted payment or other assistance in meeting his or her financial obligation to the emergency physician shall make every reasonable effort to provide the emergency physician with documentation of income and health benefits coverage, if the emergency physician requests the documentation. If the patient, or the patientslegal representative, requests a discounted payment and fails to provide information that is reasonable and necessary for the emergency physician to make a determination, the emergency physician may consider that failure in making its determination.

(1)For purposes of determining eligibility for discounted payment, the emergency physician may rely on the determination made by the hospital at which emergency care was provided. If the emergency physician chooses to make a separate determination of eligibility for discounted payment, documentation of income shall be limited to recent pay stubs or income tax returns. The emergency physician, at his or her discretion, may accept self-attestation by a patient, or a patientslegal representative, but shall not request documentation of income other than that authorized in this paragraph.

(2)Information obtained pursuant to paragraph (1) shall not be used for collections activities. This paragraph does not prohibit the use of information obtained by the emergency physician, collection agency, or assignee independent of the eligibility process for discounted payment.

(3)Eligibility for discounted payments may be determined at any time the emergency physician is in receipt of information specified in paragraph (1) or (2), respectively.

(Added by Stats. 2010, Ch. 445, Sec. 4. (AB 1503) Effective January 1, 2011.)

127454.

(a)Each emergency physician shall make all reasonable efforts to obtain from the patient, or his or her representative, information about whether private or public health insurance or sponsorship may fully or partially cover the charges for emergency care rendered by the emergency physician to a patient, including, but not limited to, any of the following:

(1)Private health insurance, including coverage offered through the California Health Benefit Exchange.

(2)Medicare.

(3)The Medi-Cal program, the Healthy Families Program, the California ChildrensServices program, or other state- or county-funded programs designed to provide comprehensive health coverage.

(b)If the emergency physician or his or her representative bills a patient who has not provided proof of coverage by a third party at the time the care is provided or upon discharge, as a part of that billing, the emergency physician shall provide the patient with a clear and conspicuous notice that includes all of the following:

(1)A statement of charges for services rendered by the emergency physician.

(2)A request that the patient inform the emergency physician if the patient has health insurance coverage, Medicare, Healthy Families Program, Medi-Cal, or other coverage.

(3)A statement that if the consumer does not have health insurance coverage, the consumer may be eligible for Medicare, Healthy Families Program, Medi-Cal, coverage through the California Health Benefit Exchange, California ChildrensServices program, other state- or county-funded health coverage, or discounted payment care.

(4)Information regarding the financially qualified patient and discounted payment application, including the following:

(A)A statement that indicates that if the patient lacks, or has inadequate, insurance, and meets certain low- and moderate-income requirements, the patient may qualify for discounted payment. That statement shall also provide patients with a referral to a local consumer assistance center housed at legal services offices.

(B)The name and telephone number of the emergency physiciansemployee or office from whom or which the patient may obtain information about the emergency physiciansdiscount payment policy, and how to apply for that assistance.

(C)If a patient applies, or has a pending application for, another health coverage program at the same time that he or she applies for charity care or a discount payment program, neither application shall preclude eligibility for the other program.

(c)(1)In addition to the statement of the charges, if the emergency physician uses the following notice in any billing, that emergency physician shall be deemed to have complied with the notice requirements of this section: If you are uninsured or have high medical costs, please contact ____ (name of person responsible for discount payment policy) at ____ (area code and phone number) for information on discounts and programs for which you may be eligible, including the Medi-Cal program. If you have coverage, please tell us so that we may bill your plan.□

(2)If the emergency physician or the assignee of the emergency physician lacks the capacity to provide the notice specified in paragraph (1), the emergency physician or his or her assignee shall be deemed to have

complied with the notice requirements of this section if the information required under this section is provided upon request and if the following is printed on the bill in 14-point bold type: If uninsured or high medical bill, call re: discount.□

(Amended by Stats. 2014, Ch. 758, Sec. 6. (SB 1276) Effective January 1, 2015.)

127455.

(a)Each emergency physician shall have a written policy about when and under whose authority patient debt is advanced for collection.

(b)Each emergency physician shall establish a written policy defining standards and practices for the collection of debt, and shall obtain a written agreement from any agency that collects emergency physician receivables that it will adhere to the emergency physiciansstandards and scope of practice. This agreement shall require the affiliate, subsidiary, or external collection agency of the physician that collects the debt to comply with the physiciansdefinition and application of a reasonable payment formula, as defined in subdivision (k) of Section 127450. The policy shall not conflict with other applicable laws and shall not be construed to create a joint venture between the emergency physician and the external entity, or otherwise to allow physician and surgeon governance of an external entity that collects physician and surgeon receivables. In determining the amount of a debt the emergency physician may seek to recover from patients who are eligible under the emergency physicianscharity care policy or discount payment policy, the emergency physician may consider only income and monetary assets as limited by Section 127452.

(c)For a patient that lacks coverage, or for a patient that provides information that he or she may be a patient with high medical costs, the emergency physician, an assignee of the emergency physician, or other owner of the patient debt, including a collection agency, shall not report adverse information to a consumer credit reporting agency or commence civil action against the patient for nonpayment at any time prior to 150 days after initial billing.

(d)If a patient is attempting to qualify for eligibility under the emergency physiciansdiscount payment policy and is attempting in good faith to settle an outstanding bill with the physician and surgeon by negotiating an extended payment plan, the emergency physician or his or her assignee, including a collection agency, shall not report adverse information to a consumer credit agency or commence a civil action.

(e)(1)The emergency physician or other assignee shall not, in dealing with patients eligible under the emergency physiciansdiscount payment policies, use wage garnishments or liens on primary residences as a means of collecting unpaid emergency physician bills.

(2)A collection agency or other assignee shall not, in dealing with any patient under the emergency physiciansdiscount payment policy, use as a means of collecting unpaid emergency physician bills, any of the following:

(A)A wage garnishment, except by order of the court upon noticed motion, supported by a declaration filed by the movant identifying the basis for its belief that the patient has the ability to make payments on the judgment under the wage garnishment, that the court shall consider in light of the size of the judgment and additional information provided by the patient prior to, or at, the hearing concerning the patientsability to pay, including information about probable future medical expenses based on the current condition of the patient and other obligations of the patient.

(B)Notice or conduct a sale of the patientsprimary residence during the life of the patient or his or her spouse, or during the period a child of the patient is a minor, or a child of the patient who has attained the age of majority is unable to take care of himself or herself and resides in the dwelling as his or her primary residence. In the event a person protected by this paragraph owns more than one dwelling, the primary residence shall be the dwelling that is the patientscurrent homestead, as defined in Section 704.710 of the Code of Civil Procedure, or was the patientshomestead at the time of the death of a person other than the patient who is asserting the protections of this paragraph.

(3)This requirement does not preclude the emergency physician, collection agency, or other assignee from pursuing reimbursement and any enforcement remedy or remedies from third-party liability settlements, tortfeasors, or other legally responsible parties.

(f)Extended payment plans offered by an emergency physician to assist patients eligible under the emergency physiciansdiscount payment policy or any other policy adopted by the emergency physician for assisting low-income patients with no insurance or high medical costs in settling outstanding past due emergency physician bills, shall be interest free. The emergency physiciansextended payment plan may be declared no longer operative after the patientsfailure to make all consecutive payments due during a 90-day period. Before declaring the emergency physiciansextended payment plan no longer operative, the emergency physician, collection agency, or assignee shall make a reasonable attempt to contact the patient by telephone, if the telephone number is known, and to give notice in writing that the extended payment plan may become inoperative, and of the opportunity to renegotiate the extended payment plan. Prior to the emergency physiciansextended payment plan being declared inoperative, the emergency physician, collection agency, or assignee shall attempt to renegotiate the terms of the defaulted extended payment plan, if requested by the patient. If the patient wishes to renegotiate the terms of the defaulted extended payment plan but no agreement can be reached on the amount of the payment, the emergency physician or his or her assignee shall apply the reasonable payment formula in subdivision (k) of Section 127450 to determine a monthly payment amount for a subsequent extended payment plan. If the reasonable payment formula would result in a payment of less than ten dollars ($10) a month, the subsequent extended payment plan shall be ten dollars ($10) per month. The emergency physician, collection agency, or assignee shall not report adverse information to a consumer credit reporting agency or commence a civil action against the patient or responsible party for nonpayment prior to the time the extended payment plan is declared to be no longer operative. If after having defaulted on an extended payment plan the patient has entered into another extended payment plan with payments in the amount of either the reasonable payment formula or ten dollars ($10) per month and the patient fails to make all consecutive payments due during a 90-day period, that extended payment plan is inoperative. For purposes of this section, the notice and telephone call to the patient may be made to the last known telephone number and address of the patient.

(g)For purposes of determining the reasonable payment formula in subdivision (k) of Section 127450, the emergency physician or his or her assignee may rely on the determination of family income and essential living expenses made by the hospital at which emergency care was provided. The emergency physician or his or her assignee, at his or her discretion, may accept self-attestation of family income and essential living expenses by a patient or a patientslegal representative.

(h)Nothing in this section shall be construed to diminish or eliminate any protections consumers have under existing federal and state debt collection laws, or any other consumer protections available under state or federal law. If the patient fails to make all consecutive payments for 90 days and fails to renegotiate a payment plan, this subdivision does not limit or alter the obligation of the patient to make payments on the obligation owing to the emergency physician pursuant to any contract or applicable statute from the date that the extended payment plan is declared no longer operative, as set forth in subdivision (f).

(Amended by Stats. 2014, Ch. 758, Sec. 7. (SB 1276) Effective January 1, 2015.)

127456.

(a)The period described in Section 127455 shall be extended if the patient has a pending appeal for coverage of the services, until a final determination of that appeal is made, if the patient makes a reasonable effort to communicate with the emergency physician about the progress of any pending appeals.

(b)For purposes of this section, pending appeal includes any of the following:

(1)A grievance against a contracting health care service plan, as described in Chapter 2.2 (commencing with Section 1340) of Division 2, or against an insurer, as described in Chapter 1 (commencing with Section 10110) of Part 2 of Division 2 of the Insurance Code.

(2)An independent medical review, as described in Section 10145.3 or 10169 of the Insurance Code.

(3)A fair hearing for a review of a Medi-Cal claim pursuant to Section 10950 of the Welfare and Institutions Code.

(4)An appeal regarding Medicare coverage consistent with federal law and regulations.

(Added by Stats. 2010, Ch. 445, Sec. 4. (AB 1503) Effective January 1, 2011.)

127457.

(a)After the period described in Section 127455, and upon the completion of appeals consistent with Section 127456, prior to commencing further collection activities against a patient, the emergency physician, any assignee of the emergency physician, or other owner of the patient debt, including a collection agency, shall not report adverse information to a consumer credit reporting agency or commence a civil action, until after the patient has been provided with a clear and conspicuous written notice containing both of the following:

(1)A plain language summary of the patientsrights pursuant to this article, the Rosenthal Fair Debt Collection Practices Act (Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code), and the federal Fair Debt Collection Practices Act (Subchapter V (commencing with Section 1692) of Chapter 41 of Title 15 of the United States Code). The summary shall include a statement that the Federal Trade Commission enforces the federal act. The summary shall be sufficient if it appears in substantially the following form: State and federal law require debt collectors to treat you fairly and prohibit debt collectors from making false statements or threats of violence, using obscene or profane language, and making improper communications with third parties, including your employer. Except under unusual circumstances, debt collectors may not contact you before 8 a.m. or after 9 p.m. In general, a debt collector may not give information about your debt to another person, other than your attorney or spouse. A debt collector may contact another person to confirm your location or to enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission by telephone at 1-877-FTC-HELP (382-4357) or online at www.ftc.gov.

(2)A statement that nonprofit credit counseling services may be available in the area.

(b)The notice required by subdivision (a) shall also accompany any document indicating that the

commencement of collection activities may occur.

(c)The requirements of this section shall apply to the entity engaged in reporting adverse information to a consumer credit reporting agency or commencing a civil action against the patient. If an emergency physician assigns or sells the debt to another entity, the obligations shall apply to the entity, including a collection agency, engaged in the debt collection activity.

(Added by Stats. 2010, Ch. 445, Sec. 4. (AB 1503) Effective January 1, 2011.)

127458.

The emergency physician shall reimburse the patient or patients any amount actually paid in excess of the amount due under this article, including interest. Interest owed by the emergency physician to the patient shall accrue at the rate set forth in Section 685.010 of the Code of Civil Procedure, beginning on the date payment by the patient is received by the emergency physician. However, an emergency physician is not required to reimburse the patient or pay interest if the amount due is less than five dollars ($5). The emergency physician shall give the patient a credit for the amount due for at least 60 days from the date the amount is due.

(Added by Stats. 2010, Ch. 445, Sec. 4. (AB 1503) Effective January 1, 2011.)

127459.

The rights, remedies, and penalties established by this article are cumulative, and shall not supersede the rights, remedies, or penalties established under other laws.

(Added by Stats. 2010, Ch. 445, Sec. 4. (AB 1503) Effective January 1, 2011.)

127460.

Nothing in this article shall be construed to prohibit the emergency physician from uniformly imposing charges from its established charge schedule or published rates, nor shall this article preclude the recognition of an emergency physiciansestablished charge schedule or published rates for purposes of applying any payment limit, interim payment amount, or other payment calculation based upon an emergency physiciansrates or charges under the Medi-Cal program, the Medicare Program, workers™ compensation, or other federal, state, or local public program of health benefits. No health care service plan, insurer, or any other person shall reduce the amount it would otherwise reimburse a claim for emergency physician services because an emergency physician has waived, or will waive, collection of all or a portion of a patientsbill for emergency physician services in accordance with the emergency physiciansdiscount payment policy, notwithstanding any contractual provision.

(Added by Stats. 2010, Ch. 445, Sec. 4. (AB 1503) Effective January 1, 2011.)

127461.

Notwithstanding any other provision of law, the amounts paid by parties for services resulting from reduced or waived charges under an emergency physiciansdiscounted payment policy shall not constitute an emergency physiciansuniform, published, prevailing, or customary charges, its usual fees to the general public, or its charges to non-Medi-Cal purchasers under comparable circumstances, and shall not be used to calculate an emergency physiciansmedian non-Medicare or non-Medi-Cal charges, for purposes of any payment limit under the federal Medicare Program, the Medi-Cal program, or any other federal or state-financed health care program.

(Added by Stats. 2010, Ch. 445, Sec. 4. (AB 1503) Effective January 1, 2011.)

127462.

To the extent that any requirement of this article results in a federal determination that an emergency physiciansestablished charge schedule or published rates are not the physician and surgeonscustomary or prevailing charges for services, the requirement in question shall be inoperative for all emergency physicians. The State Department of Public Health shall seek federal guidance regarding modifications to the requirement in question. All other requirements of this article shall remain in effect.

(Added by Stats. 2010, Ch. 445, Sec. 4. (AB 1503) Effective January 1, 2011.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=2.5.&article=3.

127470.

For purposes of this article:

(a)Covered drug means a drug purchased by a covered entity that is subject to the federal pricing requirements set forth in Section 256b of Title 42 of the United States Code.

(b)Covered entity means a provider defined as a covered entity in Section 256b of Title 42 of the United States Code.

(c)Pharmacy benefit manager has the same meaning as defined in Section 4430 of the Business and Professions Code and includes a wholly or partially owned or controlled subsidiary of a pharmacy benefit manager.

(d)Specified pharmacy means a pharmacy owned by, or under contract with, a covered entity that is registered with the 340B discount drug purchasing program to dispense covered drugs on behalf of the covered entity, whether in person or via mail.

(Added by Stats. 2023, Ch. 414, Sec. 1. (SB 786) Effective January 1, 2024.)

127471.

(a)A pharmacy benefit manager shall not impose any requirements, conditions, or exclusions that do either of the following:

(1)Discriminate against a covered entity or a specified pharmacy in connection with dispensing covered drugs.

(2)Prevent a covered entity from retaining the benefit of discounted pricing for the purchase of covered drugs.

(b)Discrimination prohibited pursuant to subdivision (a) includes, but is not limited to, all of the following:

(1)Payment terms, reimbursement methodologies, or other terms and conditions that distinguish between covered drugs and other drugs, account for the availability of discounts under the 340B discount drug purchasing program described in Section 256b of Title 42 of the United States Code in determining reimbursement, or are less favorable than the payment terms or reimbursement methodologies for similarly situated entities that are not furnishing or dispensing covered drugs.

(2)Terms or conditions applied to covered entities or specified pharmacies based on the furnishing or dispensing of covered drugs or their status as a covered entity or specified pharmacy, including restrictions or requirements for participation in specialty, standard, or preferred pharmacy networks, or requirements related to the frequency or scope of audits.

(3)Refusing to contract with or terminating a contract with a covered entity or specified pharmacy, or otherwise excluding a covered entity or specified pharmacy from a specialty, standard or preferred network, on the basis that the entity or pharmacy is a covered entity or a specified pharmacy or for reasons other than those that apply equally to entities or pharmacies that are not covered entities or specified pharmacies.

(4)Retaliation against a covered entity or specified pharmacy based on its exercise of any right or remedy under this article.

(5)Interfering with an individualschoice to receive a covered drug from a covered entity or specified pharmacy, whether in person or via direct delivery, mail, or other form of shipment.

(6)Restricting or prohibiting a covered entity from raising a grievance or speaking publicly about any pharmacy benefit manager that violates this subdivision or from filing a legal action against a pharmacy benefit manager for violating this subdivision.

(c)This section does not apply to the Medi-Cal program or the federal Medicare Program but does apply to pharmacy benefit managers that contract with managed care organizations that serve Medi-Cal or Medicare members.

(d)The provisions of this section shall not be waived, voided, or nullified by contract.

(e)This article shall only be implemented to the extent that it is consistent with Section 256b of Title 42 of the United States Code or any rules or regulations adopted thereunder.

(Added by Stats. 2023, Ch. 414, Sec. 1. (SB 786) Effective January 1, 2024.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=2.&chapter=2.6.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=2.6.&article=1.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 2. HEALTH POLICY AND PLANNING [127280 - 127697]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 2.6. Health Care Affordability [127500 - 127507.6]__

(Chapter 2.6 added by Stats. 2022, Ch. 47, Sec. 19.)

__ARTICLE 1. General Provisions and Definitions [127500 - 127500.5]__

(Article 1 added by Stats. 2022, Ch. 47, Sec. 19.)

127500.

This chapter shall be known, and may be cited, as the California Health Care Quality and Affordability Act.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

127500.2.

As used in this chapter, the following definitions apply:

(a)(1)Administrative costs and profits" means the total sum of all expenses not included in the numerator of the medical loss ratio calculation under state or federal law, including, but not limited to, all of the following:

(A)All categories of administrative expenditures.

(B)Net additions to reserves.

(C)Rate dividends or rebates.

(D)Profits or losses.

(E)Taxes and fees.

(2)For purposes of this chapter, administrative costs and profits" for a fully integrated delivery system means those associated with its nonprofit health care services plan.

(b)Affordability for consumers" means considering the totality of costs paid by consumers for covered benefits, including the enrollee share of premium and cost-sharing amounts paid towards the maximum out-of-pocket amount, including deductibles, copays, coinsurance, and other forms of cost sharing for public and private health coverage.

(c)Affordability for purchasers" means considering the cost to purchasers, including, but not limited to, health plans and health insurers, employers purchasing group coverage, and the state, for health coverage and shall include premium costs, actuarial value of coverage for covered benefits, and the value delivered on health care spending in terms of improved quality and cost efficiency.

(d)Alternative payment model" means a state or nationally recognized payment approach that financially incentivizes high-quality and cost-efficient care.

(e)Board" means the Health Care Affordability Board established by Section 127501.10.

(f)Director" means the Director of the Department of Health Care Access and Information.

(g)(1)Exempted provider" means a provider that meets standards established by the board for exemption from either of the following:

(A)The statewide health care target.

(B)Specific targets set for health care sectors, including fully integrated delivery systems, geographic regions,

and for individual health care entities.

(2)The factors used in setting standards for exemption may include, but are not limited to, annual gross and net revenues, patient volume, and high-cost outliers in a given service or geographic region.

(3)In determining whether a provider is an exempted provider, the board shall also consider any affiliates, subsidiaries, or other entities that control, govern, or are financially responsible for the provider or that are subject to the control, governance, or financial control of the provider.

(4)A physician practice that does not meet the definition in subdivision (p) is an exempted provider.

(h)Fully integrated delivery system means a system that includes a physician organization, health facility or health system, and a nonprofit health care service plan that provides health care services to enrollees in a specific geographic region of the state through an affiliate hospital system and an exclusive contract between the nonprofit health care service plan and a single physician organization in each geographic region to provide those medical services.

(i)Geographic region may either be the regions specified in Section 1385.01 or may be otherwise defined by the board.

(j)Health care cost target means the target percentage for the maximum annual increase in per capita total health care expenditures.

(k)Health care entity means a payer, provider, or a fully integrated delivery system.

(l)Insurance market means the public and private health insurance markets.

(m)Line of business means the different individual, small, and large group business lines, as defined in Section 1348.95 of this code and Section 10127.19 of the Insurance Code, as well as Medi-Cal, Medicare, Covered California, or self-insured public employee health plans.

(n)Material change means any change in ownership, operations, or governance for a health care entity, involving a material amount of assets of a health care entity.

(o)Payer means private and public health care payers, including all of the following:

(1)A health care service plan or a specialized mental health care service plan, as defined in the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2) or a Medi-Cal managed care plan contracted with the State Department of Health Care Services to provide full scope benefits to a Medi-Cal enrollee pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with Section 14591) of, Part 3 of Division 9 of the Welfare and Institutions Code.

(2)A health insurer licensed to provide health insurance or specialized behavioral health-only policies, as defined in Section 106 of the Insurance Code.

(3)A publicly funded health care program, including, but not limited to, Medi-Cal and Medicare.

(4)A third-party administrator.

(5)Any other public or private entity, other than an individual, that pays for or arranges for the purchase of

health care services on behalf of employees, dependents, or retirees.

(p)Physician organization includes any of the following:

(1)An organization described in paragraph (2) of subdivision (g) of Section 1375.4.

(2)A risk-bearing organization, as defined in Section 1375.4.

(3)A restricted health care service plan and limited health care service plan under subdivision (a) of Section 1300.49 of Title 28 of the California Code of Regulations. The inclusion of restricted health care service plans and limited health care service plans in the definition of physician organization does not narrow, abrogate, or otherwise alter the regulatory authority of the Department of Managed Health Care over these entities.

(4)A medical foundation exempt from licensure pursuant to subdivision (l) of Section 1206.

(5)A medical group practice, a professional medical corporation, a medical partnership, or any lawfully organized group of physicians and surgeons that provides, delivers, furnishes, or otherwise arranges for health care services and is comprised of 25 or more physicians.

(6)Notwithstanding paragraph (5), an organization of less than 25 physicians, but that is a high-cost outlier whose costs for the same services provided are substantially higher compared to the statewide average, as identified through data sources that include, but are not limited to, data from state and federal agencies, other relevant supplemental data, such as financial data on providers that is submitted to state agencies, or data reported to HCAI under the Health Care Payments Data Program, established pursuant to Chapter 8.5 (commencing with Section 127671). The cost of delivering the same services in a geographic region shall be considered to the extent that cost substantially deviates from the statewide average and reflects higher costs in that region unrelated to the market dominance of providers in that region or unrelated to the ownership, management, or asset structure chosen by the organization.

(q)Provider means any of the following that delivers or furnishes health care services:

(1)A physician organization.

(2)A health facility, as defined in Section 1250, including a general acute care hospital.

(3)A clinic conducted, operated, or maintained as an outpatient department of a hospital, as described in subdivision (d) of Section 1206.

(4)A clinic described in subdivision (l) of Section 1206.

(5)A clinic described in subdivision (a) of Section 1204.

(6)A specialty clinic, as described in paragraphs (1) to (3), inclusive, of subdivision (b) of Section 1204.

(7)An ambulatory surgical center or accredited outpatient setting.

(8)A clinical laboratory licensed or registered with the State Department of Public Health under Chapter 3 (commencing with Section 1200) of the Business and Professions Code.

(9)An imaging facility that employs or contracts with persons that are subject to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104), or the Radiologic Technologists Act

(Article 5 (commencing with Section 106955) of Chapter 4 of Part 1, or Article 6 (commencing with Section 107150) of Chapter 4 of Part 1 of Division 104).

(r)Purchaser means an individual, organization, or business entity that purchases health care services, including, but not limited to, trust funds, trade associations, and private and public employers who provide health care benefits to their employees, members, and dependents.

(s)Total health care expenditures means all health care spending in the state by public and private sources, including all of the following:

(1)All claims-based payments and encounters for covered health care benefits.

(2)All non-claims-based payments for covered health care benefits, such as capitation, salary, global budget, other alternative payment methods, or supplemental provider payments pursuant to the Medi-Cal program.

(3)All cost sharing for covered health care benefits paid by residents of this state, including, but not limited to, copayments, coinsurance, and deductibles.

(4)Administrative costs and profits.

(5)Pharmacy rebates and any inpatient or outpatient prescription drug costs not otherwise included in this subdivision.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

127500.5.

(a)The Legislature finds and declares all of the following:

(1)It is in the public interest that all Californians receive health care that is accessible, affordable, equitable, high-quality, and universal.

(2)While California has reduced the uninsured share of its population to a historic low of 7 percent through implementation of the federal Patient Protection and Affordable Care Act (PPACA: Public Law 111-148) and other state efforts, affordability has reached a crisis point as health care costs continue to grow.

(3)As costs rise, employers are increasingly shifting the cost of premiums and deductibles to employees, negatively impacting the potential for wage growth. Between 2010 and 2018, wages in the state kept pace with inflation by increasing by 19 percent. Meanwhile, families with job-based coverage experienced a 45 percent increase in premiums, or more than twice the rate of wage growth. During the same period, families experienced a 70 percent increase in PPO deductibles, or nearly four times the rate of wage growth. While health insurance premium increases for 2021 may be considered moderate due to lower utilization of preventive, routine, and nonemergency services as a result of the novel coronavirus (COVID-19) pandemic, this abatement in health care cost growth is expected to be temporary.

(4)Escalating health care costs are being driven primarily by high prices and the underlying factors or market conditions that drive prices, particularly in geographic areas and sectors where there is a lack of competition due to consolidation, market power, venture capital activity, the role of profit margins, and other market failures. Consolidation through acquisitions, mergers, or corporate affiliations is pervasive across the industry

and involves health care service plans, health insurers, hospitals, physician organizations, pharmacy benefit managers, and other health care entities. Further, market consolidation occurs in various forms, including horizontal, vertical, and cross industry mergers, transitions from nonprofit to for-profit status or vice versa, and any combination involving for-profit and nonprofit entities, such as a nonprofit entity merging with, acquiring, or entering into a corporate affiliation with a for-profit entity or vice versa.

(5)Californians of color experience health disparities, including barriers to accessing care, receiving lower quality of care, lack of access to culturally and linguistically competent care, and experiencing worse health outcomes. Certain communities, including low-income, Black, Latino, Pacific Islander, and essential workers, have been disproportionately impacted by COVID-19 in terms of higher rates of infection, hospitalizations, and deaths. These negative health outcomes further highlight a public health imperative to reduce racial and ethnic disparities in health care.

(6)The COVID-19 pandemic has exposed vulnerabilities within the current system with regard to provider payments. Physician fee-for-service payment has increased over the past decade, while the use of population-based prepayment has decreased in the employer-sponsored coverage market. As Californians stayed home, the loss of fee-for-service (FFS) payment revenue for providers has downstream impacts on access to care and for health care workers™ economic security. Beyond exposing providers to considerable financial instability, FFS payments may not be the most effective way to incentivize providers to deliver high-quality and cost-efficient care or offer the flexibility to make practice changes that enable improved access, care coordination, patient engagement, and quality.

(7)Primary care is foundational to an effective health care system and evidence supports that greater use of primary care has been associated with lower costs, higher patient satisfaction, reduced low birth weight, fewer hospitalizations and emergency department visits, and lower mortality, among other key outcomes. However, the United States as a whole spends a far lower share of health care expenditures on primary care and experiences worse outcomes in life expectancy and mortality than other countries.

(8)Behavioral health needs are common among Californians, with most who need it not receiving treatment. National research finds that persons with mental health or substance use disorders have approximately two to three times higher medical costs than those with no behavioral health diagnosis. This research also shows that total health care spending on mental health and substance use disorder services have remained relatively flat between 2012 and 2017. Models that integrate primary care and behavioral health services have been shown to improve access to effective behavioral health services that improve health outcomes, as well as deliver a return on investment by reducing downstream health care costs.

(9)Surveys show that people are delaying or going without care due to concerns about cost, or are getting care but struggling to pay the resulting bill. In California, one in four people report problems paying or being unable to pay their medical bills, with two-thirds cutting back on basic household items like food and clothing to pay those bills. Concerns about affordability of coverage and care are expected to be exacerbated during the economic recession related to the COVID-19 pandemic, particularly among lower-wage workers.

(10)High drug prices contribute significantly to health care costs. Prescription drugs account for nearly one-fifth of health care spending. The Centers for Medicare and Medicaid Services project that prescription drug spending will grow faster and outpace other categories of health care spending in the years to come. Cost-effectiveness analyses often find that drugs are priced in excess of the value they deliver to patients.

(11)The State of California has a substantial public interest in the price and cost of health care coverage. California is a major purchaser through the Public Employees™ Retirement System, the State Department of Health Care Services, the Department of General Services, the Department of Corrections and Rehabilitation, and other entities acting on behalf of a state purchaser. The government also provides major tax

expenditures through the tax exclusion of employer-sponsored coverage and tax deductibility of coverage purchased by individuals, as well as tax deductibility of excess health care costs for individuals and families.

(b)It is the intent of the Legislature to have a comprehensive view of health care spending, cost trends, and variation to inform actions to reduce the overall rate of growth in health care costs while maintaining quality of care, with the goal of improving affordability, access, and equity of health care for Californians.

(c)It is the intent of the Legislature to encourage policies, payments, and initiatives that improve the affordability, quality, equity, efficiency, access, and value of health care service delivery, with a particular focus on ensuring health equity and reducing disparities in care, access, and outcomes across California.

(d)It is the intent of the Legislature to recognize and consider the unique health care needs of people with disabilities and chronic illnesses and the associated challenges with access, affordability, equity, quality, and delivery of health care.

(e)It is the intent of the Legislature for the State of California to achieve more affordable health care and better outcomes by consistently measuring and promoting sustained systemwide investment in primary care and behavioral health.

(f)It is the intent of the Legislature to facilitate increased adoption of alternative payment models that reward high-quality and cost-efficient care, including strategies for shared savings and downside risk arrangements and population-based payments.

(g)It is the intent of the Legislature to promote the goal of health care affordability while recognizing the need to maintain and increase the supply of trained, culturally and linguistically competent health care workers, and to monitor the effects of cost containment efforts on health care workforce stability, high-quality health care jobs, and the training needs of health care workers. It is the intent of the Legislature that cost containment does not constrain the health care workforce that California needs, including the competitive wages and benefits of frontline health care workers.

(h)It is the intent of the Legislature that health care cost targets not be used to place a floor or ceiling on health care workforce compensation.

(i)It is the intent of the Legislature to increase transparency on mergers, acquisitions, and corporate affiliations involving health care service plans, health insurers, hospitals or hospital systems, physician organizations, pharmacy benefit managers, and other health care entities that may impact market competition and affordability for consumers and purchasers.

(j)It is the intent of the Legislature to analyze cost and quality trends in the pharmaceutical sector, study the impact of drug prices and pharmaceutical market failures on affordability, and inform policy interventions to improve competition and lower consumer costs.

(k)It is the intent of the Legislature in enacting this chapter to provide accountability to the State of California for the affordability and cost of health care in California.

(l)It is the intent of the Legislature in enacting this chapter that the setting of health care cost targets distinguish between health care entities that deliver cost-efficient, high quality care and those that deliver high-cost care without commensurate improvements in overall quality.

(m)It is the intent of the Legislature in enacting this chapter that enforcement actions to address growth in per capita total health care expenditures are implemented in a progressive manner, such that health care

entities are assisted to come into compliance with cost targets, including through technical assistance and performance improvement plans, before assessing administrative penalties unless there are egregious violations as specified in Section 127502.5.

(n)To avoid duplication of efforts and to avoid inconsistency between federal and state laws, it is the intent of the Legislature that collaboration occur between relevant regulatory agencies regarding whether a health care entity is in compliance or noncompliance with the cost targets.

(o)It is the intent of the Legislature, therefore, to establish a single entity within state government charged with doing all of the following:

(1)Developing a comprehensive strategy for cost containment in California, including measuring progress towards reducing the rate of growth in per capita total health care spending and ultimately lowering consumer spending on premiums and out-of-pocket costs, while maintaining quality, access, and equity of care, as well as promoting workforce stability and maintaining high-quality health care jobs.

(2)Addressing cost increases in excess of health care cost targets through public transparency, opportunities for remediation, and other progressive enforcement actions to achieve cost targets that optimize value in health care spending.

(3)Referring transactions that may reduce market competition or increase costs to the Attorney General for further review.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=2.6.&article=2.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 2. HEALTH POLICY AND PLANNING [127280 - 127697]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 2.6. Health Care Affordability [127500 - 127507.6]__

(Chapter 2.6 added by Stats. 2022, Ch. 47, Sec. 19.)

__ARTICLE 2. Office of Health Care Affordability [127501 - 127501.12]__

(Article 2 added by Stats. 2022, Ch. 47, Sec. 19.)

127501.

(a)There is hereby established, within the Department of Health Care Access and Information, the Office of Health Care Affordability. The Director of the Department of Health Care Access and Information shall be the director of the office and shall carry out all functions of that position, including enforcement.

(b)The office shall be responsible for analyzing the health care market for cost trends and drivers of spending, developing data-informed policies for lowering health care costs for consumers and purchasers, creating a state strategy for controlling the cost of health care and ensuring affordability for consumers and purchasers, and enforcing cost targets.

(c)The office shall do all of the following:

(1)Increase cost transparency through public reporting of per capita total health care spending and factors contributing to health care cost growth.

(2)Support the board, through data collection and analysis and recommendations, to establish a statewide health care cost target for per capita total health care spending.

(3)Support the board, through data collection and analysis and recommendations, to establish specific health care cost targets by health care sector, including fully integrated delivery systems, geographic regions, and individual health care entities, as appropriate.

(4)Collect and analyze data from existing and emerging public and private data sources that allow the office to track spending, set cost targets, approve performance improvement plans, monitor impacts on health care workforce stability, and carry out all other functions of the office.

(5)Analyze cost and quality trends for drugs covered by pharmaceutical and medical benefits. The office shall consider the data in the reports required pursuant to Section 1367.243 and Section 10123.205 of the Insurance Code and pharmaceutical data reported in the Health Care Payments Data Program, established pursuant to Chapter 8.5 (commencing with Section 127671).

(6)Oversee the statesprogress towards meeting the health care cost target by providing technical assistance, requiring public testimony, requiring submission of and monitoring compliance with performance improvement plans, and assessing administrative penalties through enforcement actions, including escalating administrative penalties for noncompliance.

(7)Promote, measure, and publicly report performance on quality and health equity through the adoption of a priority set of standard quality and equity measures for health care entities, with consideration for minimizing administrative burden and duplication.

(8)Advance standards for promoting the adoption of alternative payment models.

(9)Measure and promote sustained systemwide investment in primary care and behavioral health.

(10)Advance standards for health care workforce stability and training, as these relate to costs.

(11)Disseminate best practices from entities that comply with the cost target, including a summary of affordability efforts that enable the entity to meet the cost target.

(12)Review and evaluate consolidation, market power, and other market failures through cost and market impact reviews of mergers, acquisitions, or corporate affiliations involving health care service plans, health insurers, hospitals, physician organizations, pharmacy benefit managers, and other health care entities.

(13)Analyze trends in the price of health care technologies.

(14)Analyze trends in the cost of labor for both management and administration, as well as nonsupervisorial health care workforce, as well as analyzing the profits of health care entities, if that data is available.

(15)Conduct ongoing research and evaluation on payers, fully integrated delivery systems, and providers, including physician organizations, to determine whether the definitions or other provisions of this chapter include those entities that significantly affect health care cost, quality, equity, and workforce stability.

(16)Adopt and promulgate regulations for the purpose of carrying out this chapter.

(17)Establish advisory or technical committees, as necessary.

(d)For purposes of implementing this chapter, including hiring staff and consultants, through the procurement authority and processes of the department, facilitating and conducting meetings, conducting research and analysis, and developing the required reports, the office may enter into exclusive or nonexclusive contracts on a bid or negotiated basis. Until January 1, 2026, contracts entered into or amended pursuant to this chapter are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and the State Administrative Manual, and are exempt from the review or approval of any division of the Department of General Services.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

127501.2.

(a)Until January 1, 2027, any necessary rules and regulations for the purpose of implementing this chapter may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of emergency regulations pursuant to this section shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(b)Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including subdivisions (e) and (h) of Section 11346.1, an emergency regulation adopted pursuant to this section shall be repealed by operation of law unless the adoption, amendment, or repeal of

the regulation is promulgated by the office pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code within five years of the initial adoption of the emergency regulation.

(c)Any rule or regulation adopted pursuant to this section shall be discussed by the board during at least one board meeting before the office adopts the rule or regulation.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

127501.3.

(a)The office shall be responsive to requests for additional information from the Legislature, including providing testimony during hearings and commenting on proposed legislation or policy issues.

(b)The Legislature finds and declares that activities, including, but not limited to, responding to legislative or executive inquiries, tracking and commenting on legislation and regulatory activities, and preparing reports on the implementation of this chapter and the performance of the office, are necessary state requirements.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

127501.4.

(a)(1)Notwithstanding any other state or local law, the office shall collect data and other information it determines necessary from health care entities, except exempted providers, to carry out the functions of the office. To the extent consistent with federal law and to the greatest extent possible, the office may use existing and emerging public and private data sources to minimize administrative burdens and duplicative reporting, including data or information from federal agencies as well as state agencies. The office may request data and information from, or enter into a data sharing agreement with, the State Department of Health Care Services, Covered California, the Department of Managed Health Care, the Department of Insurance, the Labor and Workforce Development Agency, the Business, Consumer Services, and Housing Agency, and other relevant state agencies that monitor compliance of plans and providers with access standards, including timely access, language access, geographic access, and other access standards as provided by law and regulation. The office may also enter into a data sharing agreement with these state agencies that collect payer and provider financial data or other data or information about the health care workforce.

(2)In furtherance of this chapter, and with the intent to reduce administrative burdens, the office shall coordinate with the State Department of Health Care Services on data and other information necessary to report both of the following:

(A)Total health care expenditures and per capita total health care expenditures for Medi-Cal services.

(B)Medical loss ratios required under applicable state and federal laws.

(C)Quality and equity measures to assess performance for the Medi-Cal program or other programs administered by the State Department of Health Care Services.

(3)(A)The office shall obtain from the Department of Managed Health Care and the Department of Insurance information about health care services plans, as defined in subdivision (b) of Section 1345, and insurers offering policies of health insurance, as defined in subdivision (b) of Section 106 of the Insurance Code. The information shall be for coverage in the individual, small group, and large group markets for both grandfathered and nongrandfathered products. The information shall include, but not be limited to, all of the following:

(i)Information on premiums, cost sharing, benefits, and other information required under Article 6.2 (commencing with Section 1385.01) of Chapter 2.2 of Division 2 of this code and Article 4.5 (commencing with Section 10181) of Chapter 1 of Part 2 of Division 2 of the Insurance Code.

(ii)Trend factors by benefit category, such as inpatient hospitalization and physician services, including price, utilization, and cost as a percentage of Medicare, as required by Section 1385.045 of this code and Section 10181.45 of the Insurance Code.

(iii)Medical loss ratio for each health care service plan or health insurer under applicable state and federal laws.

(iv)Cost containment and quality improvement efforts reported consistent with Sections 1385.03 and 1385.045 of this code and Sections 10181.3 and 10181.45 of the Insurance Code.

(v)Prescription drug costs consistent with Section 1367.243 and Article 6.1 (commencing with Section 1385.001) of Chapter 2.2 of Division 2 of this code and Section 10123.205 of the Insurance Code.

(vi)Information regarding health equity and quality required under Article 11.9 (commencing with Section 1399.870) of Chapter 2.2 of Division 2, including data and results.

(B)The Department of Managed Health Care and the Department of Insurance shall provide the above information in the initial submission of data to the office for the five years prior to 2023, to the extent that information is available, and annually thereafter.

(b)The office shall establish requirements for payers and fully integrated delivery systems to submit data and other information necessary to do all of the following:

(1)Measure total health care expenditures and per capita total health care expenditures.

(2)Determine whether health care entities met health care cost targets.

(3)Identify the annual change in health care costs of health care entities.

(4)Approve and monitor implementation of performance improvement plans.

(5)Assess performance on quality and equity measures.

(c)The office shall, in a manner prescribed by the office, establish requirements for providers to submit data in support of this section as necessary to carry out the functions of the office.

(d)(1)For the purpose of the baseline health care spending report published pursuant to subdivision (a) of Section 127501.6, payers and fully integrated delivery systems shall submit data on total health care expenditures for the 2022 and 2023 calendar years on or before September 1, 2024. Enforcement shall not be implemented pursuant to this baseline report, except any enforcement actions necessary to ensure

compliance with the deadline for submitting data.

(2)For the first annual report, published pursuant to subdivision (b) of Section 127501.6, payers and fully integrated delivery systems shall submit data on total health care expenditures for the 2024 and 2025 calendar years based on a reporting schedule established by the office. For subsequent annual reports, payers and fully integrated delivery systems shall submit data for the relevant calendar years according to the reporting schedule established by the office.

(e)(1)The office shall require health care entities to submit data and other information as necessary to fulfill its functions and measure total health care expenditures and per capita total health care expenditures by sectors.

(2)For the calculation of total health care expenditures and per capita total health care expenditures by sectors, the office shall use the Health Care Payments Data Program, established pursuant to Chapter 8.5 (commencing with Section 127671), to the greatest extent possible, to minimize reporting burdens for health care entities, and may also use data from federal agencies.

(f)The office shall require payers, fully integrated delivery systems, hospitals, and physician organizations to report data and other information, as necessary, for the single set of standard quality measures pursuant to Section 127503.

(g)(1)The office shall require payers, fully integrated delivery systems, restricted health care service plans, and limited health care service plans, as defined in Section 1300.49 of Title 28 of the California Code of Regulations, to submit data and other information to measure the adoption of alternative payment models pursuant to Section 127504.

(2)The office shall establish requirements for payers, fully integrated delivery systems, restricted health care service plans, and limited health care service plans, as defined in Section 1300.49 of Title 28 of the California Code of Regulations, to report data and other information, including, but not limited to, the types of payment models, adoption by line of business, the number of members covered by alternative payment models, the percent of budget dedicated to alternative payments, or cost and quality performance measures tied to those payment models.

(h)(1)The office shall require payers, fully integrated delivery systems, restricted health care service plans, and limited health care service plans, as defined in Section 1300.49 of Title 28 of the California Code of Regulations, to submit data and other information to measure the percentage of total health care expenditures allocated to primary care and behavioral health pursuant to Section 127505.

(2)For the calculation of total health care expenditures allocated to primary care and behavioral health, the office shall do all of the following:

(A)Use the Health Care Payments Data Program, established pursuant to Chapter 8.5 (commencing with Section 127671), to the greatest extent possible, to minimize reporting burdens for health care entities.

(B)Determine the categories of health care professionals who should be considered primary care and behavioral health providers and consider existing state and national approaches, as appropriate.

(C)Determine specific procedure codes that should be considered primary care and behavioral health services and consider existing state and national approaches, as appropriate.

(D)Determine the categories of payments to primary care or behavioral health care providers and practices,

including non-claims-based payments, such as alternative payment models, that should be included when determining the total amount spent on primary care and behavioral health.

(i)(1)With consideration to minimizing reporting burdens and expenses, the office shall require providers and any physician organizations that are part of a fully integrated delivery system to submit audited financial reports, similar to those required in paragraphs (a) to (e), inclusive, of Section 128735. This paragraph does not apply to exempted providers.

(2)For physician organizations defined in paragraph (5) of subdivision (p) of Section 127500, and providers that do not routinely prepare audited financial reports, the office shall require a comprehensive financial statement that includes details regarding annual costs, annual receipts, realized capital gains and losses, and accumulated surplus and accumulated reserves using the standard accounting method routinely used by the physician organization or provider. The comprehensive financial statement shall be supported by sworn written declarations by the chief financial officer, chief executive officer, or other officer who has financial management and oversight responsibilities for the physician organization or provider, certifying that the financial statement is complete, true, and correct in all material matters to the best of their knowledge, and that the provider does not routinely prepare audited financial reports. This paragraph does not apply to exempted providers and physician organizations that are part of a fully integrated delivery system.

(3)The board, members of the board, the office, the department, and the employees, contractors, and advisors of the office and the department shall keep the audited financial reports and comprehensive financial statements confidential, and shall use the confidential information and documents only as necessary for the function of the office.

(4)This subdivision does not apply to providers that are already required to report under Section 128735 or risk bearing organizations (RBOs) that are required to file quarterly and annual financial statements under Section 1375.4 of this code and Section 1300.75.4.2 of Title 28 of the California Code of Regulations.

(5)Notwithstanding any other law, all information and documents obtained under this subdivision shall not be required to be disclosed pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) or any similar local law requiring the disclosure of public records.

(j)(1)Consistent with subdivision (a), the office shall obtain data from existing state and federal data sources and from regulated entities to effectively monitor impacts to health care workforce stability and training needs.

(2)In order for an adjustment to cost targets to be made under paragraph (7) of subdivision (d) of Section 127502, a provider, a fully integrated delivery system, or other associated party shall produce actual or projected nonsupervisory employee organized labor costs, including increased expenditures related to compensation, and any other supporting information to validate the adjustment, as may be requested by the office pertaining to the actual or projected organized labor costs.

(3)The office may collect all of the following types of data and make it accessible to the public:

(A)Overall trends in the health care workforce, including, but not limited to, statewide and regional workforce supply, unemployment and wage data, trends and projections of wages and compensation, projections of workforce supply by region and specialty, training needs, and other future trends in the health care workforce.

(B)The number and classification of workers in internship, clinical placements, apprenticeships, and other

training programs sponsored by an employer.

(C)The percentage of employees employed through a registry or casual employment.

(D)The number of workers at health care entities that were retrained through established public training programs.

(E)Investments by health care entities in private training and retraining programs.

(F)The number of workers subject to relocation, termination, or mass layoff as described in Chapter 4 (commencing with Section 1400) of Part 4 of Division 2 of the Labor Code.

(4)The office may request additional data from health care entities if it finds that the data is needed to effectively monitor impacts to health care workforce stability and training needs.

(5)The office may annually request from health care entities that are in compliance with the cost target, a summary of best practices used for improving health care affordability, if any.

(k)In furtherance of this section, the office shall promulgate regulations to collect data and other information it determines necessary from health care entities, except exempted providers, to carry out the functions of the office. The regulations may include, but are not limited to, detailed reporting schedules, technical specifications, and other resources to ensure the submission of accurate data in a standardized format within the specified timeframes. Prior to adopting regulations and approving the reporting schedules, technical specifications, and other resources, the office shall engage relevant stakeholders, hold a public meeting to solicit input, and provide a response to input received.

(Amended by Stats. 2023, Ch. 131, Sec. 129. (AB 1754) Effective January 1, 2024.)

127501.6.

(a)For data submitted to the office under paragraph (1) of subdivision (d) of Section 127501.4, the office shall prepare a report on baseline health care spending consistent with subparagraph (A) of paragraph (2) of subdivision (b) on or before June 1, 2025.

(b)(1)On or before June 1, 2027, the office shall prepare and publish its first annual report concerning health care spending trends and underlying factors, for the 2024 and 2025 calendar years, along with policy recommendations to control costs and improve quality performance and equity of the health care system, while maintaining access to care and high-quality jobs and workforce stability. The report shall be based on the officesanalysis of data and other information collected pursuant to this chapter.

(2)The annual report shall include all of the following:

(A)Total health care expenditures, per capita total health care expenditures, and, as appropriate, disaggregated data by categories such as service category, consumer out-of-pocket spending, and health care sector or geographic region, as specified in Section 127502.

(B)The statesprogress towards achieving the health care cost target and improving affordability for consumers and purchasers of health care, while improving quality, reducing health disparities, and maintaining access to care and high-quality jobs and workforce stability.

(C)Upon implementation of the Health Care Payments Data Program pursuant to Chapter 8.5 (commencing with Section 127671), or the availability of an alternative source of health care spending data for payers and fully integrated delivery systems required to report to the office, drivers of overall cost and cost growth, including cost trends by health care sector, such as type of provider or service type. Alternative sources of data shall include, but not be limited to, data provided to existing multipayer claims databases or other state or federal agencies. Any analysis of cost trends in the pharmaceutical sector shall account for the effect of drug rebates and other price concessions in the aggregate, without disclosing any product- or manufacturer-specific rebate or price concession information, and without limiting or otherwise affecting the confidential or proprietary nature of any rebate or price concession agreement.

(D)Factors that contribute to cost growth within the stateshealth care system.

(E)Access, quality, and equity of care measures and data, as available. Access includes timely access, language access, geographic access, and other measures of access reported through available data.

(F)Performance improvement plans required, administrative penalties imposed and assessed, and the amount returned to consumers and purchasers, if any.

(G)A summary of best practices for improving affordability while maintaining access, quality, and equity of care, as well as any concerns regarding impacts on the health care workforce stability and training needs of health care workers, as feasible.

(c)(1)Prior to and following the completion of the report on baseline health care spending, the office shall present the reportsfindings to the board and the broader public at a public meeting of the board.

(2)On or before July 1, 2027, and at least 30 days after posting the annual report, and each year thereafter, the office shall present the annual report at a public meeting of the board to inform the board, policymakers, including the Governor and the Legislature, and the broader public about implementation of this chapter, including health care cost targets, cost trends, and actionable recommendations for mitigating cost growth.

(3)(A)The office shall seek comments on the findings of the annual report from health care entities, purchasers, consumer advocacy organizations, organizations representing employers who purchase health coverage, representatives of trust funds and other self-insured purchasers of health benefits, and experts on matters relevant to health care affordability, costs, quality, access, and equity of care, workforce stability, and administrative simplification. The office shall also solicit and collect comments from the public, submitted orally, electronically, or in writing, regarding the impacts of health care affordability efforts on health care workforce stability or training needs. All comments may be posted on the officesinternet website to the extent that they are in compliance with state guidelines for the appropriateness of communications.

(B)The office shall notify the relevant regulatory agency and the Attorney General if a health care entity is impacting health care workforce stability or quality jobs, lowering quality, or reducing access or equity of care.

(d)The annual report and the report on baseline health care spending shall be submitted to the Governor and the Legislature and shall be made available to the public on the officesinternet website, along with key data and statistics supporting its findings. The reports submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(e)The public meetings shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

127501.7.

(a)(1)Notwithstanding any other law regarding the confidentiality of data submitted by health care service plans or other entities to the Department of Managed Health Care, the office and the Department of Managed Health Care may enter into an interagency agreement for the transfer of data pursuant to Section 127501.4 and any other data maintained by the Department of Managed Health Care deemed necessary by the office to implement this chapter.

(2)The interagency agreement shall specify that the office shall comply with any confidentiality requirements of the data that would otherwise apply to the Department of Managed Health Care with respect to disclosure. When confidentiality of data applies, the office may aggregate data for disclosure so that it does not reveal information specific to any particular health care service plan or other entity.

(b)(1)Notwithstanding any other law regarding the confidentiality of data submitted by health insurers or other entities to the Department of Insurance, the office and the Department of Insurance may enter into an interagency agreement for the transfer of data pursuant to Section 127501.4 and any other data maintained by the Department of Insurance deemed necessary by the office to implement this chapter.

(2)The interagency agreement shall specify that the office shall comply with any confidentiality requirements of the data that would otherwise apply to the Department of Insurance with respect to disclosure. When confidentiality of data applies, the office may aggregate data for disclosure so that it does not reveal information specific to any particular health insurer or other entity.

(c)(1)Notwithstanding any other law regarding the confidentiality of data submitted by health plans or other entities to the State Department of Health Care Services, the office and the State Department of Health Care Services may enter into an interagency agreement for the transfer of data pursuant to Section 127501.4 and any other data maintained by the State Department of Health Care Services deemed necessary by the office to implement this chapter.

(2)The interagency agreement shall specify that the office shall comply with any confidentiality requirements of the data that would otherwise apply to the State Department of Health Care Services with respect to disclosure. When confidentiality of data applies, the office may aggregate data for disclosure so that it does not reveal information specific to any particular Medi-Cal managed care plan or other entity.

(d)(1)Notwithstanding any other law regarding the confidentiality of data submitted by qualified health plans or other entities to Covered California, the office and Covered California may enter into an interagency agreement for the transfer of data pursuant to Section 127501.4 and any other data maintained by Covered California deemed necessary by the office to implement this chapter.

(2)The interagency agreement shall specify that the office shall comply with any confidentiality requirements of the data that would otherwise apply to Covered California with respect to disclosure. When confidentiality of data applies, the office may aggregate data for disclosure so that it does not reveal information specific to any particular qualified health plan or other entity.

(e)(1)Notwithstanding any other law regarding the confidentiality of data submitted to a state agency, the office may enter into an interagency agreement for the transfer of data pursuant to Section 127501.4 and

any other data maintained by the state agency deemed necessary by the office to implement this chapter.

(2)The interagency agreement shall specify that the office shall comply with any confidentiality requirements of the data that would otherwise apply to the state agency with respect to disclosure. When confidentiality of data applies, the office may aggregate data for disclosure so that it does not reveal specific confidential information.

(f)For the purposes of this section, information that is otherwise publicly available, or that has not been confidentially maintained by the source, shall not be considered nonpublic information.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

127501.8.

(a)There is hereby established in the State Treasury the Health Care Affordability Fund for the purpose of receiving and expending revenues collected pursuant to this chapter. This fund is subject to appropriation by the Legislature.

(b)All moneys in the fund shall be expended in a manner that prioritizes the return of the moneys to consumers and purchasers.

(c)The office may identify any opportunities to leverage existing public and private financial resources to provide technical assistance to health care entities and support to the office. Any private or public moneys obtained may be placed in the Health Care Affordability Fund, for use by the office upon appropriation by the Legislature.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

127501.10.

(a)There is hereby established, within the office, the Health Care Affordability Board. The board shall be composed of eight members, as follows:

(1)Four members shall be appointed by the Governor and confirmed by the Senate.

(2)One member shall be appointed by the Senate Committee on Rules.

(3)One member shall be appointed by the Speaker of the Assembly.

(4)The Secretary of Health and Human Services or their designee.

(5)The CalPERS Chief Health Director or their deputy shall serve as a nonvoting member of the board.

(b)Members of the board who are appointed shall be appointed for a term of four years, except that the initial appointment by the Senate Committee on Rules shall be for a term of five years, the initial appointment by the Speaker of the Assembly shall be for a term of two years, and one of the initial appointments by the Governor shall be for a term of three years. A member of the board may continue to

serve until the appointment and qualification of a successor. Vacancies shall be filled by appointment for the unexpired term.

(c)(1)Each person appointed to the board shall have demonstrated and acknowledged expertise in at least one of the following areas: health care economics; health care delivery; health care management or health care finance and administration, including payment methodologies; health plan administration and finance; health care technology; research and treatment innovations; competition in health care markets; primary care; behavioral health, including mental health and substance use disorder services; purchasing or self-funding group health care coverage for employees; enhancing value and affordability of health care coverage; or organized labor that represents health care workers.

(2)Appointing authorities shall consider the expertise of the other members of the board and attempt to make appointments so that the boardscomposition of members reflects a diversity of expertise on health care entities, purchasers, and consumer advocacy groups, who also meet the requirements of paragraph (1).

(3)In making appointments to the board, the appointing authorities shall take into consideration the statesdiversity in culture, race, ethnicity, sexual orientation, gender identity, and geography so that the boardscomposition reflects the communities of California. Appointing authorities shall consider the experience the board member has as a patient or caregiver of a patient with a chronic condition requiring ongoing health care, which may include behavioral health care or a disability.

(4) (A)An appointee to the board shall not receive financial compensation from, or be employed by, a health care entity that is subject to the cost targets, an entity subject to cost and market impact reviews, or an exempted provider.

(B)For purposes of this paragraph, an appointeesprohibited financial compensation and employment does not include employment by a health care entity solely as a tenured academic instructor with duties and compensation unrelated to the health care operations of the entity.

(C)For purposes of this paragraph, financial compensation does not include compensation received pursuant to a retirement plan.

(D)For purposes of this paragraph, financial compensation does not include clinical volunteer services if all of the following conditions are met:

(i)The board member is a health care professional who was actively participating in that profession prior to appointment to the board.

(ii)The board member does not receive compensation for performing volunteer services and does not have an ownership interest or other financial interest in the entity, facility, clinic, or provider group.

(iii)The clinical volunteer services are performed at the University of California or a nonprofit educational institution; a facility, clinic, or provider group operated by, or affiliated with, an academic medical center of either the University of California or a nonprofit educational institution; or a facility, clinic, or provider group operated by a state agency or county health system that does not directly contract with the office.

(E)For purposes of subparagraph (D), compensation and financial interest for a health care professional who performs clinical volunteer services does not include either of the following:

(i)A contribution to a professional liability insurance program made by the entity, facility, clinic, or provider group for the member or staff.

(ii)The provision of physical space, equipment, support staff, or other supports made by the entity, facility, clinic, or provider group for the member or staff necessary for the performance of clinical volunteer services described in subparagraph (D).

(5)The board shall elect a chair.

(d)(1)Each member of the board shall receive a per diem of five hundred dollars ($500) for each day actually spent in the discharge of official duties, not to exceed 30 days per year, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties. After June 30, 2026, the per diem shall be one hundred dollars ($100) per day.

(2)Notwithstanding any other law, a public officer or employee shall not receive per diem salary compensation for serving on the board on any day when the officer or employee also received compensation for their regular public employment.

(e)(1)The board shall meet at least quarterly or at the call of the chair.

(2)The board shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), except that the board may hold closed sessions when considering matters related to the office assessing administrative penalties, requiring performance improvement plans under Section 127502.5, and discussing nonpublic information and documents received by the office and board under this chapter.

(3)The board shall be subject to Article 3 (commencing with Section 87300) of Chapter 7 of Title 9 of the Government Code, and the regulations promulgated thereunder.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

127501.11.

(a) After receiving input, including recommendations, from the office and the advisory committee, and receiving public comments, the board shall establish all of the following:

(1)A statewide health care cost target.

(2)The definitions of health care sectors, which may include geographic regions and individual health care entities, as appropriate, except fully integrated delivery systems as defined in subdivision (h) of Section 127500.2, and specific targets by health care sector, which may include fully integrated delivery systems, geographic regions, and individual health care entities, as appropriate.

(3)The standards that need to be met for exemption from health care cost targets or submitting data directly to the office, including the definition of exempted providers.

(b)The board shall approve all of the following:

(1)Methodology for setting cost targets and adjustment factors to modify cost targets when appropriate.

(2)The scope and range of administrative penalties and the penalty justification factors for assessing

penalties.

(3)The benchmarks for primary care and behavioral health spending.

(4)The statewide goals for the adoption of alternative payment models and standards that may be used between payers and providers during contracting.

(5)The standards to advance the stability of the health workforce that may apply in the approval of performance improvement plans.

(c)The director shall present to the board for discussion all of the following:

(1)Options for statewide health care cost targets, specific targets by health care sector, including fully integrated delivery systems, geographic regions, and individual health care entities, as appropriate.

(2)The collection, analysis, and public reporting of data for the purposes of implementing this chapter.

(3)The risk adjustment methodologies for the reporting of data on total health care expenditures and per capita total health care expenditures.

(4)Review and input on performance improvement plans prior to approval, including delivery of periodic updates about compliance with performance improvement plans to inform any adjustment to the standards for imposing those plans.

(5)Review and input on administrative penalties to inform any adjustments to the scope and range of administrative penalties and the penalty justification for assessing penalties.

(6)Factors that contribute to cost growth within the stateshealth care system, including the pharmaceutical sector.

(7)Strategies to improve affordability for both individual consumers and purchasers of health care, including data collection, targets, and other steps.

(8)Recommendations for administrative simplification in the health care delivery system.

(9)Approaches for measuring access, quality, and equity of care.

(10)Recommendations for updates to statutory provisions necessary to promote innovation and to enable the increased adoption of alternative payment models.

(11)Methods of addressing consolidation, market power, and other market failures.

(d)(1)To support the boardsdecisionmaking, the board may request data analysis to be conducted or collected by the office.

(2)The office may establish advisory or technical committees, as necessary. The office shall establish advisory or technical committees at the request of the board. These committees may be standing committees or time-limited workgroups, at the discretion of the board. Members of these committees shall comply with the requirements in paragraph (1) of subdivision (c) of Section 127501.10. A committee established by the board may include members who are health care entities, consumer organizations representing health care consumers or patients, organized labor representing health care workers, or patients or caregivers of patients

with a chronic condition requiring ongoing health care, which may include behavioral health care or a disability.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

127501.12.

(a)(1)The board shall establish a Health Care Affordability Advisory Committee to provide input, including recommendations, to the board and the office on a range of areas, including, but not limited to, all of the following:

(A)A statewide health care cost target and specific targets by health care sector and geographic region.

(B)The methodology for setting cost targets and adjustment factors to modify cost targets when appropriate.

(C)Definitions of health care sectors.

(D)Benchmarks for primary care and behavioral health spending.

(E)Statewide goals for the adoption of alternative payment models and standards.

(F)Quality and equity metrics.

(G)Standards to advance the stability of the health care workforce.

(H)Other areas requested by the board or the office.

(2)The advisory committee may provide input, including recommendations, to the board regarding board requests for data analysis performed by the office, but does not have authority to direct data analysis or any other work performed by the office.

(b)(1)The board shall appoint the members of the advisory committee. Appointments shall be made by a majority vote of the voting members of the board. When appointing members to the advisory committee, the board shall aim for broad representation, including, at a minimum, representatives of consumer and patient groups, payers, fully integrated delivery systems, hospitals, organized labor, health care workers, medical groups, physicians, and purchasers, and shall apply the same considerations of demonstrated knowledge, expertise, diversity, and personal experience outlined in paragraphs (1) to (3), inclusive, of subdivision (c) of Section 127501.10.

(2)Each appointed member shall serve at the discretion of the board and may be removed at any time by a majority vote of the voting members of the board.

(3)The advisory committee members shall not have access to confidential, nonpublic information that is accessible to the board and office. Instead, the advisory committee shall only have access to information that is publicly available. Neither the board nor the office shall disclose any confidential, nonpublic information to the advisory committee members.

(4)Advisory committee members shall receive reimbursement for travel and other actual costs.

(c)(1)The advisory committee shall meet at least four times per year or when requested by the board.

(2)At least one member of the board shall attend the advisory committee meetings.

(3)Advance notice of any advisory committee meetings shall be posted on the officesinternet website to allow for public participation at the meetings. Meeting minutes of all advisory committee meetings and input, including recommendations, on proposed cost targets shall be posted on the officesinternet website.

(d)The board shall consider input, including recommendations, from the advisory committee, along with public comments, in the boardsdeliberation and decisionmaking.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=2.6.&article=3.

127502.

(a)The board shall establish a statewide health care cost target.

(b)(1)The board shall establish specific targets by health care sector, including fully integrated delivery systems, geographic regions, and individual health care entities, as appropriate. The board shall define health care sectors, which may include geographic regions and individual health care entities, as appropriate, except for fully integrated delivery systems, and the office shall promulgate regulations accordingly.

(2)The board may adjust cost targets by health care sector, including fully integrated delivery systems, geographic regions, and individual health care entities, as appropriate, when warranted to account for the baseline costs in comparison to other health care entities in the health care sector and geographic region.

(3)The setting of different targets by health care sector, including fully integrated delivery systems, geographic regions, and individual health care entities, as appropriate, shall be informed by historical cost data and other relevant supplemental data, such as financial data on health care entities submitted to state agencies and the Health Care Payments Data Program, as well as consideration of access, quality, equity, and health care workforce stability and quality jobs pursuant to Section 127506.

(c)The health care cost targets shall meet all of the following requirements:

(1)Promote a predictable and sustainable rate of change in per capita total health care expenditures.

(2)(A)Be based on a target percentage, with consideration of economic indicators or population-based measures, and be developed based on a methodology that is available and transparent to the public.

(B)Economic indicators may include established measures reflecting the broader economy, the labor markets, and consumer cost trends.

(C)Population-based measures may include changes in the statesdemographic factors that may influence

demand for health care services, such as aging.

(3)Be set for each calendar year, with consideration of multiyear targets to provide health care entities with consistency, be updated periodically, and shall consider relevant adjustment factors.

(4)Be developed, applied, and enforced.

(5)Promote the goal of improved affordability for consumers and purchasers of health care, while maintaining quality and equitable care, including consideration of the impact on persons with disabilities and chronic illness.

(6)Promote the stability of the health care workforce, including the development of the future workforce, such as graduate medical education teaching, training, apprenticeships, and research.

(7) Be adjusted for a provider or fully integrated delivery systemscost target, as appropriate upon a showing that nonsupervisory employee organized labor costs are projected to grow faster than the rate of any applicable cost targets.

(d)(1)Consistent with paragraph (1) of subdivision (b) of Section 127501.11, the office shall develop a methodology, for approval by the board, to set health care cost targets. The methodology shall be available and transparent to the public.

(2)The methodology shall review historical trends and projections for economic indicators and population-based measures.

(3)The methodology shall review historical trends in costs for Medi-Cal, Medicare, and commercial health care coverage. The methodology shall provide differential treatment of the 2020 and 2021 calendar years due to the impacts of COVID-19 on health care spending and health care entities.

(4)The methodology shall review potential factors to adjust future cost targets, including, but not limited to, the health care employment cost index, labor costs, the consumer price index for urban wage earners and clerical workers, impacts due to known emerging diseases, trends in the price of health care technologies, provider payer mix, state or local mandates such as required capital improvement projects, and any relevant state and federal policy changes impacting covered benefits, provider reimbursement, and costs.

(5)(A)With respect to Medi-Cal, the methodology shall consider provision of nonfederal share, determined to be appropriate by the Director of Health Care Services, associated with Medi-Cal payments, such as expenditures by providers or provider-affiliated entities that serve as the nonfederal share associated with Medi-Cal reimbursement.

(B)The methodology may also consider all of the following:

(i)Supplemental payments to qualifying providers who provide services to Medi-Cal and underinsured patients.

(ii)Provisions of nonfederal share or reimbursement of state costs not associated with specific Medi-Cal reimbursement, but that supports the Medi-Cal program, and any other reimbursements and fees assessed by the State Department of Health Care Services, as determined appropriate by the Director of Health Care Services.

(iii)Health care-related taxes or fees that, in whole or in part, provide the nonfederal share associated with

Medi-Cal payments or support the Medi-Cal program, as determined appropriate by the Director of Health Care Services.

(C)The methodology shall allow the board, to the extent necessary for the Medi-Cal program to comply with federal requirements to help ensure that full federal financial participation is available and not otherwise jeopardized related to services, programs, benefits, and contracts that involve funds disbursed by the State Department of Health Care Services, including but not limited to funds authorized pursuant to Title XIX (42 U. S.C. Sec. 1396 et seq.) of the Social Security Act or Title XXI of the Social Security Act (42 U.S.C. Sec. 1397aa et seq.), to adjust any targets, when warranted, as they pertain to health care entities in the Medi-Cal program, upon the request of the Director of Health Care Services.

(6)(A)The methodology shall allow the board to adjust cost targets downward, when warranted, for health care entities that deliver high-cost care that is not commensurate with improvements in quality, and upward, when warranted, for health care entities that deliver low cost, high quality care.

(B)Data sources on cost and quality performance of health care entities may include, but are not limited to, all of the following:

(i)Cost and quality performance data reported by or sourced from recognized quality improvement and transparency initiatives.

(ii)Any other relevant supplemental data, such as financial data on health care entities, submitted to state agencies, and data on costs, payments, and quality from the Health Care Payments Data Program established pursuant to Chapter 8.5 (commencing with Section 127671).

(iii)Any relevant federal, state, or local data.

(7)The methodology shall require the board to adjust cost targets for a provider or a fully integrated delivery system as appropriate to account for actual or projected nonsupervisory employee organized labor costs, including increased expenditures related to compensation. For an adjustment to be effectuated, the provider, the fully integrated delivery system, or other associated party shall submit a request with supporting documentation in a format prescribed by the office. To validate the basis for the requested adjustment, the office may request or accept further information, such as any single labor agreement that is final and reflects the actual or projected increased nonsupervisory employee organized labor costs. The office may audit the submitted data and supporting information as necessary.

(e)The methodology for setting a sector target for an individual health care entity shall be developed taking into account the following:

(1)Allow for the setting of cost targets based on the entitysstatus as a high-cost outlier.

(2)Allow for the setting of cost targets that encourage an individual health care entity to serve populations with greater health care risks by incorporating all of the following:

(A)A risk factor adjustment reflecting the health status of the entityspatient mix, consistent with risk adjustment methodology developed under subdivision (f).

(B)An equity adjustment accounting for the social determinants of health and other factors related to health equity for the entityspatient mix, consistent with subdivision (g).

(C)A geographic cost adjustment reflecting the relative cost of doing business, including labor costs in the

communities the entity operates.

(f)(1)In consultation with the board, the office shall establish risk adjustment methodologies for the reporting of data on total health care expenditures and may rely on existing risk adjustment methodologies. The methodology shall be available and transparent to the public.

(2)To select appropriate risk adjustment methodologies or inform the way any adjustments are applied to unadjusted data to account for the underlying health status of the population, the office may convene technical committees, as necessary.

(3)The risk adjustment methodologies selected or used to inform any adjustments shall take into account the impact of perverse incentives that may inflate the measurement of population risk, such as upcoding. The office may audit submitted data and make periodic adjustments to address those issues as necessary.

(g)In consultation with the board, the office shall establish equity adjustment methodologies to take into account social determinants of health and other factors related to health equity, to the extent data is available and methodology has been developed and validated.

(h)(1)Targets set for payers shall also include targets on administrative costs and profits to deter growth in administrative costs and profits.

(2)The targets established for a payersadministrative costs and profits under this subdivision may be subject to annual adjustment, but shall not increase to the extent the costs for the medical care portion of the medical loss ratio exceed a target.

(3)The office shall consult with the Department of Managed Health Care, the State Department of Health Care Services, and the Department of Insurance to ensure any targets for payers established by the office consider actuarial soundness and rate review requirements imposed by or upon those departments.

(i)(1)Until the board approves sector targets for fully integrated delivery systems, fully integrated delivery systems shall comply with the statewide cost target.

(2)Targets set for fully integrated delivery systems shall include all health care services, costs, and lines of business managed by that system in each separately administered geographic service area of the state. The system shall provide sufficient data and information, comparable to other unintegrated payers and providers, including patient risk mix, to the office to enable analysis and public reporting of performance, including by sector, insurance market, line of business, and separately administered geographic service area.

(3)Targets for fully integrated delivery systems shall include targets on payer administrative costs and profits.

(4)After the board approves sector targets for fully integrated delivery systems, a fully integrated delivery system shall be subject to a target for each of its geographic service areas in which a single medical group is responsible for providing, or arranging for the provision of, all professional services to the payersenrollees.

(j)The office shall direct the public reporting of performance on the health care cost targets, which may include analysis of changes in total health care expenditures on an aggregate and per capita basis for all of the following:

(1)Statewide.

(2)By geographic region.

(3)By insurance market and line of business, including for each payer.

(4)For health care entities, both unadjusted and using a risk adjustment methodology against the covered lives or patient populations, as applicable, for which they serve.

(5)For impact on affordability for consumers and purchasers of health care.

(k)The office shall direct the analysis and public reporting of contributions of health care entities to cost growth in the state using data that includes, but is not limited to, data submitted to the office, data from state and federal agencies, other relevant supplemental data, such as financial data on health care entities, that is submitted to state agencies, and the Health Care Payments Data Program, established pursuant to Chapter 8.5 (commencing with Section 127671).

(l)(1)The board shall establish a statewide health care cost target for the 2025 calendar year and for each calendar year thereafter. The 2025 baseline target shall be a reporting year only and shall not be subject to enforcement pursuant to Section 127502.5. The targets established for the 2026 calendar year, and each calendar year thereafter, shall be enforced for compliance pursuant to Section 127502.5.

(2)(A) On or before October 1, 2027, the board shall define initial health care sectors, which may include geographic regions and individual health care entities, as appropriate, except fully integrated delivery systems, considering factors such as delivery system characteristics. Sectors may be further defined over time.

(B)Not later than June 1, 2028, the board shall establish specific targets by health care sector, including fully integrated delivery systems, geographic regions, and individual health care entities, as appropriate, in accordance with this chapter.

(C)The development of sector targets shall be done in a manner that minimizes fragmentation and potential cost shifting and that encourages cooperation in meeting statewide and geographic region targets.

(D) Sector targets adopted under this subdivision shall specify which single sector target is applicable if a health care entity falls within two or more sectors.

(m)(1)The board shall hold a public meeting to discuss the development and adoption of recommendations for statewide cost targets, or specific targets by health care sector, including fully integrated delivery systems, geographic regions, and individual health care entities. The board shall deliberate and consider input, including recommendations from the office, the advisory committee, and public comment. Cost targets and other decisions of the board consistent with this section shall not be adopted, enforced, revised, or updated until presented at a subsequent public meeting. The meetings shall be subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) consistent with paragraph (2) of subdivision (e) of Section 127501.10.

(2)The office shall publish on its internet website its recommendations for proposed cost targets for the boardsreview and consideration. The board shall discuss recommendations at a public meeting for proposed targets on or before March 1 of the year prior to the applicable target year.

(3)The board shall receive and consider public comments for 45 days after the board meeting.

(4)The board shall adopt final targets on or before June 1, at a board meeting. The board shall remain in session, and members shall not receive per diem under Section 127501.10, until the board adopts all

required cost targets for the following calendar year.

(n)The adoption of cost targets under this section is exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(o)For purposes of this section, individual health care entity does not include an exempted provider.

(p)(1)Statewide and sector-specific health care cost targets do not apply to exempted providers. Upon approval by the board, the office shall promulgate regulations defining who is an exempted provider.

(2)This section does not exempt claims and non-claims-based payments for exempted providers, and associated cost-sharing amounts paid by consumers, from inclusion in the calculation of total health care expenditures and per capita total health care expenditures that uses data submitted by payers.

(Amended by Stats. 2022, Ch. 738, Sec. 5. (AB 204) Effective September 29, 2022.)

127502.5.

(a)The director shall enforce the cost targets established by this chapter against health care entities in a manner that ensures compliance with targets, allows each health care entity opportunities for remediation, and ensures health care entities do not implement performance improvement plans in ways that are likely to erode access, quality, equity, or workforce stability. The director shall consider each entityscontribution to cost growth in excess of the applicable target and any actions by the entity that have eroded, or are likely to erode, access, quality, equity, or workforce stability, factors that contribute to spending in excess of the applicable target, and the extent to which each entity has control over the applicable components of its cost target. The director shall review information and other relevant data from additional sources, as appropriate, including data from the Health Care Payments Data Program, to determine the appropriate health care entity that may be subject to enforcement actions under this section. Commensurate with the health care entitysoffense or violation, the director may take the following progressive enforcement actions:

(1)Provide technical assistance to the entity to assist it to come into compliance.

(2)Require or compel public testimony by the health care entity regarding its failure to comply with the target.

(3)Require submission and implementation of performance improvement plans, including input from the board.

(4)Assess administrative penalties in amounts initially commensurate with the failure to meet the targets, and in escalating amounts for repeated or continuing failure to meet the targets.

(b)Prior to taking any enforcement action, the office shall do all of the following:

(1)Notify the health care entity that it has exceeded the health care cost target.

(2)Give the health care entity not less than 45 days to respond and provide additional data, including information in support of a waiver described in subdivision (i).

(3)If the office determines that the additional data and information meets the burden established by the office to explain all or a portion of the entityscost growth in excess of the applicable target, the office may modify its findings, as appropriate.

(4)The director shall consult with the Director of Managed Health Care, the Director of Health Care Services, or the Insurance Commissioner, as applicable, prior to taking any of the enforcement actions specified in this section with respect to a payer regulated by the respective department to ensure any technical assistance, performance improvement plans, or other measures authorized by this section are consistent with laws applicable to regulating health care service plans, health insurers, or a Medi-Cal managed care plan contracted with the State Department of Health Care Services.

(c)(1)If a health care entity exceeds an applicable cost target, the office shall notify the health care entity of their status and provide technical assistance. The office shall make public the extent to which the health care entity exceeded the target. The office may require a health care entity to submit and implement a performance improvement plan that identifies the causes for spending growth and shall include, but not be limited to, specific strategies, adjustments, and action steps the health care entity proposes to implement to improve spending performance during a specified time period. The office shall request further information, as needed, in order to approve a proposed performance improvement plan. The director may approve a performance improvement plan consistent with those areas requiring specific performance or correction for up to three years. The director shall not approve a performance improvement plan that proposes to meet cost targets in ways that are likely to erode access, quality, equity, or workforce stability. The standards developed under Article 7 (commencing with Section 127506) may be considered in the approval of a performance improvement plan.

(2)The office shall monitor the health care entity for compliance with the performance improvement plan. The office shall publicly post the identity of a health care entity implementing a performance improvement plan and, at a minimum, a detailed summary of the entityscompliance with the requirements of the performance improvement plan while the plan remains in effect and shall transmit an approved performance improvement plan to appropriate state regulators for the entity.

(3)A health care entity shall work to implement the performance improvement plan as submitted to, and approved by, the office. The office shall monitor the health care entity for compliance with the performance improvement plan.

(4)The board, the members of the board, the office, the department, and employees, contractors, and advisors of the office and the department shall keep confidential all nonpublic information and documents obtained under this subdivision, and shall not disclose the confidential information or documents to any person, other than the Attorney General, without the consent of the source of the information or documents, except in an administrative penalty action, or a public meeting under this section if the office believes that disclosure should be made in the public interest after taking into account any privacy, trade secret, or anticompetitive considerations. Prior to disclosure in a public meeting, the office shall notify the relevant party and provide the source of nonpublic information an opportunity to specify facts documenting why release of the information is damaging or prejudicial to the source of the information and why the public interest is served in withholding the information. Information that is otherwise publicly available, or that has not been confidentially maintained by the source, shall not be considered nonpublic information. This paragraph does not limit the boardsdiscussion of nonpublic information during closed sessions of board meetings.

(5)Notwithstanding any other law, all nonpublic information and documents obtained under this subdivision shall not be required to be disclosed pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), or any similar local law requiring the disclosure of

public records.

(d)(1)If the director determines that a health care entity is not compliant with an approved performance improvement plan and does not meet the cost target, the director may assess administrative penalties commensurate with the failure of the health care entity to meet the target. An entity that has fully complied with an approved performance improvement plan by the deadline established by the office shall not be assessed administrative penalties. However, the director may require a modification to the performance improvement plan until the cost target is met.

(2)The administrative penalty shall be deposited into the Health Care Affordability Fund.

(3)Prior to assessing an administrative penalty against a health care entity, the director may consider related provision of nonfederal share, determined to be appropriate by the Director of Health Care Services, associated with Medi-Cal payments, such as expenditures by providers or provider-affiliated entities that serve as the nonfederal share associated with Medi-Cal reimbursement.

(4)To the extent that an administrative penalty is related to a Medi-Cal expenditure, including federal financial participation, the office shall coordinate with the State Department of Health Care Services to ensure appropriate treatment and return of any federal funds pursuant to Subpart F commencing with Section 433.300 of Part 433 of Title 42 of the Code of Federal Regulations.

(5)If, after the implementation of one or more performance improvement plans, the health care entity is repeatedly noncompliant with the performance improvement plan, the director may assess escalating administrative penalties that exceed the penalties imposed under paragraphs (1) and (2) of this subdivision and paragraph (4) of subdivision (a).

(6)The director shall consider all of the following to determine the penalty:

(A)The nature, number, and gravity of the offenses.

(B)The fiscal condition of the health care entity, including revenues, reserves, profits, and assets of the entity, as well as any affiliates, subsidiaries, or other entities that control, govern, or are financially responsible for the entity or are subject to the control, governance, or financial control of the entity.

(C)The market impact of the entity.

(e)Administrative penalties shall not constitute expenditures for the purpose of meeting cost targets. The imposition of administrative penalties shall not alter or otherwise relieve the health care entity of the obligation to meet a previously established cost target or a cost target for subsequent years.

(f)(1)For payers and fully integrated delivery systems, the director also shall enforce cost targets established by Section 127502 against the cost growth for administrative costs and profits.

(2)If a payer exceeds the target for per capita growth in total health care expenditures, but has met its target for administrative costs and profits, the payer shall submit relevant documentation or supporting evidence for the drivers of excess cost growth.

(3)This subdivision does not relieve a payer of its obligation to meet targets for per capita growth in total health care expenditures established by Section 127502, and does not limit enforcement actions for payers under this section.

(g)If data indicate adverse impacts on cost, access, quality, equity, or workforce stability from consolidation, market power, or other market failures, the director may, at any point, require that a cost and market impact review be performed on a health care entity, consistent with Section 127507.2.

(h)(1)The director may directly assess administrative penalties when a health care entity has failed to comply with this chapter by doing any of the following:

(A)Willfully failing to report complete and accurate data.

(B)Repeatedly neglecting to file a performance improvement plan with the office.

(C)Repeatedly failing to file an acceptable performance improvement plan with the office.

(D)Repeatedly failing to implement the performance improvement plan.

(E)Knowingly failing to provide information required by this section to the office.

(F)Knowingly falsifying information required by this section.

(2)The director may call a public meeting to notify the public about the health care entitysviolation and declare the entity as imperiling the statesability to monitor and control health care cost growth.

(i)The office may establish requirements for health care entities to file for a waiver of enforcement actions due to reasonable factors outside the entityscontrol, such as changes in state or federal law or anticipated costs for investments and initiatives to minimize future costly care, such as increasing access to primary and preventive services, or under extraordinary circumstances, such as an act of God or catastrophic event. The entity shall submit documentation or supporting evidence of the reasonable factors, anticipated costs, or extraordinary circumstances. The office shall request further information, as needed, in order to approve or deny an application for a waiver.

(j)As applied to the administrative penalties for acts in violation of this chapter, the remedies provided by this section and by any other law are not exclusive and may be sought and employed in any combination to enforce this chapter.

(k)Following an administrative hearing, a health care entity adversely affected by a final order imposing an administrative penalty authorized by this chapter may seek independent judicial review by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure.

(l)After an order imposing an administrative penalty becomes final, and if a petition for a writ of mandate has not been filed within the time limits prescribed in Section 11523 of the Government Code, the office may apply to the clerk of the appropriate court for a judgment in the amount of the administrative penalty. The application, which shall include a certified copy of the final order of the administrative hearing officer, shall constitute a sufficient showing to warrant the issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

(Amended by Stats. 2023, Ch. 131, Sec. 130. (AB 1754) Effective January 1, 2024.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=2.6.&article=4.

127503.

(a)(1)The office shall adopt a single set of standard measures for assessing health care quality and equity across payers, fully integrated delivery systems, hospitals, and physician organizations. Performance on quality and health equity measures shall be included in the annual report required in Section 127501.6.

(2)The standard quality and equity measures shall use recognized clinical quality, patient experience, patient safety, and utilization measures for health care service plans, health insurers, hospitals, and physician organizations.

(3)The standard quality and equity measures shall reflect the diversity of California in terms of race, ethnicity, sex, age, language, sexual orientation, gender identity, and disability status. The standard quality and equity measures shall be appropriate for a population under 65 years of age, including children and adults.

(4)The standard quality and equity measures shall consider available means for reliable measurement of disparities in health care, including race, ethnicity, sex, age, language, sexual orientation, gender identity, and disability status.

(5)The office shall reduce administrative burden by selecting quality and equity measures that simplify reporting and align performance measurement with other payers, programs, and state agencies, including leveraging existing voluntary and required reporting to the greatest extent possible. The office shall further reduce administrative burden by encouraging other payers and programs to use the same reporting mechanisms.

(6)Public reporting developed pursuant to this article shall consider differences among payers, fully integrated delivery systems, hospitals, and physician organizations, including factors such as plan or network design or line of business, provider payer mix, and the risk mix associated with the covered lives or patient population for which they are primarily responsible.

(b)In implementing this section, the office shall coordinate with the Department of Managed Health Care to align with requirements under Article 11.9 (commencing with Section 1399.870) of Chapter 2.2 of Division 2. The office shall also coordinate with the State Department of Health Care Services, Covered California, and the Public Employees™ Retirement System, and shall consult with state departments, external quality improvement organizations and forums, payers, physicians, other providers, and consumer advocates or stakeholders with expertise in quality or equity measurement.

(c)The office shall periodically review and update the priority set of standard measures for assessing the quality and equity of care pursuant to subdivision (a).

(Amended by Stats. 2022, Ch. 738, Sec. 6. (AB 204) Effective September 29, 2022.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=2.6.&article=5.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=107.&title=&part=2.&chapter=2.6.&article=5.)

127504.

(a)The office shall promote the shift from payments based on fee-for-service to alternative payment models that provide financial incentive for equitable high-quality and cost-efficient care. In furtherance of this goal, the office shall convene health care entities and organize an alternative payment model working group, set statewide goals for the adoption of alternative payment models, and measure the statesprogress toward those goals. With input from the working group, the office shall set benchmarks that include, but are not limited to, increasing the percentage of total health care expenditures delivered through alternate payment models or the percentage of membership covered by an alternative payment model.

(b)(1)To advance statewide goals for adoption of alternative payment models, the office shall consider existing alternative payment models and work with the working group to develop standards for alternative payment models that may be used during contracting between health care entities. The office shall adopt the standards for alternative payment models on or before July 1, 2024.

(2)The standards for alternative payment models shall focus on encouraging and facilitating multipayer participation and alignment, improving affordability, efficiency, equity, and quality by considering the current best evidence for strategies such as investments in primary care and behavioral health, shared risk arrangements, or quality-based or population-based payments.

(3)The standards shall include minimum criteria for what is considered an alternative payment model, but be flexible enough to allow for innovation and evolution over time. The standards shall be consistent, and align, to the extent possible, with the quality and equity measures outlined in Article 4 (commencing with Section 127503) to encourage physicians and other providers to make investments and aim to see year-over-year improvement.

(4)The standards shall address appropriate incentives to physicians and other providers and balanced measures, including, but not limited to, total cost of care and quality, access, and equity requirements and shared savings models, to protect against perverse incentives and unintended consequences.

(5)The standards shall attempt to reduce administrative burden by incorporating alternative payment models that facilitate multipayer participation and align with other state payers and programs or national models.

(6)The office shall review the standards at least every five years or more frequently, as appropriate, in order to determine whether the standards are rewarding high-quality, cost-efficient, and equitable care.

(c)The office shall include an analysis of alternative payment model adoption in the annual report required in Section 127501.6.

(d)In implementing this section, the office shall consult with state and federal departments to ensure consistency with state and federal laws, and shall also consult with external organizations promoting alternative payment models and other entities and individuals with expertise in health care financing and quality and equity measurements.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=2.6.&article=6.

127505.

(a)(1)The office shall measure and promote a sustained systemwide investment in primary care and behavioral health. In furtherance of this goal, the office shall measure the percentage of total health care expenditures allocated to primary care and behavioral health and set spending benchmarks. Spending benchmarks for primary care shall consider current and historic underfunding of primary care services.

(2)The intent of the spending benchmarks is to build and sustain infrastructure and capacity, specifically methods of reimbursement that shift greater health care resources and investments away from specialty care and toward supporting and facilitating innovation and care improvement in primary care and behavioral health. It is intended that increased support for primary care and behavioral health will not increase costs to consumers or increase the total costs of health care. However, shifting resources may take time and not be associated with immediate savings.

(3)Benchmarks and public reporting developed pursuant to this article shall consider differences among payers and fully integrated delivery systems, including factors such as plan or network design or line of business, the diversity of settings and facilities through which primary care can be delivered, including clinical and nonclinical settings, the use of both claims-based and non-claims-based payments, and the risk mix associated with the covered lives or patient population for which they are primarily responsible.

(4)In addition to measuring performance of health care entities with the spending benchmarks, the office shall promote improved outcomes for primary care and behavioral health, including, but not limited to, health care entities making investments in, or adopting models that do, any or all of the following:

(A)Promote the importance of primary care and adopt practices that give consumers a regular source of primary care.

(B)Increase access to advanced primary care models and adoption of measures that demonstrate their success in improving quality and outcomes.

(C)Integrate primary care and behavioral health services, including screenings for behavioral health conditions in primary care settings or delivery of behavioral health support for common behavioral health conditions, such as anxiety, depression, or substance use disorders.

(D)Leverage alternative payment models that provide resources at the practice level to enable improved access and team-based approaches for care coordination, patient engagement, quality, and population health. Team-based approaches support the sharing of accountability for delivery of care between physicians and nurse practitioners, physician assistants, medical assistants, nurses and nurse case managers, social workers, pharmacists, and traditional and nontraditional primary and behavioral health care providers, such as peer support specialists, community health works, and others.

(E)Deliver higher value primary care and behavioral health services with an aim toward reducing disparities.

(F)Leverage telehealth and other digital health solutions to expand access to primary care and behavioral

health services, care coordination, and care management.

(G)Implement innovative approaches that integrate primary care and behavioral health with broader social and public health services.

(b)The office shall include an analysis of primary care and behavioral health spending and growth, and relevant quality and equity performance measures, in the annual report required pursuant to Section 127501.6.

(c)In implementing this section, the office shall consult with state departments, external organizations promoting investment in primary care and behavioral health, and other entities and individuals with expertise in primary care, behavioral health, and health equity.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=2.6.&article=7.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 2. HEALTH POLICY AND PLANNING [127280 - 127697]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 2.6. Health Care Affordability [127500 - 127507.6]__

(Chapter 2.6 added by Stats. 2022, Ch. 47, Sec. 19.)

__ARTICLE 7. Health Care Workforce Stability [127506- 127506.]__

(Article 7 added by Stats. 2022, Ch. 47, Sec. 19.)

127506.

(a)The intent of this section is to monitor the effects of cost targets on health care workforce stability, high-quality jobs, and training needs of health care workers, in addition to adjustments to cost targets pertaining to nonsupervisory employee organized labor costs pursuant to paragraph (7) of subdivision (d) of Section 127502. The Legislature intends that the office use a transparent process that allows for public input to monitor how health care entities achieve the cost targets and highlight best practices and discourage practices harmful to workers and patients.

(b)The office shall monitor health care costs while promoting health care workforce stability, including the competitive wages and benefits of frontline health care workers, and the professional judgment of health professionals acting within their scope of practice. The office shall monitor health care workforce stability with the goal that workforce shortages do not undermine health care affordability, access, quality, equity, and culturally and linguistically competent care. The office shall also promote the goal of health care affordability, while recognizing the need to maintain and increase the supply of trained health care workers.

(c)To assist health care entities in implementing cost-reducing strategies that advance the stability of the health care workforce, and without exacerbating existing health care workforce shortages, the office, on or before July 2024, in consultation with the board and with input from organized labor representing health care workers, health care entities, and other entities and individuals with expertise in the health care workforce, shall develop standards to advance the stability of the health care workforce. The standards may be considered in the setting of cost targets pursuant to Section 127502 or in the approval of performance improvement plans imposed pursuant to Section 127502.5.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=2.6.&article=8.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 2. HEALTH POLICY AND PLANNING [127280 - 127697]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 2.6. Health Care Affordability [127500 - 127507.6]__

(Chapter 2.6 added by Stats. 2022, Ch. 47, Sec. 19.)

__ARTICLE 8. Health Care Market Trends [127507 - 127507.6]__

(Article 8 added by Stats. 2022, Ch. 47, Sec. 19.)

127507.

(a)The office shall monitor cost trends, including conducting research and studies on the health care market, including, but not limited to, the impact of consolidation, market power, venture capital activity, profit margins, and other market failures on competition, prices, access, quality, and equity. In a manner supportive of the efforts of the Attorney General, the Department of Managed Health Care, and the Department of Insurance, as appropriate, the office shall promote competitive health care markets by examining mergers, acquisitions, corporate affiliations, or other transactions that entail a material change to ownership, operations, or governance structure involving health care service plans, health insurers, hospitals or hospital systems, physician organizations, providers, pharmacy benefit managers, and other health care entities. The office shall prospectively analyze those transactions likely to have significant effects, seek input from the parties and the public, and report on the anticipated impacts to the health care market. The role of the office is to collect and report information that is informative to the public.

(b)This article does not apply to an exempted provider unless that provider is being acquired by, or affiliating with, an entity that is not an exempted provider. If an entity that is not an exempted provider is acquiring or affiliating with an exempted provider, the entity that is not an exempted provider shall meet the requirements of this article.

(c)(1)A health care entity shall provide the office with written notice of agreements or transactions that will occur on or after April 1, 2024, that do either of the following:

(A)Sell, transfer, lease, exchange, option, encumber, convey, or otherwise dispose of a material amount of its assets to one or more entities.

(B)Transfer control, responsibility, or governance of a material amount of the assets or operations of the health care entity to one or more entities.

(2)Written notice pursuant to paragraph (1) shall be provided to the office at least 90 days prior to entering into the agreement or transaction. If the conditions in paragraph (1) of subdivision (a) of Section 127507.2 apply, the office shall make the notice of material change publicly available, including all information and materials submitted to the office for review with regard to the material change.

(3)The office shall adopt regulations for proposed material changes that warrant a notification, establish appropriate fees, and consider appropriate thresholds, including, but not limited to, annual gross and net revenues and market share in a given service or region.

(d)The requirement to provide notice of a material change pursuant to subdivision (c) does not apply to any

of the following:

(1)Agreements or transactions involving health care service plans that are subject to review by the Director of the Department of Managed Health Care for cost impact or market consolidation under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2).

(2)Agreements or transactions involving health insurers that are subject to review by the Insurance Commissioner under Article 14 (commencing with Section 1091) of Chapter 1 of Part 2, of Division 1 of the Insurance Code.

(3)Agreements or transactions where a county is purchasing, acquiring, or taking control, responsibility, or governance of an entity to ensure continued access in that county.

(4)Agreements or transactions involving nonprofit corporations that are subject to review by the Attorney General under Article 2 (commencing with Section 5914) of Chapter 9 of Part 2, Division 2 of Title 1 of the Corporations Code.

(e)Agreements or transactions exempted under subdivision (d) from the requirement to provide a notice of material change may be referred to the office for a cost and market impact review by the reviewing authority.

(f)This article does not limit the Attorney Generalsreview of the conversion or restructuring of charitable trusts held by a nonprofit health facility or by an affiliated nonprofit health system or the Attorney Generalsreview of any health care agreement or transaction under any state or federal law.

(g)This article does not narrow, abrogate, or otherwise alter the corporate practice of medicine doctrine, which expressly prohibits the practice of medicine or control of medicine, medical corporations, medical partnerships, or physician practices by entities or individuals other than licensed physicians and surgeons.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

127507.2.

(a)(1)If the office finds that a material change noticed pursuant to Section 127507 is likely to have a risk of a significant impact on market competitions, the statesability to meet cost targets, or costs for purchasers and consumers, the office shall conduct a cost and market impact review that examines factors relating to a health care entitysbusiness and its relative market position, including, but not limited to, changes in size and market share in a given service or geographic region, prices for services compared to other providers for the same services, quality, equity, cost, access, or any other factors the office determines to be in the public interest. The office also may conduct cost and market impact reviews on any health care entity based on a determination by the director under subdivision (g) of Section 127502.5, or in association with agreements or transactions referred to the office by a reviewing authority listed in paragraphs (1) to (4), inclusive, of subdivision (d) of Section 127507.

(2)In conducting the review, the office shall consider the benefits of the material change to consumers of health care services, where those benefits could not be achieved without that transaction, including, but not limited to, increased access to health care services, higher quality, and more efficient health care services where consumers of health care services benefit directly from those efficiencies. The party subject to the review may provide information demonstrating the benefits of the material change or information demonstrating the benefits of an integrated organization where the material change would increase those

benefits, and where the benefits involve cost, quality, or access to care for consumers of health care services.

(3)(A)Within 60 days of receipt of a notice of material change, the office shall either advise the noticing health care entity of the officesdetermination to conduct a cost and market impact review or provide a written waiver from the review. An agreement or transaction for which a cost and market impact review proceeds shall not be implemented until 60 days after the office issues a final report.

(B)The office may adopt regulations that expedite these timelines, as warranted, depending on the nature of the agreement or transaction.

(4)In furtherance of this article, the office shall conduct investigations, including, but not limited to, compelling, by subpoena, health care entities and other relevant market participants to submit data and documents.

(5)Upon completion of the cost and market impact review, the office shall make factual findings and issue a preliminary report of its findings. After allowing for the affected parties and the public to respond in writing to the findings in the preliminary report, the office shall issue its final report.

(b)The office shall adopt regulations for notification to affected parties for the basis of the review, factors considered in the review, requests for data and information from affected parties, the public, and other relevant market participants, and relevant timelines.

(c)(1)The office, the department, employees, contractors, and advisors of the office and the department, the board, and the board members shall keep confidential all nonpublic information and documents obtained under this article that were not required with the notice of material change or from the parties to the transaction, and shall not disclose the confidential information or documents to any person, other than the Attorney General, without the consent of the source of the information or documents, except in a preliminary report or final report under this section if the office believes that disclosure should be made in the public interest after taking into account any privacy, trade secret, or anticompetitive considerations. Prior to disclosure in a report, the office shall notify the relevant party and provide the source of nonpublic information an opportunity to specify facts documenting why release of the information is damaging or prejudicial to the source of the information and why the public interest is served in withholding the information. Information that is otherwise publicly available, or that has not been confidentially maintained by the source, shall not be considered nonpublic information.

(2)Notwithstanding any other law, all nonpublic information and documents obtained under this article shall not be required to be disclosed pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), or any similar local law requiring the disclosure of public records.

(d)(1)The office may refer its findings, including the totality of documents gathered and data analysis performed, to the Attorney General for further review of any unfair methods of competition, anticompetitive behavior, or anticompetitive effects.

(2)This section does not limit the authority of the Attorney General to protect consumers in the health care market or to protect the economy of the state, or any significant part thereof, insofar as health care is concerned, under any state or federal law. The authority of the Attorney General to maintain competitive markets and prosecute state and federal antitrust and unfair competition violations shall not be narrowed, abrogated, or otherwise altered by this section.

(Amended by Stats. 2023, Ch. 131, Sec. 131. (AB 1754) Effective January 1, 2024.)

127507.4.

In furtherance of this article, the office may do all of the following:

(a)Contract with, consult, and receive advice from any state agency on terms and conditions that the office deems appropriate.

(b)Contract with experts or consultants to assist in reviewing a proposed agreement or transaction.

(1)Contract costs shall not exceed an amount that is reasonable and necessary to conduct the review and complete the report.

(2)The office shall be entitled to reimbursement from the health care entity subject to review for all actual, reasonable, and direct costs incurred in reviewing, evaluating, and making the determination referred to in Section 127507.2, including administrative costs. The health care entity subject to review shall promptly pay the office, upon request, for all of those costs.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

127507.6.

In addition to any legal remedies, the office shall be entitled to specific performance, injunctive relief, and other equitable remedies a court deems appropriate for enforcement of any of the requirements of this article and shall be entitled to recover its attorneysfees and costs incurred in remedying each violation.

(Added by Stats. 2022, Ch. 47, Sec. 19. (SB 184) Effective June 30, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=6.&article=

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 2. HEALTH POLICY AND PLANNING [127280 - 127697]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 6. Reproductive Health Equity [127630 - 127639]__

(Chapter 6 added by Stats. 2022, Ch. 562, Sec. 2.)

127630.

For purposes of this chapter:

(a)Abortion has the same meaning as defined in Section 123464.

(b)Contraception means the services and contraceptive methods described in paragraph (1) of subdivision (b) of Section 1367.25.

(c)Department means the Department of Health Care Access and Information.

(d)Fund means the California Reproductive Health Equity Fund established pursuant to Section 127631.

(e)Program means the California Reproductive Health Equity Program established pursuant to Section 127632.

(f)Religious employer has the same meaning as described in Section 1367.25.

(Added by Stats. 2022, Ch. 562, Sec. 2. (AB 2134) Effective January 1, 2023.)

127631.

(a)The California Reproductive Health Equity Fund is hereby established.

(b)The primary purpose of the fund is to provide grant funding to safety net providers of abortion and contraception services through the California Reproductive Health Equity Program and to otherwise ensure affordability of and access to abortion and contraception to anyone who seeks care in California, regardless of their ability to pay for care.

(c)The fund shall also be used to pay for the cost of administering the program and for any other purpose authorized by this chapter. The level of expenditure by the department for the administrative support of the program created pursuant to this chapter shall be subject to review and approval annually through the annual budget process.

(d)The department may receive private donations to be deposited into the fund.

(e)The money in the fund is continuously appropriated to the department for the purposes of this chapter.

The department shall manage this fund prudently in accordance with the law.

(Added by Stats. 2022, Ch. 562, Sec. 2. (AB 2134) Effective January 1, 2023.)

127632.

(a)The California Reproductive Health Equity Program is hereby established within the department.

(b)The purpose of the program is to ensure abortion and contraception are affordable for and accessible to all patients, regardless of their ability to pay, and to provide financial support for safety net providers of these services to offset the costs of providing uncompensated care to patients with low incomes who would otherwise lack access to care.

(Added by Stats. 2022, Ch. 562, Sec. 2. (AB 2134) Effective January 1, 2023.)

127633.

(a)A Medi-Cal enrolled provider, as determined by the State Department of Health Care Services, may apply for a grant, and a continuation award after the initial grant, under this chapter if they agree to provide abortion and contraception services in accordance with all of the following:

(1)The abortion and contraception services provided are within the providersscope of practice and licensure.

(2)The provider agrees to be identified, in a manner determined by the department, as a participating provider in the program. An institutional provider shall not be required to identify any individual who is an abortion provider as a condition of a grant awarded pursuant to this chapter.

(3)To the extent services provided are covered pursuant to Section 14132 of the Welfare and Institutions Code, the services shall be provided at no cost or a reduced cost to an individual with a household income at or below 400 percent of the federal poverty level who meets both of the following criteria:

(A)Is uninsured or has health care coverage that does not include both abortion and contraception.

(B)Is not otherwise eligible to receive both abortion and contraception at no cost through the Medi-Cal and Family PACT programs.

(b)For purposes of this chapter, an individualsself-declaration of income and source of health care coverage made to the provider at the time of service shall be all that is required to determine whether the individual may be able to access no-cost or reduced-cost services pursuant to this chapter.

(c)This chapter does not require a provider to accept additional patients if, in the reasonable professional judgment of the provider, accepting additional patients would endanger access to, or continuity of, care for existing patients.

(d)The department shall work with the State Department of Health Care Services to notify Medi-Cal enrolled providers of the availability of funding under this chapter, including any pertinent deadlines and other requirements.

(Added by Stats. 2022, Ch. 562, Sec. 2. (AB 2134) Effective January 1, 2023.)

127634.

(a)An application for a grant under this chapter shall be made on a form to be developed by the department.

(b)An application shall include both of the following:

(1)A justification of the amount of grant funds requested, including both of the following:

(A)The cost of uncompensated abortion and contraceptive services the applicant provided to patients with household incomes at or below 400 percent of the federal poverty level in the previous 12 months.

(B)The anticipated cost of uncompensated abortion and contraception services to be provided to patients with household incomes at or below 400 percent of the federal poverty level in the upcoming 12 months.

(2)Other pertinent information that the department requires.

(c)The department shall develop an application form and shall begin accepting applications for grants pursuant to this chapter on or before January 1, 2023.

(d)For purposes of subdivision (b), the cost of uncompensated abortion and contraception services shall:

(1)Be calculated based on the amount the provider would expect to receive for providing these services to a patient enrolled in the Medi-Cal program.

(2)Include those services provided through prescription, including laboratory and pharmaceutical, as well as services that are the result of complications related to services provided pursuant to this chapter, to the extent they would be covered pursuant to Section 14132 of the Welfare and Institutions Code.

(e)For purposes of this section, the department shall not require the submission of personal information about individuals receiving uncompensated abortion and contraception services as part of an application. Information required by the department shall only include information in summary, statistical, or other forms that do not identify particular individuals.

(f)An application for a grant under this chapter shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(Added by Stats. 2022, Ch. 562, Sec. 2. (AB 2134) Effective January 1, 2023.)

127635.

(a)Within the limits of funds available, the department may award grants that, in the departmentsjudgment, best promote the purposes described in Section 127632, taking into account all of the following:

(1)The extent to which abortion and contraception services are needed locally.

(2)The ability of the applicant to advance health equity.

(3)The relative need of the applicant.

(b)The department shall determine the amount of an award on the basis of the amount of funds requested.

(c)Unless otherwise specified by the department, an initial grant shall be for a 12-month period.

(d)Determination regarding a grant award shall be made within 60 days of receipt of a completed application.

(Added by Stats. 2022, Ch. 562, Sec. 2. (AB 2134) Effective January 1, 2023.)

127636.

(a)An application for a continuation award under this chapter shall be made on a form to be developed by the department.

(b)Decisions regarding continuation awards and the funding level of those awards shall be made after consideration of factors that include the recipientsanticipated level of need and the availability of funds.

(c)Unless otherwise specified by the department, a continuation award shall be for a 12-month period.

(d)An application for a continuation award under this chapter shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(Added by Stats. 2022, Ch. 562, Sec. 2. (AB 2134) Effective January 1, 2023.)

127637.

Funds awarded pursuant to this chapter shall be expended solely for the purpose for which the funds were awarded, in accordance with the approved application and budget, implementation guidance issued by the department, and the terms and conditions of the grant or continuation award.

(Added by Stats. 2022, Ch. 562, Sec. 2. (AB 2134) Effective January 1, 2023.)

127638.

In implementing the program, the department shall consult with interested parties, including the State Department of Health Care Services, the Department of Managed Health Care, the Department of Insurance, abortion and contraception providers, consumer advocates, and other stakeholders it deems appropriate.

(Added by Stats. 2022, Ch. 562, Sec. 2. (AB 2134) Effective January 1, 2023.)

127639.

The department shall conduct an evaluation of the program and shall report its findings to the Legislature by no later than July 1, 2024, and on an annual basis no later than each July 1 thereafter. The department may use funds in the fund for the evaluation of the program. The report shall be submitted in compliance with Section 9795 of the Government Code.

(Added by Stats. 2022, Ch. 562, Sec. 2. (AB 2134) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=7.&article=

127660.

(a)The Legislature hereby requests the University of California to establish the California Health Benefit Review Program to assess legislation proposing to mandate a benefit or service, as defined in subdivision (d), and legislation proposing to repeal a mandated benefit or service, as defined in subdivision (e), and to prepare a written analysis with relevant data on the following:

(1)Public health impacts, including, but not limited to, all of the following:

(A)The impact on the health of the community, including the reduction of communicable disease and the benefits of prevention such as those provided by childhood immunizations and prenatal care.

(B)The impact on the health of the community, including diseases and conditions where disparities in outcomes associated with the social determinants of health as well as gender, race, sexual orientation, or gender identity are established in peer-reviewed scientific and medical literature.

(C)The extent to which the benefit or service reduces premature death and the economic loss associated with disease.

(2)Medical impacts, including, but not limited to, all of the following:

(A)The extent to which the benefit or service is generally recognized by the medical community as being effective in the screening, diagnosis, or treatment of a condition or disease, as demonstrated by a review of scientific and peer-reviewed medical literature.

(B)The extent to which the benefit or service is generally available and utilized by treating physicians.

(C)The contribution of the benefit or service to the health status of the population, including the results of any research demonstrating the efficacy of the benefit or service compared to alternatives, including not providing the benefit or service.

(D)The extent to which mandating or repealing the benefits or services would not diminish or eliminate access to currently available health care benefits or services.

(3)Financial impacts, including, but not limited to, all of the following:

(A)The extent to which the coverage or repeal of coverage will increase or decrease the benefit or cost of the benefit or service.

(B)The extent to which the coverage or repeal of coverage will increase the utilization of the benefit or service, or will be a substitute for, or affect the cost of, alternative benefits or services.

(C)The extent to which the coverage or repeal of coverage will increase or decrease the administrative expenses of health care service plans and health insurers and the premium and expenses of subscribers, enrollees, and policyholders.

(D)The impact of this coverage or repeal of coverage on the total cost of health care.

(E)The impact of this coverage or repeal of coverage on anticipated costs or savings estimated upon implementation for one subsequent calendar year, or, if applicable, two subsequent calendar years through a long-range estimate.

(F)The potential cost or savings to the private sector, including the impact on small employers as defined in paragraph (1) of subdivision (l) of Section 1357, the Public Employees™ Retirement System, other retirement systems funded by the state or by a local government, individuals purchasing individual health insurance, and publicly funded state health insurance programs, including the Medi-Cal program and the Healthy Families Program.

(G)The extent to which costs resulting from lack of coverage or repeal of coverage are or would be shifted to other payers, including both public and private entities.

(H)The extent to which mandating or repealing the proposed benefit or service would not diminish or eliminate access to currently available health care benefits or services.

(I)The extent to which the benefit or service is generally utilized by a significant portion of the population.

(J)The extent to which health care coverage for the benefit or service is already generally available.

(K)The level of public demand for health care coverage for the benefit or service, including the level of interest of collective bargaining agents in negotiating privately for inclusion of this coverage in group contracts, and the extent to which the mandated benefit or service is covered by self-funded employer groups.

(L)In assessing and preparing a written analysis of the financial impact of legislation proposing to mandate a benefit or service and legislation proposing to repeal a mandated benefit or service pursuant to this paragraph, the Legislature requests the University of California to use a certified actuary or other person with relevant knowledge and expertise to determine the financial impact.

(4)The impact on essential health benefits, as defined in Section 1367.005 of this code and Section 10112.27 of the Insurance Code, and the impact on the California Health Benefit Exchange.

(b)The Legislature further requests that the California Health Benefit Review Program assess legislation that

impacts health insurance benefit design, cost sharing, premiums, and other health insurance topics.

(c)The Legislature requests that the University of California provide every analysis to the appropriate policy and fiscal committees of the Legislature not later than 60 days, or in a manner and pursuant to a timeline agreed to by the Legislature and the California Health Benefit Review Program, after receiving a request made pursuant to Section 127661. In addition, the Legislature requests that the university post every analysis on the Internet and make every analysis available to the public upon request.

(d)As used in this section, legislation proposing to mandate a benefit or service means a proposed statute that requires a health care service plan or a health insurer, or both, to do any of the following:

(1)Permit a person insured or covered under the policy or contract to obtain health care treatment or services from a particular type of health care provider.

(2)Offer or provide coverage for the screening, diagnosis, or treatment of a particular disease or condition.

(3)Offer or provide coverage of a particular type of health care treatment or service, or of medical equipment, medical supplies, or drugs used in connection with a health care treatment or service.

(e)As used in this section, legislation proposing to repeal a mandated benefit or service means a proposed statute that would repeal an existing requirement that a health care service plan or a health insurer, or both, do any of the following:

(1)Permit a person insured or covered under the policy or contract to obtain health care treatment or services from a particular type of health care provider.

(2)Offer or provide coverage for the screening, diagnosis, or treatment of a particular disease or condition.

(3)Offer or provide coverage of a particular type of health care treatment or service, or of medical equipment, medical supplies, or drugs used in connection with a health care treatment or service.

(Amended by Stats. 2018, Ch. 326, Sec. 1. (AB 2893) Effective January 1, 2019. Inoperative July 1, 2027. Repealed as of January 1, 2028, pursuant to Section 127665.)

127662.

(a)In order to effectively support the University of California and its work in implementing this chapter, there is hereby established in the State Treasury, the Health Care Benefits Fund. The universityswork in providing the bill analyses shall be supported from the fund.

(b)For the 2022“23 to 2026“27 fiscal years, inclusive, each health care service plan, except a specialized health care service plan, and each health insurer offering health insurance, as defined in Section 106 of the Insurance Code, shall be assessed an annual fee in an amount determined through regulation. The amount of the fee shall be determined by the Department of Managed Health Care and the Department of Insurance in consultation with the university and shall be limited to the amount necessary to fund the actual and necessary expenses of the university and its work in implementing this chapter. The total annual assessment on health care service plans and health insurers shall not exceed two million two hundred thousand dollars ($2,200,000).

(c)The Department of Managed Health Care and the Department of Insurance, in coordination with the university, shall assess the health care service plans and health insurers, respectively, for the costs required to fund the universitysactivities pursuant to subdivision (b).

(1)Health care service plans shall be notified of the assessment on or before June 15 of each year with the annual assessment notice issued pursuant to Section 1356. The assessment pursuant to this section is separate and independent of the assessments in Section 1356.

(2)Health insurers shall be noticed of the assessment in accordance with the notice for the annual assessment or quarterly premium tax revenues.

(3)The assessed fees required pursuant to subdivision (b) shall be paid on an annual basis no later than August 1 of each year. The Department of Managed Health Care and the Department of Insurance shall forward the assessed fees to the Controller for deposit in the Health Care Benefits Fund immediately following their receipt.

(4)Health insurance, as used in this subdivision, does not include Medicare supplement, vision-only, dental-only, or CHAMPUS supplement insurance, or hospital indemnity, accident-only, or specified disease insurance that does not pay benefits on a fixed benefit, cash payment only basis.

(Amended by Stats. 2021, Ch. 592, Sec. 1. (AB 1082) Effective January 1, 2022. Inoperative July 1, 2027. Repealed as of January 1, 2028, pursuant to Section 127665.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=8.5.&article=

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 2. HEALTH POLICY AND PLANNING [127280 - 127697]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 8.5. Health Care Payments Data Program [127671 - 127674.1]__

(Heading of Chapter 8.5 amended by Stats. 2020, Ch. 12, Sec. 11.)

127671.

(a)The Legislature finds and declares that California has a substantial public interest in the price, cost, utilization, equity, and quality of health care services. California is a major purchaser of health coverage through the Public Employees™ Retirement System, the State Department of Health Care Services, the Department of General Services, the Department of Corrections and Rehabilitation, the California Health Benefit Exchange, and other entities acting on behalf of a state purchaser. California also provides major tax expenditures through the tax exclusion of employer-sponsored coverage and tax deductibility of coverage purchased by individuals, as well as tax deductibility of excess health care costs for individuals and families.

(b)It is the intent of the Legislature in enacting this chapter to establish a system to collect information regarding health care costs, utilization, quality, and equity. Health care data is reported and collected through many disparate systems. Creating a process to aggregate and use this data will provide greater transparency regarding health care costs, utilization, quality, and equity, and the information may be used to inform policy decisions regarding the provision of quality health care, improving public health, reducing disparities, advancing health coverage, reducing health care costs, oversight of the health care system and health care companies, and providing public benefit for Californians and the state, while preserving consumer privacy.

(c)It is the intent of the Legislature to improve data transparency to achieve a sustainable health care system with more equitable access to affordable and quality health care for all.

(d)It is the intent of the Legislature in enacting this chapter to encourage state agencies, researchers, health care service plans, health insurers, providers, suppliers, and other stakeholders to use this data to develop innovative approaches, services, and programs that may have the potential to deliver health care that is both cost effective and responsive to the needs of enrollees, including recognizing the diversity of California and the impact of social determinants of health.

(e)It is the intent of the Legislature that the development of a Health Care Payments Data System be substantially completed no later than July 1, 2023, pursuant to this chapter.

(f)For purposes of this chapter:

(1)Director means the Director of the Department of Health Care Access and Information.

(2)Fund means the Health Care Payments Data Fund established pursuant to Section 127674.

(3)Department means the Department of Health Care Access and Information.

(4)Program means the Health Care Payments Data Program established pursuant to Section 127671.1.

(5)Qualified applicants includes state agencies, mandatory submitters, established nonprofit research institutions, the University of California, nonprofit educational institutions, providers, suppliers, labor unions, self-insured multiemployer plans that submit data to the system, and consumer organizations certified for the Consumer Participation Program administered by the Department of Managed Health Care pursuant to Section 1348.9 that have been awarded reasonable advocacy and witness fees in a proceeding or proceedings of the department.

(6)Research has the same meaning as defined in Section 164.501 of Title 45 of the Code of Federal Regulations.

(7)System means the Health Care Payments Data System.

(Amended by Stats. 2021, Ch. 143, Sec. 89. (AB 133) Effective July 27, 2021.)

127671.1.

(a)The department shall establish, implement, and administer the Health Care Payments Data Program to implement and administer the system in accordance with this chapter.

(b)The system shall collect data on all California residents to the extent feasible and permissible subject to the state constitutional right to privacy and any other applicable state or federal law.

(Amended by Stats. 2021, Ch. 143, Sec. 90. (AB 133) Effective July 27, 2021.)

127672.

(a)(1)The Department of Health Care Access and Information shall convene a Health Care Payments Data Program advisory committee, composed of health care stakeholders and experts, including, but not limited to, all of the following:

(A)Health care service plans, including specialized health care service plans.

(B)Insurers that have a certificate of authority from the Insurance Commissioner to provide health insurance, as defined in Section 106 of the Insurance Code.

(C)Suppliers, as defined in paragraph (3) of subdivision (b) of Section 1367.50.

(D)Providers, as defined in paragraph (2) of subdivision (b) of Section 1367.50.

(E)Self-insured employers.

(F)Multiemployer self-insured plans that are responsible for paying for health care services provided to beneficiaries or the trust administrator for a multiemployer self-insured plan.

(G)Businesses that purchase health care coverage for their employees.

(H)Organized labor.

(I)Organizations representing consumers.

(2)The advisory committee shall consist of no fewer than nine and no more than 11 persons.

(3)In addition to the members specified by paragraph (2), the director of the department, the director of the State Department of Health Care Services, and the executive director of the California Health Benefit

Exchange, or their officially designated representatives, shall be nonvoting ex officio members of the advisory committee.

(4)Each appointed member shall serve a term of two years, except one-half of the initial appointments shall be for one year. Each appointed member shall serve at the discretion of the director and may be removed at any time.

(5)The chairperson of the advisory committee shall be an appointed member and shall be elected by a majority of the appointed members.

(6)The advisory committee shall meet at least quarterly or when requested by the director.

(7)The advisory committee shall assist and advise the director in formulating program policies regarding data collection, management, use, and access, and development of public information to meet the goals of the program. The advisory committee shall, through its meetings, provide a forum for stakeholder and public engagement. Upon request of the director, the advisory committee may assist and advise on the departmentsother data programs.

(8)On or before July 1, 2024, the advisory committee shall make recommendations to the department on how existing state public health data functions may be integrated into the system. The advisory committee shall also recommend options for state public health data integration. These recommendations shall be published on the departmentsinternet website.

(9)The advisory committee shall not have decisionmaking authority related to the administration of the system and shall not have a financial interest, individually or through a family member, in the recommendations made to the department. The advisory committee shall hold public meetings with stakeholders, solicit input, and set its own meeting agendas. Meetings of the advisory committee are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(10)The members of the advisory committee appointed from outside government shall serve without compensation, but shall receive a per diem for each daysattendance at an advisory committee meeting. All members shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the committee.

(b)The department may convene other committees or workgroups as necessary to support effective operation of the system. These committees may be standing committees or time-limited workgroups, at the discretion of the director.

(Amended by Stats. 2021, Ch. 143, Sec. 91. (AB 133) Effective July 27, 2021.)

127672.8.

The department shall ensure that the system can map to other datasets, including public health datasets on morbidity and mortality, and data regarding the social determinants of health.

(Amended by Stats. 2021, Ch. 143, Sec. 92. (AB 133) Effective July 27, 2021.)

127672.9.

Until January 1, 2026, for purposes of implementing this chapter, including, but not limited to, hiring staff and consultants, facilitating and conducting meetings, conducting research and analysis, and developing the required reports, the department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis. Contracts entered into or amended pursuant to this section are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and are exempt from the review or approval of any division of the Department of General Services.

(Amended by Stats. 2021, Ch. 143, Sec. 93. (AB 133) Effective July 27, 2021.)

127673.

(a)The department shall develop guidance to require data submission from the entities specified in this chapter. The guidance shall include a methodology for the collection, validation, refinement, analysis, comparison, review, and improvement of health care data to be submitted by entities specified in this chapter, including, but not limited to, data from fee-for-service, capitated, integrated delivery system, and other alternative, value-based, payment sources, and any other form of payment to health care providers and suppliers by health plans, health insurers, or other entities described in this chapter.

(b)Notwithstanding any other state law, for the purpose of providing information for inclusion in the system, mandatory submitters shall, and voluntary submitters may, provide health care data, including claim and encounter, member enrollment, provider and supplier information, nonclaims-based payments, premiums, and pharmacy rebate data, and provide all of the following to the department:

(1)Utilization data from the health care service plans™ and insurers™ medical payments or, in the case of entities that do not use payments data, including, but not limited to, integrated delivery systems, encounter data consistent with the core set of data elements for data submission proposed by the All-Payer Claims Database Council, the University of New Hampshire, and the National Association of Health Data Organizations.

(2)Pricing information for health care items, services, and medical and surgical episodes of care gathered from payments for covered health care items and services, including contracted rates, allowed amounts, fee schedules, and other information regarding the cost of care necessary to determine the amounts paid by health plans, health insurers, and public programs to health care providers, suppliers, and other entities. This shall include nonclaims-based payment information such as deductibles, copayments, and coinsurance and other information as needed to determine the total cost of care.

(3)Personally identifiable information that the mandatory submitter is otherwise required to collect, which may include detailed patient identifiers such as first and last name, address, date of birth, gender or gender identity, and Social Security Number or individual taxpayer identification number, in order to support analyses, including, but not limited to, longitudinal, public health impacts, and social determinants of health analyses. Personally identifiable information shall be subject to the privacy protections of this chapter and shall not be publicly available, except as specified in this chapter.

(4)Personal health information that the mandatory submitter is otherwise required to collect, which may include age, gender, gender identity, race, ethnicity, sexual orientation, health status, health condition, and

any other data elements that constitute personal health information in this chapter.

(c)For purposes of this chapter, mandatory submitters include all of the following:

(1)A health care service plan, including a specialized health care service plan.

(2)An insurer licensed to provide health insurance, as defined in Section 106 of the Insurance Code, including dental-only insurance.

(3)A self-insured plan subject to Section 1349.2, or a state entity, city, county, or other political subdivision of the state, or a public joint labor management trust, that offers self-insured or multiemployer-insured plans that pay for or reimburse any part of the cost of health care services.

(4)The State Department of Health Care Services, for those enrolled in Medi-Cal and other insurance affordability programs, whether enrolled in Medi-Cal managed care, fee-for-service Medi-Cal, or any other payment arrangement.

(d)The department will accept, at its discretion, voluntarily submitted data. For purposes of this chapter, voluntary submitters include, but are not limited to:

(1)A self-insured employer that is not subject to Section 1349.2.

(2)A multiemployer self-insured plan that is responsible for paying for health care services provided to beneficiaries.

(3)The trust administrator for a multiemployer self-insured plan.

(4)A provider, as defined in paragraph (2) of subdivision (b) of Section 1367.50, that is a hospital or clinic.

(5)A supplier, as defined in paragraph (3) of subdivision (b) of Section 1367.50, that has an independent scope of practice and submits claims electronically.

(e)On or before December 31, 2021, the department shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 to implement this chapter, including on all of the following:

(1)Plan size thresholds for submitters, with consideration given to implementation costs for both the submitter and the department. Thresholds shall not apply to qualified health plans offered by the California Health Benefit Exchange or submitters covering more than a total of 50,000 Californians through both Medicare Advantage plans and the private plans and insurance described in subdivision (b).

(2)Required and exempted lines of business.

(3)Coordination of submission in cases where submitters contract with other entities to administer health care benefits.

(4)The content, file formats, and timelines for data submission, and the methods of data collection. In the development of regulations, the department shall consider national, regional, and other all-payer claims databases™ standards.

(5)Frequency of submission by health plans, insurers, and other mandatory submitters of all core data,

including claims, encounters, eligibility, and provider files.

(6)Frequency of submission of nonclaims payment data files.

(f)The initial adoption, by the department, of regulations implementing subdivision (e) shall be deemed to be an emergency and necessary to avoid serious harm to the public peace, health, safety, or general welfare for purposes of Sections 11346.1 and 11349.6 of the Government Code. Any emergency regulation adopted pursuant to this section shall be repealed by operation of law unless the adoption, amendment, or repeal of the regulation is promulgated by the department pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code within two years of the initial adoption of the emergency regulation. After the adoption of the emergency regulation pursuant to subdivision (e), the department may thereafter establish regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(g)(1)A qualified health plan shall submit information either directly or through the California Health Benefit Exchange, as determined by the exchange.

(2)The State Department of Health Care Services shall submit information for those enrolled in Medi-Cal and other insurance affordability programs, whether enrolled in Medi-Cal managed care, fee-for-service Medi-Cal, or any other payment arrangement.

(h)(1)In its initial implementation, the department shall seek data for the three years prior to the effective date of this chapter.

(2)In ongoing administration of the system, the department shall provide data for no less than three years and may seek data for longer time periods to support the intent of this chapter.

(i)To the extent possible, the department shall incorporate into the system any data collected by the department from providers and suppliers, including hospital discharge abstract data records and emergency care data records provided to the department by health facilities and ambulatory surgery data records provided to the department by ambulatory surgical centers.

(j)The department may accept and incorporate into the system any available information that will further the goals of the program.

(k)(1)On or before March 1, 2024, the department shall submit a report to the Legislature that includes all of the following:

(A)Claims data reported by mandatory submitters.

(B)Claims data reported by voluntary submitters.

(C)Data on the covered lives reported, percentage of the population for which the department has data, the number of self-insured plans, providers and suppliers who have voluntarily submitted data, variation of completeness of data across geographic regions, such as the California Health Benefit Exchangesrating regions, the extent of data submitted on hospitals, physicians, and physician groups, the extent to which mandatory and voluntary submitters are submitting data specified in subdivision (b), frequency of submission of all core data, including claims, encounters, eligibility, and provider files, frequency of submission of nonclaims payment data files, and any other information that is available to determine if hospital and physician data are captured.

(D)A cost estimate if providers and suppliers become mandatory submitters.

(E)The number of data requests from qualified applicants and their data uses.

(2)The department may request the data release committee established pursuant to Section 127673.84 to assist with the report.

(3)The report shall be submitted in compliance with Section 9795 of the Government Code.

(l)Entities regulated pursuant to Article 4.7 (commencing with Section 742.20) of Part 2 of Division 1 of the Insurance Code are exempt from this chapter.

(m)The program performs public health activities described in subdivision (b) of Section 164.512 of Title 45 of the Code of Federal Regulations. The information collected in accordance with this chapter is necessary to carry out projects with public health purposes.

(n)Article 8 (commencing with Section 1798.30) of Chapter 1 of Title 1.8 of Part 4 of Division 3 of the Civil Code shall not apply to records and personal information collected by the system pursuant to this section.

(Amended by Stats. 2021, Ch. 143, Sec. 94. (AB 133) Effective July 27, 2021.)

127673.1.

(a)(1)The department shall report the information it receives pursuant to this chapter in a form that allows valid comparisons across care delivery systems.

(2)The department shall develop policies and procedures to outline the format and type of data to be submitted pursuant to this chapter.

(b)All entities submitting health care data are responsible for submitting complete and accurate data directly to the system and facilitating data submissions from data owners, including, but not limited to, data feeds from pharmacy benefit managers, behavioral health organizations, and any subsidiaries, affiliates, or subcontractors that a submitter has contracted with for services covered by this chapter.

(Amended by Stats. 2021, Ch. 143, Sec. 95. (AB 133) Effective July 27, 2021.)

127673.2.

(a)In the development of the system, the department or its designee shall consult with state and federal entities, as necessary, to implement the program. State entities shall assist and provide to the department access to datasets needed to effectuate the intent of this chapter.

(b)The department shall seek data on Medicare enrollees from the federal Centers for Medicare and Medicaid Services and shall incorporate that data, to the extent possible.

(c)The department shall accept data from voluntary submitters if it is provided in a manner and format specified by the office.

(Amended by Stats. 2021, Ch. 143, Sec. 96. (AB 133) Effective July 27, 2021.)

127673.3.

(a)The department shall develop and maintain a master person index, a master index of providers and suppliers, and a master payer index that will enable the matching of California residents longitudinally and across coverage sources, and will enable the matching of providers and suppliers across practice arrangements, payment sources, and regulators.

(b)The department shall supplement these indices with data from other public and private sources, such as the following:

(1)Other data maintained by the department.

(2)Vital statistics.

(3)Facility licensure data from the State Department of Public Health.

(4)Health professional licensure data from the Department of Consumer Affairs.

(5)Private sources of valid and reliable data, such as a provider and supplier directory utility if it is demonstrably accurate over time.

(Amended by Stats. 2021, Ch. 143, Sec. 97. (AB 133) Effective July 27, 2021.)

127673.4.

(a)The department shall develop regulations on data quality and improvement processes and shall make these processes publicly available.

(b)Data quality processes shall be applied to each major phase of the system life cycle, including, but not limited to:

(1)Source data intake.

(2)Data conversion and processing.

(3)Data analysis, reporting, and release.

(4)Other data processes necessary for the system.

(c)The department shall provide, upon request of an interested party, to the interested party, and shall regularly report to the health care data policy advisory committee, information on data quality and data quality improvement processes, including, but not limited to, the following:

(1)Descriptions of processes and methodologies.

(2)Periodic updates on known issues and the implications of the issues for data quality and data availability.

(3)Other impediments to the functioning of the system.

(Amended by Stats. 2021, Ch. 143, Sec. 98. (AB 133) Effective July 27, 2021.)

127673.5.

(a)(1)The purpose of the system is to learn about and seek to improve public health, population health, social determinants of health, and the health care system, not about individual patients.

(2)All policies and procedures developed in implementing this chapter shall ensure that the privacy, security, and confidentiality of consumers™ individually identifiable health information is protected, consistent with state and federal privacy laws.

(b)The department shall develop policies regarding data aggregation and the protection of individual confidentiality, privacy, and security for individual consumers and patients.

(Amended by Stats. 2021, Ch. 143, Sec. 99. (AB 133) Effective July 27, 2021.)

127673.6.

The department shall develop an information security program that uses existing state standards and complies with applicable state and federal laws.

(Amended by Stats. 2021, Ch. 143, Sec. 100. (AB 133) Effective July 27, 2021.)

127673.7.

The department shall include in an annual analysis, such as, but not limited to, the following:

(a)Population and regional level data on prevention, screening, and wellness utilization.

(b)Population and regional level data on chronic conditions, management, and outcomes.

(c)Population and regional level data on trends in utilization of procedures for treatment of similar conditions to evaluate medical appropriateness.

(d)Regional variation in payment level for the treatment of identified chronic conditions.

(e)Data regarding hospital and nonhospital payments, including inpatient, outpatient, and emergency department payments and nonhospital ambulatory service data.

(Amended by Stats. 2021, Ch. 143, Sec. 101. (AB 133) Effective July 27, 2021.)

127673.8.

(a)The department shall use the program data to produce publicly available information, including data products, summaries, analyses, studies, and other reports, to support the goals of the program. The department shall receive input on priorities for the public information portfolio from the advisory committee. The department may establish a pricing mechanism for data products.

(b)The department may establish a public liaison function through which individuals may submit requests for specific products or analyses. The department may establish a pricing mechanism for custom reports. The department shall maintain copies of custom reports as part of the program public information portfolio.

(c)The department may establish a research program to conduct research, as defined in Section 164.501 of Title 45 of the Code of Federal Regulations, to support program policy goals.

(d)Publicly available data products and reports shall protect patient and consumer privacy.

(Amended by Stats. 2021, Ch. 143, Sec. 102. (AB 133) Effective July 27, 2021.)

127673.81.

(a)(1)All personal consumer information obtained or maintained by the program shall be confidential.

(2)Only deidentified aggregate patient or other consumer data shall be included in a publicly available analysis, data product, or research.

(b)All policies and procedures developed in implementing this chapter shall ensure that the privacy, security, and confidentiality of consumers™ individually identifiable health information is protected, consistent with state and federal privacy laws, including the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA)(Public Law 104-191) and the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and data shall not be disclosed until the department has developed a policy regarding the release of data.

(c)(1)The system and all program data shall be exempt from the disclosure requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and shall not be made available except pursuant to this chapter.

(2)The department shall develop policies and procedures for the disclosure of information described in paragraph (2) of subdivision (a).

(d)Program data shall not be used for determinations regarding individual patient care or treatment and shall not be used for any individual eligibility or coverage decisions or similar purposes.

(Amended by Stats. 2022, Ch. 28, Sec. 106. (SB 1380) Effective January 1, 2023.)

127673.82.

(a)The department shall develop a comprehensive program for data use, access, and release that includes data use agreements that require data users to comply with this chapter. The purpose of the data use, access, and release program is to ensure that only aggregated, deidentified information is publicly accessible.

(b)Access to nonpublic data shall be governed by the data use, access, and release program.

(c)To meet the research and policy goals of the program, controlled access to nonpublic data by outside data analysts, researchers, and other qualified applicants is necessary.

(d)The department shall establish a secure research environment for access to potentially identifiable information. The environment shall include access controls sufficient to ensure that users access only the data specified in an approved data request and that personal information is protected from unapproved use.

(e)The department shall, with the advice of the advisory committee and data release committee, develop criteria, policies, and procedures for access to and release of nonpublic data. The policies shall be designed to recognize a patientsright of privacy and shall include at least the privacy protection standards specified in Section 127673.83.

(f)The department shall establish a pricing mechanism for the use of nonpublic data.

(g)The department shall maintain information about requests and the disposition of requests, and shall develop processes for the timely consideration and release of nonpublic data.

(Amended by Stats. 2021, Ch. 143, Sec. 104. (AB 133) Effective July 27, 2021.)

127673.83.

(a)In accessing or obtaining nonpublic data through the secure environment, users shall only have access to the minimum amount of potentially identifiable data necessary for an approved project or access to a dataset designed for an approved purpose. Each person who accesses or obtains nonpublic personal data shall sign a data use agreement. Violation of a data use agreement shall be considered a violation of Section 1798.56 of the Civil Code and, if applicable, Section 1798.57 of the Civil Code.

(b)Access to data in the secure research environment shall be permissible as follows:

(1)If the data does not include any of the direct personal identifiers listed in Section 164.514(e) of Title 45 of the Code of Federal Regulations, access may be provided to qualified applicants for research and analysis purposes consistent with program goals.

(2)If the data includes any of the direct personal identifiers listed in Section 164.514(e) of Title 45 of the Code of Federal Regulations, access may be provided only to qualified applicants for research projects that offer significant opportunities to achieve program goals and meet all of the following criteria:

(A)Project approval has been recommended by the data release committee.

(B)The project has been approved by the Committee for the Protection of Human Subjects pursuant to subdivision (t) of Section 1798.24 of the Civil Code. Pursuant to that section, the department may release

data to established nonprofit research institutions, the University of California, and other nonprofit educational institutions.

(C)The requester has documented expertise with privacy protection and with the analysis of large sets of confidential data.

(D)The research shall be made available to the department.

(c)The departmentspolicies shall limit release or transmittal of personal information outside the secure environment.

(1)The department may develop standardized limited datasets that do not include any of the direct personal identifiers listed in Section 164.514(e) of Title 45 of the Code of Federal Regulations, and have the minimum necessary personal information for types of purposes specified by the department. Standardized datasets may be transmitted to qualified applicants if the requester has documented expertise with privacy protection and with the analysis of large sets of confidential data, data security will meet the standards that the department shall apply to personal data, and project approval has been recommended by the data release committee.

(2)Data described in paragraph (2) of subdivision (b) may be transmitted to an outside researcher only if the researcher meets all the criteria of that paragraph, the researcher has documented expertise with data security and the protection of large sets of confidential data, and data security will meet the standards that the department shall apply to personal data.

(d)Program data, including personal information, may be shared with other state agencies pursuant to subdivision (e) of Section 1798.24 of the Civil Code. For purposes of that section, personal information has been collected for the purposes specified in Section 127671, which include analyzing and improving state programs related to public health and the provision of health care or health care coverage.

(Amended by Stats. 2021, Ch. 143, Sec. 105. (AB 133) Effective July 27, 2021.)

127673.84.

(a)The department shall establish a data release committee with a membership of at least 7 and no more than 11 members appointed by the director. Notwithstanding any other law, a quorum shall be achieved with one fewer member than one-half of the full membership.

(b)The appointed members shall include representatives of health care payers, providers, suppliers, purchasers, researchers, consumers, and labor. Representatives of program data submitters shall not constitute a majority of members. The members shall have knowledge and experience with health care data, privacy, and security.

(c)Each appointed member shall serve a term of two years, except one-half of the initial appointments shall be for one year. The director may remove a member for cause.

(d)(1)The data release committee shall make recommendations about all applications seeking either program data with direct personal identifiers or the transmission of standardized datasets, except for data requests from other state agencies. Upon request of the director, the data release committee shall also make recommendations about other applications for program data.

(2)In making recommendations about applications seeking program data, except for data requests from other state agencies, the data release committee shall consider whether the use of the data is consistent with the goals of the system, whether it provides greater transparency regarding health care costs, utilization, quality, or equity, or how the information may be used to inform policy decisions regarding the provision of quality health care, improving public health, reducing health disparities, advancing health coverage, or reducing health care costs.

(e)Upon request of the director, the data release committee shall generally advise the director about privacy and security matters related to the program and provide feedback on the programsdata application review processes and other matters.

(f)The chairperson of the data release committee shall be appointed from among the members by the director.

(g)A member of the data release committee appointed from outside state government shall serve without compensation, but shall receive a per diem for each daysattendance at a data release committee meeting. All members shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the committee.

(Amended by Stats. 2021, Ch. 143, Sec. 106. (AB 133) Effective July 27, 2021.)

127674.

(a)The department shall expend the General Fund moneys appropriated in the 2018“19 Budget Act (Chapter 23 of the Statutes of 2019) for the purposes of this chapter and the former Health Care Transparency Database to fund the implementation and operation of the program.

(b)The Health Care Payments Data Program shall not be funded with General Fund moneys beyond moneys appropriated in the 2018“19 Budget Act.

(c)The Health Care Payments Data Fund is hereby established within the department for the purpose of receiving and expending revenues collected pursuant to this chapter.

(d)All revenues collected pursuant to this chapter shall be deposited in the fund. Any amounts raised by the collection of the revenues shall remain in the fund and shall be available in succeeding years upon appropriation by the Legislature.

(e)The department shall seek to maximize federal financial participation from the Medicaid program for the system, working through the sole state agency for Medicaid, the State Department of Health Care Services, and shall do so while relying on moneys appropriated from the General Fund in the 2018“19 Budget Act, and on an ongoing basis using any federally allowed fund source for the state match.

(f)(1)The department may impose a data user fee for an eligible user that is in compliance with this chapter, including, but not limited to, provisions related to consumer privacy and data security.

(2)In establishing the user fee schedule and fee waivers, the department shall work with the advisory committee to make considerations for state agencies, data submitters, and consumer organizations that have been awarded reasonable advocacy and witness fees in a proceeding or proceedings of the Department

of Managed Health Care pursuant to Section 1348.9.

(3)The department shall adopt regulations on the fee waiver consistent with subdivisions (e) and (f) of Section 127673.

(g)On or before March 1, 2023, the office shall submit a report to the Legislature on recommendations for funding options for the program pursuant to Section 9795 of the Government Code.

(h)The department may accept foundation funding from foundations not affiliated or controlled by a health care entity.

(Amended by Stats. 2021, Ch. 143, Sec. 107. (AB 133) Effective July 27, 2021.)

127674.1.

The department shall notify the Department of Managed Health Care or the Department of Insurance, as appropriate, if a health care service plan or health insurer fails to comply with this chapter. The Department of Managed Health Care and the Department of Insurance shall take appropriate action necessary to bring the plan or insurer into compliance.

(Amended by Stats. 2021, Ch. 143, Sec. 108. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=9.&article=

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 2. HEALTH POLICY AND PLANNING [127280 - 127697]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 9. Prescription Drug Pricing for Purchasers [127675 - 127685]__

(Chapter 9 added by Stats. 2017, Ch. 603, Sec. 4.)

127675.

(a)This chapter shall apply to a manufacturer of a prescription drug that is purchased or reimbursed by any of the following:

(1)A state purchaser in California, including, but not limited to, the Public Employees™ Retirement System, the State Department of Health Care Services, the Department of General Services, and the Department of Corrections and Rehabilitation, or an entity acting on behalf of a state purchaser.

(2)A licensed health care service plan.

(3)A health insurer holding a valid outstanding certificate of authority from the Insurance Commissioner.

(4)A pharmacy benefit manager as defined in subdivision (j) of Section 4430 of the Business and Professions Code.

(b)For the purposes of this chapter, the term department shall mean the Department of Health Care Access and Information.

(Amended by Stats. 2021, Ch. 143, Sec. 109. (AB 133) Effective July 27, 2021.)

127676.

(a)The Legislature finds and declares that the State of California has a substantial public interest in the price and cost of prescription drugs. California is a major purchaser through the Public Employees™ Retirement System, the State Department of Health Care Services, the Department of General Services, the Department of Corrections and Rehabilitation, and other entities acting on behalf of a state purchaser. California also provides major tax expenditures through the tax exclusion of employer sponsored coverage and tax deductibility of coverage purchased by individuals, as well as tax deductibility of excess health care costs for individuals and families.

(b)(1)It is the intent of the Legislature in enacting this chapter to provide notice and disclosure of information relating to the cost and pricing of prescription drugs in order to provide accountability to the state for prescription drug pricing.

(2)It is further the intent of the Legislature to permit a manufacturer of a prescription drug to voluntarily make pricing decisions regarding a prescription drug, including any price increases. It is further the intent of the Legislature to permit purchasers, both public and private, as well as pharmacy benefit managers, to negotiate discounts and rebates consistent with existing state and federal law.

(Added by Stats. 2017, Ch. 603, Sec. 4. (SB 17) Effective January 1, 2018.)

127677.

(a)A manufacturer of a prescription drug with a wholesale acquisition cost of more than forty dollars ($40) for a course of therapy shall notify each purchaser described in Section 127675 if the increase in the wholesale acquisition cost of a prescription drug is more than 16 percent, including the proposed increase and the cumulative increases that occurred within the previous two calendar years prior to the current year. For purposes of this section, a course of therapy is defined as either of the following:

(1)The recommended daily dosage units of a prescription drug pursuant to its prescribing label as approved by the federal Food and Drug Administration for 30 days.

(2)The recommended daily dosage units of a prescription drug pursuant to its prescribing label as approved by the federal Food and Drug Administration for a normal course of treatment that is less than 30 days.

(b)The notice required by subdivision (a) shall be provided in writing at least 60 days prior to the planned effective date of the increase.

(c)(1)The notice required by subdivision (a) shall include the date of the increase, the current wholesale acquisition cost of the prescription drug, and the dollar amount of the future increase in the wholesale acquisition cost of the prescription drug.

(2)The notice required by subdivision (a) shall include a statement regarding whether a change or improvement in the drug necessitates the price increase. If so, the manufacturer shall describe the change or improvement.

(d)The notice required by subdivision (a) shall be provided to each state purchaser and other purchasers described in paragraphs (2) to (4), inclusive, of subdivision (a) of Section 127675 if a purchaser registers with the department for the purpose of this notification. The department shall make available to manufacturers a list of registered purchasers for the purpose of this notification.

(e)If a pharmacy benefit manager receives a notice of an increase in wholesale acquisition cost consistent with subdivision (a), it shall notify its large contracting public and private purchasers of the increase. For the purposes of this section, a large purchaser means a purchaser that provides coverage to more than 500 covered lives.

(Amended by Stats. 2021, Ch. 143, Sec. 110. (AB 133) Effective July 27, 2021.)

127679.

(a)On a quarterly basis at a time prescribed by the department and in a format prescribed by the department, commencing no earlier than January 1, 2019, a manufacturer shall report to the department all of the following information for each drug for which an increase in wholesale acquisition cost is described in Section 127677:

(1)A description of the specific financial and nonfinancial factors used to make the decision to increase the wholesale acquisition cost of the drug and the amount of the increase, including, but not limited to, an explanation of how these factors explain the increase in the wholesale acquisition cost of the drug.

(2)A schedule of wholesale acquisition cost increases for the drug for the previous five years if the drug was manufactured by the company.

(3)If the drug was acquired by the manufacturer within the previous five years, all of the following information:

(A)The wholesale acquisition cost of the drug at the time of acquisition and in the calendar year prior to acquisition.

(B)The name of the company from which the drug was acquired, the date acquired, and the purchase price.

(C)The year the drug was introduced to market and the wholesale acquisition cost of the drug at the time of introduction.

(4)The patent expiration date of the drug if it is under patent.

(5)If the drug is a multiple source drug, an innovator multiple source drug, a noninnovator multiple source drug, or a single source drug, as defined in subparagraph (A) of paragraph (7) of subdivision (k) of Section 1396r"8 of Title 42 of the United States Code.

(6)A description of the change or improvement in the drug, if any, that necessitates the price increase.

(7)Volume of sales of the manufacturersdrug in the United States for the previous year.

(b)The manufacturer may limit the information reported pursuant to subdivision (a) to that which is otherwise in the public domain or publicly available.

(c)The department shall publish the information provided to it pursuant to this section on its internet website on no less than a quarterly basis. The information shall be published within 60 days of receipt from a manufacturer. The information shall be published in a manner that identifies the information that is disclosed on a per-drug basis and shall not be aggregated in a manner that would not allow identification of the drug.

(d)The department shall be responsible for the enforcement of this section.

(e)A manufacturer of a prescription drug subject to this chapter that does not report the information required pursuant to this section is liable for a civil penalty of one thousand dollars ($1,000) per day for every day after the reporting period described in this section that the required information is not reported.

(f)A civil penalty shall be assessed and recovered in a civil action brought by the office in the name of the people of the State of California. Assessment of a civil penalty may, at the request of any manufacturer of a prescription drug subject to this section, be reviewed on appeal, and the penalty may be reduced or waived for good cause.

(g)Any money received by the department pursuant to this section shall be paid into the Managed Care Fund.

(Amended by Stats. 2021, Ch. 143, Sec. 111. (AB 133) Effective July 27, 2021.)

127681.

(a)A manufacturer of a prescription drug shall notify the department in writing if it is introducing a new

prescription drug to market at a wholesale acquisition cost that exceeds the threshold set for a specialty drug under the Medicare Part D program (Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173)). The notice shall be provided in writing within three days after the release of the drug in the commercial market. A manufacturer may make this notification pending approval by the federal Food and Drug Administration, if commercial availability is expected within three days of approval.

(b)No later than 30 days after notification pursuant to this section, a manufacturer shall report all of the following information to the department in a format prescribed by the department:

(1)A description of the marketing and pricing plans used in the launch of the new drug in the United States and internationally.

(2)The estimated volume of patients that may be prescribed the drug.

(3)If the drug was granted breakthrough therapy designation or priority review by the federal Food and Drug Administration prior to final approval.

(4)The date and price of acquisition if the drug was not developed by the manufacturer.

(c)The manufacturer may limit the information reported pursuant to subdivision (b) to that which is otherwise in the public domain or publicly available.

(d)The department shall publish the information provided to it pursuant to this section on its internet website on no less than a quarterly basis. The information shall be published in a manner that identifies the information that is disclosed on a per-drug basis and shall not be aggregated in a manner that would not allow identification of the drug.

(e)The department shall be responsible for the enforcement of this section.

(f)A manufacturer of a prescription drug subject to this chapter that does not report the information required pursuant to this section is liable for a civil penalty of one thousand dollars ($1,000) per day for every day after the notification period described in this section that the required information is not reported.

(g)A civil penalty shall be assessed and recovered in a civil action brought by the department in the name of the people of the State of California. Assessment of a civil penalty may, at the request of any manufacturer of a prescription drug subject to this section, be reviewed on appeal, and the penalty may be reduced or waived for good cause.

(h)Any money received by the department pursuant to this section shall be paid into the Managed Care Fund.

(Amended by Stats. 2021, Ch. 143, Sec. 112. (AB 133) Effective July 27, 2021.)

127683.

(a)Funding for the actual and necessary expenses of the department to conduct the activities described in this section and in Sections 127676, 127679, 127681, and 127685, shall be provided, subject to appropriation by the Legislature, from transfers of moneys from the Managed Care Fund and the Insurance Fund.

(b)The share of funding from the Managed Care Fund shall be based on the number of covered lives in the state that are covered under plans regulated by the Department of Managed Health Care, including covered lives under Medi-Cal managed care, as determined by the Department of Managed Health Care, in proportion to the total number of all covered lives in the state.

(c)The share of funding to be provided from the Insurance Fund shall be based on the number of covered lives in the state that are covered under health insurance policies and benefit plans regulated by the Department of Insurance, including covered lives under Medicare supplement plans, as determined by the Department of Insurance, in proportion to the total number of all covered lives in the state.

(Amended by Stats. 2021, Ch. 143, Sec. 113. (AB 133) Effective July 27, 2021.)

127685.

(a)The department may adopt regulations or issue guidance for the implementation of this chapter. All information that is required to be reported to the department pursuant to this chapter shall be reported in a form prescribed by the department, commencing in the first calendar quarter of 2019.

(b)The department may consult with the Department of Managed Health Care, the Department of Insurance, the California State Board of Pharmacy, and any state purchaser of prescription drugs, or an entity acting on behalf of a state purchaser, in issuing guidance or adopting necessary regulations pursuant to subdivision (a), in posting information on its internet website pursuant to this chapter, and in taking any other action for the purpose of implementing this chapter.

(Amended by Stats. 2021, Ch. 143, Sec. 114. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=2.&chapter=10.&article=

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 2. HEALTH POLICY AND PLANNING [127280 - 127697]__

(Part 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 10. California Affordable Drug Manufacturing Act of 2020 [127690 - 127697]__

(Chapter 10 added by Stats. 2020, Ch. 207, Sec. 1.)

127690.

This chapter may be cited as the California Affordable Drug Manufacturing Act of 2020.

(Added by Stats. 2020, Ch. 207, Sec. 1. (SB 852) Effective January 1, 2021.)

127691.

For purposes of this chapter, the following definitions apply:

(a)Generic drug means a drug that is approved pursuant to subdivision (j) of Section 355 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.), or a biosimilar, as defined under the federal Public Health Service Act (42 U.S.C. Sec. 262).

(b)Partnerships include, but are not limited to, agreements for the procurement of generic prescription drugs by way of contracts, grant agreements, or purchasing by a payer, state governmental agency, group purchasing organization, nonprofit organization, or other entity.

(c)California Health and Human Services Agency or CHHSA means the California Health and Human Services Agency, or any of its departments, including the Department of Health Care Access and Information, selected to implement this chapter.

(Amended by Stats. 2023, Ch. 42, Sec. 50. (AB 118) Effective July 10, 2023.)

127692.

(a)The California Health and Human Services Agency (CHHSA) or its departments shall enter into partnerships, consistent with subdivision (b) of Section 127693, in consultation with other state departments as necessary, to increase competition, lower prices, and address shortages in the market for generic prescription drugs, to reduce the cost of prescription drugs for public and private purchasers, taxpayers, and consumers, and to increase patient access to affordable drugs.

(b)For purposes of implementing this chapter, CHHSA and its departments, including the Department of Health Care Access and Information, may enter into exclusive or nonexclusive contracts on a bid or negotiated basis. Contracts entered into or amended pursuant to this section are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and are exempt from the review or approval of any division of the Department of General Services. When appropriate, CHHSA shall establish initial and ongoing metrics to measure progress and efficiency, and remedies in the case those metrics are

not met in any partnership contract entered into pursuant to this section.

(c)CHHSA shall have the ability to hire staff or contractors to oversee and project-manage the partnerships for manufacturing, procurement, or distribution of generic prescription drugs, contingent upon an appropriation by the Legislature for this purpose.

(d)It is the Legislaturesintent that any manufacturing partnership contract entered into pursuant to subdivision (b) is a partnership intended to create a California-branded label for generic drugs. It is further the Legislaturesintent that any manufacturing that is done under this section is intended to benefit the residents of this state by ensuring adequate supplies and access to generic prescription drugs and lowering health care costs through savings to public health care programs and private health insurance coverage.

(Amended by Stats. 2023, Ch. 42, Sec. 51. (AB 118) Effective July 10, 2023.)

127693.

(a)CHHSA shall enter into partnerships resulting in the production, procurement, or distribution of generic prescription drugs, with the intent that these drugs be made widely available to public and private purchasers, providers and suppliers as defined in subdivision (b) of Section 1367.50, and pharmacies as defined in Section 4037 of the Business and Professions Code, as appropriate. The generic prescription drugs shall be produced or distributed by a drug company or generic drug manufacturer that is registered with the United States Food and Drug Administration.

(b)(1)CHHSA shall only enter into partnerships pursuant to subdivision (a) to produce a generic prescription drug at a price that results in savings, targets failures in the market for generic drugs, or improves patient access to affordable medications.

(2)For top drugs identified pursuant to the criteria listed in paragraph (5), CHHSA shall determine if viable pathways exist for partnerships to manufacture, procure, or distribute generic prescription drugs by examining the relevant legal, market, policy, and regulatory factors.

(3)CHHSA shall consider the following, if applicable, when setting the price of a generic prescription drug:

(A)United States Food and Drug Administration user fees.

(B)Abbreviated new drug application acquisition costs amortized over a five-year period.

(C)Mandatory rebates.

(D)Total contracting and production costs for the drug, including a reasonable amount for administrative, operating, and rate-of-return expenses of the drug company or generic drug manufacturer.

(E)Research and development costs attributed to the drug over a five-year period.

(F)Other initial start-up costs amortized over a five-year period.

(4)Each drug shall be made available to providers, patients, and purchasers, as appropriate, at a transparent price and without rebates, other than federally required rebates.

(5)CHHSA shall prioritize the selection of generic prescription drugs that have the greatest impact on lowering drug costs to patients, increasing competition and addressing shortages in the prescription drug market, improving public health, or reducing the cost of prescription drugs to public and private purchasers.

(c)(1)In identifying generic prescription drugs to be produced, CHHSA shall consider the report produced by the Department of Managed Health Care pursuant to subdivision (b) of Section 1367.243, the report produced by the Department of Insurance pursuant to subdivision (b) of Section 10123.205 of the Insurance Code, and pharmacy spending data from Medi-Cal and other entities for which the state pays the cost of generic prescription drugs.

(2)The partnerships entered into pursuant to subdivision (a) shall include the production of at least one form of insulin made available at production and dispensing costs, if one does not already exist in the market. Dispensing costs may include related expenses such as transportation, distribution, and market operations. Any partnership shall also consider:

(A)Guaranteeing priority access to insulin supply for the state.

(B)Guaranteeing the manufacture of at least four high-priority drugs for California, as identified pursuant to paragraph (5) of subdivision (b).

(C)Creating a state brand identifying biosimilar insulin and generic prescription drugs sold in California under this section.

(3)CHHSA shall prioritize drugs for chronic and high-cost conditions, and shall consider prioritizing those that can be delivered through mail order.

(d)CHHSA shall consult with all of the following public and private purchasers, as appropriate, to develop a list of generic prescription drugs to be manufactured or distributed through partnerships:

(1)The Public Employees™ Retirement System, the State Department of Health Care Services, the California Health Benefit Exchange (Covered California), the State Department of Public Health, the Department of General Services, and the Department of Corrections and Rehabilitation, or the entities acting on behalf of each of those state purchasers.

(2)Licensed health care service plans.

(3)Health insurers holding a valid outstanding certificate of authority from the Insurance Commissioner.

(4)Hospitals.

(e)Before effectuating a partnership pursuant to this section, CHHSA shall consider the volume of each generic prescription drug over a multiyear period to support a market for a lower cost generic prescription drug, if volume is an important factor in driving down the cost of the drug. For partnerships involving procurement, CHHSA shall determine minimum thresholds for procurement of an entitysexpected volume of a targeted drug from the company or manufacturer over a defined target period. In making advance commitments, CHHSA may consult with the Statewide Pharmaceutical Program and the California Pharmaceutical Collaborative.

(f)The listed entities in paragraphs (2) to (4), inclusive, of subdivision (d) shall not be required to purchase prescription drugs from CHHSA or entities that contract or partner with CHHSA pursuant to this chapter.

(g)CHHSA shall not be required to consult with every entity listed in paragraphs (2) to (4), inclusive, of subdivision (d), so long as purchaser engagement includes a reasonable representation from these groups.

(h)Any partnership entered into pursuant to this section may include representation and involvement with the governance of the contractor entity.

(Amended by Stats. 2023, Ch. 42, Sec. 52. (AB 118) Effective July 10, 2023.)

127694.

(a)On or before December 31, 2023, CHHSA shall submit a report to the Legislature that assesses the feasibility of directly manufacturing generic prescription drugs and selling generic prescription drugs at a fair price. The report shall include an analysis of governance structure options for manufacturing functions, including chartering a private organization, a public-private partnership, or a public board of directors.

(b)This section shall only go into effect if the Legislature appropriates funds for this purpose in the annual budget.

(c)The report shall be submitted in compliance with Section 9795 of the Government Code.

(d)This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

(Amended by Stats. 2022, Ch. 47, Sec. 22. (SB 184) Effective June 30, 2022. Repealed as of January 1, 2028, by its own provisions.)

127694.1.

Upon appropriation by the Legislature, CHHSA shall develop a California-based manufacturing facility for insulin, with the intent of creating high-skill, high-paying jobs with the state. The facility shall be at a location jointly determined between the state and the partner pursuant to Section 127692.

(Added by Stats. 2022, Ch. 603, Sec. 3. (SB 838) Effective January 1, 2023.)

127695.

(a)On or before December 31, 2022, CHHSA shall report to the Legislature on both of the following:

(1)A description of the status of all drugs targeted under this chapter.

(2)An analysis of how the activities of CHHSA may impact competition, access to targeted drugs, the costs of those drugs, and the costs of generic prescription drugs to public and private purchasers.

(b)This section shall remain in effect only until January 1, 2028, and as of that date is repealed.

_(Amended by Stats. 2022, Ch. 47, Sec. 23. (SB 184) Effective June 30, 2022. Repealed as of January 1, 2028,

by its own provisions.)_

127696.

Notwithstanding any other provision of law, all nonpublic information and documents obtained or prepared under this chapter shall not be required to be disclosed pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), or any similar local law requiring the disclosure of public records.

(Amended by Stats. 2023, Ch. 42, Sec. 53. (AB 118) Effective July 10, 2023.)

127697.

Notwithstanding anything to the contrary in this chapter, CHHSA may enter into partnerships regarding over-the-counter naloxone products. Partnerships entered into pursuant to this section may allow the development, manufacturing, or distribution of over-the-counter naloxone products by any entity that is authorized to do so under federal or state law.

(Added by Stats. 2023, Ch. 191, Sec. 7. (SB 137) Effective September 13, 2023.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=3.&chapter=&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=3.&chapter=1.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.

&title=&part=3.&chapter=1.5.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=1.5.&article=)

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1.5. Behavioral Health Grants [127825- 127825.]__

(Chapter 1.5 added by Stats. 2021, Ch. 143, Sec. 116.)

127825.

(a)As a component of the Children and Youth Behavioral Health Initiative established pursuant to Chapter 2 (commencing with Section 5961) of Part 7 of Division 5 of the Welfare and Institutions Code, the office is hereby authorized to award competitive grants to entities and individuals it deems qualified to expand the supply of behavioral health counselors, coaches, peer supports, and other allied health care providers serving children and youth, including those at schoolsites.

(b)For the purposes of this chapter, behavioral health coach means a new category of behavioral health provider trained specifically to help address the unmet mental health and substance use needs of children and youth. Recognizing that unmet mental health and substance use needs create learning barriers, behavioral health coaches shall engage and support children and youth in cultural, linguistic, and age-appropriate services, with the ability to refer and link to higher levels of care, as needed. As members of a care team, behavioral health professionals serving as a coach receive appropriate supervision from licensed staff. Training and qualifications include, but are not limited to, psychoeducation, system navigation, crisis deescalation, safety planning, coping skills, and motivational interviewing.

(Added by Stats. 2021, Ch. 143, Sec. 116. (AB 133) Effective July 27, 2021.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=3.&chapter=2.&article=]

(https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=3.&chapter=2.&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=2.&article=1.

127880.

It is the intent of the Legislature to maintain a Health Professions Career Opportunity Program designed to:

(a) Increase the number of ethnic minorities in health professional training.

(b) Increase the number of minority health professionals practicing in health manpower shortage areas in this area.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

127885.

(a)The department shall maintain a Health Professions Career Opportunity Program that shall include, but not be limited to, all of the following:

(1)Implementing programs at colleges and universities selected by the department, which may include public and private institutions.

(A)In selecting campuses for the programs, the department shall give priority to campuses in medically underserved areas or with students from groups underrepresented in medicine, demonstrated commitment to diversity and associated institutional change, a track record of providing tailored student support, and strong health professions school partnerships.

(B)The department may enter into contracts, to meet the requirements of this article, with nonprofit entities headquartered in California that have previous experience with administering statewide workforce programs aimed at building a diverse provider workforce.

(C)The programs shall include one or both of the following:

(i)Pipeline programs that provide comprehensive academic enrichment, career development, mentorship, and advising in order to support students from underrepresented regions and backgrounds to pursue health careers. This may include internships and fellowships to enable students to compete for admission to

graduate health professions schools or employment in the health field, including, but not limited to, both of the following:

(I)Paid summer internships for students interning in community health centers, public health departments, public behavioral health settings, and with geriatric providers, as well as community-based initiatives that promote health equity.

(II)One-year postundergraduate fellowships for in-depth, pregraduate school experience in primary care and prevention, behavioral health, and geriatric health.

(ii)Annual postbaccalaureate reapplicant slots and the provision of student scholarships for reapplicant postbaccalaureate students to cover program tuition.

(2)Producing and disseminating a series of publications aimed at informing and motivating minority and disadvantaged students to pursue health professional careers.

(3)Conducting a conference series aimed at informing students of opportunities in health professional training and mechanisms of successfully preparing to enter the training.

(4)Providing support and technical assistance to health professional schools and colleges as well as to student and community organizations active in health professional development of underrepresented groups in medicine.

(5)Conducting relevant health workforce information and data analysis regarding underrepresented groups in medicine.

(6)Providing necessary consultation, recruitment, and counseling through other means.

(7)Supporting and encouraging health professionals in training who are from underrepresented groups to practice in health professional shortage areas of California.

(b)This section shall be implemented only to the extent that funds are appropriated for its purposes in the annual Budget Act or other statute.

(Amended by Stats. 2021, Ch. 489, Sec. 1. (SB 395) Effective January 1, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=2.&article=2.

127900.

(a) The Legislature finds and declares that evidence exists to support the development of health promotion and health-risk reduction programs as an effective method of constraining the annual inflation rate for expenditures in the health industry. It is, therefore, the intent of the Legislature that a health manpower education program be developed to demonstrate the health promotion and health-risk reduction concept at educational institutions, with special emphasis on health manpower development in urban areas having a

disproportionate share of disadvantaged and indigent persons.

(b) The department shall establish a contract program for funding allied health manpower training projects related to health promotion and health-risk reduction. The contract program shall provide funds to eligible institutions, as determined by the department, for all of the following purposes:

(1) Teaching existing and future primary care providers about health-risk reduction through the institutions™ basic curricula.

(2) Recruiting, remediating, and retaining minority allied health professionals, including, but not limited to, physician assistants, nurse practitioners, nurse-midwives, public health nurses, health educators, dieticians, and nutritionists, especially those who provide in-home patient care.

(3) Increasing the supply of medical care in underserved urban areas and demonstrating methods which reduce cost through the use of allied health personnel.

(c) (1)These funds shall be available to institutions which currently operate programs for training family physicians, other primary care physicians, and those health professionals identified in paragraph (2) of subdivision (b).

(2)For purposes of this subdivision, family physician means a primary care physician and surgeon who renders continued comprehensive and preventative health care services to individuals and families, and who has received specialized training in an approved family medicine residency for three years after graduation from an accredited medical school.

(d)The recipients of the funds shall provide, but shall not be limited to providing, orientation and training of primary care providers in teaching methods related to patient health education and health promotion, such as educating allied health professionals in the principles of self-care management as it relates to specific health problems in medically underserved communities.

(e)The department shall consult with organizations and experts in the field regarding the establishment of this program, and beginning with the 1986“87 fiscal year, this program shall be implemented to the extent funds are provided in the Budget Act. This program shall be designed to accommodate an appropriation request in the range of forty thousand dollars ($40,000) to eighty thousand dollars ($80,000) per year.

(f)The director of the department may waive any of the requirements of subdivisions (b) and (c) if a potential contractor demonstrates an ability to meet the goals and objectives of the program.

(Amended by Stats. 2021, Ch. 143, Sec. 118. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=2.&article=2.75.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 2. Personnel Recruitment and Education [127875 - 128052]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 2.75. National Health Service Corps State Loan Repayment Program [127940- 127940.]__

(Article 2.75 added by Stats. 2003, Ch. 682, Sec. 1.)

127940.

(a)In administering the National Health Service Corps State Loan Repayment Program in accordance with Section 254q-1 of Title 42 of the United States Code and related federal regulations, the Department of Health Care Access and Information shall strive, whenever feasible, to equitably distribute loan repayment awards between eligible urban and rural program sites, after taking into account the availability of health care services in the communities to be served and the number of individuals to be served in each program site.

(b)The department shall set a reasonable deadline for when all applications are required to be received.

(c)All eligible applications shall be given consideration before any award is granted.

(d)The department shall include all federally qualified health centers located in California in the programscertified eligible site list.

(e)As part of a program applicantsinitial application, program sites shall agree to provide matching funds.

(Amended by Stats. 2021, Ch. 143, Sec. 120. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=2.&article=3.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 2. Personnel Recruitment and Education [127875 - 128052]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 3. Nursing Education Scholarships [127975 - 128020]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 9.)

127975.

Recognizing that there is a shortage in supply of registered nurses, and that if the number of nursing students is to be materially increased to meet the demand there must first be an increase in the number of persons qualified for teaching or supervising in clinical areas, and further recognizing that the cost of education deters nurses from obtaining the education necessary to qualify them for teaching or supervision in clinical areas, there are hereby created state scholarships that shall be maintained by the state and awarded and administered pursuant to this article.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

127980.

There shall be available at least 10 scholarships per year. The scholarships shall be available to any registered nurse who is enrolled in one of the following accredited nursing programs in a college or university in California that is accredited by the Western Association of Schools and Colleges:

(a) The junior or senior year in a bachelorsdegree program in nursing.

(b) A program supplementary to a bachelorsdegree program in nursing required for admission to masterslevel studies, in nursing.

(c) A mastersdegree or a post-mastersprogram in teaching or supervision in a clinical nursing area.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

127985.

A person shall not be awarded a scholarship under subdivision (a) or (b) of Section 127980 unless:

(a)They are a resident of California.

(b)They are licensed as a registered nurse by this state.

(c)They have complied with all the regulations adopted pursuant to this article.

(d)They have agreed that they will continue their education to completion of the bachelorsdegree or a program supplemental to a bachelorsdegree required for admission to master level studies in nursing, and that after completion of the requirements of subdivision (a) or (b) of Section 127980 and within a period of time to be determined by the department, will enroll in an accredited mastersdegree program in teaching or supervision in a clinical nursing area.

(e) They agree that immediately upon completion of their graduate study, either mastersdegree or post-mastersprogram, they will assume an employment obligation in California in teaching or supervision in a clinical nursing area, for not less than one year.

(Amended by Stats. 2021, Ch. 143, Sec. 121. (AB 133) Effective July 27, 2021.)

127990.

No person shall be awarded a scholarship under subdivision (c) of Section 127980 unless he or she satisfies the requirements prescribed by subdivisions (a), (b), (c), and (e) of Section 127985.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

127995.

The department shall administer the program of nursing education scholarships and shall for this purpose, adopt regulations as it determines are necessary to carry out this article.

(Amended by Stats. 2021, Ch. 143, Sec. 122. (AB 133) Effective July 27, 2021.)

128000.

Applications for scholarships shall be made to the department, upon forms provided by it, at the times and in the manner prescribed by the regulations adopted by the office.

(Amended by Stats. 2021, Ch. 143, Sec. 123. (AB 133) Effective July 27, 2021.)

128005.

The department shall award the scholarships to the applicants that it determines are best fitted to undertake the educational program for which the scholarships are awarded and will be the best qualified to teach or supervise. In awarding the scholarships the department may give a preference to applicants who are willing to be available, upon the completion of their educational program, for a position in any part of the state. The department shall not, however, award any scholarship to an applicant if it determines that the applicant has adequate financial resources to pay the cost of the education necessary to qualify them for teaching or supervision in a clinical area.

(Amended by Stats. 2021, Ch. 143, Sec. 124. (AB 133) Effective July 27, 2021.)

128010.

Scholarships shall be awarded without regard to race, religion, creed, or sex.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

128015.

Each scholarship under this article is for the period of no more than one academic year, and the award shall be:

(a) For a person qualifying under subdivision (a) or (b) of Section 127980, the sum of two hundred dollars ($200) per month for 12 months, plus school fees.

(b) For a person qualifying under subdivision (c) of Section 127980, the sum of two hundred fifty dollars ($250) per month for 12 months, plus school fees.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

128020.

A scholarship shall remain in effect only during the period, as determined by the department, that the person

receiving the award achieves satisfactory progress and is regularly enrolled, within the terms of this article, as a full-time student.

(Amended by Stats. 2021, Ch. 143, Sec. 125. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=2.&article=4.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 2. Personnel Recruitment and Education [127875 - 128052]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 4. Health Professions Planning Grants [128025 - 128040]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 9.)

128025.

For the purpose of this article, innovative programs of education in the health professions means programs for the development of physicians and surgeons, podiatrists, dentists, pharmacists, nurses, optometrists, and occupations in the allied health professions, that emphasize all of the following:

(a) The practice in the community on the part of graduates of the program.

(b) The utilization of existing teaching resources and clinical care facilities within the community where the

program is located.

(c) The development of curricular mechanisms that allow for movement from one occupational category to the next, up to and including the doctor of medicine level.

(d) The training of persons possessing previously acquired health care skills, for positions of greater responsibility, with an emphasis upon corpsmen honorably discharged from the military.

(e) The training of persons with little or no formal education but with a willingness and aptitude to acquire health care skills.

(f) The development of coordination with community health care facilities to insure quality education and satisfactory employment opportunities for graduates of the program.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

128030.

The department, in cooperation with the California Postsecondary Education Commission, shall administer the program established pursuant to this article and shall for this purpose, adopt regulations as it determines are reasonably necessary to carry out this article.

(Amended by Stats. 2021, Ch. 143, Sec. 126. (AB 133) Effective July 27, 2021.)

128035.

The department is authorized to make grants, from funds appropriated by the Legislature for this purpose, to assist organizations in meeting the cost of special projects to plan, develop, or establish innovative programs of education in the health professions, or for research in the various fields related to education in the health professions, or to develop training for new types of health professions personnel, or to meet the costs of planning experimental teaching facilities.

In determining priority of project applications, the department shall give the highest priority to:

(1) Applicants able to obtain commitments for matching planning funds from other governmental and private sources.

(2) Applicants who develop a preliminary plan that conforms to the criteria stated hereinabove for innovative programs of education in the health sciences.

(3) Applicants that in its judgment are most able to translate a plan into a feasible program.

(Amended by Stats. 2021, Ch. 143, Sec. 127. (AB 133) Effective July 27, 2021.)

128040.

(a) The Department of Health Care Access and Information shall report to the Legislature on or before June 30, 2002, on the feasibility of establishing a California dental loan forgiveness program utilizing the same general guidelines applicable to the federal National Health Service Corps State Loan Repayment Program (42 U.S.C.A. Sec. 254q-1; 42 C.F.R., Part 62, Subpart C (commencing with Section 62.51)), except as follows:

(1) A dentist shall be eligible to participate in the loan forgiveness program if they provide full-time or half-time dental services in either of the following:

(A) A dental health professional shortage area (DHPSA), established pursuant to Section 254e(a) of Title 42 of the United States Code.

(B) An area of the state where unmet priority needs for dentists exist as determined by the department.

(2) Matching funds to repay a portion of the dentistsoutstanding loan amount shall be required from the practice site areas or from other private nonprofit sources.

(3) A qualifying practice site shall include a private dental practice.

(b) (1) The report required under subdivision (a) shall include all of the following:

(A) A projection of the dentist-to-population ratio for California in the next decade.

(B) A determination of the future need for dentists and dental care in underserved communities. The department shall work collaboratively with organizations that represent providers of dental services to underserved communities in making this determination.

(C) A report on the utilization by dentists of tuition loan repayment programs at the federal and state level and identify the barriers to full utilization of these loan repayment programs.

(D) A report on the projected cost increase of dental school education at public and private postsecondary educational institutions.

(E) A report on the implications of administering an additional program, including a cost analysis.

(2) The report also shall include recommendations on whether a program described in subdivision (a) should be established and, if so, suggested funding sources. In making its recommendations, the department shall consider the impact of the program on access to dental services in areas of the state that currently have a shortage of dentists.

(Amended by Stats. 2021, Ch. 143, Sec. 128. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=2.&article=5.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 2. Personnel Recruitment and Education [127875 - 128052]__

(Chapter 2 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 5. Health Care Workforce Research and Data Center [128050 - 128052]__

(Heading of Article 5 amended by Stats. 2021, Ch. 143, Sec. 129.)

128050.

The Department of Health Care Access and Information shall establish a health care workforce research and data center to serve as the central source of health care workforce and educational data in the state. The research and data center will serve as the statescentral source of healthcare workforce and education data. The research and data center shall be responsible for the collection, analysis, and distribution of information on the educational and employment trends for health care occupations and distribution in the state. The activities of the research and data center shall be funded by appropriations made from the California Health Data and Planning Fund in accordance with subdivision (h) of Section 127280.

(Amended by Stats. 2021, Ch. 143, Sec. 130. (AB 133) Effective July 27, 2021.)

128051.

The Department of Health Care Access and Information shall work with the Employment Development DepartmentsLabor Market Information Division, state licensing boards, and state higher education entities to collect, to the extent available, all of the following data:

(a)The current supply of health care workers, by specialty.

(b)The geographical distribution of health care workers, by specialty.

(c)The diversity of the health care workforce, by specialty, including, but not necessarily limited to, data on race, ethnicity, and languages spoken.

(d)The current and forecasted demand for health care workers, by specialty.

(e)The educational capacity to produce trained, certified, and licensed health care workers, by specialty and by geographical distribution, including, but not necessarily limited to, the number of educational slots, the number of enrollments, the attrition rate, and wait time to enter the program of study.

(Amended by Stats. 2021, Ch. 143, Sec. 131. (AB 133) Effective July 27, 2021.)

128052.

The Department of Health Care Access and Information shall prepare an annual report to the Legislature that does all of the following:

(a)Identifies education and employment trends in the health care profession.

(b)Reports on the current supply and demand for health care workers in California and gaps in the educational pipeline producing workers in specific occupations and geographic areas.

(c)Recommends state policy needed to address issues of workforce shortage and distribution.

(d)Describes the health care workforce program outcomes and effectiveness.

(Amended by Stats. 2021, Ch. 143, Sec. 132. (AB 133) Effective July 27, 2021.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=3.&chapter=3.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=3.&article=1.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 3. Professional Practice Development [128125 - 128195]__

(Chapter 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 1. Health Workforce Pilot Projects [128125 - 128195]__

(Heading of Article 1 amended by Stats. 2021, Ch. 143, Sec. 133.)

128125.

The Legislature finds that there is a need to improve the effectiveness of health care delivery systems. One way of accomplishing that objective is to utilize health care personnel in new roles and to reallocate health tasks to better meet the health needs of the citizenry.

The Legislature finds that experimentation with new kinds and combinations of health care delivery systems is desirable, and that, for purposes of this experimentation, a select number of publicly evaluated health workforce pilot projects should be exempt from the healing arts practices acts. The Legislature also finds that large sums of public and private funds are being spent to finance health workforce innovation projects, and that the activities of some of these projects exceed the limitations of state law. These projects may jeopardize the public safety and the careers of persons who are trained in them. It is the intent of the Legislature to establish the accountability of health workforce innovation projects to the requirements of the public health, safety, and welfare, and the career viability of persons trained in these programs. Further, it is the intent of this legislation that existing healing arts licensure laws incorporate innovations developed in approved projects that are likely to improve the effectiveness of health care delivery systems.

(Amended by Stats. 2006, Ch. 259, Sec. 2. Effective January 1, 2007.)

128130.

For the purposes of this article:

(a) Department means the Department of Health Care Access and Information.

(b) Approved project means an educational or training program approved by the office that does any of the following on a pilot program basis:

(1) Teaches new skills to existing categories of health care personnel.

(2) Develops new categories of health care personnel.

(3) Accelerates the training of existing categories of health care personnel.

(4) Teaches new health care roles to previously untrained persons, and that has been so designated by the department.

(c) Trainee means a person to be taught health care skills.

(d) Supervisor means a person designated by the project sponsor who already possesses the skills to be taught the trainees and is certified or licensed in California to perform the health care tasks involving the skills.

(e) Health care services means the practice of medicine, dentistry, nursing, including, but not limited to, specialty areas of nursing such as midwifery, pharmacy, optometry, podiatry, and psychology.

(Amended by Stats. 2021, Ch. 143, Sec. 134. (AB 133) Effective July 27, 2021.)

128135.

The department may designate experimental health workforce projects as approved projects where the projects are sponsored by community hospitals or clinics, nonprofit educational institutions, or government agencies engaged in health or education activities. Nothing in this section shall preclude approved projects from utilizing the offices of physicians, dentists, pharmacists, and other clinical settings as training sites.

(Amended by Stats. 2021, Ch. 143, Sec. 135. (AB 133) Effective July 27, 2021.)

128140.

Notwithstanding any other provision of law, a trainee in an approved project may perform health care services under the supervision of a supervisor where the general scope of the services has been approved by the department.

(Amended by Stats. 2021, Ch. 143, Sec. 136. (AB 133) Effective July 27, 2021.)

128145.

A trainee and his or her supervisor shall be held to the standard of care of, and shall be afforded the same immunities as, an individual otherwise legally qualified to perform the health care service or services performed by the trainee or supervisor.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

128150.

Any patient being seen or treated by a trainee shall be apprised of that fact and shall be given the opportunity to refuse treatment. Consent to the treatment shall not constitute assumption of the risk.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

128155.

The department, after one or more public hearings thereon, shall establish minimum standards, guidelines, and instructions for pilot projects. Advance notice of the hearing shall be sent to all interested parties and shall include a copy of the proposed minimum standards, guidelines, and instructions.

Organizations requesting designation as approved projects shall complete and submit to the department an application, that shall include a description of the project indicating the category of person to be trained, the tasks to be taught, the numbers of trainees and supervisors, a description of the health care agency to be used for training students, and a description of the types of patients likely to be seen or treated. Additionally, the application shall contain a description of all of the following:

(a) The evaluation process to be used.

(b) The baseline data and information to be collected.

(c) The nature of program data that will be collected and the methods for collecting and analyzing the data.

(d) Provision for protecting the safety of patients seen or treated in the project.

(e) A statement of previous experience in providing related health care services.

(Amended by Stats. 2021, Ch. 143, Sec. 137. (AB 133) Effective July 27, 2021.)

128160.

(a)Pilot projects may be approved in the following fields:

(1)Expanded role medical auxiliaries.

(2)Expanded role nursing.

(3)Expanded role dental assistants, dental hygienists, dental hygienists in alternative practice, or dental hygienists in extended functions.

(4)Maternal child care personnel.

(5)Pharmacy personnel.

(6)Mental health personnel.

(7)Other health care personnel including, but not limited to, veterinary personnel, chiropractic personnel, podiatric personnel, geriatric care personnel, therapy personnel, and health care technicians.

(b)Projects that operate in rural and central city areas shall be given priority.

(Amended by Stats. 2008, Ch. 31, Sec. 52. Effective January 1, 2009. Operative July 1, 2009, by Sec. 55 of Ch. 31.)

128165.

The department shall carry out periodic onsite visitations of each approved project and shall evaluate each project to determine the following:

(a) The new health skills taught or extent that existing skills have been reallocated.

(b) Implication of the project for existing licensure laws with suggestions for changes in the law where appropriate.

(c) Implications of the project for health services curricula and for the health care delivery systems.

(d) Teaching methods used in the project.

(e) The quality of care and patient acceptance in the project.

(f) The extent that persons with the new skills could find employment in the health care system, assuming laws were changed to incorporate their skill.

(g) The cost of care provided in the project, the likely cost of this care if performed by the trainees subsequent to the project, and the cost for provision of this care by current providers thereof.

All data collected by the department and by projects approved pursuant to this article shall become public information, with due regard for the confidentiality of individual patient information. The raw data on which projects™ reports are based and the data on which the departmentsevaluation is based shall be available on request for review by interested parties. The department shall provide a reasonable opportunity for interested parties to submit dissenting views or challenges to reports to the Legislature and professional licensing boards required by this section. The department shall publish those comments, subject only to nonsubstantive editing, as part of its annual, or any special, reports.

(Amended by Stats. 2021, Ch. 143, Sec. 138. (AB 133) Effective July 27, 2021.)

128170.

The department shall approve a sufficient number of projects to provide a basis for testing the validity of the experiment.

(Amended by Stats. 2021, Ch. 143, Sec. 139. (AB 133) Effective July 27, 2021.)

128175.

The department shall seek the advice of appropriate professional societies and appropriate healing arts licensing boards prior to designating approved projects. In the case of projects sponsored by a state agency, the following additional procedures shall apply:

(a) A hearing shall be conducted by a disinterested state government official selected by the director of the department from a state agency other than the department or the proponent of the project. The cost of the services of the disinterested state governmental official shall be paid by the department pursuant to an interagency agreement with the state agency represented by the state governmental official.

(b) A notice of hearing shall be sent by the department to interested parties, as designated by the director of the department, by registered mail no less than 30 days preceding the date of the hearing. The notice shall include, but not be limited to, the date, time, location, and subject matter of the hearing, and shall include a copy of the application for a pilot project that is the subject of the hearing.

(c) A verbatim transcript of the hearing shall be prepared and distributed to interested parties upon request.

(d) Within 60 days of the release of the transcript, the department shall submit a recommendation on the proposal to the director of the department and shall send copies to the interested parties.

(e) The director of the department shall accept comments on the recommendations, and, on or after 30 days after transmittal of the recommendations, the director of the department shall approve or disapprove the proposed project.

(Amended by Stats. 2021, Ch. 143, Sec. 140. (AB 133) Effective July 27, 2021.)

128180.

The department shall not approve a project for a period lasting more than two training cycles plus a preceptorship of more than 24 months, unless the department determines that the project is likely to contribute substantially to the availability of high-quality health services in the state or a region thereof.

(Amended by Stats. 2021, Ch. 143, Sec. 141. (AB 133) Effective July 27, 2021.)

128185.

The Legislature finds and declares all of the following:

(a) The Health Manpower Pilot Project No. 152 was approved in 1988 to respond to a shortage of adequately trained personnel to meet the needs of residents in long-term health care facilities.

(b) Long-term health care facilities continue to report difficulties recruiting and retaining adequate nursing staff to meet current needs.

(c) The population most in need of long-term care is growing rapidly. It is estimated by the year 2000, one-third of the entire population in the United States will be composed of persons over 65 years of age. Three-fourths of all residents of long-term health care facilities will be generated by this age group.

(d) A 30-percent decrease in the labor pool of health workers has been projected for the same time period. This decline in resources will exacerbate the problem of acquiring adequate nursing resources.

(e) The establishment of the geriatric technician as a new category of health worker may have the potential to increase the retention of experienced workers in long-term health care by creating health career opportunities and upward mobility for certified nurse assistants.

(f) The use of geriatric technicians is not intended to displace licensed nurses, but rather to augment the level of available trained staff to optimize the quality of long-term health care.

(Added by renumbering Section 429.82 (as added by Stats. 1995, Ch. 324) by Stats. 1996, Ch. 1023, Sec. 138. Effective September 29, 1996.)

128190.

The department may extend the geriatric technician pilot project, known as the Health Manpower Pilot Project No. 152, for a minimum of four additional years, pursuant to reapplication by the sponsoring agency. The project shall continue to meet the applicable requirements established by the department. The number of sponsors authorized to participate in the pilot project may be expanded to a maximum of five.

(Amended by Stats. 2021, Ch. 143, Sec. 142. (AB 133) Effective July 27, 2021.)

128195.

(a)The department shall issue followup reports on geriatric technician pilot projects approved by the department following 24 months of implementation of the employment utilization phase of each project. The reports shall contain all of the following information:

(1)A description of the persons trained, including, but not limited to, the following:

(A)The total number of persons who entered training.

(B)The total number of persons who completed training.

(C)The selection method, including descriptions of any nonquantitative criteria used by employers to refer persons to training.

(D)The education and experience of the trainees prior to training.

(E)Demographic characteristics of the trainees, as available.

(2)An analysis of the training completed, including, but not limited to, the following:

(A)Curriculum and core competencies.

(B)Qualifications of the instructor.

(C)Changes in the curriculum during the pilot project or recommended for the future.

(D)The nature of clinical and didactic training, including the ratio of students to instructors.

(3)A summary of the specific services provided by geriatric technicians.

(4)The new health skills taught or the extent to which existing skills have been reallocated.

(5)Implications of the project for existing licensure laws with suggestions for changes in the law where appropriate.

(6)Implications of the project for health services curricula and for health care delivery systems.

(7)Teaching methods used in the project.

(8)The quality of care, including pertinent medication errors, incident reports, and patient acceptance in the project.

(9)The extent to which persons with new skills could find employment in the health care system, assuming laws were changed to incorporate their skills.

(10)The cost of care provided in the project, the likely cost of this care if performed by the trainees subsequent to the project, and the cost for provision of this care by current providers thereof.

(b)Notwithstanding any other provision of law, issuance of the reports described in subdivision (a) shall not require that the department terminate the geriatric technician pilot projects authorized by the department.

(Amended by Stats. 2021, Ch. 143, Sec. 143. (AB 133) Effective July 27, 2021.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=3.&chapter=4.&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=3.&chapter=4.&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=4.&article=1.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 4. Health Care Workforce Training Programs [128200 - 128299]__

(Heading of Chapter 4 amended (as added by Stats. 1996, Ch. 1023) by Stats. 2006, Ch. 259, Sec. 5.)

__ARTICLE 1. Song-Brown Health Care Workforce Training Act [128200 - 128235]__

(Heading of Article 1 amended (as added by Stats. 1996, Ch. 1023) by Stats. 2006, Ch. 259, Sec. 6.)

128200.

(a)This article shall be known and may be cited as the Song-Brown Health Care Workforce Training Act.

(b) (1) The Legislature hereby finds and declares that physicians engaged in family medicine are in very short supply in California. The current emphasis placed on specialization in medical education has resulted in a shortage of physicians trained to provide comprehensive primary health care to families. The Legislature hereby declares that it regards the furtherance of a greater supply of competent family physicians to be a public purpose of great importance and further declares the establishment of the program pursuant to this article to be a desirable, necessary, and economical method of increasing the number of family physicians to

provide needed medical services to the people of California. The Legislature further declares that it is to the benefit of the state to assist in increasing the number of competent family physicians graduated by colleges and universities of this state to provide primary health care services to families within the state.

(2)The Legislature finds that the shortage of family physicians can be improved by the placing of a higher priority by public and private medical schools, hospitals, and other health care delivery systems in this state, on the recruitment and improved training of medical students and residents to meet the need for family physicians. To help accomplish this goal, each medical school in California is encouraged to organize a strong family medicine program or department. It is the intent of the Legislature that the programs or departments be headed by a physician who possesses specialty certification in the field of family medicine, and has broad clinical experience in the field of family medicine.

(3)The Legislature further finds that encouraging the training of primary care physiciansassistants and primary care nurse practitioners will assist in making primary health care services more accessible to the citizenry, and will, in conjunction with the training of family physicians, lead to an improved health care delivery system in California.

(4)Community hospitals in general and rural community hospitals in particular, as well as other health care delivery systems, are encouraged to develop family medicine residencies in affiliation or association with accredited medical schools, to help meet the need for family physicians in geographical areas of the state with recognized family primary health care needs. Utilization of expanded resources beyond university-based teaching hospitals should be emphasized, including facilities in rural areas wherever possible.

(5)The Legislature also finds and declares that nurses are in very short supply in California. The Legislature hereby declares that it regards the furtherance of a greater supply of nurses to be a public purpose of great importance and further declares the expansion of the program pursuant to this article to include nurses to be a desirable, necessary, and economical method of increasing the number of nurses to provide needed nursing services to the people of California.

(6)It is the intent of the Legislature to provide for a program designed primarily to increase the number of students and residents receiving quality education and training in the primary care specialties of family medicine, internal medicine, obstetrics and gynecology, and pediatrics and as primary care physiciansassistants, primary care nurse practitioners, and registered nurses and to maximize the delivery of primary care family physician services to specific areas of California where there is a recognized unmet priority need. This program is intended to be implemented through contracts with accredited medical schools, teaching health centers, programs that train primary care physiciansassistants, programs that train primary care nurse practitioners, programs that train registered nurses, hospitals, and other health care delivery systems based on per-student or per-resident capitation formulas. It is further intended by the Legislature that the programs will be professionally and administratively accountable so that the maximum cost-effectiveness will be achieved in meeting the professional training standards and criteria set forth in this article and Article 2 (commencing with Section 128250).

(Amended by Stats. 2014, Ch. 31, Sec. 16. (SB 857) Effective June 20, 2014.)

128205.

As used in this article, and Article 2 (commencing with Section 128250), the following terms have the following meanings:

(a)Family physician means a primary care physician and surgeon who is prepared to and renders continued comprehensive and preventative health care services to individuals and families and who has received specialized training in an approved family medicine residency for three years after graduation from an accredited medical school.

(b)Primary care physician means a physician who is prepared to and renders continued comprehensive and preventative health care services, and has received specialized training in the areas of internal medicine, obstetrics and gynecology, or pediatrics.

(c)Council means the California Health Workforce Education and Training Council.

(d)Graduate medical education means residency programs for education or training in one or more specialties or subspecialties following graduation from medical school.

(e)Health professions education and training means any formal organized education or training undertaken for the purpose of gaining knowledge and skills necessary to practice a specific health profession or to provide a role in a health care setting. Health professions education and training includes any type of health professions training program, including shadowing programs, participating in rotations, affiliation agreements, and accredited or accreditation-eligible programs, at any educational level, including certificate, undergraduate, graduate, professional, or postgraduate, and in any clinical discipline, excluding graduate medical education.

(f)Programs that train postgraduate primary care physiciansassistants means a program that provides postgraduate fellowships for clinical training in primary care. Programs shall be affiliated with a community-based ambulatory patient care center within underserved communities.

(g)Programs that train primary care physiciansassistants means a program that has been approved for the training of primary care physician assistants pursuant to Section 3513 of the Business and Professions Code.

(h)Programs that train postgraduate primary care nurse practitioners means a program that provides postgraduate fellowships for clinical training in primary care. Programs shall be affiliated with a community-based ambulatory patient care center within underserved communities.

(i)Programs that train primary care nurse practitioners means a program that is operated by a California school of medicine or nursing, or that is authorized by the Regents of the University of California or by the Trustees of the California State University, or that is approved by the Board of Registered Nursing.

(j)Programs that train registered nurses means a program that is operated by a California school of nursing and approved by the Board of Registered Nursing, or that is authorized by the Regents of the University of California, the Trustees of the California State University, or the Board of Governors of the California Community Colleges, and that is approved by the Board of Registered Nursing.

(k)Programs that train midwives means programs that train certified nurse-midwives and programs that train licensed midwives, as those terms are defined in Section 128297.

(l)Teaching health center means a community-based ambulatory patient care center that operates a primary care residency program. Community-based ambulatory patient care settings include, but are not limited to, federally qualified health centers, community mental health centers, rural health clinics, health centers operated by the Indian Health Service, an Indian tribe or tribal organization, or an urban Indian organization, and entities receiving funds under Title X of the federal Public Health Service Act (Public Law 91-572).

(Amended by Stats. 2022, Ch. 738, Sec. 7. (AB 204) Effective September 29, 2022.)

128210.

There is hereby created a state medical contract program with accredited medical schools, hospitals and other health care delivery systems, teaching health centers, programs that train postgraduate primary care physiciansassistants, programs that train primary care physiciansassistants, programs that train postgraduate primary care nurse practitioners, programs that train primary care nurse practitioners, programs that train registered nurses, and programs that train midwives to increase the number of students and residents receiving quality education and training in the primary care specialties of family medicine, internal medicine, obstetrics and gynecology, midwifery, and pediatrics, or in nursing and to maximize the delivery of primary care and family physician services to specific areas of California where there is a recognized unmet priority need for those services.

(Amended by Stats. 2022, Ch. 738, Sec. 8. (AB 204) Effective September 29, 2022.)

128230.

When funding primary care and family medicine programs or departments, primary care and family medicine residencies, and programs for the training of postgraduate primary care physiciansassistants, primary care physician assistants, postgraduate primary care nurse practitioners, primary care nurse practitioners, certified nurse-midwives, licensed midwives, or registered nurses, the department shall give priority to programs that have demonstrated success in the following areas:

(a)Graduating individuals who practice in medically underserved areas.

(b)Enrolling members of underrepresented groups in medicine to the program.

(c)Locating the programsmain training site in a medically underserved area.

(d)Operating a main training site at which the majority of the patients are Medi-Cal recipients.

(Amended by Stats. 2022, Ch. 738, Sec. 9. (AB 204) Effective September 29, 2022.)

128235.

Pursuant to this article and Article 2 (commencing with Section 128250), the Director of the Department of Health Care Access and Information shall do all of the following:

(a)Develop application and contract criteria based on health care workforce needs and priorities.

(b)Determine whether primary care and family medicine, postgraduate primary care physiciansassistant training proposals, primary care physiciansassistant training program proposals, postgraduate primary care nurse practitioner training program proposals, primary care nurse practitioner training program proposals,

registered nurse training program proposals, and proposals from programs that train midwives submitted to the department for participation in the state medical contract program established by this article and Article 2 (commencing with Section 128250) meet established standards.

(c)Select and contract on behalf of the state with accredited medical schools, teaching health centers, hospitals and other health care delivery systems, programs that train postgraduate primary care physiciansassistants, programs that train primary care physiciansassistants, programs that train postgraduate primary care nurse practitioners, programs that train primary care nurse practitioners, and programs that train midwives for the purpose of training undergraduate medical students and residents in the specialties of internal medicine, obstetrics and gynecology, pediatrics, and family medicine. Contracts shall be awarded to those institutions that best demonstrate the ability to provide quality education and training and to retain students and residents in specific areas of California where there is a recognized unmet priority need for primary care family physicians. Contracts shall be in conformity with the contract criteria developed by the Department of Health Care Access and Information.

(d)Select and contract on behalf of the state with programs that train registered nurses. Contracts shall be awarded to those institutions that best demonstrate the ability to provide quality education and training and to retain students and residents in specific areas of California where there is a recognized unmet priority need for registered nurses. Contracts shall be in conformity with the contract criteria developed by the Department of Health Care Access and Information.

(e)Terminate, upon 30 days™ written notice, the contract of any institution whose program does not meet the standards established or that otherwise does not maintain proper compliance with this part, except as otherwise provided in contracts entered into by the director pursuant to this article and Article 2 (commencing with Section 128250).

(Amended by Stats. 2022, Ch. 738, Sec. 10. (AB 204) Effective September 29, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=4.&article=2.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 4. Health Care Workforce Training Programs [128200 - 128299]__

(Heading of Chapter 4 amended (as added by Stats. 1996, Ch. 1023) by Stats. 2006, Ch. 259, Sec. 5.)

__ARTICLE 2. California Health Workforce Education and Training Council [128250 - 128252]__

(Article 2 added by Stats. 2022, Ch. 47, Sec. 33.)

128250.

(a)The terms used in this article have the same meaning as in Section 128205.

(b)There is hereby created a California Health Workforce Education and Training Council that shall be responsible for helping coordinate Californiashealth workforce education and training to develop a health workforce that meets Californiashealth care needs. The council shall be composed of 18 members who, together, represent various graduate medical education and training programs, health professions, including, but not limited to, specialties for primary care and behavioral health, and consumer representatives who shall serve at the pleasure of their appointing authorities, as follows:

(1)Six members appointed by the Governor.

(2)One member who shall be the Director of the State Department of Health Care Services, or the directorsdesignee.

(3)One member who shall be the Director of the Department of Health Care Access and Information, or the directorsdesignee.

(4)One member who shall be the Secretary of Labor and Workforce Development, or the secretarysdesignee.

(5)Three members appointed by the Speaker of the Assembly.

(6)Three members appointed by the Chairperson of the Senate Committee on Rules.

(7)One member who shall be the President of the University of California, or the presidentsdesignee.

(8)One member who shall be the Chancellor of the California State University, or the chancellorsdesignee.

(9)One member who shall be the Chancellor of the California Community Colleges, or the chancellorsdesignee.

(c)Members of the council appointed under paragraphs (1), (5), and (6) of subdivision (a) shall be appointed for a term of four years, except that the term of office of the initial members appointed under paragraph (1) shall expire at the end of two years.

(Added by Stats. 2022, Ch. 47, Sec. 33. (SB 184) Effective June 30, 2022.)

128251.

The members of the council, other than state employees, shall receive compensation of twenty-five dollars ($25) for each daysattendance at a council meeting, in addition to actual and necessary travel expenses incurred in the course of attendance at a council meeting.

(Added by Stats. 2022, Ch. 47, Sec. 33. (SB 184) Effective June 30, 2022.)

128252.

(a)The council shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but not limited to, the following:

(1)Develop graduate medical education and workforce training and development priorities for the state.

(2)Discuss and make recommendations to the Department of Health Care Access and Information regarding the use of health care education and training funds appropriated by the Legislature for programs administered by the department under this part.

(3)Develop standards and guidelines for residency and health professions education and training programs funded under this part.

(4)Review outcomes data from funded programs, as provided to the council by the department, to reprioritize and reassess the graduate medical education and health professions education and training needs of Californiascommunities.

(5)Explore options for developing a broad graduate medical education and health professions education and training funding strategy.

(6)Advocate for additional funds and additional sources of funds to stimulate expansion of graduate medical education and health professions education and training in California.

(7)Provide technical assistance and support for establishing new graduate medical education and health professions education and training programs in California.

(8)Review and recommend health professions career pathways or ladders.

(b)The council shall carry out the duties imposed upon it by this chapter with primary consideration given to increasing workforce diversity and furthering improved access, quality, and equity of health care for underserved, underrepresented, and Medi-Cal populations. Further, the council shall carry out the duties imposed upon it by this chapter with a primary focus on primary care, behavioral health, oral health, and allied health.

(Added by Stats. 2022, Ch. 47, Sec. 33. (SB 184) Effective June 30, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=4.&article=4.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 4. Health Care Workforce Training Programs [128200 - 128299]__

(Heading of Chapter 4 amended (as added by Stats. 1996, Ch. 1023) by Stats. 2006, Ch. 259, Sec. 5.)

__ARTICLE 4. Midwifery Workforce Training Act [128295 - 128299]__

(Article 4 added by Stats. 2021, Ch. 449, Sec. 5.)

128295.

This article shall be known, and may be cited, as the Midwifery Workforce Training Act.

(Added by Stats. 2021, Ch. 449, Sec. 5. (SB 65) Effective January 1, 2022.)

128296.

The Legislature finds and declares that maternity care providers are in short supply and maldistributed around the state, resulting in what the March of Dimes defines as maternity care deserts and limited-access maternity care areas. Many major counties are on track to have a critical shortage of maternity care providers by 2025. Maternity care is often the very first primary health care interaction, and the most common primary care interaction over the life of a woman and birthing personsreproductive lifespan. Black

and Native American individuals and other people of color in particular have significant difficulty in accessing maternity care and family planning services. Black women die from pregnancy-related causes at a rate of three to four times that of White women. Black infants are more than twice as likely to die in their first year as White infants. Access to quality care and resultant outcomes are intricately linked. Racial disparities in outcomes, especially, are connected in part to quality of and ability to access maternity care, especially by care providers whose care models elevate patient-centered, holistic, and culturally sensitive care. This kind of care is the hallmark of the midwifery model.

(Added by Stats. 2021, Ch. 449, Sec. 5. (SB 65) Effective January 1, 2022.)

128297.

For purposes of this article, the following definitions apply:

(a)Certified nurse-midwife means an advanced practice nurse with training in midwifery, as specified in, and a certificate issued pursuant to, Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

(b)Licensed midwife means an individual who has been issued a license to practice midwifery pursuant to Article 24 (commencing with Section 2505) of Chapter 5 of Division 2 of the Business and Professions Code.

(c)Office means the Office of Statewide Health Planning and Development (OSHPD).

(d)Programs that train certified nurse-midwives means a nurse-midwifery education program that is operated by a California school of nursing and approved by the Accreditation Commission for Midwifery Education, or that is authorized by the Regents of the University of California or by the Trustees of the California State University, or that is approved by the Board of Registered Nursing.

(e)Programs that train licensed midwives means a midwifery education program operated by a California school of midwifery, and accredited by the Midwifery Education Accreditation Council (MEAC), or approved by the Bureau for Private and Postsecondary Education, or approved by the state licensing and regulatory board for licensed midwives.

(Added by Stats. 2021, Ch. 449, Sec. 5. (SB 65) Effective January 1, 2022.)

128298.

(a)It is the intent of the Legislature to provide for a program designed primarily to increase the number of students receiving quality education and training as a certified nurse-midwife or a licensed midwife in accordance with the global standards for midwifery education and the international definition of midwife as established by the International Confederation of Midwives, in order to maximize the delivery of reproductive services to specific areas of California where there is a recognized unmet priority need.

(b)(1)The office shall establish a program to contract with programs that train certified nurse-midwives and programs that train licensed midwives in accordance with the global standards for midwifery education and the international definition of midwife as established by the International Confederation of Midwives in order to increase the number of students receiving quality education and training as a certified nurse-

midwife or as a licensed midwife.

(2)The office shall only contract with programs that train certified nurse-midwives and programs that train licensed midwives that, at minimum, include, or that intend to create, a component of training designed for medically underserved multicultural communities, lower socioeconomic neighborhoods, or rural communities, and that are organized to prepare program graduates for service in those neighborhoods and communities, or that seek to recruit and retain racially and ethnically diverse students, underrepresented groups, or people from underserved or historically marginalized communities.

(3) The office may adopt standards and regulations necessary to carry out this article. In adopting eligibility standards for programs that train certified nurse-midwives and that train licensed midwives in accordance with the standards set forth in subdivisions (a) and (b), the office may accept those educational standards and competencies established by the respective state licensing and regulatory bodies for certified nurse-midwives and for licensed midwives. The office shall take care not to implement education or competency standards beyond what is required for the training programs by their respective state licensing and regulatory bodies that could inadvertently create an unnecessary barrier for training programs to obtain funding for the training of midwives in California.

(4)The office shall develop alternative strategies to provide long-term stability for, or expansion of, this act, such as through funding provided by private foundations and administered by the office for the purposes of carrying out this article.

(5)Nothing in this article prevents the office from developing a protocol to contract with potential programs that train nurse-midwives or that train licensed midwives, in order to support the initial startup of new training programs, as long as the eligibility requirements of this article are met or can be met through the award of funds.

(6)The office may pay contracted programs that train certified nurse-midwives and programs that train licensed midwives in an amount calculated based on a single per-student capitation formula, or through another method, in order to cover the costs of innovative special projects or programs.

(7)Funds appropriated to the office for purposes of this article and awarded by the office to eligible programs that train certified nurse-midwives or programs that train licensed midwives may be used by the training program to develop new initiatives, projects, or curriculum, or to expand existing initiatives, projects, or curriculum. Awarded funds may also be used for general support and sustainability of the overall training program, or to sustain specific components of the training program, including, but not limited to, tuition assistance for students, or support for preceptor recruitment, or to sustain preceptor training sites for students.

(c)This section shall be implemented only upon an appropriation by the Legislature for these purposes in the annual Budget Act or another act.

(Added by Stats. 2021, Ch. 449, Sec. 5. (SB 65) Effective January 1, 2022.)

128299.

This article shall become operative on January 1, 2022.

(Added by Stats. 2021, Ch. 449, Sec. 5. (SB 65) Effective January 1, 2022.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=3.&chapter=5.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=5.&article=1.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 5. Health Professions Education Programs [128330 - 128565]__

(Heading of Chapter 5 amended by Stats. 2021, Ch. 143, Sec. 159.)

__ARTICLE 1. Health Professions Education Programs [128330 - 128371]__

(Heading of Article 1 amended by Stats. 2021, Ch. 143, Sec. 160.)

128330.

As used in this article:

(a)Board means the Board of Trustees of the Health Professions Education Foundation.

(b)Council means the California Health Workforce Education and Training Council.

(c)Director means the Director of the Department of Health Care Access and Information.

(d)Foundation means the Health Professions Education Foundation.

(e)Health professions or health professionals means physicians and surgeons licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or pursuant to the Osteopathic Act, dentists, registered nurses, and other health professionals determined by the department to be needed in medically underserved areas.

(f)Department means the Department of Health Care Access and Information.

(g)Underrepresented groups means populations that are underrepresented in medicine, dentistry, nursing, or other health professions as determined by the department. The department, upon a finding that the action is necessary to meet the health care needs of medically underserved areas, may add a group comprising the economically disadvantaged to those groups authorized to receive assistance under this article. The department shall recognize that it is especially important that medical and dental care be provided in a way that is sensitive to the sociocultural variables that affect a personshealth.

(Amended by Stats. 2021, Ch. 143, Sec. 161. (AB 133) Effective July 27, 2021.)

128337.

Notwithstanding any other law, on or before October 1, 2021, the nonprofit public benefit corporation known as the Health Professions Education Foundation shall be dissolved. All assets, including records, and any liabilities shall be transferred to the department.

(Added by Stats. 2021, Ch. 143, Sec. 163. (AB 133) Effective July 27, 2021.)

128338.

Effective with the dissolution of the Health Professions Education Foundation, any reference to the Health Professions Education Foundation, or the Foundation, in this chapter shall be deemed a reference to the department.

(Added by Stats. 2021, Ch. 143, Sec. 164. (AB 133) Effective July 27, 2021.)

128345.

The department may do any of the following:

(a)Solicit and receive funds from business, industry, foundations, and other private or public sources for the purpose of providing financial assistance in the form of scholarships or loans to students from underrepresented groups. These funds shall be expended by the department after transfer to the Health Professions Education Fund, created pursuant to Section 128355.

(b)Disburse private sector moneys deposited in the Health Professions Education Fund to students from underrepresented groups enrolled in or graduated from schools of medicine, dentistry, nursing, or other health professions in the form of loans or scholarships.

(c)Encourage private sector institutions, including hospitals, community clinics, and other health agencies to identify and provide educational experiences to students from underrepresented groups who are potential applicants to schools of medicine, dentistry, nursing, or other health professions.

(d)Implement the Steven M. Thompson Physician Corps Loan Repayment Program and the Volunteer Physician Program, as provided under Article 5 (commencing with Section 128550).

(Amended by Stats. 2021, Ch. 143, Sec. 166. (AB 133) Effective July 27, 2021.)

128350.

The department shall do all of the following:

(a) Provide technical and staff support to the programs in meeting all of its responsibilities.

(b) Provide financial management for the Health Professions Education Fund.

(c) Enter into contractual agreements with students from underrepresented groups for the disbursement of scholarships or loans in return for the commitment of these students to practice their profession in an area in California designated as deficient in primary care services.

(d) Disseminate information regarding the areas in the state that are deficient in primary care services to potential applicants for the scholarships or loans.

(e) Monitor the practice locations of the recipients of the scholarships or loans.

(f) Recover funds, in accordance with the terms of the contractual agreements, from recipients of scholarships or loans who fail to begin or complete their obligated service. Funds so recovered shall be redeposited in the Health Professions Education Fund.

(g) Contract with the institutions that train family practice residents, in order to increase the participation of students from underrepresented groups in entering the specialty of family practice. The director may seek the recommendations of the council as to what programs best demonstrate the ability to meet this objective.

(h) Contract with training institutions that are involved in osteopathic postgraduate training in general or family practice medicine, in order to increase the participation of students from underrepresented groups participating in the practice of osteopathic medicine. The director may seek the recommendations of the council as to what programs have demonstrated the ability to meet this objective.

(i) Enter into contractual agreements with graduated health professionals to repay some or all of the debts they incurred in health professional schools in return for practicing their professions in an area in California designated as deficient in primary care services.

(j) Contract with institutions that award baccalaureate of science degrees in nursing in order to increase the participation of students from underrepresented groups in the nursing profession. The director may seek the recommendations of the council as to what programs have demonstrated the ability to meet this objective.

(Amended by Stats. 2021, Ch. 143, Sec. 167. (AB 133) Effective July 27, 2021.)

128355.

There is hereby created within the department a Health Professions Education Fund. The primary purpose of this fund is to provide scholarships and loans to students from underrepresented groups who are accepted to or enrolled in schools of medicine, dentistry, nursing, or other health professions. The fund shall also be used to pay for the cost of administering the program and for any other purpose authorized by this article. The level of expenditure by the department for the administrative support of the program created pursuant to this article shall be subject to review and approval annually through the State Budget process. The department may receive private donations to be deposited into this fund. All money in the fund is continuously appropriated to the department for the purposes of this article. The department shall manage this fund prudently in accordance with other provisions of law.

(Amended by Stats. 2021, Ch. 143, Sec. 168. (AB 133) Effective July 27, 2021.)

128360.

(a)In administering this chapter, the department shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall provide opportunities for public participation as it administers the Health Professions Education Programs. Information about each type of scholarship or loan repayment opportunity shall be publicly available at least 60 days prior to any application deadline. This information shall include eligibility criteria and the application process, materials, and deadlines, and shall be posted on the departmentsinternet website and be available directly from the department. All the information shall remain posted and available during the entire application period for a funding cycle.

(b)Regulations that have been adopted to administer this chapter prior to the effective date of this section are repealed as of the effective date of this section.

(Repealed and added by Stats. 2021, Ch. 143, Sec. 170. (AB 133) Effective July 27, 2021.)

128365.

Notwithstanding any other provision, applications for financial assistance under this article, or other documents that the department reasonably determines should not be discussed in public due to privacy

considerations shall be exempt from the disclosure provisions of the Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(Amended by Stats. 2022, Ch. 28, Sec. 107. (SB 1380) Effective January 1, 2023.)

128370.

Notwithstanding any other law, the department may exempt from public disclosure any document in the possession of the department that pertains to a donation made pursuant to this article if the donor has requested anonymity.

(Amended by Stats. 2021, Ch. 143, Sec. 172. (AB 133) Effective July 27, 2021.)

128371.

(a)The Legislature finds and declares that it is in the best interest of the State of California to provide persons who are not lawfully present in the United States with the state benefits provided by those programs listed in subdivision (d), and therefore, enacts this section pursuant to Section 1621(d) of Title 8 of the United States Code.

(b)A program listed in subdivision (d) shall not deny an application based on the citizenship status or immigration status of the applicant.

(c)For any program listed in subdivision (d), when mandatory disclosure of a social security number is required, an applicant shall provide their social security number, if one has been issued, or an individual tax identification number that has been or will be submitted.

(d)This section applies to all of the following:

(1)Programs supported through the Health Professions Education Fund pursuant to Section 128355.

(2)The Registered Nurse Education Fund created pursuant to Section 128400.

(3)The Mental Health Practitioner Education Fund created pursuant to Section 128458.

(4)The Vocational Nurse Education Fund created pursuant to Section 128500.

(5)The Medically Underserved Account for Physicians created pursuant to Section 128555.

(6)Loan forgiveness and scholarship programs created pursuant to Part 3.1 (commencing with Section 5820) of Division 5 of the Welfare and Institutions Code.

(7)The Song-Brown Health Care Workforce Training Act created pursuant to Article 1 (commencing with Section 128200) of Chapter 4.

(8)To the extent permitted under federal law, the program administered by the department pursuant to the federal National Health Service Corps State Loan Repayment Program (42 U.S.C. Sec. 254q-1), commonly

known as the California State Loan Repayment Program.

(9)The programs administered by the department pursuant to the Health Professions Career Opportunity Program (Section 127885), commonly known as the Mini Grants Program, and CaliforniasStudent/Resident Experiences and Rotations in Community Health, commonly known as the CalSEARCH program.

(Amended by Stats. 2021, Ch. 143, Sec. 173. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=5.&article=2.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 5. Health Professions Education Programs [128330 - 128565]__

(Heading of Chapter 5 amended by Stats. 2021, Ch. 143, Sec. 159.)

__ARTICLE 2. California Registered Nurse Education Program [128375 - 128401]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 9.)

128375.

(a) The Legislature hereby finds and declares that an adequate supply of professional nurses is critical to assuring the health and well-being of the citizens of California, particularly those who live in medically underserved areas.

(b) The Legislature further finds that changes in the health care system of this state have increased the need for more highly skilled nurses. These changes include advances in medical technology and pharmacology, that necessitate the use of more highly skilled nurses in acute care facilities. Further, the containment of health care costs has led to increased reliance on home health care and outpatient services and to a higher proportion of more acutely ill patients in acute care facilities. Long-term care facilities also need more highly educated nursing personnel. Both shifts require a larger number of skilled nursing personnel.

(c) The Legislature further finds and declares that in nursing, as in other professions, certain populations are underrepresented. The Legislature also finds and declares that it is especially important that nursing care be provided in a way that is sensitive to the sociocultural variables that affect a personshealth. The Legislature recognizes that the financial burden of obtaining a baccalaureate degree is considerable and that persons from families lacking adequate financial resources may need financial assistance to complete a baccalaureate degree.

(Amended by Stats. 2021, Ch. 143, Sec. 174. (AB 133) Effective July 27, 2021.)

128380.

It is the intent of the Legislature to accomplish the following:

(a) Assure an adequate supply of appropriately trained professional nurses.

(b) Encourage persons from populations that are currently underrepresented in the nursing profession to enter that profession.

(c) Encourage professional nurses to work in medically underserved areas.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

128385.

(a)There is hereby created the Registered Nurse Education Program within the department. Persons participating in this program shall be persons who agree in writing prior to graduation to serve in an eligible county health facility, an eligible state-operated health facility, a health workforce shortage area, or a California nursing school, as designated by the director of the department. Persons agreeing to serve in eligible county health facilities, eligible state-operated health facilities, or health workforce shortage areas, and mastersor doctoral students agreeing to serve in a California nursing school may apply for scholarship or loan repayment. The Registered Nurse Education Program shall be administered in accordance with Article 1 (commencing with Section 128330), except that all funds in the Registered Nurse Education Fund shall be used only for the purpose of promoting the education of registered nurses and related administrative costs. The department shall adopt both of the following:

(1)A standard contractual agreement to be signed by the director and any student who has received an award to work in an eligible county health facility, an eligible state-operated health facility, or in a health workforce shortage area that would require a period of obligated professional service in the areas of California designated by the department as deficient in primary care services. The obligated professional service shall be in direct patient care. The agreement shall include a clause entitling the state to recover the

funds awarded plus the maximum allowable interest for failure to begin or complete the service obligation.

(2)Maximum allowable amounts for scholarships, educational loans, and loan repayment programs in order to assure the most effective use of these funds.

(b)Applicants may be persons licensed as registered nurses, graduates of associate degree nursing programs prior to entering a program granting a baccalaureate of science degree in nursing, or students entering an entry-level mastersdegree program in registered nursing or other registered nurse mastersor doctoral degree program approved by the Board of Registered Nursing. Priority shall be given to applicants who hold associate degrees in nursing.

(c)Registered nurses and students shall commit to teaching nursing in a California nursing school for five years in order to receive a scholarship or loan repayment for a doctoral degree program.

(d)As used in this section, eligible county health facility means a county health facility that has been determined by the department to have a nursing vacancy rate greater than noncounty health facilities located in the same health facility planning area.

(e)As used in this section, eligible state-operated health facility means a state-operated health facility that has been determined by the department to have a nursing vacancy rate greater than noncounty health facilities located in the same health facility planning area.

(Amended by Stats. 2021, Ch. 143, Sec. 175. (AB 133) Effective July 27, 2021.)

128390.

The funds made available pursuant to this article shall be used as specified in Article 14 (commencing with Section 69795) of Chapter 2 of Part 42 of the Education Code, except that the funds shall be used only for the purpose of assisting students in completing nursing programs meeting the standards specified in subdivision (j) of Section 69799 of the Education Code.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

128400.

There is hereby established in the State Treasury the Registered Nurse Education Fund. All money in the fund shall be used for the purposes specified in the California Registered Nurse Education Program established pursuant to this article. This fund shall receive money collected pursuant to subdivision (d) of Section 2815 and Section 2815.1 of the Business and Professions Code.

(Amended by Stats. 2013, Ch. 384, Sec. 1. (SB 271) Effective January 1, 2014.)

128401.

(a)The Department of Health Care Access and Information shall establish the statewide Associate Degree

Nursing (A.D.N.) Scholarship Program.

(b)Scholarships under the program shall be available only to students in counties determined to have the most significant need. Need in a county shall be established based on consideration of all the following factors:

(1)Counties with a registered nurse-to-population ratio equal to or less than 500 registered nurses per 100,000 individuals.

(2)County unemployment rate.

(3)County level of poverty.

(c)A scholarship recipient shall be required to complete, at a minimum, an associate degree in nursing and work in a medically underserved area in California upon obtaining their license from the Board of Registered Nursing.

(d)The department shall consider the following factors when selecting recipients for the A.D.N. Scholarship Program:

(1)An applicantseconomic need, as established by the federal poverty index.

(2)Applicants who demonstrate cultural and linguistic skills and abilities.

(e)The program shall be funded from the Registered Nurse Education Fund established pursuant to Section 128400 and administered by the department within the office. The department shall allocate a portion of the moneys in the fund for the program established pursuant to this section, in addition to moneys otherwise allocated pursuant to this article for scholarships and loans for associate degree nursing students.

(f)No additional staff or General Fund operating costs shall be expended for the program.

(g)The department may accept private or federal funds for purposes of the A.D.N. Scholarship Program.

(h)The department shall post A.D.N. Scholarship Program statistics and updates on its internet website.

(Amended by Stats. 2021, Ch. 143, Sec. 177. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=5.&article=3.5.

128454.

(a)There is hereby created the Licensed Mental Health Service Provider Education Program within the Department of Health Care Access and Information.

(b)For purposes of this article, the following definitions shall apply:

(1)Licensed mental health service provider means a psychologist licensed by the Board of Psychology, registered psychologist, postdoctoral psychological assistant, postdoctoral psychology trainee employed in an exempt setting pursuant to Section 2910 of the Business and Professions Code or employed pursuant to a State Department of Health Care Services waiver pursuant to Section 5751.2 of the Welfare and Institutions Code, marriage and family therapist, associate marriage and family therapist, licensed clinical social worker, associate clinical social worker, licensed professional clinical counselor, and associate professional clinical counselor.

(2)Mental health professional shortage area means an area designated as such by the Health Resources and Services Administration (HRSA) of the United States Department of Health and Human Services.

(c)Commencing January 1, 2005, any licensed mental health service provider, including a mental health service provider who is employed at a publicly funded mental health facility or a public or nonprofit private mental health facility that contracts with a county mental health entity or facility to provide mental health services, who provides direct patient care in a publicly funded facility or a mental health professional shortage area may apply for grants under the program to reimburse their educational loans related to a career as a licensed mental health service provider.

(d)The department shall adopt all of the following:

(1)A standard contractual agreement to be signed by the director and any licensed mental health service provider who is serving in a publicly funded facility or a mental health professional shortage area that would require the licensed mental health service provider who receives a grant under the program to work in the publicly funded facility or a mental health professional shortage area for at least one year.

(2)The maximum allowable total grant amount per individual licensed mental health service provider.

(3)The maximum allowable annual grant amount per individual licensed mental health service provider.

(e)The department shall develop the program, which shall comply with all of the following requirements:

(1)The total amount of grants under the program per individual licensed mental health service provider shall not exceed the amount of educational loans related to a career as a licensed mental health service provider incurred by that provider.

(2)The program shall keep the fees from the different licensed providers separate to ensure that all grants are funded by those fees collected from the corresponding licensed provider groups.

(3)A loan forgiveness grant may be provided in installments proportionate to the amount of the service obligation that has been completed.

(4)The number of persons who may be considered for the program shall be limited by the funds made available pursuant to Section 128458.

(f)This section shall become operative on July 1, 2018.

(Amended by Stats. 2021, Ch. 143, Sec. 179. (AB 133) Effective July 27, 2021.)

128455.

An account shall be created within the Mental Health Practitioner Education Fund and, upon appropriation by the Legislature, moneys in that account shall be used solely to fund grants, consistent with this article, to repay educational loans for applicants who meet all of the following requirements:

(a)Commit to provide direct patient care in a publicly funded facility or a mental health professional shortage area for at least 24 months.

(b)Are marriage and family therapists, associate marriage and family therapists, licensed clinical social workers, associate clinical social workers, licensed professional clinical counselors, or associate professional clinical counselors.

(c)Were formerly in Californiasfoster youth care system.

(Added by Stats. 2018, Ch. 585, Sec. 1. (AB 2608) Effective January 1, 2019.)

128458.

There is hereby established in the State Treasury the Mental Health Practitioner Education Fund. The moneys in the fund, upon appropriation by the Legislature, shall be available for expenditure by the Department of Health Care Access and Information for purposes of this article.

(Amended by Stats. 2021, Ch. 143, Sec. 181. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=5.&article=4.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 5. Health Professions Education Programs [128330 - 128565]__

(Heading of Chapter 5 amended by Stats. 2021, Ch. 143, Sec. 159.)

__ARTICLE 4. Vocational Nurse Education Program [128475 - 128501]__

(Article 4 added by Stats. 2003, Ch. 640, Sec. 20.)

128475.

(a) The Legislature hereby finds and declares that an adequate supply of professional vocational nurses is critical to assuring the health and well-being of the citizens of California, particularly those who live in medically underserved areas, and that changes in the health care system of this state have increased the need for more highly skilled vocational nurses.

(b) The Legislature further finds and declares that in March 2002, the California Association of Health Facilities indicated that there is a shortage of 3,500 vocational nurses in long-term care facilities and estimates that 28,000 additional vocational nurses will be needed in long-term care over the next 10 years, that recently published reports indicate that vocational nurses now comprise almost 30 percent of the nationstotal number of nurses and that the national vacancy rate in hospitals was about 13 percent, and that according to the California Association of Psychiatric Technicians, an additional 800 psychiatric technicians are needed due to expanding health facilities.

(c) The Legislature further finds and declares that in vocational nursing, as in other professions, certain populations are underrepresented. The Legislature also finds and declares that it is especially important that vocational nursing care be provided in a way that is sensitive to the sociocultural variables that affect a personshealth. The Legislature recognizes that the financial burden of attending a school of vocational nursing is considerable and that persons from families lacking adequate financial resources may need financial assistance to complete their studies.

(d) The Legislature further finds and declares that approximately 54.1 percent of all Californians live in rural and urban areas that have been designated underserved. The shortage of vocational nurses in these areas makes it more difficult for those citizens to obtain health care and more difficult to attract and retain other health care professionals to those areas.

(Added by Stats. 2003, Ch. 640, Sec. 20. Effective January 1, 2004. Section operative July 1, 2004, pursuant to Section 128501.)

128480.

It is the intent of the Legislature to accomplish the following:

(a) Assure an adequate supply of appropriately trained vocational nurses.

(b) Encourage persons from populations that are currently underrepresented in the profession of vocational nursing to enter that profession.

(c) Encourage vocational nurses to work in medically underserved areas.

(Added by Stats. 2003, Ch. 640, Sec. 20. Effective January 1, 2004. Section operative July 1, 2004, pursuant to Section 128501.)

128485.

There is hereby created the Vocational Nurse Education Program within the Department of Health Care Access and Information. Persons participating in this program shall be persons who agree in writing prior to completion of vocational nursing school to serve in an eligible county health facility, an eligible state-operated health facility, or a health workforce shortage area, as designated by the director of the department. Persons agreeing to serve in eligible county health facilities, eligible state-operated health facilities, or health workforce shortage areas may apply for scholarship or loan repayment. The Vocational Nurse Education Program shall be administered in accordance with Article 1 (commencing with Section 128330), except that all funds in the Vocational Nurse Education Fund shall be used only for the purpose of promoting the education of vocational nurses and related administrative costs. The department shall adopt both of the following:

(a)A standard contractual agreement to be signed by the director and any student who has received an award to work in an eligible county health facility, an eligible state-operated health facility, or in a health workforce shortage area that would require a period of obligated professional service in the areas of California designated by the department as deficient in primary care services. The obligated professional service shall be in direct patient care. The agreement shall include a clause entitling the state to recover the funds awarded plus the maximum allowable interest for failure to begin or complete the service obligation.

(b)Maximum allowable amounts for scholarships, educational loans, and loan repayment programs in order to assure the most effective use of these funds.

(c)A person who qualifies for admission to a vocational nursing program that is accredited by the board of Vocational Nursing and Psychiatric Technicians may apply for funding under the Vocational Nurse Education Program by establishing a contractual agreement in accordance with subdivision (a).

(d)A person who holds a current valid license as a vocational nurse who wishes to seek an associate of science degree in nursing from an accredited college may apply for funding under the Vocational Nurse Education Program by establishing a contractual agreement in accordance with subdivision (a) unless the person is able to qualify under subdivision (a) of Section 128385 under the Registered Nurse Education Program.

(Amended by Stats. 2021, Ch. 143, Sec. 182. (AB 133) Effective July 27, 2021.)

128500.

There is hereby established in the State Treasury the Vocational Nurse Education Fund. All money in the fund shall be used for the purposes specified in the California Vocational Nurse Education Program established

pursuant to this article. This fund shall receive money collected pursuant to subdivision (d) of Section 2895 of the Business and Professions Code.

(Added by Stats. 2003, Ch. 640, Sec. 20. Effective January 1, 2004. Section operative July 1, 2004, pursuant to Section 128501.)

128501.

This article shall become operative on July 1, 2004.

(Added by Stats. 2003, Ch. 640, Sec. 20. Effective January 1, 2004. Note: This section prescribes a delayed operative date (July 1, 2004) for Article 4, commencing with Section 128475.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=5.&article=5.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 5. Health Professions Education Programs [128330 - 128565]__

(Heading of Chapter 5 amended by Stats. 2021, Ch. 143, Sec. 159.)

__ARTICLE 5. California Physician Corps Program [128550 - 128558]__

(Article 5 added by Stats. 2005, Ch. 317, Sec. 5.)

128550.

(a)There is hereby established within the Department of Health Care Access and Information the California Physician Corps Program.

(b)Commencing July 1, 2006, both of the following programs shall be transferred from the Medical Board of California to the California Physician Corps Program within the department and operated pursuant to this article:

(1)The Steven M. Thompson Physician Corps Loan Repayment Program.

(2)The Physician Volunteer Program developed by the Medical Board of California.

(c)The department may enter into an interagency agreement with the Medical Board of California to implement the transfer of programs as provided under subdivision (b).

(Amended by Stats. 2021, Ch. 143, Sec. 184. (AB 133) Effective July 27, 2021.)

128551.

(a)It is the intent of this article that the department provide the ongoing program management of the two programs identified in subdivision (b) of Section 128550 as a part of the California Physician Corps Program.

(b) For purposes of subdivision (a), the department shall consult with the Medical Board of California and shall establish and consult with an advisory committee of not more than seven members, that shall include two members recommended by the California Medical Association and may include other members of the medical community, including ethnic representatives, medical schools, health advocates representing ethnic communities, primary care clinics, public hospitals, and health systems, statewide agencies administering state and federally funded programs targeting underserved communities, and members of the public with expertise in health care issues.

(Amended by Stats. 2021, Ch. 143, Sec. 185. (AB 133) Effective July 27, 2021.)

128552.

For purposes of this article, the following definitions shall apply:

(a)Account means the Medically Underserved Account for Physicians established within the Health Professions Education Fund pursuant to this article.

(b)Fund means the Health Professions Education Fund.

(c)Medi-Cal threshold languages means primary languages spoken by limited-English-proficient (LEP) population groups meeting a numeric threshold of 3,000, eligible LEP Medi-Cal beneficiaries residing in a county, 1,000 Medi-Cal eligible LEP beneficiaries residing in a single ZIP Code, or 1,500 LEP Medi-Cal beneficiaries residing in two contiguous ZIP Codes.

(d)Medically underserved area means an area defined as a health professional shortage area in Part 5 of Subchapter A of Chapter 1 of Title 42 of the Code of Federal Regulations or an area of the state where unmet priority needs for physicians exist as determined by the department.

(e)Medically underserved population means the Medi-Cal program and uninsured populations.

(f)Department means the Department of Health Care Access and Information.

(g)Physician Volunteer Program means the Physician Volunteer Registry Program established by the Medical Board of California.

(h)Practice setting, for the purposes of this article only, means either of the following:

(1)A community clinic as defined in subdivision (a) of Section 1204 and subdivision (c) of Section 1206, a clinic owned or operated by a public hospital and health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fulfill the countysrole pursuant to Section 17000 of the Welfare and Institutions Code, which is located in a medically underserved area and at least 50 percent of whose patients are from a medically underserved population.

(2)A physician owned and operated medical practice setting that provides primary care located in a medically underserved area and has a minimum of 50 percent of patients who are uninsured, Medi-Cal beneficiaries, or beneficiaries of another publicly funded program that serves patients who earn less than 250 percent of the federal poverty level.

(i)Primary specialty means family practice, internal medicine, pediatrics, or obstetrics/gynecology.

(j)Program means the Steven M. Thompson Physician Corps Loan Repayment Program.

(k)Selection committee means a minimum three-member committee of the board, that includes a member that was appointed by the Medical Board of California.

(Amended by Stats. 2021, Ch. 143, Sec. 186. (AB 133) Effective July 27, 2021.)

128553.

(a)Program applicants shall possess a current valid license to practice medicine in this state issued pursuant to Section 2050 of the Business and Professions Code or pursuant to the Osteopathic Act.

(b)The department shall develop guidelines using the criteria specified in subdivision (c) for selection and placement of applicants. The department shall interpret the guidelines to apply to both osteopathic and allopathic physicians and surgeons.

(c)The guidelines shall meet all of the following criteria:

(1)Provide priority consideration to applicants that are best suited to meet the cultural and linguistic needs and demands of patients from medically underserved populations and who meet one or more of the following criteria:

(A)Speak a Medi-Cal threshold language.

(B)Come from an economically disadvantaged background.

(C)Have received significant training in cultural and linguistically appropriate service delivery.

(D)Have three years of experience providing health care services to medically underserved populations or in a medically underserved area, as defined in subdivision (e) of Section 128552.

(E)Have recently obtained a license to practice medicine.

(2)Include a process for determining the needs for physician services identified by the practice setting and for ensuring that the practice setting meets the definition specified in subdivision (h) of Section 128552.

(3)Give preference to applicants who have completed a three-year residency in a primary specialty.

(4)Give preference to applicants who agree to practice in a medically underserved area, as defined in subdivision (e) of Section 128552, and who agree to serve a medically underserved population.

(5)Give priority consideration to applicants from rural communities who agree to practice in a physician owned and operated medical practice setting as defined in paragraph (2) of subdivision (i) of Section 128552.

(6)Include a factor ensuring geographic distribution of placements.

(7)Provide priority consideration to applicants who agree to practice in a geriatric care setting and are trained in geriatrics, and who can meet the cultural and linguistic needs and demands of a diverse population of older Californians. On and after January 1, 2009, up to 15 percent of the funds collected pursuant to Section 2436.5 of the Business and Professions Code shall be dedicated to loan assistance for physicians and surgeons who agree to practice in geriatric care settings or settings that primarily serve adults over the age of 65 years or adults with disabilities.

(d)(1)The department may appoint a selection committee that provides policy direction and guidance over the program and that complies with the requirements of subdivision (l) of Section 128552.

(2)The department may award up to 20 percent of the available positions to program applicants from specialties outside of the primary care specialties.

(e)Program participants shall meet all of the following requirements:

(1)Shall be working in or have a signed agreement with an eligible practice setting.

(2)Shall have full-time status at the practice setting. Full-time status shall be defined by the department and the department may establish exemptions from this requirement on a case-by-case basis.

(3)Shall commit to a minimum of three years of service in a medically underserved area. Leaves of absence shall be permitted for serious illness, pregnancy, or other natural causes. The department shall develop the process for determining the maximum permissible length of an absence and the process for reinstatement. Loan repayment shall be deferred until the physician is back to full-time status.

(f)The department shall adopt a process that applies if a physician is unable to complete their three-year obligation.

(g)The department, in consultation with those identified in subdivision (b) of Section 128551, shall develop a process for outreach to potentially eligible applicants.

(h)The department may adopt any other standards of eligibility, placement, and termination appropriate to achieve the aim of providing competent health care services in approved practice settings.

(Amended by Stats. 2021, Ch. 143, Sec. 187. (AB 133) Effective July 27, 2021.)

128555.

(a)The Medically Underserved Account for Physicians is hereby established within the Health Professions Education Fund. The primary purpose of this account is to provide funding for the ongoing operations of the Steven M. Thompson Physician Corps Loan Repayment Program provided for under this article. This account also may be used to provide funding for the Physician Volunteer Program provided for under this article.

(b)All moneys in the Medically Underserved Account contained within the Contingent Fund of the Medical Board of California shall be transferred to the Medically Underserved Account for Physicians on July 1, 2006.

(c)Funds in the account shall be used to repay loans as follows per agreements made with physicians:

(1)Funds paid out for loan repayment may have a funding match from foundations or other private sources.

(2)Loan repayments may not exceed one hundred five thousand dollars ($105,000) per individual licensed physician.

(3)Loan repayments may not exceed the amount of the educational loans incurred by the physician participant.

(d)Notwithstanding Section 11105 of the Government Code, effective January 1, 2006, the department may seek and receive matching funds from foundations and private sources to be placed in the account. Matching funds shall not be construed to be limited to a dollar-for-dollar match of funds.

(e)Funds placed in the account for purposes of this article, including funds received pursuant to subdivision (d), are, notwithstanding Section 13340 of the Government Code, continuously appropriated for the repayment of loans. This subdivision shall not apply to funds placed in the account pursuant to Section 1341.45 and Section 14197.2 of the Welfare and Institutions Code.

(f)The account shall also be used to pay for the cost of administering the program and for any other purpose authorized by this article. The costs for administration of the program may be up to 5 percent of the total state appropriation for the program and shall be subject to review and approval annually through the state budget process. This limitation shall only apply to the state appropriation for the program.

(g)The department shall manage the account established by this section prudently in accordance with the other provisions of law.

(Amended by Stats. 2021, Ch. 143, Sec. 189. (AB 133) Effective July 27, 2021.)

128556.

The terms of loan repayment granted under this article shall be established by the department.

(Amended by Stats. 2021, Ch. 143, Sec. 190. (AB 133) Effective July 27, 2021.)

128558.

This article shall become operative on July 1, 2006.

(Added by Stats. 2005, Ch. 317, Sec. 5. Effective January 1, 2006. Note: This section prescribes a delayed operative date (July 1, 2006) for Article 5, commencing with Section 128550.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=3.&chapter=5.&article=6.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 3. HEALTH PROFESSIONS DEVELOPMENT [127825 - 128565]__

(Part 3 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 5. Health Professions Education Programs [128330 - 128565]__

(Heading of Chapter 5 amended by Stats. 2021, Ch. 143, Sec. 159.)

__ARTICLE 6. California Reproductive Health Service Corps [128560 - 128565]__

(Article 6 added by Stats. 2022, Ch. 561, Sec. 2.)

128560.

For purposes of this article:

(a)Corps means the California Reproductive Health Service Corps established pursuant to Section 128561.

(b)Reproductive health means health services relating to abortion care, sexual health counseling, contraception, sexually transmitted infections, reproductive tract infections, HIV, gynecology, perinatal care, midwifery care, gender affirming care, and gender-based violence prevention.

(c)Reproductive health care professionals means medical doctors, licensed midwives, certified nurse-midwives, nurse practitioners, registered nurses, physiciansassistants, doulas, licensed vocational nurses, community health workers, medical assistants, and pharmacists.

(d)Scholar means a person in the corps who is a student who has been accepted in a school or a program on a part-time or full-time basis that graduates reproductive health care professionals or who is an existing reproductive health professional who desires more training and professional development in abortion care to provide this service.

(Amended by Stats. 2023, Ch. 42, Sec. 54. (AB 118) Effective July 10, 2023.)

128561.

For the purposes of recruiting, training, and retaining a diverse workforce of reproductive health care professionals who will be part of reproductive health care teams to work in underserved areas, the California Reproductive Health Service Corps is hereby established in the department under the supervision of the director. The director shall ensure that adequate staff are provided to effectively administer the corps.

(Added by Stats. 2022, Ch. 561, Sec. 2. (AB 1918) Effective January 1, 2023.)

128562.

The corps shall do all of the following:

(a)(1)Administer and oversee scholarships and stipends for new reproductive health students, loan repayment for graduates who have acquired debt from attending a reproductive health professional school in the past, and other types of direct financial support for scholars, in exchange for a three-year term of obligated service in California at a corps-approved site.

(2)Pay a learning institution, teaching facility, or approved clinical training site directly on behalf of scholar, including for tuition, fees, facility costs, teaching costs, and preceptor time.

(3)Provide an annual payment for education-related costs and a monthly stipend to cover living expenses directly to a scholar. The corps shall consider family size and numbers of dependents when determining stipend amounts.

(4)Offer existing reproductive health professionals an option for loan forgiveness for each year of service.

(5)Offer scholars stipends or reimbursement for childcare, eldercare, housing, health care coverage with coverage for mental health services, and transportation to eliminate known obstacles of educational completion for scholars.

(6)Notwithstanding paragraphs (2) to (5), inclusive, scholarships, stipends, and obligated service shall be independently assessed for doula education due to the diverse pathways for education.

(b)(1)Identify and create opportunities for scholars to receive supplemental trainings in comprehensive sexual and reproductive health care, including miscarriage management, aspiration abortion, and medication abortion, through partnerships with and financial support for California-based external partners providing and enabling clinical abortion training.

(2)Identify and create a postgraduate practice integration and retention program by funding organizations providing technical assistance and support to scholars, placement sites, or both to support incorporation of abortion services at service site or into a scholarspractice.

(3)The Legislature finds that external contracts are critically important to the success of the corps to supplement the lack of training in abortion currently available at medical, nursing, or health care professional schools and to support service integration and retention posttraining. Supplemental programs are needed for scholars to be adequately trained before graduation.

(Added by Stats. 2022, Ch. 561, Sec. 2. (AB 1918) Effective January 1, 2023.)

128563.

(a)The corps shall prioritize the selection of scholars from historically excluded populations and underserved areas, who reflect the patient populations they serve, to ensure greater inclusion and improved diverse representation in the reproductive health services workforce.

(b)Scholars from historically excluded populations shall meet one of the following criteria:

(1)Were or currently are homeless.

(2)Were or currently are in the foster care system.

(3)Were eligible for the National School Lunch Program for two or more years as a child.

(4)Do not have or have not had parents or legal guardians who completed a bachelorsdegree.

(5)Were or currently are eligible for federal Pell Grants.

(6)Received support from the California Special Supplemental Nutrition Program for Women, Infants, and Children as a parent or child.

(7)Reside or grew up in one of the following areas:

(A)A rural area, as designated by the Rural Health Grants Eligibility Analyzer of the Health Resources and Services Administration (HRSA) of the United States Department of Health and Human Services.

(B)A health professional shortage area, as designated by the HRSA.

(8)Is an individual with a disability, meaning a person with a physical or mental impairment that substantially limits one or more major life activities, as described in the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), as amended.

(Added by Stats. 2022, Ch. 561, Sec. 2. (AB 1918) Effective January 1, 2023.)

128564.

(a)A scholar shall do all of the following:

(1)Agree to complete abortion training as part of their health care education and to provide, or participate on a team that provides, reproductive health services with the inclusion of medical abortion or procedural abortion and miscarriage management.

(2)Commit to working for three years at a corps-approved site in one of the following areas or with one of the following populations:

(A)A health professional shortage area, as designated by the HRSA.

(B)A medically underserved area or with a medically underserved population, as mapped by the HRSA.

(C)A Maternity Care Health Professional Target Area, as designated by HRSA, or a maternity care desert, as designated by the March of Dimes.

(D)A rural area, as designated by the federal Centers for Medicare and Medicaid Services.

(E)A California county identified to have no abortion services.

(F)An area where the majority of patients are covered under the Medi-Cal program.

(3)Agree, in writing, that if the scholar fails to complete the period of obligated service at a corps-approved site, they will be in breach of contract.

(b)Notwithstanding paragraph (2) of subdivision (a), a scholar or a site may petition the corps for approval of a site based on the reproductive health needs of specific communities or populations or the areasspecific linguistic needs.

(c)With the authorization of the corps, a scholar may transfer to a new site to complete their obligated service. The corps shall define the criteria for transfer eligibility. Under certain defined conditions, the corps shall assist the scholar to find a new approved site.

(d)When a scholar is employed at a corps-approved site, the scholar shall be subject to the personnel system of that entity.

(Added by Stats. 2022, Ch. 561, Sec. 2. (AB 1918) Effective January 1, 2023.)

128565.

(a)The department shall conduct an evaluation five years after implementation to assess the impact and effectiveness of the corps. The evaluation shall include all of the following:

(1)The number of health care providers from underrepresented racial, ethnic, socioeconomic, and geographic backgrounds that have completed the corps program.

(2)The number of scholars and corps graduates who are practicing in underserved areas.

(3)The geographic areas served by scholars and corps graduates and geographic placement gaps that persist.

(4)The provider types utilizing the corps.

(5)The number of scholars and corps graduates who have integrated abortion care into their practices.

(6)The number of applicants to the corps.

(7)The number of awardees who do not meet their service requirement, by provider type.

(b)The department shall report its findings to the Legislature on or before January 1, 2029. The report shall be submitted in compliance with Section 9795 of the Government Code.

(c)This section shall remain in effect only until January 1, 2031, and as of that date is repealed.

(Added by Stats. 2022, Ch. 561, Sec. 2. (AB 1918) Effective January 1, 2023. Repealed as of January 1, 2031, by its own provisions.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=5.&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=5.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 5. HEALTH DATA [128675 - 128920]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facility Data [128675 - 128810]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

128675.

This chapter shall be known as the Health Data and Advisory Council Consolidation Act.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

128680.

The Legislature hereby finds and declares that:

(a)Significant changes have taken place in recent years in the health care marketplace and in the manner of reimbursement to health facilities by government and private third-party payers for the services they provide.

(b)These changes have permitted the state to reevaluate the need for, and the manner of data collection from health facilities by the various state agencies and commissions.

(c)It is the intent of the Legislature that as a result of this reevaluation that the data collection function be consolidated in a single state agency. It is the further intent of the Legislature that the single state agency only collect that data from health facilities that are essential. The data should be collected, to the extent practical on consolidated, multipurpose report forms for use by all state agencies.

(d)It is the further intent of the Legislature to eliminate the California Health Facilities Commission, the State Advisory Health Council, and the California Health Policy and Data Advisory Commission, and to consolidate

data collection and planning functions within the office.

(e)It is the Legislaturesfurther intent that the review of the data that the state collects be an ongoing function. The office shall annually review this data for need and shall revise, add, or delete items as necessary. The office shall consult with affected state agencies and the affected industry when adding or eliminating data items. However, the office shall neither add nor delete data items to the Hospital Discharge Abstract Data Record or the quarterly reports without prior authorizing legislation, unless specifically required by federal law or judicial decision.

(f)The Legislature recognizes that the authority for the California Health Facilities Commission is scheduled to expire January 1, 1986. It is the intent of the Legislature, by the enactment of this chapter, to continue the uniform system of accounting and reporting established by the commission and required for use by health facilities. It is also the intent of the Legislature to continue an appropriate, cost-disclosure program.

(Amended by Stats. 2011, Ch. 32, Sec. 20. (AB 106) Effective June 29, 2011. Operative January 1, 2012, by Sec. 73 of Stats. 2011, Ch. 32.)

128685.

Intermediate care facilities/developmentally disabled-habilitative, as defined in subdivision (e) of Section 1250, are not subject to this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

128690.

Intermediate care facilities/developmentally disabled”nursing, as defined in subdivision (h) of Section 1250, and intermediate care facilities/developmentally disabled-continuous nursing, as defined in subdivision (m) of Section 1250, are not subject to this chapter.

(Amended by Stats. 2021, Ch. 143, Sec. 195. (AB 133) Effective July 27, 2021.)

128700.

As used in this chapter, the following terms mean:

(a)Ambulatory surgery procedures mean those procedures performed on an outpatient basis in the general operating rooms, ambulatory surgery rooms, endoscopy units, or cardiac catheterization laboratories of a hospital or a freestanding ambulatory surgery clinic.

(b)Emergency department means, in a hospital licensed to provide emergency medical services, the location in which those services are provided.

(c)Encounter means a face-to-face contact between a patient and the provider who has primary responsibility for assessing and treating the condition of the patient at a given contact and exercises

independent judgment in the care of the patient.

(d)Freestanding ambulatory surgery clinic means a surgical clinic that is licensed by the state under paragraph (1) of subdivision (b) of Section 1204.

(e)Health facility or health facilities means all health facilities required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(f)Hospital means all health facilities except skilled nursing, intermediate care, congregate living, and hospice health facilities.

(g)Department means the Department of Health Care Access and Information.

(h)Risk-adjusted outcomes means the clinical outcomes of patients grouped by diagnoses or procedures that have been adjusted for demographic and clinical factors.

(Amended by Stats. 2021, Ch. 143, Sec. 196. (AB 133) Effective July 27, 2021.)

128705.

On and after January 1, 1986, any reference in this code to the Advisory Health Council or the California Health Policy and Data Advisory Commission shall be deemed a reference to the department.

(Amended by Stats. 2021, Ch. 143, Sec. 197. (AB 133) Effective July 27, 2021.)

128730.

(a)Effective January 1, 1986, the department shall be the single state agency designated to collect the following health facility or clinic data for use by all state agencies:

(1)Data required by the department pursuant to Section 127285.

(2)Data required in the Medi-Cal cost reports pursuant to Section 14170 of the Welfare and Institutions Code.

(3)Data items formerly required by the California Health Facilities Commission that are listed in Sections 128735 and 128740. Information collected pursuant to subdivision (g) of Section 128735 and Sections 128736 and 128737 shall be made available to the State Department of Health Care Services, the State Department of Public Health, and the California Health Benefit Exchange. The departments and the Exchange shall ensure that the patientsrights to confidentiality shall not be violated in any manner. The departments and the Exchange shall comply with all applicable policies and requirements involving review and oversight by the State Committee for the Protection of Human Subjects.

(b)The department shall consolidate any and all of the reports listed under this section or Sections 128735 and 128740, to the extent feasible, to minimize the reporting burdens on hospitals, provided, however, that the department shall neither add nor delete data items from the Hospital Discharge Abstract Data Record or the quarterly reports without prior authorizing legislation, unless specifically required by federal law or

regulation or judicial decision.

(c)The Exchange shall report to the Governor and the Legislature on or before August 1, 2023, on the impacts to the Exchange associated with paragraph (3) of subdivision (a), including the impacts on premium rates for health plans offered through the Exchange. The report shall be submitted in compliance with Section 9795 of the Government Code.

(Amended by Stats. 2021, Ch. 143, Sec. 198. (AB 133) Effective July 27, 2021.)

128734.

(a)Each organization that operates, conducts, owns, or maintains a skilled nursing facility licensed pursuant to subdivision (c) of Section 1250 shall file with the department as part of the information required in subdivisions (a) to (e), inclusive, of Section 128735, whether the licensee, or a general partner, director, or officer of the licensee, has an ownership or control interest of 5 percent or more in a related party that provides any service to the skilled nursing facility. If the licensee, or the general partner, director, or officer of the licensee has such an interest, the licensee shall disclose all services provided to the skilled nursing facility, the number of individuals who provide that service at the skilled nursing facility, and any other information requested by the department. If goods, fees, and services collectively worth ten thousand dollars ($10,000) or more per year are delivered to the skilled nursing facility, the disclosure required pursuant to this subdivision shall include the related partysprofit and loss statement, and the Payroll-Based Journal public use data of the previous quarter for the skilled nursing facilitysdirect caregivers.

(b)For purposes of this section, all of the following definitions shall apply:

(1)Direct caregiver shall have the same meaning as that term is defined in Section 1276.65.

(2)Profit and loss statement means the most recent annual statement on profits and losses finalized by a related party for the most recent year available.

(3)Related party means an organization related to the licensee provider or that is under common ownership or control, as defined in Section 413.17(b) of Title 42 of the Code of Federal Regulations.

(c)Current licensees shall provide the information required by this section to the department in a manner prescribed by the department.

(d)The provisions of this section shall become effective on January 1, 2020.

(Amended by Stats. 2021, Ch. 143, Sec. 199. (AB 133) Effective July 27, 2021.)

128734.1.

(a)(1)Commencing with fiscal years ending December 31, 2023, an organization that operates, conducts, owns, manages, or maintains a skilled nursing facility or facilities licensed pursuant to subdivision (c) of Section 1250 shall prepare and file with the office, at the times as the office shall require, an annual consolidated financial report.

(2)The annual consolidated financial report required to be prepared pursuant to paragraph (1) shall be reviewed by a certified public accountant in accordance with generally accepted accounting principles and with the Financial Accounting Standards Boardsfinancial reporting requirements, with financial statements prepared using the accrual basis. If the organization has prepared an audit by a certified public accountant of its annual consolidated financial report for any reason, that audit shall be filed with the office, and, in that instance, no review of the consolidated financial report shall be necessary. The reviewed or audited report, as applicable, shall, in addition to the requirements set forth in Section 128735, include, but not be limited to, the following statements:

(A)A balance sheet detailing the assets, liabilities, and net worth at the end of its fiscal year.

(B)A statement of income, expenses, and operating surplus or deficit for the annual fiscal period, and a statement of ancillary utilization and patient census.

(C)A statement detailing patient revenue by payer, including, but not limited to, Medicare, Medi-Cal, and other payers, and revenue center.

(D)A statement of cashflows, including, but not limited to, ongoing and new capital expenditures and depreciation.

(E)A combined financial statement that includes all entities reported in the consolidated financial report, unless the organization is prohibited from including a combined financial statement in a consolidated financial report pursuant to a state or federal law or regulation or a national accounting standard. When applicable, the organization must disclose to the office the applicable state or federal law or regulation or national accounting standard.

(3)In addition to the consolidated financial report, the following information shall be provided to the office as an attachment to the consolidated financial report:

(A)The financial information required by paragraph (2) of subdivision (a) from all operating entities, licenseholders, and related parties in which the organization has an ownership or control interest of 5 percent or more and that provides any service, facility, or supply to the skilled nursing facility.

(B)A detailed document outlining a visual representation of the organizationsstructure that includes both of the following:

(i)All related parties in which the organization has an ownership or control interest of 5 percent or more and that provides any service, facility, or supply to the skilled nursing facility.

(ii)Unrelated parties that provide services, facilities, or supplies to the skilled nursing facility or facilities that are operated, conducted, owned, managed, or maintained by the organization, including, but not limited to, management companies and property companies, and that are paid more than two hundred thousand dollars ($200,000) by the skilled nursing facility.

(b)The office shall post reports and related documents submitted pursuant to this section to its internet website.

(c)Any report, document, statement, writing or any other type of record received, owned, used, or retained by the office in connection with this section is a public record within the meaning of Section 7922.505 of the Government Code and is subject to disclosure pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d)The office shall develop policies and procedures to outline the format of information to be submitted pursuant to this section. The office shall determine if the information submitted pursuant to subdivision (a) is complete, but shall not be required to determine its accuracy.

(e)For the purposes of this section, related party has the same meaning as in Section 128734, and may include, but is not limited to, home offices; management organizations; owners of real estate; entities that provide staffing, therapy, pharmaceutical, marketing, administrative management, consulting, and insurance services; providers of supplies and equipment; financial advisors and consultants; banking and financial entities; any and all parent companies, holding companies, and sister organizations; and any entity in which an immediate family member of an owner of those organizations has an ownership interest of 5 percent or more. Immediate family member includes spouse, natural parent, child, sibling, adopted child, adoptive parent, stepparent, stepchild, stepsister, stepbrother, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, grandparent, and grandchild.

(f)This section shall not apply to a facility operated by a health care district organized and governed pursuant to the Local Healthcare District Law (Division 23 (commencing with Section 32000)).

(g)This section shall not apply to an organization that has no related parties as defined in subdivision (e), except that the organization is required to submit a detailed document outlining a visual representation of the organizationsstructure as set forth in subparagraph (B) of paragraph (3) of subdivision (a). This section shall not be construed to require a government entity licenseholder, that is not a related party, to file a consolidated financial report for a nursing home management company that operates under its license.

(h)Consistent with the reports and requirements required for subdivisions (a) to (e), inclusive, of Section 128735 and Section 128740, all information submitted pursuant to this section shall be accompanied by a report certification signed by a duly authorized official of the health facility or of the health facilityshome office that certifies that, to the best of the officialsknowledge and information, each statement and amount in the accompanying report is believed to be true and correct.

(Amended by Stats. 2022, Ch. 28, Sec. 108. (SB 1380) Effective January 1, 2023.)

128735.

An organization that operates, conducts, owns, or maintains a health facility, and the officers thereof, shall make and file with the department, at the times as the department shall require, all of the following reports on forms specified by the department that are in accord, if applicable, with the systems of accounting and uniform reporting required by this part, except that the reports required pursuant to subdivision (g) shall be limited to hospitals:

(a)A balance sheet detailing the assets, liabilities, and net worth of the health facility at the end of its fiscal year.

(b)A statement of income, expenses, and operating surplus or deficit for the annual fiscal period, and a statement of ancillary utilization and patient census.

(c)A statement detailing patient revenue by payer, including, but not limited to, Medicare, Medi-Cal, and other payers, and revenue center.

(d)A statement of cashflows, including, but not limited to, ongoing and new capital expenditures and depreciation.

(e)(1)A statement reporting the information required in subdivisions (a), (b), (c), and (d) for each separately licensed health facility operated, conducted, or maintained by the reporting organization.

(2)Notwithstanding paragraph (1), a health facility that receives a preponderance of its revenue from associated comprehensive group practice prepayment health care service plans and that is operated as a unit of a coordinated group of health facilities under common management may report the information required pursuant to subdivisions (a) and (d) for the group and not for each separately licensed health facility.

(f)Data reporting requirements established by the department shall be consistent with national standards, as applicable.

(g)A Hospital Discharge Abstract Data Record that includes all of the following:

(1)Date of birth.

(2)Sex.

(3)Race.

(4)ZIP Code.

(5)Preferred language spoken.

(6)Patient social security number, if it is contained in the patientsmedical record.

(7)Prehospital care and resuscitation, if any, including all of the following:

(A)Do not resuscitate (DNR) order on admission.

(B)Do not resuscitate (DNR) order after admission.

(8)Admission date.

(9)Source of admission.

(10)Type of admission.

(11)Discharge date.

(12)Principal diagnosis and whether the condition was present on admission.

(13)Other diagnoses and whether the conditions were present on admission.

(14)External causes of morbidity and whether present on admission.

(15)Principal procedure and date.

(16)Other procedures and dates.

(17)Total charges.

(18)Disposition of patient.

(19)Expected source of payment.

(20)Elements added pursuant to Section 128738.

(h)It is the intent of the Legislature that the patientsrights of confidentiality shall not be violated in any manner. Patient social security numbers and other data elements that the department believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(i)A person reporting data pursuant to this section shall not be liable for damages in an action based on the use or misuse of patient-identifiable data that has been mailed or otherwise transmitted to the department pursuant to the requirements of subdivision (g).

(j)A hospital shall use coding from the International Classification of Diseases in reporting diagnoses and procedures.

(k)On or before July 1, 2021, the department shall promulgate regulations as necessary to implement subdivision (e). A health facility that receives a preponderance of its revenue from associated comprehensive group practice prepayment health care service plans and that is operated as a unit of a coordinated group of health facilities under common management shall comply with the reporting requirements of subdivisions (b), (c), and (e) once the department finalizes related regulations.

(Amended by Stats. 2022, Ch. 28, Sec. 109. (SB 1380) Effective January 1, 2023.)

128736.

(a) Each hospital shall file an Emergency Care Data Record for each patient encounter in a hospital emergency department. The Emergency Care Data Record shall include all of the following:

(1) Date of birth.

(2) Sex.

(3) Race.

(4) Ethnicity.

(5) Preferred language spoken.

(6) ZIP Code.

(7) Patient social security number, if it is contained in the patientsmedical record.

(8) Service date.

(9) Principal diagnosis.

(10) Other diagnoses.

(11) External causes of morbidity.

(12)Principal procedure.

(13)Other procedures.

(14)Disposition of patient.

(15)Expected source of payment.

(16)Elements added pursuant to Section 128738.

(b) It is the expressed intent of the Legislature that the patientsrights of confidentiality shall not be violated in any manner. Patient social security numbers and any other data elements that the department believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c) No person reporting data pursuant to this section shall be liable for damages in any action based on the use or misuse of patient-identifiable data that has been mailed or otherwise transmitted to the department pursuant to the requirements of subdivision (a).

(d) Data reporting requirements established by the department shall be consistent with national standards as applicable.

(e) This section shall become operative on January 1, 2004.

(Amended by Stats. 2023, Ch. 131, Sec. 132. (AB 1754) Effective January 1, 2024.)

128737.

(a)Each general acute care hospital and freestanding ambulatory surgery clinic shall file an Ambulatory Surgery Data Record for each patient encounter during which at least one ambulatory surgery procedure is performed. The Ambulatory Surgery Data Record shall include all of the following:

(1)Date of birth.

(2)Sex.

(3)Race.

(4)Ethnicity.

(5)Preferred language spoken.

(6)ZIP Code.

(7)Patient social security number, if it is contained in the patientsmedical record.

(8)Service date.

(9)Principal diagnosis.

(10)Other diagnoses.

(11)Principal procedure.

(12)Other procedures.

(13)External causes of morbidity.

(14)Disposition of patient.

(15)Expected source of payment.

(16)Elements added pursuant to Section 128738.

(b)It is the expressed intent of the Legislature that the patientsrights of confidentiality shall not be violated in any manner. Patient social security numbers and any other data elements that the department believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(c)No person reporting data pursuant to this section shall be liable for damages in any action based on the use or misuse of patient-identifiable data that has been mailed or otherwise transmitted to the office pursuant to the requirements of subdivision (a).

(d)Data reporting requirements established by the department shall be consistent with national standards as applicable.

(e)This section shall become operative on January 1, 2004.

(Amended by Stats. 2022, Ch. 28, Sec. 111. (SB 1380) Effective January 1, 2023.)

128738.

(a)The department shall allow and provide for, in accordance with appropriate regulations, additions or deletions to the patient level data elements listed in subdivision (g) of Section 128735, Section 128736, and Section 128737, to meet the purposes of this chapter.

(b)Prior to any additions or deletions, all of the following shall be considered:

(1)Utilization of sampling to the maximum extent possible.

(2)Feasibility of collecting data elements.

(3)Costs and benefits of collection and submission of data.

(4)Exchange of data elements as opposed to addition of data elements.

(c)The department shall add no more than a net of 15 elements to each data set over any five-year period. Elements contained in the uniform claims transaction set or uniform billing form required by the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg) shall be exempt from the 15-element limit.

(d)The department, in order to minimize costs and administrative burdens, shall consider the total number of data elements required from hospitals and freestanding ambulatory surgery clinics, and optimize the use of common data elements.

(Amended by Stats. 2021, Ch. 143, Sec. 203. (AB 133) Effective July 27, 2021.)

128740.

(a)The following summary financial and utilization data shall be reported to the department by a hospital within 45 days of the end of a calendar quarter. Adjusted reports reflecting changes as a result of audited financial statements may be filed within four months of the close of the hospitalsfiscal or calendar year. The quarterly summary financial and utilization data shall conform to the uniform description of accounts as contained in the Accounting and Reporting Manual for California Hospitals and shall include all of the following:

(1)Number of licensed beds.

(2)Average number of available beds.

(3)Average number of staffed beds.

(4)Number of discharges.

(5)Number of inpatient days.

(6)Number of outpatient visits.

(7)Total operating expenses.

(8)Total inpatient gross revenues by payer, including, but not limited to, Medicare, Medi-Cal, county indigent programs, commercial coverage, other third parties, and other payers.

(9)Total outpatient gross revenues by payer, including, but not limited to, Medicare, Medi-Cal, county indigent programs, commercial coverage, other third parties, and other payers.

(10)Deductions from revenue in total and by component, including the following: Medicare contractual

adjustments, Medi-Cal contractual adjustments, and county indigent program contractual adjustments, other contractual adjustments, bad debts, charity care, restricted donations and subsidies for indigents, support for clinical teaching, teaching allowances, and other deductions.

(11)Total capital expenditures.

(12)Total net fixed assets.

(13)Total number of inpatient days, outpatient visits, and discharges by payer, including, but not limited to, Medicare, Medi-Cal, county indigent programs, commercial coverage, other third parties, self-pay, and other payers.

(14)Total net patient revenues by payer, including Medicare, Medi-Cal, county indigent programs, commercial coverage, other third parties, and other payers.

(15)Other operating revenue.

(16)Nonoperating revenue net of nonoperating expenses.

(17)(A) A balance sheet detailing the assets, liabilities, and net worth at the end of the quarter, as specified by the department.

(B)The department shall allow and provide for, in accordance with appropriate regulations, additions, or deletions to the summary financial and utilization data to meet the purposes of this chapter.

(b)The department may adopt regulations, including emergency regulations, necessary to implement this section.

(Amended by Stats. 2023, Ch. 6, Sec. 2. (AB 112) Effective May 15, 2023.)

128745.

(a)Commencing July 1993, and annually thereafter, the department shall publish risk-adjusted outcome reports in accordance with the following schedule:

Publication Date	Period Covered	Procedures and Conditions Covered
July 1993	1988“90	3
July 1994	1989“91	6
July 1995	1990“92	9

Reports for subsequent years shall include conditions and procedures and cover periods as appropriate.

(b)The procedures and conditions for risk-adjusted outcome reports pursuant to subdivision (a) shall be divided among medical, surgical, and obstetric conditions or procedures and shall be selected by the department. The department shall publish the risk-adjusted outcome reports for selected conditions and

procedures by individual hospital, individual medical group, or individual physician as selected by the department in consultation with medical specialists in the relevant area of practice. The selections, under this subdivision, shall be in accordance with all of the following criteria:

(1)The patient discharge abstract contains sufficient data to undertake a valid risk adjustment. The risk adjustment report shall ensure that public hospitals and other hospitals serving primarily low-income patients are not unfairly discriminated against.

(2)The relative importance of the procedure and condition in terms of the cost of cases and the number of cases and the seriousness of the health consequences of the procedure or condition.

(3)Ability to measure outcome and the likelihood that care influences outcome.

(4)Reliability of the diagnostic and procedure data.

(c)(1)In addition to any other established and pending reports, on or before July 1, 2002, the department shall publish a risk-adjusted outcome report for coronary artery bypass graft surgery by hospital for all hospitals opting to participate in the report. This report shall be updated on or before July 1, 2003.

(2)The department shall publish at least one risk-adjusted outcome report for coronary artery bypass graft surgery, transcatheter aortic valve replacement, or any type of interventional cardiovascular procedure for procedures performed in the state. For any type of interventional cardiovascular procedure other than coronary artery bypass graft surgery or transcatheter aortic valve replacement, the department shall only select from interventional cardiovascular procedures recommended by the clinical panel established by Section 128748, not to exceed one additional interventional cardiovascular procedure every three years. In each year, the reports shall compare risk-adjusted outcomes by hospital, medical group, or physician as selected by the department after consultation with the clinical panel. Upon the recommendation of the clinical panel based on statistical and technical considerations, information on individual hospitals, individual medical groups, or individual physicians may be excluded from the reports.

(3)Each hospital shall produce and file with the department, at the times as the department shall require, reports of data the department needs to prepare risk-adjusted outcome reports under this subdivision. Unless otherwise recommended by the clinical panel established by Section 128748, the department shall continue to collect the same data used for the most recent risk-adjusted model developed for the California Coronary Artery Bypass Graft Outcomes Reporting Program. Upon recommendation of the clinical panel, the department may add any clinical data elements included in the Society of Thoracic Surgeons™ database or other relevant databases to be collected from hospitals. Prior to any additions from the Society of Thoracic Surgeons™ database, or other relevant databases, the following factors shall be considered:

(A)Utilization of sampling to the maximum extent possible.

(B)Exchange of data elements as opposed to addition of data elements.

(4)Upon recommendation of the clinical panel, the department may add, delete, or revise clinical data elements to be collected from hospitals for outcome reports under this subdivision. Prior to any additions or deletions, all of the following factors shall be considered:

(A)Utilization of sampling to the maximum extent possible.

(B)Feasibility of collecting data elements.

(C)Costs and benefits of collection and submission of data.

(D)Exchange of data elements as opposed to addition of data elements.

(5)The department shall collect the minimum data necessary for purposes of testing or validating a risk-adjusted model for the outcome reports under this subdivision.

(6)Patient medical record numbers and any other data elements that the department believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(d)The annual reports shall compare the risk-adjusted outcomes experienced by all patients treated for the selected conditions and procedures in each California hospital during the period covered by each report, to the outcomes expected. Outcomes shall be reported in at least the following groupings for each hospital, medical group, or physician:

(1)Higher than average outcomes,□ for hospitals with risk-adjusted outcomes higher than the norm.

(2)Average outcomes,□ for hospitals with average risk-adjusted outcomes.

(3)Lower than average outcomes,□ for hospitals with risk-adjusted outcomes lower than the norm.

(e)For outcome reports under this subdivision for which auditing is appropriate, the department shall conduct periodic auditing of data at hospitals.

(f)The department shall either include in the annual reports required under this section, or make separately available at cost to any person requesting it, risk-adjusted outcomes data assessing the statistical significance of hospital, medical group, or physician data at each of the following three levels: 99-percent confidence level (0.01 p-value), 95-percent confidence level (0.05 p-value), and 90-percent confidence level (0.10 p-value). The department shall include any other analysis or comparisons of the data in the annual reports required under this section that the department deems appropriate to further the purposes of this chapter.

(Amended by Stats. 2022, Ch. 28, Sec. 112. (SB 1380) Effective January 1, 2023.)

128747.

Commencing July 1, 2002, and biennially thereafter, the department shall evaluate the impact of the departmentspublished risk-adjusted outcome reports required by Section 128745 on mortality rates in California and on any other measure of quality the department deems appropriate. The department shall also coordinate with other state agencies in promoting prevention and educational initiatives on those reported procedures and conditions.

(Amended by Stats. 2021, Ch. 143, Sec. 206. (AB 133) Effective July 27, 2021.)

128748.

(a) This section shall apply to any risk-adjusted outcome report under Section 128745.

(b)This subdivision applies to risk-adjusted outcome reports under subdivision (c) of Section 128745.

(1)The department shall obtain data necessary to complete a risk-adjusted outcome report from hospitals. If necessary data for an outcome report is available only from the department of a physician and not the hospital where the patient received treatment, then the hospital shall make a reasonable effort to obtain the data from the physiciansoffice and provide the data to the department. In the event that the department finds any errors, omissions, discrepancies, or other problems with submitted data, the department shall contact either the hospital or physiciansoffice that maintains the data to resolve the problems.

(2)The department shall collect the minimum data necessary for purposes of testing or validating a risk-adjusted model. Except for data collected for purposes of testing or validating a risk-adjusted model, the department shall not collect data for an outcome report nor issue an outcome report until the clinical panel established pursuant to this section has approved the risk-adjusted model.

(c) For each risk-adjusted outcome report on a medical, surgical, or obstetric condition or procedure that includes reporting of data by an individual physician or an individual medical group authorized by subdivision (b) of Section 128745, the department director shall appoint a clinical panel, which shall have nine members. Three members shall be appointed from a list of three or more names submitted by the physician specialty society that most represents physicians performing the medical, surgical, and obstetric procedure for which data is collected. Three members shall be appointed from a list of three or more names submitted by the California Medical Association. Three members shall be appointed from lists of names submitted by consumer organizations. At least one-half of the appointees from the lists submitted by the physician specialty society and the California Medical Association, and at least one appointee from the lists submitted by consumer organizations, shall be experts in collecting and reporting outcome measurements for physicians, medical groups, or hospitals. The panel may include physicians from another state. The panel shall review and approve the development of the risk-adjustment model to be used in preparation of the outcome report.

(d) For risk-adjusted outcome reports authorized by subdivision (c) of Section 128745 the following shall apply:

(1)The California Coronary Artery Bypass Graft Outcomes Reporting Program Clinical Advisory Panel shall become the clinical panel for those outcome reports and this panel shall be renamed by the department.

(2)This clinical panel shall be comprised of at least 9 and no more than 13 members. The department director shall have the authority to appoint the members of the clinical panel. Three members shall be appointed from a list of three or more names submitted by the California Chapter of the American College of Cardiology. Three members shall be appointed from a list of three or more names submitted by the California Medical Association. Three members shall be appointed from lists of names submitted by consumer organizations. Any additional members shall be appointed at the discretion of the department director. If, at the time the department decides to report on a procedure, the panel does not have members with expertise in that procedure, the department shall seek to appoint two new members with expertise in that procedure from a list submitted by the California Chapter of the American College of Cardiology. At least one-half of the appointees from the lists submitted by the California Chapter of the American College of Cardiology, and the California Medical Association, and at least one appointee from the lists submitted by consumer organizations, shall be experts in collecting and reporting outcome measurements. The panel may include physicians from another state.

(3)The panel shall review and approve the development of the risk-adjustment model to be used in preparation of the outcome report.

(e) Any report that includes reporting by an individual physician shall include, at a minimum, the risk-adjusted outcome data for each physician. The department may also include in the report, after consultation with the clinical panel, any explanatory material, comparisons, groupings, and other information to facilitate consumer comprehension of the data.

(f) Members of a clinical panel shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the clinical panel.

(Amended by Stats. 2021, Ch. 143, Sec. 207. (AB 133) Effective July 27, 2021.)

128750.

(a)Prior to the public release of the annual outcome reports, the department shall furnish a preliminary report to each hospital that is included in the report. The department shall allow the hospital and chief of staff 60 days to review the outcome scores and compare the scores to other California hospitals. A hospital or its chief of staff that believes that the risk-adjusted outcomes do not accurately reflect the quality of care provided by the hospital may submit a statement to the department, within the 60 days, explaining why the outcomes do not accurately reflect the quality of care provided by the hospital. The statement shall be included in an appendix to the public report, and a notation that the hospital or its chief of staff has submitted a statement shall be displayed wherever the report presents outcome scores for the hospital.

(b)(1)Prior to the public release of any outcome report that includes data by a physician or medical group, the department shall furnish a preliminary report to each physician or medical group that is included in the report. The department shall allow the physician or medical group 30 days from the date the department sends the report to the physician or medical group to review the outcome scores and compare the scores to other California physicians or medical groups, respectively. A physician or medical group that believes that the risk-adjusted outcome does not accurately reflect the quality of care provided by the physician or medical group may submit a statement to the department within the 30 days, explaining why the outcomes do not accurately reflect the quality of care provided by the physician or medical group.

(2)The department shall promptly review the statement and shall respond to the physician or medical group with one of the following conclusions:

(A)The statement reveals a flaw in the accuracy of the reported data relating to the physician or medical group that materially diminishes the validity of the report. If this finding is made, the data for that physician or medical group shall not be included in the report until the flaw in the data is corrected.

(B)The statement reveals a flaw in the risk-adjustment model that materially diminishes the value of the report for all physicians or medical groups. If this finding is made, the report using that risk-adjustment model shall not be issued until the flaw is corrected.

(C)The statement does not reveal a flaw in either the accuracy of the reported data relating to the physician or medical group, or the risk-adjustment model in which case the report shall be used, unless the physician or medical group chooses to use the procedure set forth in paragraph (3).

(3)If a physician or medical group is not satisfied with the conclusion reached by the department, the

physician or medical group shall notify the department of that fact. Upon receipt of the notice, the department shall forward the statement to the appropriate clinical panel appointed pursuant to Section 128748. The department shall forward the statement with any information identifying the physician or medical group or the hospital of the physician or medical group redacted, or shall adopt other means to ensure the physician or medical groupsidentity is not revealed to the panel. The clinical panel shall promptly review the statement and the conclusion of the office and shall respond by either upholding the conclusion or reaching one of the other conclusions set forth in this subdivision. The panel decision shall be the final determination regarding the statement. The process set forth in this subdivision shall be completed within 60 days from the date the department sends the report to each physician or medical group included in the report. If a decision by either the department or the clinical panel cannot be reached within the 60-day period, then the outcome report may be issued but shall not include data for the physician or medical group submitting the statement.

(c)The department shall, in addition to public reports, provide hospitals and the chiefs of staff of the medical staffs with a report containing additional detailed information derived from data summarized in the public outcome reports as an aid to internal quality assurance.

(d)If, pursuant to the recommendations of the department, the Legislature subsequently amends Section 128735 to authorize the collection of additional discharge data elements, then the outcome reports for conditions and procedures for which sufficient data is not available from the current abstract record will be produced following the collection and analysis of the additional data elements.

(e)The recommendations of the department for the addition of data elements to the discharge abstract should take into consideration the technical feasibility of developing reliable risk-adjustment factors for additional procedures and conditions as determined by the department with the advice of the research community, physicians and surgeons, hospitals, consumer or patient advocacy groups, and medical records personnel.

(f)The department at a minimum shall identify a limited set of core clinical data elements to be collected for all of the selected procedures and conditions and unique clinical variables necessary for risk adjustment of specific conditions and procedures selected for the outcomes report program. In addition, the department should give careful consideration to the costs associated with the additional data collection and the value of the specific information to be collected.

(g)The department shall also engage in a continuing process of data development and refinement applicable to both current and prospective outcome studies.

(Amended by Stats. 2021, Ch. 143, Sec. 208. (AB 133) Effective July 27, 2021.)

128755.

(a)(1)Hospitals shall file the reports required by subdivisions (a), (b), (c), and (d) of Section 128735 with the department within four months after the close of the hospitalsfiscal year except as provided in paragraph (2).

(2)If a licensee relinquishes the facility license or puts the facility license in suspense, the last day of active licensure shall be deemed a fiscal year end.

(3)The department shall make the reports filed pursuant to this subdivision available no later than three months after they were filed.

(b)(1)Skilled nursing facilities, intermediate care facilities, intermediate care facilities/developmentally disabled, hospice facilities, and congregate living facilities, including nursing facilities certified by the State Department of Health Care Services to participate in the Medi-Cal program, shall file the reports required by subdivisions (a), (b), (c), and (d) of Section 128735 with the department within four months after the close of the facilitysfiscal year, except as provided in paragraph (2).

(2)(A)If a licensee relinquishes the facility license or puts the facility licensure in suspense, the last day of active licensure shall be deemed a fiscal year end.

(B)If a fiscal year end is created because the facility license is relinquished or put in suspense, the facility shall file the reports required by subdivisions (a), (b), (c), and (d) of Section 128735 within two months after the last day of active licensure.

(3)The department shall make the reports filed pursuant to paragraph (1) available not later than three months after they are filed.

(4)(A)Effective for fiscal years ending on or after December 31, 1991, the reports required by subdivisions (a), (b), (c), and (d) of Section 128735 shall be filed with the department by electronic media, as determined by the department.

(B)Congregate living health facilities are exempt from the electronic media reporting requirements of subparagraph (A).

(c)A hospital shall file the reports required by subdivision (g) of Section 128735 as follows:

(1)For patient discharges on or after January 1, 1999, through December 31, 1999, the reports shall be filed semiannually by each hospital or its designee not later than six months after the end of each semiannual period, and shall be available from the department no later than six months after the date that the report was filed.

(2)For patient discharges on or after January 1, 2000, through December 31, 2000, the reports shall be filed semiannually by each hospital or its designee not later than three months after the end of each semiannual period. The reports shall be filed by electronic tape, diskette, or similar medium as approved by the department. The department shall approve or reject each report within 15 days of receiving it. If a report does not meet the standards established by the department, it shall not be approved as filed and shall be rejected. The report shall be considered not filed as of the date the facility is notified that the report is rejected. A report shall be available from the department no later than 15 days after the date that the report is approved.

(3)For patient discharges on or after January 1, 2001, the reports shall be filed by each hospital or its designee for report periods and at times determined by the department. The reports shall be filed by online transmission in formats consistent with national standards for the exchange of electronic information. The department shall approve or reject each report within 15 days of receiving it. If a report does not meet the standards established by the department, it shall not be approved as filed and shall be rejected. The report shall be considered not filed as of the date the facility is notified that the report is rejected. A report shall be available from the department no later than 15 days after the date that the report is approved.

(d)The reports required by subdivision (a) of Section 128736 shall be filed by each hospital for report periods and at times determined by the department. The reports shall be filed by online transmission in formats consistent with national standards for the exchange of electronic information. The department shall approve

or reject each report within 15 days of receiving it. If a report does not meet the standards established by the department, it shall not be approved as filed and shall be rejected. The report shall be considered not filed as of the date the facility is notified that the report is rejected. A report shall be available from the department no later than 15 days after the report is approved.

(e)The reports required by subdivision (a) of Section 128737 shall be filed by each hospital or freestanding ambulatory surgery clinic for report periods and at times determined by the department. The reports shall be filed by online transmission in formats consistent with national standards for the exchange of electronic information. The department shall approve or reject each report within 15 days of receiving it. If a report does not meet the standards established by the department, it shall not be approved as filed and shall be rejected. The report shall be considered not filed as of the date the facility is notified that the report is rejected. A report shall be available from the department no later than 15 days after the report is approved.

(f)Facilities shall not be required to maintain a full-time electronic connection to the office for the purposes of online transmission of reports as specified in subdivisions (c), (d), and (e). The department may grant exemptions to the online transmission of data requirements for limited periods to facilities. An exemption may be granted only to a facility that submits a written request and documents or demonstrates a specific need for an exemption. Exemptions shall be granted for no more than one year at a time, and for no more than a total of five consecutive years.

(g)The reports referred to in paragraph (2) of subdivision (a) of Section 128730 shall be filed with the department on the dates required by applicable law and shall be available from the department no later than six months after the date that the report was filed.

(h)The department shall post on its internet website and make available to any person a copy of any report referred to in subdivision (a), (b), (c), (d), or (g) of Section 128735, subdivision (a) of Section 128736, subdivision (a) of Section 128737, Section 128740, and, in addition, shall make available in electronic formats reports referred to in subdivision (a), (b), (c), (d), or (g) of Section 128735, subdivision (a) of Section 128736, subdivision (a) of Section 128737, Section 128740, and subdivisions (a) and (c) of Section 128745, unless the department determines that an individual patientsrights of confidentiality would be violated. The department shall make the reports available at cost.

(Amended by Stats. 2021, Ch. 143, Sec. 209. (AB 133) Effective July 27, 2021.)

128760.

(a)On and after January 1, 1986, the systems of health facility accounting and auditing formerly approved by the California Health Facilities Commission shall remain in full force and effect for use by health facilities, but shall be maintained by the department.

(b)The department shall allow and provide, in accordance with appropriate regulations, for modifications in the accounting and reporting systems for use by health facilities in meeting the requirements of this chapter if the modifications are necessary to do any of the following:

(1)To correctly reflect differences in size of, provision of, or payment for, services rendered by health facilities.

(2)To correctly reflect differences in scope, type, or method of provision of, or payment for, services rendered by health facilities.

(3)To avoid unduly burdensome costs for those health facilities in meeting the requirements of differences pursuant to paragraphs (1) and (2).

(c)The department shall allow and provide, in accordance with appropriate regulations, for modifications to discharge data reporting format and frequency requirements if these modifications will not impair the departmentsability to process the data or interfere with the purposes of this chapter. This modification authority shall not permit the department to administratively require the reporting of discharge data items not specified pursuant to Section 128735.

(d)The department shall allow and provide, in accordance with appropriate regulations, for modifications to emergency care data reporting format and frequency requirements if these modifications will not impair the departmentsability to process the data or interfere with the purposes of this chapter. This modification authority shall not permit the department to require administratively the reporting of emergency care data items not specified in subdivision (a) of Section 128736.

(e)The department shall allow and provide, in accordance with appropriate regulations, for modifications to ambulatory surgery data reporting format and frequency requirements if these modifications will not impair the departmentsability to process the data or interfere with the purposes of this chapter. The modification authority shall not permit the department to require administratively the reporting of ambulatory surgery data items not specified in subdivision (a) of Section 128737.

(f)The department shall adopt comparable modifications to the financial reporting requirements of this chapter for county hospital systems consistent with the purposes of this chapter.

(Amended by Stats. 2021, Ch. 143, Sec. 210. (AB 133) Effective July 27, 2021.)

128765.

(a)The department shall maintain a file of all the reports filed under this chapter at its Sacramento office. Subject to any rules the department may prescribe, these reports shall be produced and made available for inspection upon the demand of any person, and shall also be posted on its internet website with the exception of discharge and encounter data that shall be available for public inspection unless the department determines, pursuant to applicable law, that an individual patientsrights of confidentiality would be violated.

(b)The reports published pursuant to Section 128745 shall include an executive summary, written in plain English to the maximum extent practicable, that shall include, but not be limited to, a discussion of findings, conclusions, and trends concerning the overall quality of medical outcomes, including a comparison to reports from prior years, for the procedure or condition studied by the report. The department shall disseminate the reports as widely as practical to interested parties, including, but not limited to, hospitals, providers, the media, purchasers of health care, consumer or patient advocacy groups, and individual consumers. The reports shall be posted on the departmentsinternet website.

(c)Copies certified by the department as being true and correct copies of reports properly filed with the department pursuant to this chapter, together with summaries, compilations, or supplementary reports prepared by the department, shall be introduced as evidence, where relevant, at any hearing, investigation, or other proceeding held, made, or taken by any state, county, or local governmental agency, board, or commission that participates as a purchaser of health facility services pursuant to the provisions of a publicly financed state or federal health care program. Each of these state, county, or local governmental agencies,

boards, and commissions shall weigh and consider the reports made available to it pursuant to this subdivision in its formulation and implementation of policies, regulations, or procedures regarding reimbursement methods and rates in the administration of these publicly financed programs.

(d)The department shall compile and publish summaries of individual facility and aggregate data that do not contain patient-specific information for the purpose of public disclosure. Upon request, these shall include summaries of observation services data, in a format prescribed by the department. The summaries shall be posted on the departmentsinternet website. The department may initiate and conduct studies as it determines will advance the purposes of this chapter.

(e)In order to ensure that accurate and timely data are available to the public in useful formats, the department shall establish a public liaison function. The public liaison shall provide technical assistance to the general public on the uses and applications of individual and aggregate health facility data and shall provide the director with an annual report on changes that can be made to improve the publicsaccess to data.

(Amended by Stats. 2021, Ch. 143, Sec. 211. (AB 133) Effective July 27, 2021.)

128766.

(a)Notwithstanding Section 128765 or any other provision of law, the department, upon request, shall disclose information collected pursuant to subdivision (g) of Section 128735 and Sections 128736 and 128737, to any California hospital and any local health department or local health officer in California as set forth in Part 3 (commencing with Section 101000) of Division 101. The department shall disclose this same information to the United States Department of Health and Human Services or any of its subsidiary agencies, including the National Center for Health Statistics or any other unit of the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality, the Centers for Medicare and Medicaid Services, the Health Resources and Services Administration, the Indian Health Service, Tribal Epidemiology Centers, which are defined as public health authorities pursuant to the federal Indian Health Care Improvement Act (25 U.S.C. Sec. 1601 et seq.), the National Institutes of Health, or the National Cancer Institute, or the Veterans Health Care Administration within the United States Department of Veterans Affairs, for the purposes of conducting a statutorily authorized activity. All disclosures made pursuant to this section shall be consistent with the standards and limitations applicable to the disclosure of limited data sets as provided in Section 164.514 of Part 164 of Title 45 of the Code of Federal Regulations, relating to the privacy of health information.

(b)Any hospital that receives information pursuant to this section shall not disclose that information to any person or entity, except in response to a court order, search warrant, or subpoena, or as otherwise required or permitted by the federal medical privacy regulations contained in Parts 160 and 164 of Title 45 of the Code of Federal Regulations. In no case shall a hospital, contractor, or subcontractor reidentify or attempt to reidentify any information received pursuant to this section.

(c)No disclosure shall be made pursuant to this section if the director of the department has determined that the disclosure would create an unreasonable risk to patient privacy. The director shall provide a written explanation of the determination to the requester within 60 days.

(Amended by Stats. 2021, Ch. 143, Sec. 212. (AB 133) Effective July 27, 2021.)

128770.

(a)Any health facility or freestanding ambulatory surgery clinic that does not file any report as required by this chapter with the department is liable for a civil penalty of one hundred dollars ($100) a day for each day the filing of any report is delayed. No penalty shall be imposed if an extension is granted in accordance with the guidelines and procedures established by the department.

(b)Any health facility that does not use an approved system of accounting pursuant to the provisions of this chapter for purposes of submitting financial and statistical reports as required by this chapter shall be liable for a civil penalty of not more than five thousand dollars ($5,000).

(c)Civil penalties are to be assessed and recovered in a civil action brought in the name of the people of the State of California by the department. Assessment of a civil penalty may, at the request of any health facility or freestanding ambulatory surgery clinic, be reviewed on appeal, and the penalty may be reduced or waived for good cause.

(d)Any money that is received by the department pursuant to this section shall be paid into the General Fund.

(Amended by Stats. 2021, Ch. 143, Sec. 213. (AB 133) Effective July 27, 2021.)

128775.

(a)Any health facility or freestanding ambulatory surgery clinic affected by any determination made under this part by the department may petition the department for review of the decision. This petition shall be filed with the department within 15 business days, or within a greater time as the department may allow, and shall specifically describe the matters which are disputed by the petitioner.

(b)A hearing shall be commenced within 60 calendar days of the date on which the petition was filed. The hearing shall be held before an employee of the department, or an administrative law judge employed by the Office of Administrative Hearings. If held before an employee of the department, the hearing shall be held in accordance with any procedures as the office shall prescribe. If held before an administrative law judge employed by the Office of Administrative Hearings, the hearing shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The employee or administrative law judge shall prepare a recommended decision including findings of fact and conclusions of law and present it to the department for its adoption. The decision of the department shall be in writing and shall be final. The decision of the department shall be made within 60 calendar days after the conclusion of the hearing and shall be effective upon filing and service upon the petitioner.

(c)Judicial review of any final action, determination, or decision may be had by any party to the proceedings as provided in Section 1094.5 of the Code of Civil Procedure. The decision of the department shall be upheld against a claim that its findings are not supported by the evidence unless the court determines that the findings are not supported by substantial evidence.

(d)The employee of the office, or the administrative law judge employed by the Office of Administrative Hearings or the Office of Administrative Hearings, may issue subpoenas and subpoenas duces tecum in a manner and subject to the conditions established by Article 11 (commencing with Section 11450.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(e)This section shall become operative on July 1, 1997.

(Amended by Stats. 2021, Ch. 143, Sec. 214. (AB 133) Effective July 27, 2021.)

128780.

Notwithstanding any other provision of law, the disclosure aspects of this chapter shall be deemed complete with respect to district hospitals, and no district hospital shall be required to report or disclose any additional financial or utilization data to any person or other entity except as is required by this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

128782.

Notwithstanding any other provision of law, upon the request of a small and rural hospital, as defined in Section 124840, the department shall do all of the following:

(a) If the hospital did not file financial reports with the department by electronic media as of January 1, 1993, the department shall, on a case-by-case basis, do one of the following:

(1) Exempt the small and rural hospital from any electronic filing requirements of the department regarding annual or quarterly financial disclosure reports specified in Sections 128735 and 128740.

(2) Provide a one-time reduction in the fee charged to the small and rural hospital not to exceed the maximum amount assessed pursuant to Section 127280 by an amount equal to the costs incurred by the small and rural hospital to purchase the computer hardware and software necessary to comply with any electronic filing requirements of the department regarding annual or quarterly financial disclosure reports specified in Sections 128735 and 128740.

(b) The department shall provide a one-time reduction in the fee charged to the small and rural hospital not to exceed the maximum amount assessed pursuant to Section 127280 by an amount equal to the costs incurred by the small and rural hospital to purchase the computer software and hardware necessary to comply with any electronic filing requirements of the department regarding reports specified in Sections 128735, 128736, and 128737.

(c) The department shall provide the hospital with assistance in meeting the requirements specified in paragraphs (1) and (2) of subdivision (c) of Section 128755 that the reports required by subdivision (g) of Section 128735 be filed by electronic media or by online transmission. The assistance shall include the provision to the hospital by the department of a computer program or computer software to create an electronic file of patient discharge abstract data records. The program or software shall incorporate validity checks and edit standards.

(d) The department shall provide the hospital with assistance in meeting the requirements specified in subdivision (d) of Section 128755 that the reports required by subdivision (a) of Section 128736 be filed by online transmission. The assistance shall include the provision to the hospital by the department of a computer program or computer software to create an electronic file of emergency care data records. The

program or software shall incorporate validity checks and edit standards.

(e) The department shall provide the hospital with assistance in meeting the requirements specified in subdivision (e) of Section 128755 that the reports required by subdivision (a) of Section 128737 be filed by online transmission. The assistance shall include the provision to the hospital by the department of a computer program or computer software to create an electronic file of ambulatory surgery data records. The program or software shall incorporate validity checks and edit standards.

(Amended by Stats. 2021, Ch. 143, Sec. 215. (AB 133) Effective July 27, 2021.)

128785.

On January 1, 1986, all regulations previously adopted by the California Health Facilities Commission that relate to functions vested in the department and that are in effect on that date, shall remain in effect and shall be fully enforceable to the extent that they are consistent with this chapter, as determined by the department, unless and until readopted, amended, or repealed by the department.

(Amended by Stats. 2021, Ch. 143, Sec. 216. (AB 133) Effective July 27, 2021.)

128790.

Pursuant to Section 16304.9 of the Government Code, the Controller shall transfer to the department the unexpended balance of funds as of January 1, 1986, in the California Health Facilities Commission Fund, available for use in connection with the performance of the functions of the California Health Facilities Commission to which it has succeeded pursuant to this chapter.

(Amended by Stats. 2021, Ch. 143, Sec. 217. (AB 133) Effective July 27, 2021.)

128795.

All officers and employees of the California Health Facilities Commission who, on December 31, 1985, are serving the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the department by this chapter shall be transferred to the department. The status, positions, and rights of persons shall not be affected by the transfer and shall be retained by them as officers and employees of the department, pursuant to the State Civil Service Act except as to positions exempted from civil service.

(Amended by Stats. 2021, Ch. 143, Sec. 218. (AB 133) Effective July 27, 2021.)

128800.

The department shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, or other property, real or personal, held for the benefit or use of the

California Health Facilities Commission for the performance of functions transferred to the department by this chapter.

(Amended by Stats. 2021, Ch. 143, Sec. 219. (AB 133) Effective July 27, 2021.)

128805.

The department may enter into agreements and contracts with any person, department, agency, corporation, or legal entity as are necessary to carry out the functions vested in the department by this chapter or any other law.

(Amended by Stats. 2021, Ch. 143, Sec. 220. (AB 133) Effective July 27, 2021.)

128810.

The department shall administer this chapter and shall make all regulations necessary to implement the provisions and achieve the purposes stated herein.

(Amended by Stats. 2021, Ch. 143, Sec. 221. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=5.&chapter=2.&article=

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 5. HEALTH DATA [128675 - 128920]__

(Part 5 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 2. Primary Care Clinic and Specialty Clinic Data [128900 - 128920]__

(Chapter 2 added by Stats. 2023, Ch. 505, Sec. 5.)

128900.

The following definitions apply for purposes of this chapter:

(a)Clinic means an organized outpatient health facility required to be licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.

(b)Primary care clinic means a clinic specified in subdivision (a) of Section 1204, including community clinics and free clinics.

(c)Intermittent clinic means a clinic operated by a primary care community or free clinic that is operated on separate premises from the licensed clinic and is only open for limited services, as described in subdivision (h) of Section 1206.

(d)Specialty clinic means a clinic specified in subdivision (b) of Section 1204 or in Section 1204.1, including surgical clinics, chronic dialysis clinics, rehabilitation clinics, alternative birth centers, and psychology clinics.

(e)Department means the Department of Health Care Access and Information.

(f)FQHC means a federally qualified health center.

(g)RHC means a rural health clinic.

(Added by Stats. 2023, Ch. 505, Sec. 5. (SB 779) Effective January 1, 2024.)

128905.

(a)Commencing January 1, 2027, every clinic holding a license and, notwithstanding subdivision (h) of Section 1206, every intermittent clinic operated by a licensed clinic and exempt from licensure shall, on or before the 15th day of February each year, file with the department, upon forms to be furnished by the department, a verified report showing the following information relating to the previous calendar year:

(1)Number of patients served and descriptive information, including, but not limited to, age, sex, race, ethnicity, preferred language spoken, disability status, sexual orientation, gender identity, and payor category. A clinic shall not be subject to any adverse action for not providing sexual orientation and gender identity information if the patient refused to provide that information.

(2)Number of patient visits by type of service, including all of the following:

(A)Child health and disability prevention screens, treatment, and followup services.

(B)Medical services.

(C)Dental services.

(D)Other health services.

(3)Primary care clinics participating in the Medi-Cal program or county indigent programs shall include the following:

(A)Number of assigned members per Medi-Cal managed care plan and county indigent program.

(B)Number of assigned members per Medi-Cal managed care plan and county indigent program that had one or more clinic visits.

(4)Total clinic operating expenses.

(5)Gross patient charges by payer category, including Medicare, Medi-Cal, the Child Health Disability Prevention Program, county indigent programs, other county programs, private insurance, self-paying patients, nonpaying patients, and other payers.

(6)Deductions from revenue by payer category, bad debts, and charity care charges.

(7)Average weekly number of clinic operating hours and whether or not the clinic is licensed or intermittent.

(8)Additional information as may be required by the department or the State Department of Public Health.

(9)This subdivision does not apply to specialty clinics.

(b)In order to facilitate timely enforcement of this section, the department shall send a written notice of violation to every clinic that fails to file a timely report pursuant to this section or pursuant to Section 127285 or 128910, either for itself or for any intermittent clinic it operates. The department shall also provide the State Department of Public Health with a list of every clinic that receives a written notice of violation and notify the State Department of Public Health when a clinic on the list completes and files all delinquent reports. The department shall make these notices and lists, including notifications of when a clinic on the list completes and files all delinquent reports, available on its internet website.

(c)In order to promote efficient reporting of accurate data, the department shall consider the unique operational characteristics of different classifications of licensed clinics, including, but not limited to, the limited scope of services provided by some specialty clinics, in its design of forms for the collection of data required by this section.

(d)For the purpose of administering funds appropriated from the Cigarette and Tobacco Products Surtax Fund for support of licensed clinics, clinics receiving those funds may be required to report any additional data the department or the State Department of Public Health may determine necessary to ensure the equitable distribution and appropriate expenditure of those funds. This shall include, but not be limited to, information about the poverty level of patients served and communicable diseases reported to local health departments.

(e)This section shall apply to all licensed primary care clinics, and to all intermittent clinics operated by those licensed primary care clinics, notwithstanding subdivision (h) of Section 1206.

(f)Specialty clinics shall report the following:

(1)Number of patients during the preceding year.

(2)Total amount of administrative or other charges or fees collected from patients.

(3)Total amount of revenues from other sources for the previous year.

(4)Total operating cost for clinic for the previous year.

(5)Additional information as may be required by regulation of the department.

(Added by Stats. 2023, Ch. 505, Sec. 5. (SB 779) Effective January 1, 2024.)

128910.

Commencing January 1, 2027, an organization that operates, conducts, owns, or maintains a primary care clinic or intermittent clinic, and the officers thereof, shall, for every primary care clinic and every intermittent clinic that it operates, conducts, owns, or maintains, on or before the 15th day of February each year, file with the department separate reports for each primary care clinic and each intermittent clinic on forms furnished by the department, in conjunction with the forms required under Sections 127285 and 128905 that are in accord, if applicable, with the systems of accounting and uniform reporting required by this part:

(a)The Medi-Cal FQHC/RHC prospective payment system (PPS) rate, if applicable.

(b)A detailed labor report including, but not limited to, the following information:

(1)The actual number of employees and full-time equivalents, by job classification, including nonlicensed and noncredentialed positions, at the beginning and end of the reporting period.

(2)The actual number of contracted or registry staff and full-time equivalents, of contracted or registry staff by job classification, including nonlicensed and noncredentialed positions at the beginning and end of the reporting period.

(3)The number of staff vacancies by job classification.

(4)The average base hourly wages and base hourly wage ranges (minimum and maximum base hourly wage) by job classification for each job classification with three or more employees.

(5)For clinics required to file Return of Organization Exempt From Income Tax form (Form 990) with the Department of Treasury Internal Revenue Service, information identifying job title and salary of the five highest compensated employees, who received reportable compensation of more than one hundred thousand dollars ($100,000).

(6)Aggregated workforce demographic information for each clinic site, including, but not limited to, age, gender, race, and ethnicity, languages spoken, disability status, sexual orientation, and gender identity. Workers shall not be required to provide the information in this paragraph and shall not be subject to discipline or any other adverse action for not providing the information listed.

(c)A detailed workforce development report, including, but not limited to, the following:

(1)Participation in any local, regional, or statewide labor-management cooperation committee (LMCC), and for each LMCC, the identity of all partners.

(2)Data about the nature and extent of participation in allied health care professional degrees and certificate programs, including, but not limited to, the number of clinical placements for each program.

(3)Data about the nature and extent of participation in behavioral health professional degree and certificate programs, including, but not limited to, the number of clinical placements for each program.

(Added by Stats. 2023, Ch. 505, Sec. 5. (SB 779) Effective January 1, 2024.)

128915.

The department shall maintain a file of all reports filed under this chapter and under Sections 1216 and 127285 at its Sacramento office. Subject to any rules the department may prescribe, and in compliance with state and federal law, these reports shall be produced and made available for inspection upon the demand of any person, and shall also be posted on the departmentsinternet website, to the extent permissible.

(Added by Stats. 2023, Ch. 505, Sec. 5. (SB 779) Effective January 1, 2024.)

128920.

The department shall administer this chapter and shall adopt all regulations necessary to implement the provisions of this chapter. The regulations shall require the first annual reports described in Section 128910 to be submitted on or before February 15, 2028, using information relating to the calendar year beginning January 1, 2027.

(Added by Stats. 2023, Ch. 505, Sec. 5. (SB 779) Effective January 1, 2024.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=6.&chapter=&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=6.&chapter=1.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=6.&chapter=1.&article=1.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 6. FACILITIES LOAN INSURANCE AND FINANCING [129000 - 129387]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facility Construction Loan Insurance [129000 - 129355]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 1. General Provisions [129000 - 129045]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 9.)

129000.

This chapter may be cited as the California Health Facility Construction Loan Insurance Law.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129005.

The purpose of this chapter is to provide, without cost to the state, an insurance program for health facility construction, improvement, and expansion loans in order to stimulate the flow of private capital into health facilities construction, improvement, and expansion and in order to rationally meet the need for new, expanded and modernized public and nonprofit health facilities necessary to protect the health of all the people of this state. The provisions of this chapter are to be liberally construed to achieve this purpose.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129010.

Unless the context otherwise requires, the definitions in this section govern the construction of this chapter and of Section 32127.2.

(a)Bondholder means the legal owner of a bond or other evidence of indebtedness issued by a political subdivision or a nonprofit corporation.

(b)Borrower means a political subdivision or nonprofit corporation that has secured or intends to secure a loan for the construction of a health facility.

(c)Construction, improvement, or expansion or construction, improvement, and expansion includes construction of new buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, acquisition of existing buildings or health facilities, and initial or additional equipping of any of these buildings.

In connection therewith, construction, improvement, or expansion or construction, improvement, and expansion includes the cost of construction or acquisition of all structures, including parking facilities, real or personal property, rights, rights-of-way, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land where the buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest (prior to, during and for a period after completion of the construction), provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing or incident to the construction; or the financing of the construction or acquisition.

(d)Committee means the Advisory Loan Insurance Committee.

(e)Debenture means any form of written evidence of indebtedness issued by the State Treasurer pursuant to this chapter, as authorized by Section 4 of Article XVI of the California Constitution.

(f)Fund means the Health Facility Construction Loan Insurance Fund.

(g)Health facility means any facility providing or designed to provide services for the acute, convalescent, and chronically ill and impaired, including, but not limited to, public health centers, community mental health centers, facilities for the developmentally disabled, nonprofit community care facilities that provide care, habilitation, rehabilitation or treatment to developmentally disabled persons, facilities for the treatment of chemical dependency, including a community care facility, licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2, a clinic, as defined pursuant to Chapter 1 (commencing with Section 1200) of Division 2, an alcoholism recovery facility, defined pursuant to former Section 11834.11, and a structure

located adjacent or attached to another type of health facility and that is used for storage of materials used in the treatment of chemical dependency, and general tuberculosis, mental, and other types of hospitals and related facilities, such as laboratories, outpatient departments, extended care, nurses™ home and training facilities, offices and central service facilities operated in connection with hospitals, diagnostic or treatment centers, extended care facilities, nursing homes, and rehabilitation facilities. Health facility also means an adult day health center and a multilevel facility. Except for facilities for the developmentally disabled, facilities for the treatment of chemical dependency, or a multilevel facility, or as otherwise provided in this subdivision, health facility does not include any institution furnishing primarily domiciliary care.

Health facility also means accredited nonprofit work activity programs as defined in subdivision (e) of Section 19352 and Section 19355 of the Welfare and Institutions Code, and nonprofit community care facilities as defined in Section 1502, excluding foster family homes, foster family agencies, adoption agencies, and residential care facilities for the elderly.

Unless the context dictates otherwise, health facility includes a political subdivision of the state or nonprofit corporation that operates a facility included within the definition set forth in this subdivision.

(h)Department means the Department of Health Care Access and Information.

(i)Lender means the provider of a loan and its successors and assigns.

(j)Loan means money or credit advanced for the costs of construction or expansion of the health facility, and includes both initial loans and loans secured upon refinancing and may include both interim, or short-term loans, and long-term loans. A duly authorized bond or bond issue, or an installment sale agreement, may constitute a loan.

(k)Maturity date means the date that the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for by the terms of the loan.

(l)Mortgage means a first mortgage on real estate. Mortgage includes a first deed of trust.

(m)Mortgagee includes a lender whose loan is secured by a mortgage. Mortgagee includes a beneficiary of a deed of trust.

(n)Mortgagor includes a borrower, a loan to whom is secured by a mortgage, and the trustor of a deed of trust.

(o)Nonprofit corporation means any corporation formed under or subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) that is organized for the purpose of owning and operating a health facility and that also meets the requirements of Section 501(c)(3) of the Internal Revenue Code.

(p)Political subdivision means any city, county, joint powers entity, local hospital district, or the California Health Facilities Authority.

(q)Project property means the real property where the health facility is, or is to be, constructed, improved, or expanded, and also means the health facility and the initial equipment in that health facility.

(r)Public health facility means any health facility that is or will be constructed for and operated and maintained by any city, county, or local hospital district.

(s)Adult day health center means a facility defined under subdivision (b) of Section 1570.7, that provides adult day health care, as defined under subdivision (a) of Section 1570.7.

(t)Multilevel facility means an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. Elderly, for the purposes of this subdivision, means a person 60 years of age or older.

(u)State plan means the plan described in Section 129020.

(Amended by Stats. 2021, Ch. 143, Sec. 224. (AB 133) Effective July 27, 2021.)

129015.

The department shall administer this chapter and shall make all regulations necessary to implement the provisions and achieve the purposes stated herein.

(Amended by Stats. 2021, Ch. 143, Sec. 225. (AB 133) Effective July 27, 2021.)

129020.

The department shall implement the loan insurance program for the construction, improvement, and expansion of public and nonprofit corporation health facilities so that, in conjunction with all other existing facilities, the necessary physical facilities for furnishing adequate health facility services will be available to all the people of the state.

Every odd-numbered year the department shall develop a state plan for use under this chapter. The plan shall include an overview of the changes in the health care industry, an overview of the financial status of the fund and the loan insurance program implemented by the department, a statement of the guiding principles of the loan insurance program, an evaluation of the programssuccess in meeting its mission as outlined in Section 129005, a discussion of administrative, procedural, or statutory changes that may be needed to improve management of program risks or to ensure the program effectively addresses the health needs of Californians, and the priority needs to be addressed by the loan insurance program.

The health facility construction loan insurance program shall provide for health facility distribution throughout the state in a manner that will make all types of health facility services reasonably accessible to all persons in the state according to the state plan.

(Amended by Stats. 2021, Ch. 143, Sec. 226. (AB 133) Effective July 27, 2021.)

129022.

Applications submitted to the department shall be signed under penalty of perjury by the applicant.

(Amended by Stats. 2021, Ch. 143, Sec. 227. (AB 133) Effective July 27, 2021.)

129030.

The proceeds of all loans insured pursuant to this chapter shall be disbursed only upon order of the department or its designated agent. The department shall make regulations to insure the security of these proceeds.

(Amended by Stats. 2021, Ch. 143, Sec. 228. (AB 133) Effective July 27, 2021.)

129035.

From time to time the department or its designated agent shall inspect each project for which loan insurance was approved, as needed, and if the inspection so warrants, the department or agent shall certify that the work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of the loan proceeds is due to the borrower. The department shall charge the borrower a fee for these inspections and certifications, that in no instance shall exceed four dollars ($4) for each one thousand dollars ($1,000) of the borrowersloan that is insured. These fees shall be deposited in the fund.

(Amended by Stats. 2021, Ch. 143, Sec. 229. (AB 133) Effective July 27, 2021.)

129040.

(a)The department shall establish a premium charge for the insurance of loans under this chapter, and this charge shall be deposited in the fund. A one-time nonrefundable premium charge shall be paid at the time the loan is insured. The premium rate may vary based upon the assessed level of relative financial risk determined pursuant to Section 129051, but shall in no event be greater than 3 percent. The amount of premium shall be computed on the basis of the application of the rate to the total amount of principal and interest payable over the term of the loan.

(b)The department may annually charge a portion of the premium in advance commencing at the time of issuing or extending the commitment until the date the loan is insured or the commitment expires. The amount of the advance premium shall not exceed six dollars ($6) per year for each one thousand dollars ($1,000) of principal of the proposed loan. The total dollar amount of the premium advanced shall be nonrefundable and shall be credited against the amount of the premium charged pursuant to this section, or if the commitment expires and the loan is not insured, the advance shall be retained by the department to offset costs and expenses of the department related to preliminary work, underwriting the loan commitment, and monitoring construction.

(Amended by Stats. 2021, Ch. 143, Sec. 230. (AB 133) Effective July 27, 2021.)

129045.

The department shall annually report to the Legislature the financial status of the program and its insured portfolio, including the status of all borrowers in each stage of default and the departmentsefforts to collect from borrowers that have defaulted on their debt service payments.

(Amended by Stats. 2021, Ch. 143, Sec. 231. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=6.&chapter=1.&article=1.5.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 6. FACILITIES LOAN INSURANCE AND FINANCING [129000 - 129387]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facility Construction Loan Insurance [129000 - 129355]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 1.5. Hospital Construction Assistance [129048 - 129049]__

(Article 1.5 added by Stats. 1999, Ch. 825, Sec. 1.)

129048.

The Legislature finds and declares all of the following:

(a) The State of California has a compelling interest in ensuring that adequate health facilities that are able to withstand seismic events are available to care for patients, especially in the event of a disaster.

(b) Hospitals are required, under the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (Chapter 1

(commencing with Section 129675) of Part 7), to improve, or remove from acute care service, buildings that pose a significant safety risk of collapse and danger to the public by January 1, 2008.

(c) Hospitals are also required by that act to repair, rebuild, or remove from service, buildings that may not be repairable or functional following strong ground motion, by January 1, 2030.

(d) California hospitals should be enabled to participate in programs that provide financial assistance for hospital construction and retrofitting.

(e) The United States Department of Housing and Urban Development operates a HUD 242 loan insurance program, through which hospitals can access facility mortgage insurance and lower interest rates.

(f) As a condition for participating in the HUD 242 program, a hospital must have a state-commissioned or conducted feasibility study of a hospital construction project.

(Added by Stats. 1999, Ch. 825, Sec. 1. Effective January 1, 2000.)

129049.

(a) The department may, at the request of a hospital, commission an independent study of market need and feasibility, as required by the United States Department of Housing and Urban Development, as part of an application for mortgage insurance for hospitals pursuant to Section 1715z-7 of Title 12 of the United States Code, or any other federal mortgage insurance program for health-related facilities.

(b) The cost of the feasibility study permitted pursuant to subdivision (a) shall be paid for by the department from reimbursements received from the applicant.

(c) Notwithstanding any other provision of law, the department may directly retain independent feasibility consultants and require a deposit from the applicant for the entire cost of the services at the time they are requested.

(d) The department shall charge applicants a fee for the reasonable costs of administering this article.

(e) The program provided for in this article shall be administered in conformance with the requirements of the United States Department of Housing and Urban Development for feasibility studies authorized by this section and the applicable requirements of state law pertaining to contracts.

(Amended by Stats. 2021, Ch. 143, Sec. 232. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=6.&chapter=1.&article=2.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 6. FACILITIES LOAN INSURANCE AND FINANCING [129000 - 129387]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facility Construction Loan Insurance [129000 - 129355]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 2. Insurable Loans and Applications Therefor [129050 - 129110]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 9.)

129050.

A loan shall be eligible for insurance under this chapter if all of the following conditions are met:

(a)The loan shall be secured by a first mortgage, first deed of trust, or other first priority lien on a fee interest of the borrower or by a leasehold interest of the borrower having a term of at least 20 years, including options to renew for that duration, longer than the term of the insured loan. The security for the loan shall be subject only to those conditions, covenants and restrictions, easements, taxes, and assessments of record approved by the office, and other liens securing debt insured under this chapter. The department may require additional agreements in security of the loan.

(b)The borrower obtains an American Land Title Association title insurance policy with the department designated as beneficiary, with liability equal to the amount of the loan insured under this chapter, and with additional endorsements that the department may reasonably require.

(c)The proceeds of the loan shall be used exclusively for the construction, improvement, or expansion of the health facility, as approved by the department under Section 129020. However, loans insured pursuant to this chapter may include loans to refinance another prior loan, whether or not state insured and without regard to the date of the prior loan, if the department determines that the amount refinanced does not exceed 90 percent of the original total construction costs and is otherwise eligible for insurance under this chapter. The department may not insure a loan for a health facility that the office determines is not needed pursuant to subdivision (k).

(d)The loan shall have a maturity date not exceeding 30 years from the date of the beginning of amortization

of the loan, except as authorized by subdivision (e), or 75 percent of the departmentsestimate of the economic life of the health facility, whichever is the lesser.

(e)The loan shall contain complete amortization provisions requiring periodic payments by the borrower not in excess of its reasonable ability to pay as determined by the department. The department shall permit a reasonable period of time during which the first payment to amortization may be waived on agreement by the lender and borrower. The department may, however, waive the amortization requirements of this subdivision and of subdivision (g) of this section when a term loan would be in the borrowersbest interest.

(f)The loan shall bear interest on the amount of the principal obligation outstanding at any time at a rate, as negotiated by the borrower and lender, as the department finds necessary to meet the loan money market. As used in this chapter, interest does not include premium charges for insurance and service charges if any. Where a loan is evidenced by a bond issue of a political subdivision, the interest thereon may be at any rate the bonds may legally bear.

(g)The loan shall provide for the application of the borrowersperiodic payments to amortization of the principal of the loan.

(h)The loan shall contain those terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters the department may in its discretion prescribe.

(i)The loan shall have a principal obligation not in excess of an amount equal to 90 percent of the total construction cost.

(j)The borrower shall offer reasonable assurance that the services of the health facility will be made available to all persons residing or employed in the area served by the facility.

(k)The department has determined that the facility is needed by the community to provide the specified services. In making this determination, the department shall do all of the following:

(1)Require the applicant to describe the community needs the facility will meet and provide data and information to substantiate the stated needs.

(2)Require the applicant, if appropriate, to demonstrate participation in the community needs assessment required by Section 127350.

(3)Survey appropriate local officials and organizations to measure perceived needs and verify the applicantsneeds assessment.

(4)Use any additional available data relating to existing facilities in the community and their capacity.

(5)Contact other state and federal departments that provide funding for the programs proposed by the applicant to obtain those departments™ perspectives regarding the need for the facility. Additionally, the department shall evaluate the potential effect of proposed health care reimbursement changes on the facilitysfinancial feasibility.

(6)Consider the facilitysconsistency with the Cal-Mortgage state plan.

(l)In the case of acquisitions, a project loan shall be guaranteed only for transactions not in excess of the fair market value of the acquisition.

Fair market value shall be determined, for purposes of this subdivision, pursuant to the following procedure, that shall be utilized during the departmentsreview of a loan guarantee application:

(1)Completion of a property appraisal by an appraisal firm qualified to make appraisals, as determined by the department, before closing a loan on the project.

(2)Evaluation of the appraisal in conjunction with the book value of the acquisition by the department. When acquisitions involve additional construction, the department shall evaluate the proposed construction to determine that the costs are reasonable for the type of construction proposed. In those cases where this procedure reveals that the cost of acquisition exceeds the current value of a facility, including improvements, then the acquisition cost shall be deemed in excess of fair market value.

(m)Notwithstanding subdivision (i), any loan in the amount of ten million dollars ($10,000,000) or less may be insured up to 95 percent of the total construction cost.

In determining financial feasibility of projects of counties pursuant to this section, the department shall take into consideration any assistance for the project to be provided under Section 14085.5 of the Welfare and Institutions Code or from other sources. It is the intent of the Legislature that the department endeavor to assist counties in whatever ways are possible to arrange loans that will meet the requirements for insurance prescribed by this section.

(n)The projectslevel of financial risk meets the criteria in Section 129051.

(Amended by Stats. 2021, Ch. 143, Sec. 233. (AB 133) Effective July 27, 2021.)

129051.

(a) The department shall develop and implement a system for assessing the relative financial risk of the applicant. The system shall include, but is not limited to, an assessment of the applicantsfinancial strength, credit history, security for the loan, cash-flow, and ability to repay the debt.

(b) The department shall establish a maximum acceptable level of financial risk for the projects it insures. The department may only approve a project if its risk level is below the established maximum, except as provided in subdivision (c).

(c) The department may approve a project with a level of insurance risk that exceeds the established maximum if the department determines that the project meets a significant community need or will be a sole community provider.

(Amended by Stats. 2021, Ch. 143, Sec. 234. (AB 133) Effective July 27, 2021.)

129052.

A pledge by or to the department of, or the grant to the department of a security interest in, revenues, moneys, accounts, accounts receivable, contract rights, general intangibles, documents, instruments, chattel paper, and other rights to payment of whatever kind made by or to the department pursuant to the

authority granted in this chapter shall be valid and binding from the time the pledge is made for the benefit of pledgees and successors thereto. The revenues, moneys, accounts, accounts receivable, contract rights, general intangibles, documents, instruments, chattel paper, and other rights to payment of whatever kind pledged by or to the department or its assignees shall immediately be subject to the lien of the pledge without physical delivery or further act. The lien of such pledge shall be valid and binding against all parties, irrespective of whether the parties have notice of the lien. The indenture, trust agreement, resolution, or another instrument by which such pledge is created need not be recorded or the security interest otherwise perfected.

(Amended by Stats. 2021, Ch. 143, Sec. 235. (AB 133) Effective July 27, 2021.)

129055.

In order to comply with subdivision (j) of Section 129050, any borrower that is certified for reimbursement for cost of care under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code shall demonstrate that its facility is used by persons for whom the cost of care is reimbursed under that chapter, in a proportion that is reasonable based upon the proportion of Medi-Cal patients in the community served by the borrower and by persons for whom the costs of care is reimbursed under Title XVIII of the federal Social Security Act in a proportion that is reasonable based upon the proportion of Medicare patients in the community served by the borrower.

For the purposes of this chapter, the community means the service areas or patient populations for which the health facility provides health care services, unless the department determines that, or the borrower demonstrates to the satisfaction of the office that, a different definition is more appropriate for the borrowersfacility.

(Amended by Stats. 2021, Ch. 143, Sec. 236. (AB 133) Effective July 27, 2021.)

129060.

Subdivisions (b) and (c) of Section 129355 shall apply to any residential or nonresidential alcoholism or drug abuse recovery or treatment program or facility, as certified under Section 11831.5, or licensed under former Section 11834.19; and any facility that provides an organized program of therapeutic, social, and health activities and services to persons with functional impairments, as licensed under Section 1576.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129065.

As part of its assurance under subdivision (j) of Section 129050, any borrower that is a general acute care hospital or acute psychiatric hospital shall agree to the following actions:

(a) To advise each person seeking services at the borrowersfacility as to the personspotential eligibility for Medi-Cal and Medicare benefits or benefits from other governmental third party payers.

(b) To make available to the department and to any interested person a list of physicians with staff privileges at the borrowersfacility, that includes:

(1) Name.

(2) Speciality.

(3) Language spoken.

(4) Whether takes Medi-Cal and Medicare patients.

(5) Business address and phone number.

(c) To inform in writing on a periodic basis all practitioners of the healing arts having staff privileges in the borrowersfacility as to the existence of the facilityscommunity service obligation. The required notice to practitioners shall contain a statement, as follows:

This hospital has agreed to provide a community service and to accept Medi-Cal and Medicare patients. The administration and enforcement of this agreement is the responsibility of the Department of Health Care Access and Information and this facility.

(d) To post notices in the following form, that shall be multilingual where the borrower serves a multilingual community, in appropriate areas within the facility, including but not limited to, admissions offices, emergency rooms, and business offices:

NOTICE OF COMMUNITY SERVICE OBLIGATION

This facility has agreed to make its services available to all persons residing or employed in this area. This facility is prohibited by law from discriminating against Medi-Cal and Medicare patients. Should you believe you may be eligible for Medi-Cal or Medicare, you should contact our business office (or designated person or office) for assistance in applying. You should also contact our business office (or designated person or office) if you are in need of a physician to provide you with services at this facility. If you believe that you have been refused services at this facility in violation of the community service obligation you should inform (designated person or office) and the Department of Health Care Access and Information.

The borrower shall provide copies of this notice for posting to all welfare offices in the county where the borrowersfacility is located.

(Amended by Stats. 2021, Ch. 143, Sec. 237. (AB 133) Effective July 27, 2021.)

129070.

In the event the borrower cannot demonstrate that it meets the requirement of Section 129055, it may nonetheless be eligible for a loan under this chapter if it presents a plan that is satisfactory to the department that details the reasonable steps and timetables that the borrower agrees to take to bring the facility into compliance with Section 129055.

(Amended by Stats. 2021, Ch. 143, Sec. 238. (AB 133) Effective July 27, 2021.)

129075.

(a) Each borrower shall provide any reports as may be required of it by Part 5 (commencing with Section 128675), from which the department shall determine the borrowerscompliance with subdivision (j) of Section 129050.

(b) If a report indicates noncompliance with subdivision (j) of Section 129050, Section 129055, or Section 129065, the department shall require the borrower to submit a plan detailing the steps and timetables the borrower will take to bring the facility into compliance.

(c) The department shall annually report to the Legislature the extent of the borrowers™ compliance with their community service obligations pursuant to subdivision (j) of Section 129050, Section 129055, and Section 129065.

(Amended by Stats. 2021, Ch. 143, Sec. 239. (AB 133) Effective July 27, 2021.)

129080.

The department may impose additional appropriate remedies and sanctions against a borrower when any of the following occurs:

(a) The department determines that the annual compliance report required in Section 129075 indicates that the borrower is out of compliance with subdivision (j) of Section 129050.

(b) A facility fails to carry out the actions agreed to in a plan approved by the department pursuant to Section 129070.

(c) The facility fails to submit compliance reports as required by Section 129075. The additional remedies include referring the violation to the office of Attorney General of California for legal action authorized under existing law or other remedy at law or equity.

However, the remedies obtainable by legal action shall not include withdrawal or cancellation of the loan insurance provided under this chapter.

(Amended by Stats. 2021, Ch. 143, Sec. 240. (AB 133) Effective July 27, 2021.)

129085.

(a) If a borrower is unable to comply with subdivision (j) of Section 129050 due to selective provider contracting under the Medi-Cal program, and the department has determined the borrower has negotiated in good faith but was not awarded a contract, the borrower may be eligible for insurance under this chapter as provided in subdivision (b).

(b) The department may determine that a noncontracting borrower shall be considered as meeting the requirements of subdivision (j) of Section 129050 if the borrower otherwise provides a community service in

accordance with regulations adopted by the department. The regulations shall describe alternative methods of meeting the obligation, that may include, but not be limited to, providing free care, charity care, trauma care, community education, or primary care outreach and care to the elderly, in amounts greater than the community average. The regulations shall include a requirement that a general acute care hospital, that is not a small and rural hospital as defined in Section 124840, shall have, and continue to maintain, a 24-hour basic emergency medical service with a physician on duty, if it provided this service on January 1, 1990. The department shall have the authority to waive this requirement upon a determination by the director that this requirement would create a hardship for the hospital, be inconsistent with regionalization of emergency medical services, or not be in the best interest of the population served by the hospital.

(Amended by Stats. 2021, Ch. 143, Sec. 241. (AB 133) Effective July 27, 2021.)

129087.

The department shall develop and maintain a formal system of monitoring borrowers, in order to assist the department in detecting at the earliest possible date those borrowers who are experiencing financial difficulties. This system shall include, but shall not be limited to, all of the following:

(a) A method of tracking the receipt of information that borrowers are required by law and regulatory agreement to submit to the department.

(b) A process for thoroughly reviewing borrowers™ financial statements, budgets, auditorsmanagement letters, and health facility utilization trends.

(c) Timely and structured site visits to insured facilities.

(Amended by Stats. 2021, Ch. 143, Sec. 242. (AB 133) Effective July 27, 2021.)

129090.

Pursuant to this chapter, political subdivisions and nonprofit corporations may apply for state insurance of needed construction, improvement, or expansion loans for construction, remodeling, or acquisition of health facilities to be or already owned, established, and operated by them as provided in this chapter. Applications shall be submitted to the department by the nonprofit corporation or political subdivision authorized to construct and operate a health facility. Each application shall conform to the requirements of the department, shall be submitted in the manner and form prescribed by the department, and shall be accompanied by an application fee of one-half of 1 percent of the amount of the loan applied for, but in no case shall the application fee exceed five hundred dollars ($500). The fees shall be deposited by the department in the fund and used to defray the officesexpenditures in the administration of this chapter.

(Amended by Stats. 2021, Ch. 143, Sec. 243. (AB 133) Effective July 27, 2021.)

129092.

Notwithstanding any other provision of law, upon the application of a borrower for insurance, the

department shall perform a feasibility study relating to the proposed project, the cost of which shall be paid by the applicant. The department may retain independent consultants and require a deposit from the applicant for such services, upon submission of the application. This section shall take effect on January 1, 2001.

(Amended by Stats. 2021, Ch. 143, Sec. 244. (AB 133) Effective July 27, 2021.)

129095.

(a) The department shall not regulate, impose requirements on, or require approval by the department of a professional, or a fee charged by a professional, used by applicants for the initial application for loan insurance. The choice of any professional and the funding source used shall be left entirely to the participants.

(b) For purposes of this section, professional includes, but is not limited to, an underwriter, bond counsel, or consultant.

(c) Nothing in this section shall prohibit the department, in the event of defaults, from taking any action authorized under this chapter to protect the financial interest of the state.

(Amended by Stats. 2021, Ch. 143, Sec. 245. (AB 133) Effective July 27, 2021.)

129100.

Every applicant for insurance shall be afforded an opportunity for a fair hearing before the committee upon 10 days™ written notice to the applicant. If the department, after affording reasonable opportunity for development and presentation of the application and after receiving the advice of the committee, finds that an application complies with the requirements of this article and of Section 129020 and is otherwise in conformity with the state plan, it may approve the application for insurance. The department shall consider and approve applications in the order of relative need set forth in the state plan in accordance with Section 129020. Judicial review of a final decision made under this section may be had by filing a petition for writ of mandate. Any petition shall be filed within 30 days after the date of the final decision of the department.

(Amended by Stats. 2021, Ch. 143, Sec. 246. (AB 133) Effective July 27, 2021.)

129105.

The department may upon application of the borrower insure any loan that is eligible for insurance under this chapter, and upon the terms prescribed by the department, may make commitments for the insuring of the loans prior to their date of execution or disbursement thereon. The decision to grant loan insurance upon an application of the borrower is within the discretion of the director of the department. Showing need for the project or meeting the eligibility requirements for loan insurance and establishing financial feasibility of the project or recommendation for approval from the committee does not create any entitlement to loan insurance.

(Amended by Stats. 2021, Ch. 143, Sec. 247. (AB 133) Effective July 27, 2021.)

129110.

Any contract of insurance executed by the department under this chapter shall be conclusive evidence of the eligibility of the loan for insurance and the validity of any contract of insurance so executed shall be incontestable from the date of the execution of the contract, except in case of fraud or misrepresentation on the part of the lender.

(Amended by Stats. 2021, Ch. 143, Sec. 248. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=6.&chapter=1.&article=3.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 6. FACILITIES LOAN INSURANCE AND FINANCING [129000 - 129387]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facility Construction Loan Insurance [129000 - 129355]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 3. Defaults [129125 - 129174.1]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 9.)

129125.

In any case when the lender under a loan to a nonprofit corporation insured under this chapter shall have foreclosed and taken possession of the property under a mortgage in accordance with regulations of, and within a period to be determined by the department, or shall, with the consent of the department, have otherwise acquired the property from the borrower after default, the lender shall be entitled to receive the benefit of the insurance as provided in this section, upon (a) the prompt conveyance to the office of title to the property that meets the requirements of the regulations of the department in force at the time the loan was insured, and that is evidenced in the manner prescribed by the regulations, and (b) the assignment to the department of all claims of the lender against the borrower or others arising out of the loan transaction or foreclosure proceedings except claims that may have been released with the consent of the department. Upon the conveyance and assignment, the department shall notify the Treasurer, who shall issue to the lender debentures having a total face value equal to the outstanding value of the loan.

For the purposes of this section, the outstanding value of the loan shall be determined, in accordance with the regulations prescribed by the department, by (a) adding to the amounts of the original principal obligation of the loan and interest that are accrued and unpaid the amount of all payments that have been made by the lender for the following: taxes and assessments, ground rents, water rates, and other liens that are prior to the mortgage; charges for the administration, operation, maintenance and repair of the health facility property; insurance on the project property, loan insurance premiums, and any tax imposed by a city or county upon any deed or other instrument by which the property was acquired by the lender and transferred or conveyed to the office; and the costs of foreclosure or of acquiring the property by other means actually paid by the lender and approved by the department; and by (b) deducting from the total amount any amounts received by the lender after the borrowersdefault on account of the loans or as rent or other income from the property.

(Amended by Stats. 2021, Ch. 143, Sec. 249. (AB 133) Effective July 27, 2021.)

129130.

In any case when a political subdivision defaults on the payment of interest or principal accrued and due on bonds or other evidences of indebtedness insured under this chapter, debentures in an amount equal to the outstanding original principal obligation and interest on the bonds that were accrued and unpaid on the date of default and bearing interest at a rate equal to and payment schedule identical with those of the bonds shall be issued by the Treasurer upon notification thereof by the department to the bondholders upon the surrender of the bonds to the department.

In any case in which a hospital district defaults on the payment of interest or principal accrued and due on an insured loan secured by a first mortgage, first deed of trust, or other security agreement as authorized by Section 32127.2, debentures in an amount equal to the outstanding original principal obligation and interest on the bonds that were accrued and unpaid on the date of default and bearing interest at a rate equal to and payment schedule identical with those of the bonds shall be issued by the Treasurer upon notification thereof by the department to the bondholders upon surrender of the bonds to the department after the state has enforced its rights under the first mortgage, first deed of trust, or other security agreement.

(Amended by Stats. 2021, Ch. 143, Sec. 250. (AB 133) Effective July 27, 2021.)

129135.

Notwithstanding any requirement contained in this chapter relating to acquisition of title and possession of the project property by the lender and its subsequent conveyance and transfer to the department, and for the purpose of avoiding unnecessary conveyance expense in connection with payment of insurance benefits under the provisions of this chapter, the department may, subject to regulations that it may prescribe, permit the lender to tender to the department a satisfactory conveyance of title and transfer of possession direct from the borrower or other appropriate grantor and to pay to the lender the insurance benefits to which it would otherwise be entitled if the conveyance had been made to the lender and from the lender to the department.

(Amended by Stats. 2021, Ch. 143, Sec. 251. (AB 133) Effective July 27, 2021.)

129140.

Upon receiving notice of the default of any loan insured under this chapter, the department, in its discretion and for the purpose of avoiding foreclosure under Section 129125 and notwithstanding the fact that it has previously approved a request of the lender for extensions of the time for curing the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the project property, or has approved a modification of the loan for the purpose of changing the amortization provisions by recasting the unpaid balance, may acquire the loan and security agreements securing the loans upon the issuance to the lender of debentures in an amount equal to the unpaid principal balance of the loan plus any accrued unpaid loan interest plus reimbursement for the costs and attorneysfees of the lender enumerated in Section 129125.

After the acquisition of the loan and security interests therefor by the department, the lender shall have no further rights, liabilities, or obligations with respect thereto. The provisions of Section 129125 relating to the issuance of debentures incident to the acquisition of foreclosed properties shall apply with respect to debentures issued under this section, and the provisions of this chapter relating to the rights, liabilities, and obligations of a lender shall apply with respect to the department when it has acquired an insured loan under this section, in accordance with and subject to any regulations prescribed by the department modifying the provisions to the extent necessary to render their application for these purposes appropriate and effective.

(Amended by Stats. 2021, Ch. 143, Sec. 252. (AB 133) Effective July 27, 2021.)

129145.

Notwithstanding any other provision of this chapter, after the department determines that the lender and borrower have exhausted all reasonable means of curing any default, the department within its discretion may, when it is in the best interests of the state, the borrower, and the lender, cure the default of the borrower by making payment from the fund directly to the lender of any amounts of the original principal obligation and interest of the loan that are accrued and unpaid. The payment shall be secured by an assignment to the department of a pro rata share of the security agreements made to the lender and, upon the payment, the borrower shall become liable for repayment of the amount thereof to the office over a period and at a rate of interest as shall be determined by the department.

(Amended by Stats. 2021, Ch. 143, Sec. 253. (AB 133) Effective July 27, 2021.)

129150.

The department may at any time, under the terms and conditions that it may prescribe, consent to the lendersrelease of the borrower from its liability under the loan or the security agreement securing the loan, or consent to the release of parts of the project property from the lien of any security agreement.

(Amended by Stats. 2021, Ch. 143, Sec. 254. (AB 133) Effective July 27, 2021.)

129152.

If a borrower fails to submit a required report, or upon any other default of any regulatory or contractual term or covenant, whether or not a default has been declared, the department first shall informally communicate with the borrower. If the borrower fails to submit the required report or otherwise cure the default, the department shall issue a formal demand in writing stating the nature of the default and requiring the borrower to submit a detailed plan of correction that is acceptable to the office. If the borrower fails to either submit a plan, or timely cure the default, the department shall perform an onsite visit. If the department determines the borrower is not making sufficient progress in submitting any required reports or otherwise curing any default, the department may require the borrower, at the borrowersexpense, to employ an independent consultant or professional, acceptable to the department, to conduct a program audit. If the borrower fails to adopt the recommendations of the independent consultant or professional made in the program audit, or if the borrower fails to otherwise timely cure the default, the department shall have all the remedies set forth in the Section 129173.

(Amended by Stats. 2021, Ch. 143, Sec. 255. (AB 133) Effective July 27, 2021.)

129155.

Debentures issued under this chapter shall be in the form and denomination, subject to the terms and conditions, and include provisions for redemption, if any, as may be prescribed by the department with the approval of the Treasurer, and may be in coupon or registered form.

(Amended by Stats. 2021, Ch. 143, Sec. 256. (AB 133) Effective July 27, 2021.)

129160.

(a) (1)All debentures issued under this chapter to any lender or bondholder shall be executed in the name of the fund as obligor, shall be signed by the Treasurer, and shall be negotiable. Pursuant to Sections 129125 and 129130, all debentures shall be dated as of the date of the institution of foreclosure proceedings or as of the date of the acquisition of the property after default by other than foreclosure, or as of another date as the department, in its discretion, may establish.

(2)The debentures shall bear interest from that date at a rate equal to the insured loan or bonds, and shall be

payable on a payment schedule identical with payments on the insured loan or bonds. The Treasurer shall take appropriate steps to the extent feasible to provide that interest on the debentures is exempt from federal income taxation under Section 103 of the Internal Revenue Code to the extent interest on the insured loan or bonds is exempt from federal income taxation under Section 103 of the Internal Revenue Code on the date the insured loan or bonds is exchanged for debentures. All debentures shall be exempt, both as to principal and interest, from all taxation now or hereafter imposed by the state or local taxing agencies, shall be paid out of the fund, which shall be primarily liable therefor, and shall be, pursuant to Section 4 of Article XVI of the California Constitution, fully and unconditionally guaranteed as to principal and interest by the State of California, which guaranty shall be expressed on the face of the debentures.

(3)If the fund fails to pay upon demand, when due, the principal of, or interest on, any debentures issued under this chapter, the Treasurer shall pay to the holders the amount thereof, which amount, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated from the General Fund, without regard to fiscal years, and thereupon to the extent of the amount so paid the Treasurer shall succeed to all the rights of the holders of the debentures. The fund shall be liable for repayment to the General Fund of any money paid from the General Fund pursuant to this section in accordance with procedures jointly established by the Treasurer and the department.

(b) Any debenture issued under this article shall be paid on a par with general obligation bonds issued by the state.

(Amended by Stats. 2021, Ch. 143, Sec. 257. (AB 133) Effective July 27, 2021.)

129165.

Notwithstanding any other provision of law relating to the acquisition, management or disposal of real property by the state, the department shall have power to deal with, operate, complete, lease, rent, renovate, modernize, insure, or sell for cash or credit, in its discretion, any properties conveyed to it in exchange for debentures as provided in this chapter; and notwithstanding any other provision of law, the department shall also have power to pursue to final collection by way of compromise or otherwise all claims against borrowers assigned by lenders to the department as provided in this chapter. All income from the operation, rental, or lease of the property and all proceeds from the sale thereof shall be deposited in the fund and all costs incurred by the office in its exercise of powers granted in this section shall be met by the fund.

The power to convey and to execute in the name of the department deeds of conveyance, deeds of release, assignments and satisfactions of loans and mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the department pursuant to the provisions of this chapter may be exercised by the department or by any officer of the department appointed by it.

(Amended by Stats. 2021, Ch. 143, Sec. 258. (AB 133) Effective July 27, 2021.)

129170.

No lender or borrower shall have any right or interest in any property conveyed to the department or in any claim assigned to it, nor shall the department owe any duty to any lender or borrower with respect to the management or disposal of this property.

(Amended by Stats. 2021, Ch. 143, Sec. 259. (AB 133) Effective July 27, 2021.)

129172.

Notwithstanding any other provision of law, if, prior to foreclosing on any collateral provided by a borrower, the department institutes a judicial proceeding or takes any action against a borrower to enforce compliance with the obligations set out in the regulatory agreement, the contract of insurance, or any other contractual loan closing document or law, including, but not limited to, Section 129173, that remedy or action shall not constitute an action within the meaning of subdivision (a) of Section 726 of the Code of Civil Procedure, or in any way constitute a violation of the intent or purposes of Section 726 of the Code of Civil Procedure, or constitute a money judgment or a deficiency judgment within the meaning of Sections 580a, 580b, 580d, or subdivision (b) of Section 726 of the Code of Civil Procedure. However, these provisions of the Code of Civil Procedure shall apply to any judicial proceeding instituted, or nonjudicial foreclosure action taken by the department to collect the principal and interest due on the loan with the borrower.

(Amended by Stats. 2021, Ch. 143, Sec. 260. (AB 133) Effective July 27, 2021.)

129173.

(a) In fulfilling the purposes of this article, as set forth in Section 129005, and upon making a determination that the financial status of a borrower may jeopardize a borrowersability to fulfill its obligations under any insured loan transaction so as to threaten the economic interest of the department in the borrower or to jeopardize the borrowersability to continue to provide needed health care services in its community, including, but not limited to, a declaration of default under any contract related to the transaction, the borrower missing any payment to its lender, or the borrowersaccounts payable exceeding three months, the department may assume or direct managerial or financial control of the borrower in any or all of the following ways:

(1) The department may supervise and prescribe the activities of the borrower in the manner and under the terms and conditions as the office may stipulate in any contract with the borrower.

(2) Notwithstanding the provisions of the articles of incorporation or other documents of organization of a nonprofit corporation borrower, this control may be exercised through the removal and appointment by the department of members of the governing body of the borrower sufficient so that the new members constitute a voting majority of the governing body.

(3) In the event the borrower is a nonprofit corporation or a political subdivision, the department may request the Secretary of the California Health and Human Services Agency to appoint a trustee. The trustee shall have full and complete authority of the borrower over the insured project, including all property on which the department holds a security interest. No trustee shall be appointed unless approved by the department. A trustee appointed by the secretary pursuant to this subdivision may exercise all the powers of the officers and directors of the borrower, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the office or a trustee by reason of their exercising the powers of the officers and directors of a borrower pursuant to the direction of, or with the approval of, the secretary.

(4) The department may institute any action or proceeding, or the department may request the Attorney

General to institute any action or proceeding against any borrower, to obtain injunctive or other equitable relief, including the appointment of a receiver for the borrower or the borrowersassets, in the superior court in and for the county in which the assets or a substantial portion of the assets are located. The proceeding under this section for injunctive relief shall conform with the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the department shall not be required to allege facts necessary to show lack of adequate remedy at law, or to show irreparable loss or damage. Injunctive relief may compel the borrower, its officers, agents, or employees to perform each and every provision contained in any regulatory agreement, contract of insurance, or any other loan closing document to which the borrower is a party, or any obligation imposed on the borrower by law, and require the carrying out of any and all covenants and agreements and the fulfillment of all duties imposed on the borrower by law or those documents.

A receiver may be appointed pursuant to Chapter 5 (commencing with Section 564) of Title 7 of Part 2 of the Code of Civil Procedure. In cooperation with the Attorney General, the department shall develop and maintain a list of receivers who have demonstrated experience both in the health care field and as a receiver. Upon a proper showing, the court shall grant the relief provided by law and requested by the department or the Attorney General. No receiver shall be appointed unless approved by the department. The department shall establish reporting requirements for receivers to ensure that the department is fully apprised of all costs incurred and progress made by the receiver. A receiver appointed by the superior court pursuant to this subdivision and Section 564 of the Code of Civil Procedure may, with the approval of the court, exercise all of the powers of the officers and directors of the borrower, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the department, the Attorney General, or a receiver by reason of their exercising the powers of the officers and directors of a borrower pursuant to the order of, or with the approval of, the superior court.

(5) The borrower shall inform the department in advance of all meetings of its governing body. The borrower shall not exclude the department from attending any meeting of the borrowersgoverning body.

(b) Other than the loan insured under this chapter, the department shall not be liable for any debt of a borrower, or to a borrower, as a result of the department asserting its legal remedies against a borrower insured under this chapter.

(c) It is the intent of the Legislature that this section is remedial in nature, and is applicable retroactively to any health facility construction loans in existence at the time of its enactment, to the extent that the application of this section does not unlawfully impair existing contract rights.

(Amended by Stats. 2021, Ch. 143, Sec. 261. (AB 133) Effective July 27, 2021.)

129174.

(a) In the event a borrower has defaulted in making its payments on the loan insured by the department to the lender or the borrowersbond trustee, at any time thereafter, the office may do any of the following:

(1) Decease a portion or all of the bonds or may purchase a portion or all of the bonds at a private or public sale or on the open market. For this purpose, the department may use any funds available, including, but not limited to, funds in the Health Facility Construction Loan Insurance Fund, funds that the department may receive either from settlement or recoveries from lawsuits, funds from the sale of assets of the borrower, or funds held by the borrowersbond trustee. If requested by the department, the Treasurer shall purchase the bonds on behalf of the office. Upon the purchase of any bonds under this section, the department shall

direct the borrowersbond trustee to cancel the bonds purchased.

(2) Issue bonds used for the sole purpose of refunding any part or all of the defaulted bonds, provided that, in the opinion of the department, there are adequate present value savings to refund all or part of the defaulted bonds. If requested by the department, the Treasurer shall act as the issuer for this purpose.

(3) Require the lender or borrowersbond trustee to accelerate the borrowersdebt and the maturity dates of the bonds, if any. If the bond trustee accelerates the bond debt and maturity dates, the department shall pay from the fund to the lender or borrowersbond trustee the full amount of the remaining principal of the loan, any interest accrued and unpaid on this amount, and any costs enumerated in Section 129125.

(b) For the purposes of this section, bonds mean bonds, certificate of participation, notes, or other evidence of indebtedness of a loan insured by the department.

(Amended by Stats. 2021, Ch. 143, Sec. 262. (AB 133) Effective July 27, 2021.)

129174.1.

In the event an obligor on a loan insured by the department is the subject of an order for relief in bankruptcy and that a plan has been proposed for confirmation, upon a certification by the department that the insurance is in place and would be in place if the plan were confirmed, then the department shall have the right to vote whether to accept or reject the plan on behalf of the holders of the loan insured by the department.

(Amended by Stats. 2021, Ch. 143, Sec. 263. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=6.&chapter=1.&article=4.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 6. FACILITIES LOAN INSURANCE AND FINANCING [129000 - 129387]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facility Construction Loan Insurance [129000 - 129355]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 4. Termination of Insurance [129175 - 129185]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 9.)

129175.

Should a borrower be more than 10 days delinquent in paying the premium charges or inspection fees for insurance under this chapter, the department shall notify the borrower in writing. If that payment remains delinquent more than 30 days after the sending of the departmentsnotice to the borrower, the department shall make every reasonable effort to notify the lender in writing. If that delinquency continues, on the 31st day after sending of the departmentsnotice to the lender, the insurance shall be terminated and become null and void.

(Amended by Stats. 2021, Ch. 143, Sec. 264. (AB 133) Effective July 27, 2021.)

129180.

The obligation to pay any subsequent premium charge for insurance shall cease, and all rights of the lender and the borrower under this chapter shall terminate as of the date of the notice, as herein provided, in the event that (a) any lender under a loan forecloses on the mortgaged property, or has otherwise acquired the project property from the borrower after default, but does not convey the property to the department in accordance with this chapter, and the department is given written notice thereof, or (b) the borrower pays the obligation under the loan in full prior to the maturity thereof, and the department is given written notice thereof.

(Amended by Stats. 2021, Ch. 143, Sec. 265. (AB 133) Effective July 27, 2021.)

129185.

The department is authorized to terminate any insurance contract upon joint request by the borrower and the lender and upon payment of a termination charge that the department determines to be equitable, taking into consideration the necessity of protecting the fund. Upon the termination, borrowers and lenders shall be entitled to the rights, if any, that they would be entitled to under this chapter if the insurance contract were terminated by payment in full of the insured loan.

(Amended by Stats. 2021, Ch. 143, Sec. 266. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=6.&chapter=1.&article=5.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 6. FACILITIES LOAN INSURANCE AND FINANCING [129000 - 129387]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facility Construction Loan Insurance [129000 - 129355]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 5. Health Facility Construction Loan Insurance Fund [129200 - 129215]__

(Article 5 added by Stats. 1995, Ch. 415, Sec. 9.)

129200.

There is hereby established a Health Facility Construction Loan Insurance Fund, that shall be used by the department as a revolving fund for carrying out the provisions and administrative costs of this chapter. Notwithstanding Section 13340 of the Government Code, the money in the fund is hereby continuously appropriated to the department without regard to fiscal years for the purposes of this chapter.

(Amended by Stats. 2021, Ch. 143, Sec. 267. (AB 133) Effective July 27, 2021.)

129205.

Moneys in the fund not needed for the current operations of the department under this chapter shall be

invested pursuant to law. The department may, with the approval of the State Treasurer, purchase the debentures issued under this chapter. Debentures so purchased shall be canceled and not reissued.

(Amended by Stats. 2021, Ch. 143, Sec. 268. (AB 133) Effective July 27, 2021.)

129210.

(a) The departmentsauthorization to insure health facility construction, improvement, and expansion loans under this chapter shall be limited to a total of not more than three billion dollars ($3,000,000,000).

(b) Notwithstanding the limitation in subdivision (a), the department may exceed the specific dollar limitation in either of the following instances:

(1) Refinancing a preexisting loan, if the refinancing results in savings to the health facility and increases the probability that a loan can be repaid.

(2) The need for financing results from earthquakes or other natural disasters.

(Amended by Stats. 2021, Ch. 143, Sec. 269. (AB 133) Effective July 27, 2021.)

129215.

The Health Facility Construction Loan Insurance Fund, established pursuant to Section 129200, shall be a trust fund and neither the fund nor the interest or other earnings generated by the fund shall be used for any purpose other than those purposes authorized by this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=6.&chapter=1.&article=5.5.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 6. FACILITIES LOAN INSURANCE AND FINANCING [129000 - 129387]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facility Construction Loan Insurance [129000 - 129355]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 5.5. Advisory Loan Insurance Committee [129220 - 129221]__

(Article 5.5 added by Stats. 1999, Ch. 848, Sec. 24.)

129220.

The department shall establish an Advisory Loan Insurance Committee which shall be comprised of nine members, eight of whom shall be appointed by the director of the department. Of the nine members, seven shall be appointed from outside state government and two shall be appointed from inside state government. The Director of Finance shall appoint one of the members chosen from inside state government. The members of the committee shall be qualified in the field of financial analysis, management, operations, or construction, improvement, or expansion of health facilities. Those members appointed from outside state government shall be reimbursed one hundred dollars ($100) for each day spent in the performance of official duties. All members shall be reimbursed for reasonable and necessary expenses.

(Amended by Stats. 2021, Ch. 143, Sec. 270. (AB 133) Effective July 27, 2021.)

129221.

The duties of the committee shall include, but not be limited to, the following:

(a) The committee shall assist the director of the department in formulating policy concerning financial analysis, management, operation, or construction, improvement, or expansion of health facilities, and shall, at the request of the director of the department, provide overall policy advice, guidance, and recommendations. The committee shall also provide the department with advice and comment on the state plan prepared pursuant to Section 129020.

(b) The committee shall also review and analyze the feasibility, level of financial risk, and community benefit assessments made by the department on applications submitted for approval. The committee shall recommend to the director whether an application should be approved and whether any conditions should be attached to that approval. Loans that are currently insured by the department and subsequently are refinanced to obtain a lower interest rate or emergency working capital loans insured pursuant to Section 129091 shall not require the review of the committee.

(Amended by Stats. 2021, Ch. 143, Sec. 271. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=6.&chapter=1.&article=6.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 6. FACILITIES LOAN INSURANCE AND FINANCING [129000 - 129387]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facility Construction Loan Insurance [129000 - 129355]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 6. Community Mental Health Facilities Loan Insurance [129225 - 129260]__

(Article 6 added by Stats. 1995, Ch. 415, Sec. 9.)

129225.

This article shall be known as, and may be cited as, the Community Mental Health Facilities Loan Insurance Law.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129230.

It is the intent of the Legislature in enacting this article to encourage the development of facilities for community-based programs that assist mental health clients living in any institutional setting, including state

and local inpatient hospitals, skilled nursing homes, intermediate care facilities, and community care facilities to move to more independent living arrangements. It is further the intent of the Legislature to encourage local programs to seek funding for facility development from private sources and with the assistance provided pursuant to this chapter.

To achieve this purpose in determining eligibility for loan insurance pursuant to this chapter, the following special provisions apply to facilities approved in the local mental health program and meeting the intentions of this article:

(a)Facilities shall not require approval pursuant to Section 129295 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, unless specifically required for the facilities by the facility category of licensure.

(b)Notwithstanding subdivision (i) of Section 129050, any loan of under three hundred thousand dollars ($300,000) for a nonprofit corporation as well as a political subdivision may be fully insured equal to the total construction cost, except a loan to any proprietary corporation that is insured pursuant to subdivision (d) of this section.

(c)The local mental health program may provide all application fees, inspection fees, premiums and other administrative payments required by this chapter, except with respect to any loan to a proprietary corporation that is insured pursuant to subdivision (d) of this section.

(d)The borrower may be a proprietary corporation, provided that the facility is leased to the local mental health program for the duration of the insurance agreement. In these instances, all provisions in this chapter and this article that apply to a nonprofit corporation shall apply to the proprietary corporation, except as provided in subdivisions (b) and (c) of this section.

(e)For the purposes of this article, subdivision (c) of Section 129010 shall include the purchase of existing buildings.

(f)Facilities shall not require approval pursuant to Section 129020 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, until the director of the department determines that the state plan developed pursuant to Section 129020 adequately and comprehensively addresses the need for community mental health facilities and that finding is reported to the appropriate policy committees of the Legislature.

(Amended by Stats. 2021, Ch. 143, Sec. 272. (AB 133) Effective July 27, 2021.)

129235.

Loans of under three hundred thousand dollars ($300,000) for any single facility shall have priority for obtaining loan insurance under the special provisions established pursuant to Section 129230.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129240.

The total amount of loans that may be insured pursuant to this article shall not exceed fifteen million dollars ($15,000,000).

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129245.

No loan insurance shall be provided pursuant to this article for the purpose of providing psychiatric inpatient services in an acute psychiatric hospital or a general acute care hospital.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129250.

The Legislative Analyst shall review and comment on the utilization and effectiveness of this article in the annual budget analysis and in hearings.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129255.

If, in construing Article 6 (commencing with Section 129225) of this chapter as applied to the other provisions of this chapter, any conflict arises, this article shall prevail over the other provisions of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129260.

If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=6.&chapter=1.&article=7.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 6. FACILITIES LOAN INSURANCE AND FINANCING [129000 - 129387]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facility Construction Loan Insurance [129000 - 129355]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 7. Small Facility Loan Guarantee for Developmental Disability Programs [129275 - 129295]__

(Article 7 added by Stats. 1995, Ch. 415, Sec. 9.)

129275.

This article shall be known, and may be cited, as the Small Facility Loan Guarantee for Programs Serving People with Developmental Disabilities.

(Amended by Stats. 2010, Ch. 730, Sec. 2. (AB 1629) Effective October 19, 2010.)

129280.

The State of California has a compelling interest in the development of facilities for community-based programs that assist persons with a developmental disability living in an institutional setting to transition to more independent living arrangements. In order to meet this significant community need, it is further the intent of the Legislature to encourage programs to seek funding for facility development from private sources and with the assistance provided pursuant to this chapter.

To achieve this purpose in determining eligibility for loan insurance pursuant to this chapter, the following special provisions apply to facilities developed pursuant to Section 4688.5 of the Welfare and Institutions Code and meeting the intentions of this article:

(a)For purposes of this article, the following definitions shall apply:

(1)Borrower shall mean a political subdivision or nonprofit corporation approved by the regional center as an ownership entity that owns the project property.

(2)Long-term residency lease agreement shall mean a lease by the borrower, as lessor, of facilities developed pursuant to Section 4688.5 of the Welfare and Institutions Code to a service provider selected by a regional center, as lessee, having a term of at least as long as the term of the insured loan.

(3)Nonprofit corporation shall mean a corporation formed under or subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) or a limited liability company (LLC) whose sole member is a corporation formed under or subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) that meets applicable sections of the federal Internal Revenue Code governing nonprofit status.

(4)Regional center shall mean a private nonprofit corporation that contracts with the state and is organized pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(5)Service provider shall mean an entity with the appropriate license, if required, that contracts with a regional center to provide services to persons eligible for regional center services.

(b)Notwithstanding subdivisions (i), (l), and (m) of Section 129050, any loan made pursuant to this article for a nonprofit corporation or a political subdivision may be fully insured equal to the total cost of construction, improvement, and expansion, which may exceed the current value of the health facility, including improvements, when supported by other security for, or guaranty of, the debt.

(c)The Golden Gate Regional Center, Regional Center of the East Bay, and San Andreas Regional Center shall provide for, secure, and ensure the full payment of a lease or leases developed pursuant to Section 4688.5 of the Welfare and Institutions Code.

(Amended by Stats. 2010, Ch. 730, Sec. 3. (AB 1629) Effective October 19, 2010.)

129285.

(a)Loans of under three hundred thousand dollars ($300,000) for any single facility for six or fewer developmentally disabled shall have priority for obtaining loan insurance.

(b)The total amount of loans that may be insured pursuant to this article shall not exceed one hundred million dollars ($100,000,000).

(Amended by Stats. 2010, Ch. 730, Sec. 4. (AB 1629) Effective October 19, 2010.)

129290.

If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129295.

The department may insure, pursuant to this article, loans to nonprofit borrowers that are not licensed to operate the facilities for which the loans are insured, provided that the borrower has entered into a long-term residency lease agreement with a service provider selected by the applicable regional center to operate that facility. The number of facilities for which loans are insured under this section shall not exceed 100 and the aggregate amount of loans insured under this section shall not exceed one hundred million dollars ($100,000,000).

(Amended by Stats. 2021, Ch. 143, Sec. 273. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=6.&chapter=1.&article=9.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 6. FACILITIES LOAN INSURANCE AND FINANCING [129000 - 129387]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facility Construction Loan Insurance [129000 - 129355]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 9. Rural Hospital Grant Program [129325 - 129335]__

(Article 9 added by Stats. 1995, Ch. 415, Sec. 9.)

129325.

It is the intent of the Legislature in enacting this article to assist rural hospitals that play a vital role in the health delivery system. The Legislature recognizes the difficulties rural hospitals encounter meeting urban hospital standards while serving a small, rural, or tourist patient base. However, it is not the intent of the Legislature to provide assistance to facilities that can only survive with continuous subsidies. Rather, it is the intent of the Legislature, through this program, to encourage the development and transition to an alternative rural hospital model, and to provide essential access to services not available at the alternative rural hospital level.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129330.

In each even-numbered year, the department shall contract for an actuarial study to determine the reserve sufficiency of funds in the Health Facility Construction Loan Insurance Fund. The study shall examine the portfolio of existing insured loans and shall estimate the amount of reserve funds that the department should reasonably have available to be able to respond adequately to potential foreseeable risks, including extraordinary administrative expenses and actual defaults. Actuarial study contracts shall be exempt from Section 10373 of the Public Contract Code and shall be considered sole-source contracts.

(Amended by Stats. 2021, Ch. 143, Sec. 274. (AB 133) Effective July 27, 2021.)

129335.

(a) In each odd-numbered year when the reserve balance in the fund is projected to be in excess of that actuarially needed, the department may, subject to authority in the Budget Act, grant excess reserve funds to rural hospitals.

(b) Whenever the department administers the grant program, it shall do so by a competitive process where potential grantees have sufficient time to apply. Priority for funds shall be given to alternative rural hospitals and rural hospitals that are sole community providers. Priority shall also be given to applicants that are otherwise financially viable, but request one-time financial assistance for equipment expenditures or other capital outlays. The maximum amount of any grant for a single project in any one grant year shall be two hundred fifty thousand dollars ($250,000).

(c) For the purposes of this article, rural hospital shall have the same meaning as contained in subdivision (a) of Section 124840.

(Amended by Stats. 2021, Ch. 143, Sec. 275. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=6.&chapter=1.&article=10.](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?

lawCode=HSC&division=107.&title=&part=6.&chapter=1.&article=10.)

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 6. FACILITIES LOAN INSURANCE AND FINANCING [129000 - 129387]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facility Construction Loan Insurance [129000 - 129355]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 10. Community Health Center Facilities Loan Insurance [129350 - 129355]__

(Article 10 added by Stats. 1995, Ch. 415, Sec. 9.)

129350.

This article shall be known and may be cited as the Community Health Center Facilities Loan Insurance Law.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129355.

(a) Community health center facilities, as used in this article, means those licensed, nonprofit primary care clinics as defined in paragraph (1) of subdivision (a) of Section 1204.

(b) Notwithstanding subdivision (i) of Section 129050, any loan in the amount of five million dollars ($5,000,000) or less for a community health center facility pursuant to this chapter may be insured up to 95 percent of the total construction cost.

(c) Community health center facilities applying for any loan insurance pursuant to this chapter, may use

existing equity in buildings, equipment, and donated assets, including, but not limited to, land and receipts from expenses related to the capital outlay for the project, notwithstanding the date of occurrence to meet the equity requirements of this chapter. In determining the value of the equity in any donated property, the department may use the original purchase price or the current appraised value.

(d) Any state plan referred to in Section 129020 developed by the department shall include a chapter identifying any impediments that preclude small facilities from utilizing the California Health Facility Construction Loan Insurance Program. The state plan shall also include specific programmatic remedies to enable small projects to utilize the program if impediments are found.

(Amended by Stats. 2021, Ch. 143, Sec. 276. (AB 133) Effective July 27, 2021.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=6.&chapter=3.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=6.&chapter=4.&article=

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 6. FACILITIES LOAN INSURANCE AND FINANCING [129000 - 129387]__

(Part 6 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 4. Distressed Hospital Loan Program [129380 - 129387]__

(Chapter 4 added by Stats. 2023, Ch. 6, Sec. 3.)

129380.

(a)This program shall be known, and may be cited, as the Distressed Hospital Loan Program.

(b)The purpose of this program is to provide interest-free cashflow loans to not-for-profit hospitals and public hospitals in significant financial distress or to governmental entities representing a closed hospital, except as otherwise provided, to prevent the closure of, or facilitate the reopening of, those hospitals.

(Added by Stats. 2023, Ch. 6, Sec. 3. (AB 112) Effective May 15, 2023. Repealed as of January 1, 2032, pursuant to Section 129387.)

129381.

For the purposes of this chapter, the following definitions apply:

(a)Authority means the California Health Facilities Financing Authority.

(b)Closed hospital means a hospital that closed after January 1, 2022.

(c)Department means the Department of Health Care Access and Information.

(d)Not-for-profit hospital means the same as a general acute care hospital described in paragraph (1) of subdivision (d) of Section 15432 of the Government Code that is organized as a not-for-profit entity.

(e)Program means the Distressed Hospital Loan Program.

(f)Public hospital means a hospital that is licensed to a county, a city, a city and county, the University of California, a local health care district, a local health authority, or a municipal hospital established pursuant to Article 7 (commencing with Section 37600) of Chapter 5 of Part 2 of Division 3 of Title 4 of the Government Code.

(Added by Stats. 2023, Ch. 6, Sec. 3. (AB 112) Effective May 15, 2023. Repealed as of January 1, 2032, pursuant to Section 129387.)

129382.

(a)The department shall administer the program, subject to subdivision (d) of Section 129385, for purposes of this chapter.

(b)The department shall enter into an interagency agreement with the authority to implement this chapter.

(Added by Stats. 2023, Ch. 6, Sec. 3. (AB 112) Effective May 15, 2023. Repealed as of January 1, 2032, pursuant to Section 129387.)

129383.

(a)In collaboration with the State Department of Health Care Services, the Department of Managed Health Care, and the State Department of Public Health, the department shall develop a methodology to evaluate an at-risk hospitalspotential eligibility for state assistance from the program.

(1)(A)The methodology shall consider factors, including, but not limited to, whether the hospital is in financial distress, as solely determined by the department, whether the hospital is small, rural, a critical access hospital, a trauma center, an urban hospital providing access for an underserved area, a hospital that serves a disproportionate share of Medicaid patients, or serving a rural catchment area, whether closure of the hospital would significantly impact access to services in the region, and whether the hospital is publicly owned.

(B)The methodology for determining financial distress may consider such factors as the hospitalsprior and projected performance on financial metrics, including the amount of cash on hand, and whether the hospital has, or is projected to experience, negative operating margins.

(2)The methodology shall also be used for identification and monitoring of hospitals at risk of financial distress.

(b)A hospital or a closed hospital applying for aid under this program shall provide the authority and the department with financial information, in a format determined by the authority and the department, demonstrating the hospitalsneed for financial assistance due to financial hardship.

(c)(1)Before receiving state assistance under this program, an eligible hospital shall submit a plan to the authority, which it shall share with the department, with projections detailing the uses of the proposed loan and strategies proposed by the hospitalsgoverning body to regain financial viability and continue to operate.

(2)Before issuing a loan under this chapter, the department shall review the plan submitted by an eligible hospital and make a determination that the plan is viable and there is a reasonable likelihood that the hospital will be able to regain financial viability and continue to operate as a hospital. The department shall not issue a loan award if the department is unable to make this determination.

(d)The department shall issue the loan award to a qualifying hospital as soon as reasonably practicable following its eligibility determination.

(e)Not-for-profit hospitals and public hospitals that belong to integrated health care systems with more than two separately licensed hospital facilities shall be ineligible for state assistance under the program.

(f)The department shall, in consultation with the authority, determine the application process, underwriting review, and methodology for approval and distribution of the loans under the program.

(g)The department shall have the authority to determine service provision requirements in approving, and for the duration of, loans to eligible hospitals. In making its determination, the department shall consider the impact of any changes to the hospitalsservice delivery on access to necessary medical care, particularly for beneficiaries of the Medi-Cal program.

(h)The department shall make the methodology publicly accessible on its internet website.

(Added by Stats. 2023, Ch. 6, Sec. 3. (AB 112) Effective May 15, 2023. Repealed as of January 1, 2032, pursuant to Section 129387.)

129384.

(a)Notwithstanding Sections 15432 and 15451.5 of the Government Code, unless subdivision (c) applies, a hospital shall be required to begin making monthly repayments of the loan after the first 18 months and shall discharge the loan within 72 months of the date of the loan.

(b)Notwithstanding any other law and to the extent permissible under federal rules, security for the cashflow loans in this chapter shall be Medi-Cal reimbursements due to the hospital from the State Department of Health Care Services. The departmentsor authoritysrecoupment of these cashflow loans shall not exceed 20 percent of the hospitalsrespective Medi-Cal checkwrite payments until the loan amount has been satisfied. In the event that a 20-percent withhold will not result in full repayment of the loan within a 72-month period, the department may extend the repayment term of the loan.

(c)(1)The department, in consultation with the authority, and upon approval of the Department of Finance, shall develop an application and approval process for loan forgiveness or modification of the terms of the loan, including a delay of the beginning of the loan repayment period or an extension of the 72-month loan repayment term, or both. The process shall include, but is not limited to, eligibility criteria for an applicant for loan forgiveness or modification, including which portion of a loan may be forgiven or modified.

(2)The department shall provide loan forgiveness or modification of loan terms to an applicant based upon criteria determined by the department and subject to the approval of the department and the authority. The Department of Finance shall be authorized to approve any loan forgiveness and any modification of loan terms that would result in the extension of the payback period by more than one year.

(3)The department shall also establish the terms and conditions associated with accepting loan forgiveness or modification of loan terms, subject to approval of the Department of Finance.

(4)Before any action on a request for forgiveness or modification of any loan that would result in the extension of the payback period by more than one year, and again not later than 60 days after final approval or denial of the forgiveness or modification, the department shall submit to the Joint Legislative Budget Committee and relevant policy and fiscal committees of the Legislature notice of the request and the subsequent action, including a summary of the request and reason for the denial, approval, or modification.

(Added by Stats. 2023, Ch. 6, Sec. 3. (AB 112) Effective May 15, 2023. Repealed as of January 1, 2032, pursuant to Section 129387.)

129385.

(a)The Distressed Hospital Loan Program Fund is hereby established in the State Treasury. The fund shall be administered by the department consistent with this chapter.

(b)Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated, without regard to fiscal years, for the department and the authority to implement this chapter.

(c)The authority shall make secured loans from the Distressed Hospital Loan Program Fund to a hospital or to a governmental entity representing a closed hospital, for purposes of preventing the closure, or facilitating the reopening, of the hospital.

(d)The department may allocate an amount not to exceed 5 percent of total program funds to administer the program, including, but not limited to, administrative costs to the authority. Any funds transferred shall be available for encumbrance or expenditure until June 30, 2026.

(e)(1)The Department of Finance may transfer up to one hundred fifty million dollars ($150,000,000) from the General Fund to the Distressed Hospital Loan Program Fund between state fiscal years 2022“23 and 2023“24 to implement this chapter.

(2)The Department of Finance may transfer, subject to Section 14105.200 of the Welfare and Institutions Code, up to one hundred fifty million dollars ($150,000,000) from the Medi-Cal Provider Payment Reserve Fund to the Distressed Hospital Loan Program Fund in state fiscal year 2023“24 to implement this chapter.

(f)All moneys accruing to the authority and the department under this chapter from any source shall be deposited into the fund.

(g)The Treasurer may invest moneys in the fund that are not required for its current needs in eligible securities specified in Section 16430 of the Government Code and may transfer moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(h)Notwithstanding Section 16305.7 of the Government Code, all interest or other increment resulting from the investment or deposit of moneys from the fund shall be deposited in the fund.

(i)Moneys in the fund shall not be subject to transfer to any other funds pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except to the Surplus Money Investment Fund.

(j)Effective December 31, 2031, the Distressed Hospital Loan Program Fund in the State Treasury, created pursuant to this chapter, is hereby abolished. After accounting for all final program transactions, any remaining Distressed Hospital Loan Program Fund reserves shall be returned to the source of origin, in the amounts of up to one hundred fifty million dollars ($150,000,000) to the General Fund, and up to one hundred fifty million dollars ($150,000,000) to the Medi-Cal Provider Payment Reserve Fund. Any other remaining balance, assets, liabilities, and encumbrances of the Distressed Hospital Loan Program Fund shall revert to the General Fund. The department shall deposit all subsequent loan repayments or Medi-Cal reimbursements withheld for due cause pursuant to subdivision (b) of Section 129384 to the Treasurer, to the credit of the General Fund.

(k)The department and the authority may require any hospital receiving a loan under this chapter to provide the department and the authority with an independent financial audit of the hospitalsoperations for any fiscal year in which a loan is outstanding.

(Amended by Stats. 2023, Ch. 42, Sec. 55. (AB 118) Effective July 10, 2023. Repealed as of January 1, 2032, pursuant to Section 129387.)

129386.

(a)Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the authority and the department may implement, interpret, or make specific this chapter, in whole or in part, by means of information notices or other similar instructions, without taking any further regulatory action.

(b)For purposes of implementing this chapter, the authority and the department may enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis. Contracts entered into or amended pursuant to this subdivision shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and the State Administrative Manual, and shall be exempt from the review or approval of any division of the Department of General Services.

(Added by Stats. 2023, Ch. 6, Sec. 3. (AB 112) Effective May 15, 2023. Repealed as of January 1, 2032, pursuant to Section 129387.)

129387.

This chapter shall remain in effect only until January 1, 2032, and as of that date is repealed.

(Added by Stats. 2023, Ch. 6, Sec. 3. (AB 112) Effective May 15, 2023. Repealed as of January 1, 2032, by its own provisions. Note: Repeal affects Chapter 4, commencing with Section 129380.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=7.&chapter=&article=

Code:Section:
Keyword(s):

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=107.&title=&part=7.&chapter=1.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=7.&chapter=1.&article=1.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 7. FACILITIES DESIGN REVIEW AND CONSTRUCTION [129675 - 130079]__

(Part 7 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facilities [129675 - 130070]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 1. General Provisions [129675 - 129680]__

(Article 1 added by Stats. 1995, Ch. 415, Sec. 9.)

129675.

This chapter shall be known and may be cited as the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129680.

(a) It is the intent of the Legislature that hospital buildings that house patients who have less than the capacity of normally healthy persons to protect themselves, and that must be reasonably capable of providing services to the public after a disaster, shall be designed and constructed to resist, insofar as

practical, the forces generated by earthquakes, gravity, and winds. In order to accomplish this purpose, the department shall propose proper building standards for earthquake resistance based upon current knowledge, and provide an independent review of the design and construction of hospital buildings.

(b) Local jurisdictions are preempted from the enforcement of all building standards published in the California Building Standards Code relating to the regulation of hospital buildings and the enforcement of other regulations adopted pursuant to this chapter, and all other applicable state laws, including plan checking and inspection of the design and details of the architectural, structural, mechanical, plumbing, electrical, and fire and panic safety systems, and the observation of construction. The department shall assume these responsibilities.

(c) Where local jurisdictions have more restrictive requirements for the enforcement of building standards, other building regulations, and construction supervision, these requirements shall be enforced by the department.

(d) Each local jurisdiction shall keep the department advised as to the existence of any more restrictive local requirements. Where a reasonable doubt exists as to whether the requirements of the local jurisdiction are more restrictive, the effect of these requirements shall be determined by the Hospital Building Safety Board.

It is further the intent of the Legislature that the department, with the advice of the Hospital Building Safety Board, may conduct or enter into contracts for research regarding the reduction or elimination of seismic or other safety hazards in hospital buildings or research regarding hospital building standards.

(Amended by Stats. 2021, Ch. 143, Sec. 278. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=7.&chapter=1.&article=2.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 7. FACILITIES DESIGN REVIEW AND CONSTRUCTION [129675 - 130079]__

(Part 7 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facilities [129675 - 130070]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 2. Definitions [129700 - 129745]__

(Article 2 added by Stats. 1995, Ch. 415, Sec. 9.)

129700.

Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129705.

Architect means a person who is certified and holds a valid license under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129710.

Construction or alteration includes any construction, reconstruction, or alteration of, or addition to, any hospital building.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129715.

Director means the Director of the Department of Health Care Access and Development.

(Amended by Stats. 2021, Ch. 143, Sec. 279. (AB 133) Effective July 27, 2021.)

129720.

Engineering geologist means a person who is validly certified under Chapter 12.5 (commencing with Section 7800) of Division 3 of the Business and Professions Code.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129725.

(a) (1) Hospital building includes any building not specified in subdivision (b) that is used, or designed to be used, for a health facility of a type required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(2) Except as provided in paragraph (7) of subdivision (b), hospital building includes a correctional treatment center, as defined in subdivision (j) of Section 1250, the construction of which was completed on or after March 7, 1973.

(b) Hospital building does not include any of the following:

(1) Any building where outpatient clinical services of a health facility licensed pursuant to Section 1250 are provided that is separated from a building in which hospital services are provided. If any one or more outpatient clinical services in the building provides services to inpatients, the building shall not be included as a hospital building if those services provided to inpatients represent no more than 25 percent of the total outpatient services provided at the building. Hospitals shall maintain on an ongoing basis, data on the patients receiving services in these buildings, including the number of patients seen, categorized by their inpatient or outpatient status. Hospitals shall submit this data annually to the State Department of Public Health.

(2) A building used, or designed to be used, for a skilled nursing facility or intermediate care facility if the building is of single-story, wood-frame, or light steel frame construction.

(3) A building of single-story, wood-frame, or light steel frame construction where only skilled nursing or intermediate care services are provided if the building is separated from a building housing other patients of the health facility receiving higher levels of care.

(4) A freestanding structure of a chemical dependency recovery hospital exempted under subdivision (c) of Section 1275.2.

(5) A building licensed to be used as an intermediate care facility/developmentally disabled habilitative with six beds or less and an intermediate care facility/developmentally disabled habilitative of 7 to 15 beds that is a single-story, wood-frame, or light steel frame building.

(6) A building subject to licensure as a correctional treatment center, as defined in subdivision (j) of Section 1250, the construction of which was completed before March 7, 1973.

(7) (A) A building that meets the definition of a correctional treatment center, pursuant to subdivision (j) of Section 1250, for which the final design documents were completed or the construction of which was initiated before January 1, 1994, operated by or to be operated by the Department of Corrections and Rehabilitation, or by a law enforcement agency of a city, county, or a city and county.

(B) In the case of reconstruction, alteration, or addition to, the facilities identified in this paragraph, and paragraph (6) or any other building subject to licensure as a general acute care hospital, acute psychiatric hospital, correctional treatment center, or nursing facility, as defined in subdivisions (a), (b), (j), and (k) of Section 1250, operated or to be operated by the Department of Corrections and Rehabilitation, or by a law enforcement agency of a city, county, or city and county, only the reconstruction, alteration, or addition,

itself, and not the building as a whole, nor any other aspect thereof, shall be required to comply with this chapter or the regulations adopted pursuant thereto.

(8)A freestanding building used, or designed to be used, as a congregate living health facility, as defined in subdivision (i) of Section 1250.

(9)A freestanding building used, or designed to be used, as a hospice facility, as defined in subdivision (n) of Section 1250.

(Amended by Stats. 2013, Ch. 76, Sec. 131. (AB 383) Effective January 1, 2014.)

129730.

(a) Space for the following functions shall be considered outpatient clinical services, when provided in a freestanding building that is separated from a hospital building where inpatient hospital services are provided: administrative space; central sterile supply; storage; morgue and autopsy facilities; employee dressing rooms and lockers; janitorial and housekeeping facilities; and laundry.

(b) The outpatient portions of the following services may also be delivered in a freestanding building and shall be considered outpatient clinical services: surgical; chronic dialysis; psychiatry; rehabilitation; occupational therapy; physical therapy; maternity; dentistry; and chemical dependency.

(c) Services that duplicate basic services, as defined in subdivision (a) of Section 1250, or services that are provided as part of a basic service, but are not required for facility licensure may also be provided in a freestanding building.

(d) The department shall not approve any plans that propose to locate any function listed in subdivision (a) in a freestanding building until the State Department of Health Services certifies to the department that it has received and approved a plan acceptable to the State Department of Health Services that demonstrates how the health facility will continue to provide all basic services in the event of any emergency when the freestanding building may no longer remain functional.

(e) Services listed in subdivisions (b) and (c) are subject to the same 25-percent inpatient limitation described in Section 129725.

(Amended by Stats. 2021, Ch. 143, Sec. 280. (AB 133) Effective July 27, 2021.)

129735.

Light steel frame construction means building construction using bearing walls composed of light gauge steel studs for its primary vertical support systems.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129740.

Department means the Department of Health Care Access and Information.

(Amended by Stats. 2021, Ch. 143, Sec. 281. (AB 133) Effective July 27, 2021.)

129745.

Structural engineer means a person who is validly certified to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=7.&chapter=1.&article=3.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 7. FACILITIES DESIGN REVIEW AND CONSTRUCTION [129675 - 130079]__

(Part 7 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facilities [129675 - 130070]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 3. General Requirements and Administration [129750 - 129856]__

(Article 3 added by Stats. 1995, Ch. 415, Sec. 9.)

129750.

The department shall observe the construction of, or addition to, any hospital building or the reconstruction or alteration of any hospital building, as it deems necessary to comply with this chapter for the protection of life and property.

(Amended by Stats. 2021, Ch. 143, Sec. 282. (AB 133) Effective July 27, 2021.)

129760.

The governing board of each hospital or other hospital governing authority, before adopting any plans for the hospital building, shall submit the plans to the department for approval and shall pay the fees prescribed in this chapter.

(Amended by Stats. 2021, Ch. 143, Sec. 283. (AB 133) Effective July 27, 2021.)

129761.

The department shall use, to the extent possible, information technology to facilitate the timely performance of its duties and responsibilities under this chapter.

(Amended by Stats. 2021, Ch. 143, Sec. 284. (AB 133) Effective July 27, 2021.)

129765.

(a)Except as set forth in subdivision (b), the application for approval of the plans shall be accompanied by the plans, including full, complete, and accurate specifications, and structural design computations, which shall comply with the requirements prescribed by the department. The department may permit electronic submission, review, and approval of plans.

(b)Notwithstanding subdivision (a), the department, in its sole discretion, may enter into a written agreement with the hospital governing authority for the phased submittal and approval of plans. The department shall charge a fee for the review and approval of plans submitted pursuant to this subdivision. This fee shall be based on the estimated cost, but shall not exceed the actual cost, of the entire phased review and approval process for those plans. This fee shall be deducted from the application fee pursuant to Section 129785.

(Amended by Stats. 2021, Ch. 143, Sec. 285. (AB 133) Effective July 27, 2021.)

129770.

(a) The department shall pass upon and approve or reject all plans for the construction or the alteration of any hospital building, independently reviewing the design to assure compliance with the requirements of this chapter. The department shall review the structural systems and related details, including the independent

review of the geological data. Geological data shall be reviewed by an engineering geologist, and structural design data shall be reviewed by a structural engineer.

(b) Whenever the department finds a violation of this chapter that requires correction, a citation of the violation shall be issued to the hospital governing board or authority in writing and shall include a proper reference to the regulation or statute being violated.

(Amended by Stats. 2021, Ch. 143, Sec. 286. (AB 133) Effective July 27, 2021.)

129775.

(a) Except as otherwise provided in subdivision (b), plans submitted pursuant to this chapter for work that affects structural elements shall contain an assessment of the nature of the site and potential for earthquake damage, based upon geologic and engineering investigations and reports by competent personnel of the causes of earthquake damage. One-story Type V wood frame or light steel frame, or light steel and wood frame construction of 4,000 square feet or less, shall be exempt from the provisions of this section, unless the project is within a special study zone established pursuant to Section 2622 of the Public Resources Code.

(b) The requirements of subdivision (a) may be waived by the department when the department determines that these requirements for the proposed hospital project are unnecessary and would not be beneficial to the safety of the public. The department, after consultation with the Building Safety Board, shall adopt regulations defining the criteria upon which the determination of a waiver shall be made.

(Amended by Stats. 2021, Ch. 143, Sec. 287. (AB 133) Effective July 27, 2021.)

129780.

The engineering investigation shall be correlated with the geologic evaluation made pursuant to Section 129775.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129785.

(a) (1) The department shall determine an application filing fee that will cover the costs of administering this chapter. For a hospital facility, as defined in subdivision (a), (b), or (f) of Section 1250, the fee shall not exceed 2 percent of a projectsestimated construction cost. For a skilled nursing or intermediate care facility, as defined in subdivision (c), (d), (e), or (g) of Section 1250, the fee shall not exceed 1.5 percent of a projectsestimated construction cost. Application filing fees shall be established in accordance with applicable procedures established in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Notwithstanding paragraph (1), the minimum application filing fee in any case shall be two hundred fifty dollars ($250).

(b) The department shall issue an annual permit upon submission of an application, pursuant to Section 129765, for one or more projects of a hospital facility, as defined in subdivision (a), (b), or (f) of Section 1250, if the total estimated construction cost is fifty thousand dollars ($50,000) or less per fiscal year. The fee for the annual permit shall be five hundred dollars ($500) and shall be in lieu of an application filing fee. The annual permit shall cover all projects undertaken for a particular hospital facility up to a total estimated construction cost of fifty thousand dollars ($50,000) during the state fiscal year in which the annual permit is issued. If a hospital facility chooses not to apply for an annual permit to cover a project or projects costing fifty thousand dollars ($50,000) or less in total, the hospital facility may instead submit the project or projects for review and approval as otherwise specified in this chapter, including paying the application filing fee determined under subdivision (a).

(c) The department shall issue an annual permit upon submission of an application, pursuant to Section 129765, for one or more projects of a skilled nursing or intermediate care facility, as defined in subdivision (c), (d), (e), or (g) of Section 1250, if the total estimated construction cost is twenty-five thousand dollars ($25,000) or less per fiscal year. The fee for the annual permit shall be two hundred fifty dollars ($250) and shall be in lieu of an application filing fee. The annual permit shall cover all projects undertaken for a particular skilled nursing or intermediate care facility up to a total estimated construction cost of twenty-five thousand dollars ($25,000) during the state fiscal year in which the annual permit is issued. If a skilled nursing or intermediate care facility chooses not to apply for an annual permit to cover a project or projects costing twenty-five thousand dollars ($25,000) or less in total, the skilled nursing or intermediate care facility may instead submit the project or projects for review and approval as otherwise specified in this chapter, including paying the application filing fee determined under subdivision (a).

(d) If the actual construction cost exceeds the estimated construction cost by more than 5 percent, a further fee shall be paid to the department, based on the above schedule and computed on the amount that the actual cost exceeds the amount of the estimated cost. If the estimated construction cost exceeds the actual construction cost by more than 5 percent, the department shall refund the excess portion of any paid fees, based on the above schedule and computed on the amount that the estimated cost exceeds the amount of the actual cost. A refund is not required if the applicant did not complete construction or alteration of 75 percent of the square footage included in the project, as contained in the approved drawings and specifications for the project. In addition, the department shall adopt regulations specifying other circumstances when the department shall refund to an applicant all or part of any paid fees for projects submitted under this chapter. The regulations shall include, but not be limited to, refunds of paid fees for a project that is determined by the department to be exempt or otherwise not reviewable under this chapter, and for a project that is withdrawn by the applicant prior to the commencement of review by the department of the drawing and specifications submitted for the project. All refunds pursuant to this section shall be paid from the Hospital Building Account in the Architecture Public Building Fund, as established pursuant to Section 129795.

(Amended by Stats. 2021, Ch. 143, Sec. 288. (AB 133) Effective July 27, 2021.)

129787.

(a)The payment of the filing fee described in Section 129785 may be postponed by the department if all of the following conditions are met:

(1)The proposed construction or alteration has been proposed as a result of any event that has been declared to be a disaster by the Governor.

(2)The department determines that the applicant cannot presently afford to pay the filing fee.

(3)The applicant has applied for federal disaster relief from the Federal Emergency Management Agency (FEMA) with respect to the disaster described in paragraph (1).

(4)The applicant is expected to receive disaster assistance within one year from the date of the application.

(b)If the department does not receive full payment of any fee for which payment has been postponed pursuant to subdivision (a) within one year from the date of plan approval, the statewide department may request an offset from the Controller for the unpaid amount against any amount owed by the state to the applicant, and may request additional offsets against amounts owed by the state to the applicant until the fee is paid in full. This subdivision shall not be construed to establish an offset as described in the preceding sentence as the exclusive remedy for the collection of any unpaid fee amount as described in that same sentence.

(Amended by Stats. 2021, Ch. 143, Sec. 289. (AB 133) Effective July 27, 2021.)

129790.

The department shall propose specific space, architectural, structural, mechanical, plumbing, and electrical standards for correctional treatment centers in cooperation with the Board of Corrections, the Department of Corrections, and the Department of the Youth Authority.

(Amended by Stats. 2021, Ch. 143, Sec. 290. (AB 133) Effective July 27, 2021.)

129795.

All fees shall be paid into the State Treasury and credited to the Hospital Building Fund, that is hereby created and continuously appropriated without regard to fiscal years for the use of the department, subject to approval of the Department of Finance, in carrying out this chapter. Adjustments in the amounts of the fees, as determined by the department and approved by the Department of Finance, shall be made within the limits set in Section 129785 in order to maintain a reasonable working balance in the account. Notwithstanding any other provision of law, any moneys collected pursuant to this chapter contained in the hospital building fund established by the Department of Finance, that are in the fund on January 1, 1994, shall be available for expenditure in accordance with this section.

(Amended by Stats. 2021, Ch. 143, Sec. 291. (AB 133) Effective July 27, 2021.)

129800.

The director shall request the Department of Finance or the Auditor General to perform an audit of the uses of fees collected pursuant to Section 129785. This audit shall include, but not be limited to, an accounting of staff resources allocated to hospital plan reviews by the department and by the Office of the State Architect in the Department of General Services since these reviews are funded by fees collected pursuant to Section 129785. If the Department of Finance and the Auditor General indicate that other audit responsibilities will

prohibit them from performing and completing the audit within six months of being initially requested to do so, then the department may contract with an independent organization to perform the audit.

(Amended by Stats. 2021, Ch. 143, Sec. 292. (AB 133) Effective July 27, 2021.)

129805.

(a)All plans and specifications shall be prepared under the responsible charge of an architect or a structural engineer, or both. A structural engineer shall prepare the structural design and shall sign plans and specifications related thereto. Administration of the work of construction shall be under the responsible charge of the architect and structural engineer, except that where plans and specifications for alterations or repairs do not affect architectural or structural conditions, the plans and specifications may be prepared under the responsible charge of, and work of construction may be administered by, a professional engineer duly qualified to perform the services and holding a valid certificate under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code for performance of services in that branch of engineering in which the plans, specifications, and estimates and work of construction are applicable.

(b)The department may exempt projects from the requirements of subdivision (a) where the plans and specifications are not ordinarily, in the standard practice of architecture and engineering, prepared by licensed architects or registered engineers, or both, and are not a component of a project prepared under the responsible charge of a licensed architect or registered engineer, or both. To implement this authority, the department shall adopt regulations, consistent with this section, that specify which projects may be exempted from the requirements of subdivision (a).

(Amended by Stats. 2021, Ch. 143, Sec. 293. (AB 133) Effective July 27, 2021.)

129810.

Before commencing any construction or alteration of any hospital building, the written approval of the necessary plans as to safety of design and construction, by the department, shall be obtained.

(Amended by Stats. 2021, Ch. 143, Sec. 294. (AB 133) Effective July 27, 2021.)

129812.

Notwithstanding any other provision of law, the department may utilize an over-the-counter plan review process.

(Amended by Stats. 2021, Ch. 143, Sec. 295. (AB 133) Effective July 27, 2021.)

129815.

Any permit or authorization issued or provided pursuant to this chapter shall be subject to Chapter 3

(commencing with Section 15374) of Part 6.7 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129820.

No contract for the construction or alteration of any hospital building, made or executed on or after January 1, 1983, by the governing board or authority of any hospital or other similar public board, body, or officer otherwise vested with authority to make or execute the contract, is valid, and no money shall be paid for any work done under the contract or for any labor or materials furnished in constructing or altering the hospital building, unless all of the following requirements are satisfied:

(a) The plans and specifications comply with this chapter and the requirements contained in the California Building Standards Code.

(b) The written approval thereof has first been obtained from the department.

(c) The hospital building is to be accessible to, and usable by, persons with disabilities.

(d) The plans and specifications comply with the fire and panic safety requirements of the California Building Standards Code.

(Amended by Stats. 2021, Ch. 143, Sec. 296. (AB 133) Effective July 27, 2021.)

129825.

(a) The hospital governing board or authority shall provide for and require competent and adequate inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer, or both, and the department. Except as otherwise provided in subdivision (b), the inspector shall act under the direction of the architect or structural engineer, or both, and be responsible to the board or authority. Nothing in this section shall be construed to prohibit any licensed architect, structural engineer, mechanical engineer, electrical engineer, or any facility maintenance personnel, if approved by the department, from performing the duties of an inspector.

(b) If alterations or repairs are to be conducted under the supervision of a professional engineer pursuant to Section 129805, the inspector need only be satisfactory to the department and to the professional engineer, and the inspector shall act under the direction of the professional engineer.

(c) The department shall make an inspection of the hospital buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this chapter and the protection of the safety of the public.

Whenever the department finds a violation of this chapter that requires correction, the citation of the violation shall be issued to the hospital governing board or authority in writing and shall include a proper reference to the regulation or statute being violated.

(d) The department shall approve inspectors that shall be limited to the following:

(1) A inspectors, who may inspect all areas of construction specialty, including, but not limited to, structural.

(2) B inspectors, who may inspect all areas of construction specialty, except structural.

(3) C inspectors, who may inspect one or more areas of construction specialty, including structural, but may not inspect the scope of construction specialties authorized for A or B inspectors.

(e) (1) As part of its approval process, the department shall initially and periodically examine inspectors by giving either a written examination or a written and oral examination. The department may charge a fee for the examination process calculated to cover its costs. Inspectors who have not passed a written examination shall not be approved by the department until they have successfully passed the written examination. No employee of the department performing field inspections or supervising the field inspections shall be approved as an inspector on any construction project pursuant to this chapter for a period of one year after leaving employment of the department.

(2) The department shall develop regulations for the testing and approval of inspectors.

(Amended by Stats. 2021, Ch. 143, Sec. 297. (AB 133) Effective July 27, 2021.)

129830.

From time to time, as the work of construction or alteration progresses and whenever the department requires, the architect or structural engineer, or both, in charge of construction or registered engineer in charge of other work, the inspector on the work, and the contractor shall each make a report, duly verified by them, upon a form prescribed by the department showing, of their personal knowledge, that the work during the period covered by the report has been performed and materials used and installed are in accordance with the approved plans and specifications, setting forth detailed statements of fact as required by the department.

The term personal knowledge, as used in this section and as applied to the architect or registered engineer, or both, means the personal knowledge that is obtained by periodic visits to the project site of reasonable frequency, for the purpose of general observation of the work, and that is also obtained from the reporting of others as to the progress of the work, testing of materials, and inspection and superintendence of the work that is performed between the periodic visits of the architect or the registered engineer. Reasonable diligence shall be exercised in obtaining the facts.

The term personal knowledge, as applied to the inspector, means the actual personal knowledge that is obtained from the inspectorspersonal continuous inspection of the work of construction in all stages of its progress at the site where the inspector is responsible for inspection, and when work is carried out away from the site, that personal knowledge that is obtained from the reporting of others on the testing or inspection of materials and workmanship, for compliance with plans, specifications, or applicable standards. Reasonable diligence shall be exercised in obtaining the facts.

The term personal knowledge, as applied to the contractor, means the personal knowledge that is obtained from the construction of the building. The exercise of reasonable diligence to obtain the facts is required.

(Amended by Stats. 2021, Ch. 143, Sec. 298. (AB 133) Effective July 27, 2021.)

129835.

Upon written request to the department by the governing board or authority of any hospital, the department shall make, or cause to be made, an examination and report on the condition of any hospital building subject to the payment by the governing board or authority of the actual expenses incurred by the department.

(Amended by Stats. 2021, Ch. 143, Sec. 299. (AB 133) Effective July 27, 2021.)

129840.

Subsequent to the occurrence of any earthquake, the department may make, or cause to be made, studies of health facilities within the area involved.

(Amended by Stats. 2021, Ch. 143, Sec. 300. (AB 133) Effective July 27, 2021.)

129850.

Except as provided in Sections 18929 and 18930, the department shall from time to time make any regulations that it deems necessary, proper, or suitable to effectually carry out this chapter. The department shall also propose and submit building standards to the California Building Standards Commission for adoption and approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 relating to seismic safety for hospital buildings.

(Amended by Stats. 2021, Ch. 143, Sec. 301. (AB 133) Effective July 27, 2021.)

129851.

Written rules and regulations by the department to clarify the application of the California Building Standards Code pursuant to this chapter shall be made available to the public upon request.

(Amended by Stats. 2021, Ch. 143, Sec. 302. (AB 133) Effective July 27, 2021.)

129853.

(a)The person or entity requesting a copy of construction documents maintained by the department shall bear the actual cost of producing the copy of those documents, including staff time spent retrieving, inspecting, and handling the documents, copying costs, and shipping costs.

(b)The department shall provide an estimate of the costs described in subdivision (a) to the requester before the department begins to make those copies.

(Amended by Stats. 2021, Ch. 143, Sec. 303. (AB 133) Effective July 27, 2021.)

129855.

The department may enter into any agreements and contracts with any qualified person, department, agency, corporation, or legal entity, as determined by the department, when necessary in order to facilitate the timely performance of the duties and responsibilities relating to the review and inspection of architectural, mechanical, electrical, and plumbing systems of hospital buildings to be constructed or altered or buildings under construction or alteration.

If the department determines that the structural review of plans for a hospital building cannot be completed without undue delay, the department may enter into contractual agreements with private structural engineers or local governments for the purpose of facilitating the timely performance of the duties and responsibilities relating to the review and inspection of plans and specifications of the structural systems of hospital construction projects.

The department, with the advice of the Building Safety Board, shall prepare regulations, containing qualification criteria, for implementing the contractual agreement provisions of this section.

(Amended by Stats. 2021, Ch. 143, Sec. 304. (AB 133) Effective July 27, 2021.)

129856.

(a)Contingent on an appropriation in the annual Budget Act, the department shall establish a program for training fire and life safety officers. The goal of this program shall be to provide a sufficient number of qualified persons to facilitate the timely performance of the departmentsduties and responsibilities relating to the review of plans and specifications pertaining to the design and observation of construction of hospital buildings and buildings described in paragraphs (2) and (3) of subdivision (b) of Section 129725, in order to ensure compliance with applicable facility design and construction codes and standards.

(b)The department shall prepare a comprehensive report on the training program setting forth its goals, objectives, and structure. The report shall include the number of fire and life safety officers to be trained annually, a timeline for training completion, a process for gathering information to evaluate the training programs efficiency that includes dropout and retention rates, and a mechanism to annually assess the need for the training program to continue. The report shall be submitted to the Joint Legislative Budget Committee by April 1, 2007.

(c)The department may establish other training programs as necessary to ensure that a sufficient number of qualified persons are available to facilitate the timely performance of the departmentsduties and responsibilities relating to the review of plans and specifications pertaining to the design and construction of hospital buildings and buildings described in paragraphs (2) and (3) of subdivision (b) of Section 129725, to ensure compliance with applicable safety codes and standards.

(d)If additional training programs are established pursuant to subdivision (c), the department shall prepare a comprehensive report on the training program setting forth its goals, objectives, and structure. The report shall include the number of individuals trained pursuant to subdivision (c) annually, a timeline for training completion, a process for gathering information to evaluate the training programs efficiency that includes

dropout and retention rates, and a mechanism to annually assess the need for the training program to continue. The report shall be submitted to the Joint Legislative Budget Committee three years after the training program has been implemented.

(Amended by Stats. 2021, Ch. 143, Sec. 305. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=7.&chapter=1.&article=4.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 7. FACILITIES DESIGN REVIEW AND CONSTRUCTION [129675 - 130079]__

(Part 7 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facilities [129675 - 130070]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 4. Special Requirements [129875 - 129905]__

(Article 4 added by Stats. 1995, Ch. 415, Sec. 9.)

129875.

Construction or alterations of buildings specified in paragraphs (2) and (3) of subdivision (b) of Section 129725 shall conform to the latest edition of the California Building Standards Code. The department shall independently review and inspect these buildings. For purposes of this section, construction or alteration includes the conversion of a building to a purpose specified in paragraphs (2) and (3) of subdivision (b) of Section 129725. Any construction or alteration of any building subject to this section shall be exempt from any plan review and approval or construction inspection requirement of any city or county.

The department may also exempt from the plan review process or expedite those projects undertaken by an applicant for a hospital building that the department determines do not materially alter the mechanical, electrical, architectural, or structural integrity of the facility. The department shall set forth criteria to expedite projects or to implement any exemptions made pursuant to this paragraph.

The Legislature recognizes the relative safety of single-story, wood-frame, and light steel frame construction for use in housing patients requiring skilled nursing and intermediate care services and it is, therefore, the intent of the Legislature to provide for reasonable flexibility in seismic safety standards for these structures. The department shall be reasonably flexible in the application of seismic standards for other buildings by allowing incidental and minor nonstructural additions or nonstructural alterations to be accomplished with simplified written approval procedures as established by the department, with the advice of the Division of the State Architect and the Office of the State Fire Marshal.

The department shall implement, and modify, as necessary, criteria to exempt from the plan review process or expedite those projects for alterations of hospital buildings, and for those specified in paragraphs (2) and (3) of subdivision (b) of Section 129725 that may include, but are not limited to, renovations, remodeling, or installations of necessary equipment such as hot water heaters, air-conditioning units, dishwashers, laundry equipment, handrails, lights, television brackets, small emergency generators (up to 25 kilowatts), storage shelves, and similar plant operations equipment; and decorative materials such as wall coverings, floor coverings, and paint.

The department shall include provisions for onsite field approvals by available department construction advisers and the preapproval of projects that comply with the requirements for which the department has developed standard architectural or engineering detail, or both standard architectural and engineering detail.

(Amended by Stats. 2021, Ch. 143, Sec. 306. (AB 133) Effective July 27, 2021.)

129875.1.

(a)Notwithstanding Section 129875, projects for the construction or alterations of buildings specified in paragraph (1) of subdivision (a) of Section 129725 that are single-story, wood-frame or light steel frame construction and buildings specified in paragraphs (2) and (3) of subdivision (b) of Section 129725 shall be exempt from plan review and inspection by the department prior to construction if the facility demonstrates to the department, by written description of the project, that all of the following conditions are met:

(1)The construction or alteration is undertaken to repair existing systems or to keep up the course of normal or routine maintenance.

(2)The construction or alteration either restores the facility to the same operational status, or improves operational status from its operating condition immediately prior to the event, occurrence, or condition that necessitated the alteration.

(3)The scope of the construction or alteration is not ordinarily within the standard of practice of a licensed architect or registered engineer.

(4)The construction or alteration does not degrade the status or condition of the fire and life safety system from the status of the system immediately prior to the event, occurrence, or condition that necessitated the alteration.

(b)Upon completion of construction or alteration of any building subject to this section, and prior to use of the repaired system or other subject of the construction or alteration, the department shall inspect and approve the work. The department may require an interim inspection for code compliance when walls, ceilings, or other materials or finishes will cover the final work.

(c)Upon compliance with subdivision (a), the department shall issue a building permit.

(Amended by Stats. 2021, Ch. 143, Sec. 307. (AB 133) Effective July 27, 2021.)

129880.

(a)The department may exempt from its plan review process construction or alteration projects for hospital buildings and buildings described in paragraphs (2) and (3) of subdivision (b) of Section 129725 with estimated construction costs of fifty thousand dollars ($50,000) or less. The criteria for exemption shall include, but not be limited to, plans that have been stamped and signed by the design professionals of record.

(b) Projects that have been split into a series of smaller projects in order to avoid the qualifying dollar limits shall not be approved. The department shall maintain its construction observation mandate to ensure public safety and California Building Standards Code compliance for approved projects.

(c)A presubmittal meeting between the department and the design professionals shall be required for construction or alteration projects for hospital buildings and buildings described in paragraphs (2) and (3) of subdivision (b) of Section 129725 with estimated construction costs of twenty million dollars ($20,000,000) or more.

(d)The department may adopt regulations for this section to make specific the exemption criteria and processes authorized pursuant to subdivision (a), and the complete plan review process required pursuant to subdivision (c).

(Amended by Stats. 2021, Ch. 143, Sec. 308. (AB 133) Effective July 27, 2021.)

129885.

(a)A city or county, as applicable, shall have plan review and building inspection responsibilities for the construction or alteration of buildings described in paragraph (1) of subdivision (b) of Section 129725. The building standards for the construction or alteration of buildings specified in paragraph (1) of subdivision (b) of Section 129725 established or applied by a city or county, shall not be more restrictive or comprehensive than comparable building standards established, or otherwise applied, to clinics licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2. For chronic dialysis and surgical services buildings, construction or alteration shall include conversion of a building to a purpose specified in paragraph (1) of subdivision (b) of Section 129725.

(b)Upon the initial submittal to a city or county by the governing authority or owner of a hospital for plan review and building inspection services for buildings described in paragraph (1) of subdivision (b) of Section 129725 for chronic dialysis and surgical services, the city or county shall reply in writing to the hospital as to

whether or not the plan review by the city or county will include a certification as to whether or not the clinic project submitted for plan review meets the clinic standards propounded by the department in the California Building Standards Code.

If the city or county indicates that its review will include this certification, it shall do all of the following:

(1)Apply the applicable clinic provisions of the latest edition of the California Building Standards Code.

(2)Certify in writing to the applicant within 30 days of completion of construction whether or not the standards have been met.

(c)If, upon initial submittal, the city or county indicates that its plan review will not include this certification, the governing authority or owner shall submit the plans to the Department of Health Care Access and Information and the department shall review the plans for certification to determine whether or not the clinic project meets the standards propounded by the department in the California Building Standards Code.

(d)When the department performs the certification review, the department shall charge a fee in an amount not to exceed its actual cost.

(e)Notwithstanding subdivision (a), the governing authority of a hospital may request the Department of Health Care Access and Information to perform plan review and building inspection services for buildings described in paragraph (1) of subdivision (b) of Section 129725 and Section 129730. The department shall perform these services upon request and shall charge an amount equal to its standard fee for the construction and alteration of hospital buildings. The construction or alteration of these buildings shall conform to the applicable provisions of the latest edition of the California Building Standards Code for purposes of the plan review and building inspection of the department pursuant to this subdivision. The department shall issue the building permit and certificate of occupancy for these facilities.

(f)A building described in paragraph (1) of subdivision (b) of Section 129725 that is subject to the plan review and building inspection of the department pursuant to subdivision (e), may be designated by the governing authority or owner of the hospital as a hospital building as long as the building remains under the jurisdiction of the department. This hospital building shall be reviewed and inspected according to the standards and requirements of the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (Chapter 1 (commencing with Section 129675)).

(g)When a building is accepted for review by the department pursuant to subdivision (e), the governing authority of the hospital shall not request the city or county, as applicable, to conduct plan review and building inspection for any subsequent alteration of the same building, unless written notification is submitted to the department by the governing authority or owner of the hospital.

(Amended by Stats. 2021, Ch. 143, Sec. 309. (AB 133) Effective July 27, 2021.)

129890.

(a)Notwithstanding any other provision of law, the department shall, on or before January 1, 1991, set forth and implement criteria for the alteration or construction of buildings specified in subdivision (a) of Section 129725 that provide for onsite field review and approval by construction advisers of the department and provide for preapproval of project plans that comply with the requirements for which the department has developed standard architectural or engineering detail, or both standard architectural and engineering detail.

(b)Onsite field reviews shall be performed by available area construction advisers of the department. The area construction advisers shall have the responsibility to coordinate any approvals required by the State Fire Marshal. The approvals may be obtained prior to the start of construction or on a deferred basis, at the discretion of the area construction adviser.

(c)An annual building permit project classified as a field review shall be reviewed and approved by the area construction adviser.

(d)Effective January 1, 1991, all plans submitted for the alteration or construction of buildings specified in subdivision (a) of Section 129725 to the department for plan review shall be evaluated to determine if it is exempt from the plan review process or if it qualifies for an expedited plan review. The evaluation shall give priority to plans that are for minor renovation, remodeling, or installation of equipment.

(Amended by Stats. 2021, Ch. 143, Sec. 310. (AB 133) Effective July 27, 2021.)

129895.

(a)The department shall adopt by regulations seismic safety standards for hospital equipment anchorages, as defined by the department, to include, but not be limited to, architectural, mechanical, and electrical components, supports, and attachments. Those regulations shall include criteria for the testing of equipment anchorages.

(b)Any fixed hospital equipment anchorages purchased or acquired on or after either the effective date of the regulations adopted pursuant to subdivision (a) shall not be used or installed in any hospital building unless the equipment anchorages are approved by the department.

(c)Manufacturers, designers, or suppliers of equipment anchorages may submit data sufficient for the office to evaluate equipment anchorages™ seismic safety prior to the selection of equipment anchorages for any specific hospital building.

(d)The department may charge a fee based on the actual costs incurred by it for data review, approvals, and field inspections pursuant to this section.

(Amended by Stats. 2021, Ch. 143, Sec. 311. (AB 133) Effective July 27, 2021.)

129900.

Notwithstanding any other provision of law, plans for the construction or alteration of any hospital building, or any building specified in Section 129875, that are prepared by or under the supervision of the Department of General Services shall not require the review and approval of the department. In lieu of review and approval by the department, the Department of General Services shall certify to the department that the plans are in full conformance with all applicable building standards and the requirements of this chapter. The Department of General Services shall also observe all aspects of construction and alteration, including the architectural, structural, mechanical, plumbing and electrical systems.

It is the intent of the Legislature that projects developed by, or under the supervision of, the Department of

General Services shall still meet all applicable building standards published in the State Building Standards Code relating to the regulation of hospital projects where applicable, and all regulations adopted pursuant to this chapter and all other applicable state laws.

(Amended by Stats. 2021, Ch. 143, Sec. 312. (AB 133) Effective July 27, 2021.)

129905.

Subject to the complete exemption contained in paragraphs (6) and (7) of subdivision (b) of Section 129725, and notwithstanding any other provision of law, plans for the construction or alteration of any hospital building, as defined in Section 1250, or any building specified in Section 129875, that are prepared by or under the supervision of the Department of Corrections or on behalf of the Department of the Youth Authority, shall not require the review and approval of the statewide department. In lieu of review and approval by the statewide department, the Department of Corrections and the Department of the Youth Authority shall certify to the statewide department that their plans and construction are in full conformance with all applicable building standards, including, but not limited to, fire and life and safety standards, and the requirements of this chapter for the architectural, structural, mechanical, plumbing, and electrical systems. The Department of Corrections and the Department of the Youth Authority shall use a secondary peer review procedure to review designs to ensure the adherence to all design standards for all new construction projects, and shall ensure that the construction is inspected by a competent, onsite inspector to ensure the construction is in compliance with the design and plan specifications.

Subject to the complete exemption contained in paragraphs (6) and (7) of subdivision (b) of Section 129725, and notwithstanding any other provision of law, plans for the construction or alteration of any correctional treatment center that are prepared by or under the supervision of a law enforcement agency of a city, county, or city and county shall not require the review and approval of the statewide department. In lieu of review and approval by the statewide department, the law enforcement agency of a city, county, or city and county shall certify to the statewide department that the plans and construction are in full conformance with all applicable building standards, including, but not limited to, fire and life and safety standards, and the requirements of this chapter for the architectural, structural, mechanical, plumbing, and electrical systems.

It is the intent of the Legislature that, except as specified in this section, all hospital buildings as defined by this chapter constructed by or under the supervision of the Department of Corrections or local law enforcement agencies, or constructed on behalf of the Department of the Youth Authority shall at a minimum meet all applicable regulations adopted pursuant to this chapter and all other applicable state laws.

(Amended by Stats. 2021, Ch. 143, Sec. 313. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=7.&chapter=1.&article=5.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 7. FACILITIES DESIGN REVIEW AND CONSTRUCTION [129675 - 130079]__

(Part 7 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facilities [129675 - 130070]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 5. Building Safety Board [129925 - 129960]__

(Article 5 added by Stats. 1995, Ch. 415, Sec. 9.)

129925.

There is in the department a Hospital Building Safety Board that shall be appointed by the director. The board shall advise the director and, notwithstanding Section 13142.6 and except as provided in Section 18945, shall act as a board of appeals in all matters relating to the administration and enforcement of building standards relating to the design, construction, alteration, and seismic safety of hospital building projects submitted to the department pursuant to this chapter.

Further, notwithstanding Section 13142.6, the board shall act as the board of appeals in matters relating to all fire and panic safety regulations and alternate means of protection determinations for hospital building projects submitted to the department pursuant to this chapter.

(Amended by Stats. 2021, Ch. 143, Sec. 314. (AB 133) Effective July 27, 2021.)

129930.

The board shall consist of 16 members appointed by the director of the department. Of the appointive members, two shall be structural engineers, two shall be architects, one shall be an engineering geologist, one shall be a geotechnical engineer, one shall be a mechanical engineer, one shall be an electrical engineer, one shall be a hospital facilities manager, one shall be a local building official, one shall be a general contractor, one shall be a fire and panic safety representative, one shall be a hospital inspector of record, and three shall be members of the general public.

(Amended by Stats. 2021, Ch. 143, Sec. 315. (AB 133) Effective July 27, 2021.)

129932.

(a) Each member shall be appointed by the director for a term of four years and shall hold office until the appointment and qualification of his or her successor or until one year has elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms. The director may remove any member of the board for neglect of duty or other just cause.

(b) The terms of the appointive members of the board who are in office before January 1, 1994, shall expire as follows:

(1) The terms of two members shall expire January 1, 1994.

(2) The terms of two members shall expire January 1, 1995.

(3) The terms of two members shall expire January 1, 1996.

(4) The terms of two members shall expire January 1, 1997.

(5) The terms of three members shall expire January 1, 1998.

(6) The terms of three members shall expire January 1, 1999.
The terms shall expire in the same relative order as the original appointment dates.

(c) Vacancies occurring during a term shall be filled by appointment for the unexpired term.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129935.

Appointive members, except for the public members, shall be qualified by close connection with hospital design and construction and highly knowledgeable in their respective fields with particular reference to seismic safety. Appointive members, except for the public members, shall be appointed from nominees recommended by the governing bodies of the Structural Engineers Association of California; the American Institute of Architects; the Earthquake Engineering Research Institute; the Association of Engineering Geologists; the Consulting Engineers and Land Surveyors of California; the California Association of Local Building Officials; the American Society for Heating, Refrigerating, and Air-Conditioning Engineers, Inc.; the California Association of Hospitals and Health Systems; the Associated General Contractors of California; the American Construction Inspectors™ Association; and the California Fire Chiefs™ Association. Board members shall be residents of California.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129940.

(a) There shall be six ex officio members of the board, who shall be the director of the department, the State Fire Marshal, the State Geologist, the Executive Director of the California Building Standards Commission, the State Director of Health Services, and the Deputy Director of the Division of Facilities Development in the department, or their officially designated representatives.

(b) The director may also appoint up to three additional ex officio members, with the advice of the chair. On January 1, 1994, director-appointed ex officio members may continue to serve until appointment of their successors by the director.

(Amended by Stats. 2021, Ch. 143, Sec. 316. (AB 133) Effective July 27, 2021.)

129942.

(a) Only appointed members shall vote at board meetings.

(b) Appointed members, ex officio members, and others appointed to a committee, including an appeal committee, by the chair, may vote at committee meetings.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129945.

The chair of the board shall be an appointive member and shall be elected by a majority of the appointive members.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129950.

The board shall be served by an executive director who shall be a member of the department staff.

(Amended by Stats. 2021, Ch. 143, Sec. 317. (AB 133) Effective July 27, 2021.)

129955.

The Building Safety Board shall convene upon request of the chairperson thereof. The chairperson may convene a meeting of the board whenever it may be necessary, in the chairpersonsjudgment, for the board to meet. The board shall adopt rules of procedure as necessary to enable it to perform its duties. The chairperson shall, at his or her discretion, or upon instructions from the board, designate subcommittees to study and report back to the board upon any technical subject or matter for which an independent review or

further study is desired.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

129960.

Members of the board shall be reimbursed from the Hospital Building Account in the Architecture Public Building Fund for their reasonable actual expenses in attending meetings conducted to carry out the provisions of this chapter, and they shall receive from that account per diem of one hundred dollars ($100) for each day actually spent in the discharge of official duties where attendance at one or more publicly scheduled meetings or hearings of the board is required by the boardschairperson. However, they shall receive no other compensation from that account for their services.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=7.&chapter=1.&article=6.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 7. FACILITIES DESIGN REVIEW AND CONSTRUCTION [129675 - 130079]__

(Part 7 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facilities [129675 - 130070]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 6. Enforcement [129975 - 129990]__

(Article 6 added by Stats. 1995, Ch. 415, Sec. 9.)

129975.

The director of the department may conduct studies relating to the implementation of this chapter to ensure that the implementation of its provisions results in the least amount of increases in costs, staffing, and regulation.

(Amended by Stats. 2021, Ch. 143, Sec. 318. (AB 133) Effective July 27, 2021.)

129980.

Whenever any construction or alteration of any hospital building is being performed contrary to the provisions of this chapter, the department may order the construction or alteration stopped by written notice served upon any persons engaged in or causing the work to be done. Upon service of the written notice, all construction or alteration shall cease until an authorization to remove the notice is issued by the department. Any person so served shall, upon request made within 15 days of the written notice, be entitled to a hearing pursuant to Section 11506 of the Government Code.

(Amended by Stats. 2021, Ch. 143, Sec. 319. (AB 133) Effective July 27, 2021.)

129985.

(a) Whenever it is necessary to make an inspection to enforce any of the provisions of this chapter or whenever the department or its authorized representatives has reasonable cause to believe that there exists in any building or upon any premises any condition or a violation of any applicable building standards that makes the building or premises unsafe, dangerous, or hazardous, the department or its authorized representatives may enter the building or premises at any reasonable time to make an inspection or to perform any authorized duty. Prior to an entry authorized by this section, the authorized representatives of the department shall first present proper identification and credentials and request entry. In the event that the building or premises are unoccupied, there shall be a reasonable effort made to locate the owner or other person or persons having control or charge of the building or premises in order to request an entry. If a request for entry is refused, the department or its authorized representatives shall have recourse to any remedy prescribed by law to secure entry.

(b) Whenever the owner, occupant, or other person having control or charge of the building or premises is presented with a proper inspection warrant or other authorization prescribed by law to secure entry and a request for entry is made, the owner, occupant, or other person having control or charge of the building or premises shall promptly permit the entry of the authorized representatives of the department for the purpose of inspection and examination authorized by this chapter.

(Amended by Stats. 2021, Ch. 143, Sec. 320. (AB 133) Effective July 27, 2021.)

129990.

The department may order the vacating of any building or structure found to have been in violation of the adopted regulations of the department and may order the use of the building or structure discontinued within the time prescribed by the department upon the service of notice to the owner or other person having control or charge of the building or structure. Any owner or person having control so served shall, upon request made within 15 days of the written notice, be entitled to a hearing pursuant to Section 11506 of the Government Code.

(Amended by Stats. 2021, Ch. 143, Sec. 321. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=7.&chapter=1.&article=7.

Code Text

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 7. FACILITIES DESIGN REVIEW AND CONSTRUCTION [129675 - 130079]__

(Part 7 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facilities [129675 - 130070]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 7. Penalties [129998- 129998.]__

(Article 7 added by Stats. 1995, Ch. 415, Sec. 9.)

129998.

(a) Any person who violates any provision of this chapter is guilty of a misdemeanor.

(b) This section shall not apply to correctional treatment centers. This subdivision shall not affect any civil or administrative liability against correctional treatment centers or persons employed by these centers. This subdivision shall remain operative only until January 1, 1994.

(Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=7.&chapter=1.&article=8.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 7. FACILITIES DESIGN REVIEW AND CONSTRUCTION [129675 - 130079]__

(Part 7 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facilities [129675 - 130070]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 8. New State Responsibilities For Seismic Safety in Hospitals [130000 - 130025]__

(Article 8 added by Stats. 1995, Ch. 415, Sec. 9.)

130000.

(a)The Legislature hereby finds and declares the following:

(1)The Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 was created because of the loss of life in the collapse of hospitals during the Sylmar earthquake of 1971.

(2)We were reminded of the vulnerability of hospitals in the Northridge earthquake of January 17, 1994.

(3)Several hospitals built prior to the act suffered major damage and had to be evacuated.

(4)Hospitals built to the Alfred E. Alquist Hospital Facilities Seismic Safety Act standards resisted the Northridge earthquakes with very little structural damage demonstrating the value and necessity of this act.

(5)Both pre- and post-act hospitals suffered damage to architecture and to power and water systems that prevented hospitals from being operational, caused the loss of one life, triggered evacuations, unacceptable property losses, and added additional concerns on emergency medical response.

(6)An earthquake survivability inventory of Californiashospitals completed by the Department of Health Care Access and Information in December 1989 indicated that over 83 percent of the stateshospital beds were in buildings that did not comply with the Alfred E. Alquist Hospital Facilities Seismic Safety Act because they were issued permits prior to the effective date of the act. Furthermore, 26 percent of the beds are in buildings posing significant risks of collapse since they were built before modern earthquake codes. The older hospitals pose significant threats of collapse in major earthquakes and loss of functions in smaller or more distant earthquakes.

(7)The 1989 survey also states: Of the 490 hospitals surveyed, nine hospitals are in Alquist"Priolo Earthquake Fault Rupture Zones, 31 are in areas subject to soil liquefaction, 14 in areas with landslide potential, 33 in flood zones, and 29 have a possible loss or disruption of access. Two hundred five hospitals had no emergency fuel for their main boilers on hand, 19 had no emergency fuel for their emergency generators. Onsite emergency potable water was available at 273 hospitals and nonpotable water was available at 102 hospitals. Four hundred eighteen hospitals had emergency radios onsite, and 419 hospitals had inadequate or partially adequate equipment anchorage. In terms of available emergency preparedness, inadequate or partially inadequate equipment anchorage is still the most widespread shortcoming.

(8)This survey identifies many of the shortcomings that caused 23 hospitals to suspend some or all operations after the Northridge earthquake. However, one hospital was rebuilt to comply with the Alfred E. Alquist Hospital Facilities Seismic Safety Act after an older hospital building had partially collapsed in the 1971 Sylmar earthquake. The rebuilt hospital suffered failures in water distribution systems and had to be evacuated.

(9)The state must rely on hospitals to support patients and offer medical aid to earthquake victims.

(b)Therefore, it is the intent of the Legislature, that:

(1)By enacting this article, the state shall take steps to ensure that the expected earthquake performance of hospital buildings housing inpatients and providing primary basic services is disclosed to public agencies that have a need and a right to know, because the medical industry cannot immediately bring all hospital buildings into compliance with the Alfred E. Alquist Hospital Facilities Seismic Safety Act.

(2)The state shall encourage structural retrofits or replacements of hospital buildings housing inpatients and providing primary basic services that place lives at risk because of their potential for collapse during an earthquake.

(3)The state shall also encourage retrofits and enhancements to critical hospital architecture, equipment, and utility and communications systems to improve the ability of hospitals to remain operational for those hospitals that do not pose risk to life.

(Amended by Stats. 2021, Ch. 143, Sec. 322. (AB 133) Effective July 27, 2021.)

130002.

(a)The Legislature finds and declares all of the following:

(1)Following a major earthquake, Californians will rely on their community hospitals to provide care to those who are injured, to continue to care for those already within the hospital, and to respond to the emergent needs of new patients.

(2)Under existing law, all hospital buildings providing acute care services in California are required to be fully functional to provide care following an earthquake as of 2030. This standard includes both structural performance categories (SPC) and nonstructural performance categories (NPC), such as for electricity, water, sewage, oxygen, and other mechanical and electrical systems.

(3)The Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983, which was passed after the 1971 Sylmar earthquake that caused the collapse of the Veteran Administration Hospital and killed 47 people, as well as the collapse of large sections of Olive View County Hospital, which led to its closure six weeks after it opened, required that new hospital construction be seismically sound. The actsfocus on new hospital construction was based on the understanding that the useful life of hospital buildings was 20 to 30 years and that most existing hospital buildings would be replaced by the mid-1990s.

(4)The 1994 Northridge earthquake showed that nonstructural damage is a serious threat to patient safety and a hospitalscapacity to function. Also, as of 1994, most hospital buildings still predated 1972 and thus were at risk of collapse in a major earthquake.

(5)As of 2022, most hospitals in California do not fully meet the seismic safety standards that will be required in order to remain operational past the 2030 deadline.

(6)Patients receiving care in seismically deficient hospitals when an earthquake occurs will be at risk of needing to be immediately evacuated, even if other hospitals in the area have also been impacted by the earthquake. Additionally, seismically deficient hospital buildings may not be available to treat new patients.

(7)It is critical for cities, counties, and the state to fully understand hospitals™ seismic safety compliance in order to prepare earthquake response and recovery plans.

(b)The Legislature reaffirms its commitment to Californians that hospitals will be fully functional and able to provide hospital care to Californians after an earthquake.

(c)Therefore, it is the intent of the Legislature to ensure that the Department of Health Care Access and Information, Office of Emergency Services, relevant local government entities, and other interested parties are notified of the status of acute care hospitals™ compliance with existing requirements that the facilities be fully functional to provide care following an earthquake as of 2030.

(Added by Stats. 2022, Ch. 584, Sec. 1. (AB 1882) Effective January 1, 2023.)

130005.

By June 30, 1996:

(a)The Department of Health Care Access and Information, hereinafter called the department, shall develop definitions of earthquake performance categories for earthquake ground motions for both new and existing hospitals that are:

(1)Reasonably capable of providing services to the public after a disaster, designed and constructed to resist, insofar as practical, the forces generated by earthquakes, gravity, and winds, and in full compliance with the regulations and standards developed by the department pursuant to the Alfred E. Alquist Hospital Facilities Seismic Safety Act.

(2)In substantial compliance with the pre-1973 California Building Standards Codes, but not in substantial compliance with the regulations and standards developed by the department pursuant to the Alfred E. Alquist Hospital Facilities Seismic Safety Act. These buildings may not be repairable or functional but will not significantly jeopardize life.

(3)Potentially at significant risk of collapse and that represent a danger to the public.

(b)The department may define other earthquake performance categories as it deems necessary to meet the intent of this article and the Alfred E. Alquist Hospital Facilities Seismic Safety Act.

(c)Earthquake performance categories shall also include subgradations for risk to life, structural soundness, building contents, and nonstructural systems that are critical to providing basic services to hospital inpatients and the public after a disaster.

(d)Earthquake performance categories shall, as far as practicable, use language consistent with definitions and concepts as developed in the model codes and other state and federal agencies. Where the department finds that deviations from othersdefinitions and concepts are necessary and warranted to comply with the intent of the Alfred E. Alquist Hospital Facilities Seismic Safety Act, the act that added this article, or the specific nature or functions of hospitals, the department shall provide supporting documentation that justifies these differences.

(e)Insofar as practicable, the department shall define rapid seismic evaluation procedures that will allow owners to determine with reasonable certainty the existing applicable earthquake performance categories and the minimum acceptable earthquake performance categories for hospital buildings. These procedures shall allow for abbreviated analysis when known vulnerability is clear and when construction in accordance with post-1973 codes allows for an evaluation focusing on limited structural and nonstructural elements.

(f)The department, in consultation with the Hospital Building Safety Board, shall develop regulations to identify the most critical nonstructural systems and to prioritize the timeframes for upgrading those systems that represent the greatest risk of failure during an earthquake.

(g)The department shall develop regulations as they apply to the administration of seismic standards for retrofit designs, construction, and field reviews for the purposes of this article.

(h)The department shall develop regulations for the purpose of reviewing requests and granting delays to hospitals demonstrating a need for more time to comply with Section 130060.

(i)The department shall submit all information developed pursuant to subdivisions (a) to (f), inclusive, to the

California Building Standards Commission by June 30, 1996.

(j)The department shall submit all information developed pursuant to subdivisions (g) and (h) to the California Building Standards Commission by December 31, 1996.

(k)Hospital building,□ as used in Article 8 and Article 9 of this chapter means a hospital building as defined in Section 129725 and that is also licensed pursuant to subdivision (a) of Section 1250, but does not include these buildings if the beds licensed pursuant to subdivision (a) of Section 1250, as of January 1, 1995, comprise 10 percent or less of the total licensed beds of the total physical plant, and does not include facilities owned or operated, or both, by the Department of Corrections.

(Amended by Stats. 2021, Ch. 143, Sec. 323. (AB 133) Effective July 27, 2021.)

130006.

(a)A hospital building that is classified as SPC-2 shall be identified as These buildings do not significantly jeopardize life, but may not be repairable or functional following an earthquake□ on the departmentsinternet website and in all documents and submissions to the department by the hospital owner relating to compliance with Section 130065.

(b)A hospital building that is classified as both SPC-5 and NPC-5 may be labeled earthquake resilient□ on the departmentsinternet website and in all documents and submissions to the department by the hospital owner relating to compliance with Section 130065.

(Added by Stats. 2022, Ch. 584, Sec. 2. (AB 1882) Effective January 1, 2023.)

130010.

The department is responsible for reviewing and approving seismic evaluation reports, compliance schedules and construction documents that are developed by hospital owners, and field review of construction for work done pursuant to this article.

(Amended by Stats. 2021, Ch. 143, Sec. 324. (AB 133) Effective July 27, 2021.)

130020.

(a)By December 31, 1996, the California Building Standards Commission shall review, revise as necessary and adopt earthquake performance categories, seismic evaluation procedures, and standards and timeframes for upgrading the most critical nonstructural systems as developed by the department. By June 30, 1997, the California Building Standards Commission shall review, revise as necessary, and adopt seismic retrofit building standards and procedures for reviewing requests and granting delays to hospitals that demonstrate a need for more time to comply with Section 130060.

(b)For purposes of this section all submittals made by the department pursuant to subdivisions (i) and (j) of Section 130005 shall be deemed as emergency regulations and adopted as such.

(Amended by Stats. 2021, Ch. 143, Sec. 325. (AB 133) Effective July 27, 2021.)

130025.

(a)In the event of a seismic event, or other natural or manmade calamity that the department believes is of a magnitude so that it may have compromised the structural integrity of a hospital building, or any major system of a hospital building, the department shall send one or more authorized representatives to examine the structure or system. System for these purposes shall include, but not be limited to, the electrical, mechanical, plumbing, and fire and life safety system of the hospital building. If, in the opinion of the department, the structural integrity of the hospital building or any system has been compromised and damaged to a degree that the hospital building has been made unsafe to occupy, the department may cause to be placed on the hospital building either a red tag, a yellow tag, or a green tag.

(b)A red tag shall mean the hospital building is unsafe and shall be evacuated immediately. Access to red-tagged buildings shall be restricted to persons authorized by the department to enter.

(c)A yellow tag shall mean that the hospital building has been authorized for limited occupancy, and the authorized representative of the department shall write directly on the yellow tag that portion of the hospital building that may be entered with or without restriction and those portions that may not.

(d)A green tag shall mean the hospital building and all of its systems have been inspected by an authorized agent of the department, and have been found to be safe for use and occupancy.

(e)Any law enforcement or other public safety agency of this state shall grant access to hospital buildings by authorized representatives of the department upon the showing of appropriate credentials.

(f)For purposes of this section, hospital building includes the buildings referred to in paragraphs (2) and (3) of subdivision (b) of Section 129725.

(Amended by Stats. 2021, Ch. 143, Sec. 326. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=7.&chapter=1.&article=9.

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 7. FACILITIES DESIGN REVIEW AND CONSTRUCTION [129675 - 130079]__

(Part 7 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1. Health Facilities [129675 - 130070]__

(Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9.)

__ARTICLE 9. Hospital Owner Responsibilities [130050 - 130070]__

(Article 9 added by Stats. 1995, Ch. 415, Sec. 9.)

130050.

(a) Within three years after the adoption of the standards described in Section 130020, owners of all general acute care hospitals shall:

(1) Conduct seismic evaluations in accordance with procedures developed by the department pursuant to subdivision (e) of Section 130005 and submit evaluations to the department for its review and approval.

(2) Identify the most critical nonstructural systems that represent the greatest risk of failure during an earthquake and submit the timetables for upgrading those systems pursuant to subdivision (f) of Section 130005 to the department for its review and approval.

(3) With respect to the nonstructural performance evaluation required by this subdivision, the evaluation need not exceed those required by the nonstructural performance category the hospital owner has elected. Additional evaluations shall be obtained if the hospital owner elects to obtain a higher nonstructural performance category at a future date. A hospital owner shall report to the department all deficiencies that are pertinent to the nonstructural performance category the hospital owner has elected to attain. A complete nonstructural evaluation and list of nonstructural deficiencies shall be submitted to the department prior to the hospital owner selling or leasing the hospital to another party.

(b) Within three years after the adoption of standards described in Section 130020, owners of all general acute care hospitals shall prepare a plan and compliance schedule for each building under the departmentsjurisdiction that indicates the steps by which the hospital intends to bring their hospital buildings into substantial compliance with the regulations and standards developed by the department pursuant to the Alfred E. Alquist Hospital Facilities Seismic Safety Act and this act, identifies the phasing out of or retrofit of noncomplying structures and systems, or outlines steps for relocation of acute care services to facilities that comply with the regulations and standards developed by the department pursuant to the Alfred E. Alquist Hospital Facilities Seismic Safety Act and this act, and presents comprehensive plans and compliance schedules to the department for its review and approval, and integrates this schedule into the facilitysmaster plan.

(c) Owners of all general acute care hospitals may be granted a one year allowance from the requirements of subdivision (b) by the department if they demonstrate a need for more time to prepare plans and compliance schedules for their buildings.

(Amended by Stats. 2021, Ch. 143, Sec. 327. (AB 133) Effective July 27, 2021.)

130055.

On and after July 1, 2023, general acute hospital building owners shall do both of the following annually until each of the hospital buildings owned by that hospital building owner is compliant with Section 130065.

(a)Include all pertinent information regarding the buildingsexpected earthquake performance in emergency training, response, and recovery plans.

(b)Include all pertinent information regarding the buildingsexpected earthquake performance in capital outlay plans.

(Amended by Stats. 2022, Ch. 584, Sec. 3. (AB 1882) Effective January 1, 2023.)

130060.

(a)(1)After January 1, 2008, a general acute care hospital building that is determined to be a potential risk of collapse or pose significant loss of life shall only be used for nonacute care hospital purposes, unless an extension of this deadline has been granted and either of the following occurs before the end of the extension:

(A)A replacement building has been constructed and a certificate of occupancy has been granted by the department for the replacement building.

(B)A retrofit has been performed on the building and a construction final has been obtained by the department.

(2)An extension of the deadline may be granted by the department upon a demonstration by the owner that compliance will result in a loss of health care capacity that may not be provided by other general acute care hospitals within a reasonable proximity. In its request for an extension of the deadline, a hospital shall state why the hospital is unable to comply with the January 1, 2008, deadline requirement.

(3)Prior to granting an extension of the January 1, 2008, deadline pursuant to this section, the department shall do all of the following:

(A)Provide public notice of a hospitalsrequest for an extension of the deadline. The notice, at a minimum, shall be posted on the departmentsinternet website, and shall include the facilitysname and identification number, the status of the request, and the beginning and ending dates of the comment period, and shall advise the public of the opportunity to submit public comments pursuant to subparagraph (C). The department shall also provide notice of all requests for the deadline extension directly to interested parties upon request of the interested parties.

(B)Provide copies of extension requests to interested parties within 10 working days to allow interested parties to review and provide comment within the 45-day comment period. The copies shall include those records that are available to the public pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(C)Allow the public to submit written comments on the extension proposal for a period of not less than 45 days from the date of the public notice.

(b)(1)It is the intent of the Legislature, in enacting this subdivision, to facilitate the process of having more hospital buildings in substantial compliance with this chapter and to take nonconforming general acute care hospital inpatient buildings out of service more quickly.

(2)The functional contiguous grouping of hospital buildings of a general acute care hospital, each of which provides, as the primary source, one or more of the hospitalseight basic services as specified in subdivision (a) of Section 1250, may receive a five-year extension of the January 1, 2008, deadline specified in subdivision (a) of this section pursuant to this subdivision for both structural and nonstructural requirements. A functional contiguous grouping refers to buildings containing one or more basic hospital services that are either attached or connected in a way that is acceptable to the State Department of Health Care Services. These buildings may be either on the existing site or a new site.

(3)To receive the five-year extension, a single building containing all of the basic services or at least one building within the contiguous grouping of hospital buildings shall have obtained a building permit prior to 1973 and this building shall be evaluated and classified as a nonconforming, Structural Performance Category-1 (SPC-1) building. The classification shall be submitted to and accepted by the Department of Health Care Access and Information. The identified hospital building shall be exempt from the requirement in subdivision (a) until January 1, 2013, if the hospital agrees that the basic service or services that were provided in that building shall be provided, on or before January 1, 2013, as follows:

(A)Moved into an existing conforming Structural Performance Category-3 (SPC-3), Structural Performance Category-4 (SPC-4), or Structural Performance Category-5 (SPC-5) and Non-Structural Performance Category-4 (NPC-4) or Non-Structural Performance Category-5 (NPC-5) building.

(B)Relocated to a newly built compliant SPC-5 and NPC-4 or NPC-5 building.

(C)Continued in the building if the building is retrofitted to an SPC-5 and NPC-4 or NPC-5 building.

(4)A five-year extension is also provided to a post-1973 building if the hospital owner informs the Department of Health Care Access and Information that the building is classified as SPC-1, SPC-3, or SPC-4 and will be closed to general acute care inpatient service use by January 1, 2013. The basic services in the building shall be relocated into an SPC-5 and NPC-4 or NPC-5 building by January 1, 2013.

(5)SPC-1 buildings, other than the building identified in paragraph (3) or (4), in the contiguous grouping of hospital buildings shall also be exempt from the requirement in subdivision (a) until January 1, 2013. However, on or before January 1, 2013, at a minimum, each of these buildings shall be retrofitted to an SPC-2 and NPC-3 building, or no longer be used for general acute care hospital inpatient services.

(c)On or before March 1, 2001, the department shall establish a schedule of interim work progress deadlines that hospitals shall be required to meet to be eligible for the extension specified in subdivision (b). To receive this extension, the hospital building or buildings shall meet the year 2002 nonstructural requirements.

(d)A hospital building that is eligible for an extension pursuant to this section shall meet the January 1, 2030,

nonstructural and structural deadline requirements if the building is to be used for general acute care inpatient services after January 1, 2030.

(e)Upon compliance with subdivision (b), the hospital shall be issued a written notice of compliance by the department. The department shall send a written notice of violation to hospital owners that fail to comply with this section. The department shall make copies of these notices available on its internet website.

(f)(1)A hospital that has received an extension of the January 1, 2008, deadline pursuant to subdivision (a) or (b) may request an additional extension of up to two years for a hospital building that it owns or operates and that meets the criteria specified in paragraph (2), (3), or (5).

(2)The department may grant the additional extension if the hospital building subject to the extension meets all of the following criteria:

(A)The hospital building is under construction at the time of the request for extension under this subdivision and the purpose of the construction is to meet the requirements of subdivision (a) to allow the use of the building as a general acute care hospital building after the extension deadline granted by the department pursuant to subdivision (a) or (b).

(B)The hospital building plans were submitted to the department and were deemed ready for review by the department at least four years prior to the applicable deadline for the building. The hospital shall indicate, upon submission of its plans, the SPC-1 building or buildings that will be retrofitted or replaced to meet the requirements of this section as a result of the project.

(C)The hospital received a building permit for the construction described in subparagraph (A) at least two years prior to the applicable deadline for the building.

(D)The hospital submitted a construction timeline at least two years prior to the applicable deadline for the building demonstrating the hospitalsintent to meet the applicable deadline. The timeline shall include all of the following:

(i)The projected construction start date.

(ii)The projected construction completion date.

(iii)Identification of the contractor.

(E)The hospital is making reasonable progress toward meeting the timeline set forth in subparagraph (D), but factors beyond the hospitalscontrol make it impossible for the hospital to meet the deadline.

(3)The department may grant the additional extension if the hospital building subject to the extension meets all of the following criteria:

(A)The hospital building is owned by a health care district that has, as owner, received the extension of the January 1, 2008, deadline, but where the hospital is operated by an unaffiliated third-party lessee pursuant to a facility lease that extends at least through December 31, 2009. The district shall file a declaration with the department with a request for an extension stating that, as of the date of the filing, the district has lacked, and continues to lack, unrestricted access to the subject hospital building for seismic planning purposes during the term of the lease, and that the district is under contract with the county to maintain hospital services when the hospital comes under district control. The department shall not grant the extension if an unaffiliated third-party lessee will operate the hospital beyond December 31, 2010.

(B)The hospital building plans were submitted to the department and were deemed ready for review by the department at least four years prior to the applicable deadline for the building. The hospital shall indicate, upon submission of its plans, the SPC-1 building or buildings that will be retrofitted or replaced to meet the requirements of this section as a result of the project.

(C)The hospital received a building permit for the construction described in subparagraph (B) by December 31, 2011.

(D)The hospital submitted, by December 31, 2011, a construction timeline for the building demonstrating the hospitalsintent and ability to meet the deadline of December 31, 2014. The timeline shall include all of the following:

(i)The projected construction start date.

(ii)The projected construction completion date.

(iii)Identification of the contractor.

(E)The hospital building is under construction at the time of the request for the extension, the purpose of the construction is to meet the requirements of subdivision (a) to allow the use of the building as a general acute care hospital building after the extension deadline granted by the office pursuant to subdivision (a) or (b), and the hospital is making reasonable progress toward meeting the timeline set forth in subparagraph (D).

(F)The hospital granted an extension pursuant to this paragraph shall submit an additional status report to the department, equivalent to that required by subdivision (c) of Section 130061, no later than June 30, 2013.

(4)An extension granted pursuant to paragraph (3) shall be applicable only to the health care district applicant and its affiliated hospital while the hospital is operated by the district or an entity under the control of the district.

(5)The department may grant the additional extension if the hospital building subject to the extension meets all of the following criteria:

(A)The hospital owner submitted to the department, prior to June 30, 2009, a request for review using current computer modeling utilized by the department and based upon software developed by the Federal Emergency Management Agency (FEMA), referred to as Hazards US, and the building was deemed SPC-1 after that review.

(B)The hospital building plans for the building are submitted to the department and deemed ready for review by the department prior to July 1, 2010. The hospital shall indicate, upon submission of its plans, the SPC-1 building or buildings that shall be retrofitted or replaced to meet the requirements of this section as a result of the project.

(C)The hospital receives a building permit from the department for the construction described in subparagraph (B) prior to January 1, 2012.

(D)The hospital submits, prior to January 1, 2012, a construction timeline for the building demonstrating the hospitalsintent and ability to meet the applicable deadline. The timeline shall include all of the following:

(i)The projected construction start date.

(ii)The projected construction completion date.

(iii)Identification of the contractor.

(E)The hospital building is under construction at the time of the request for the extension, the purpose of the construction is to meet the requirements of subdivision (a) to allow the use of the building as a general acute care hospital building after the extension deadline granted by the department pursuant to subdivision (a) or (b), and the hospital is making reasonable progress toward meeting the timeline set forth in subparagraph (D).

(F)The hospital owner completes construction such that the hospital meets all criteria to enable the department to issue a certificate of occupancy by the applicable deadline for the building.

(6)A hospital located in the County of Sacramento, San Mateo, or Santa Barbara or the City of San Jose or the City of Willits that has received an additional extension pursuant to paragraph (2) or (5) may request an additional extension until September 1, 2015, to obtain either a certificate of occupancy from the department for a replacement building, or a construction final from the department for a building on which a retrofit has been performed.

(7)A hospital denied an extension pursuant to this subdivision may appeal the denial to the Hospital Building Safety Board.

(8)The department may revoke an extension granted pursuant to this subdivision for any hospital building where the work of construction is abandoned or suspended for a period of at least one year, unless the hospital demonstrates in a public document that the abandonment or suspension was caused by factors beyond its control.

(g)(1)Notwithstanding subdivisions (a), (b), (c), and (f), and Sections 130061.5 and 130064, a hospital that has received an extension of the January 1, 2008, deadline pursuant to subdivision (a) or (b) also may request an additional extension of up to seven years for a hospital building that it owns or operates. The department may grant the extension subject to the hospital meeting the milestones set forth in paragraph (2).

(2)The hospital building subject to the extension shall meet all of the following milestones, unless the hospital building is reclassified as SPC-2 or higher as a result of its Hazards US score:

(A)The hospital owner submits to the department, no later than September 30, 2012, a letter of intent stating whether it intends to rebuild, replace, or retrofit the building, or remove all general acute care beds and services from the building, and the amount of time necessary to complete the construction.

(B)The hospital owner submits to the department, no later than September 30, 2012, a schedule detailing why the requested extension is necessary, and specifically how the hospital intends to meet the requested deadline.

(C)The hospital owner submits to the department, no later than September 30, 2012, an application ready for review seeking structural reassessment of each of its SPC-1 buildings using current computer modeling based upon software developed by FEMA, referred to as Hazards US.

(D)The hospital owner submits to the department, no later than January 1, 2015, plans ready for review consistent with the letter of intent submitted pursuant to subparagraph (A) and the schedule submitted pursuant to subparagraph (B).

(E)The hospital owner submits a financial report to the department at the time the plans are submitted pursuant to subparagraph (D). The report shall demonstrate the hospital ownersfinancial capacity to implement the construction plans submitted pursuant to subparagraph (D).

(F)The hospital owner receives a building permit consistent with the letter of intent submitted pursuant to subparagraph (A) and the schedule submitted pursuant to subparagraph (B), no later than July 1, 2018.

(3)To evaluate public safety and determine whether to grant an extension of the deadline, the department shall consider the structural integrity of the hospitalsSPC-1 buildings based on its Hazards US scores, community access to essential hospital services, and the hospital ownersfinancial capacity to meet the deadline as determined by either a bond rating of BBB or below or the financial report on the hospital ownersfinancial capacity submitted pursuant to subparagraph (E) of paragraph (2). The criteria contained in this paragraph shall be considered by the department in its determination of the length of an extension or whether an extension should be granted.

(4)The extension or subsequent adjustments granted pursuant to this subdivision may not exceed the amount of time that is reasonably necessary to complete the construction specified in paragraph (2).

(5)If the circumstances underlying the request for extension submitted to the department pursuant to paragraph (2) change, the hospital owner shall notify the department as soon as practicable, but in no event later than six months after the hospital owner discovered the change of circumstances. The department may adjust the length of the extension granted pursuant to paragraphs (2) and (3) as necessary, but in no event longer than the period specified in paragraph (1).

(6)A hospital denied an extension pursuant to this subdivision may appeal the denial to the Hospital Building Safety Board.

(7)The department may revoke an extension granted pursuant to this subdivision for any hospital building when it is determined that any information submitted pursuant to this section was falsified, or if the hospital failed to meet a milestone set forth in paragraph (2), or where the work of construction is abandoned or suspended for a period of at least six months, unless the hospital demonstrates in a publicly available document that the abandonment or suspension was caused by factors beyond its control.

(8)Regulatory submissions made by the department to the California Building Standards Commission to implement this section shall be deemed to be emergency regulations and shall be adopted as emergency regulations.

(9)The hospital owner that applies for an extension pursuant to this subdivision shall pay the office an additional fee, to be determined by the department, sufficient to cover the additional reasonable costs incurred by the department for maintaining the additional reporting requirements established under this section, including, but not limited to, the costs of reviewing and verifying the extension documentation submitted pursuant to this subdivision. This additional fee shall not include any cost for review of the plans or other duties related to receiving a building or occupancy permit.

(10)This subdivision shall become operative on the date that the State Department of Health Care Services receives all necessary federal approvals for a 2011"12 fiscal year hospital quality assurance fee program that includes three hundred twenty million dollars ($320,000,000) in fee revenue to pay for health care coverage for children, which is made available as a result of the legislative enactment of a 2011"12 fiscal year hospital quality assurance fee program.

(h)A critical access hospital located in the City of Tehachapi may submit a seismic safety extension application pursuant to subdivision (g), notwithstanding deadlines in that subdivision that are earlier than the effective date of the act that added this subdivision. The submitted application shall include a timetable as required pursuant to subdivision (g).

(i)(1)A hospital located in the Tarzana neighborhood of the City of Los Angeles that has received extensions pursuant to subdivisions (b) and (g) may request an additional extension for a single building until October 1, 2022, in order to obtain a certificate of occupancy from the department for a replacement building.

(2)The hospital owner seeking the extension shall submit a written request that includes a timeline specifying how the hospital intends to meet the new deadline, including the construction document submission dates. The following timeline shall be met for construction document submissions:

(A)No later than January 1, 2018, the hospital owner shall submit construction documents, deemed ready for review, related to the first final review of the second increment with information including the building core and shell of the hospital. Failure to submit the construction documents by January 1, 2018, shall result in the assessment of a fine of five thousand dollars ($5,000) per calendar day until the documents are submitted.

(B)No later than March 1, 2018, the hospital owner shall submit construction documents, deemed ready for review, related to the first final review of the first increment with information including the structural foundation, frame, and underslab utilities of the hospital. Failure to submit the construction documents by March 1, 2018, shall result in the assessment of a fine of five thousand dollars ($5,000) per calendar day until the documents are submitted.

(C)No later than September 1, 2018, the hospital owner shall submit construction documents, deemed ready for review, related to the first final review of the third increment with information on the build-out of the hospital. Failure to submit the construction documents by September 1, 2018, shall result in the assessment of a fine of five thousand dollars ($5,000) per calendar day until the documents are submitted.

(D)No later than November 1, 2018, the hospital owner shall submit construction documents, deemed ready for review, related to the first final review of the fourth increment with information on the seismic support and anchorage of the hospital. Failure to submit the construction documents by November 1, 2018, shall result in the assessment of a fine of five thousand dollars ($5,000) per calendar day until the documents are submitted.

(E)The hospital owner may submit a written request to the department seeking an extension of the deadlines set forth in subparagraphs (A), (B), (C), and (D). The written request shall state with specificity the reason for the request and how the reason preventing compliance with the deadlines was outside of the control of the hospital owner. After review of the request for extension, the department may grant the request for a period of time not to exceed 30 calendar days. If the department grants the request for an extension, no fine shall accrue or be imposed during the extension period.

(3)Notwithstanding any other law, any fines assessed pursuant to paragraph (2) shall be deposited into the General Fund following a determination on appeal, if any. A hospital assessed a fine pursuant to this subdivision may appeal the assessment to the Hospital Building Safety Board, provided the hospital posts the funds for any fines to be held by the department pending the resolution of the appeal.

(4)The department shall not issue a certificate of occupancy for the single replacement building until all assessed fines accrued pursuant to paragraph (2) have been paid in full, or, if an appeal is pending, have been posted subject to resolution of an appeal. Fines deposited by the hospital pursuant to paragraph (3) shall be considered paid in full for purposes of issuing a certificate of occupancy pursuant to this paragraph.

This paragraph is in addition to, and is not intended to supersede, any other requirements that must be met by the hospital for issuance by the department of a certificate of occupancy.

(Amended by Stats. 2022, Ch. 28, Sec. 113. (SB 1380) Effective January 1, 2023.)

130061.

(a)An owner of a general acute care hospital building that is classified as a nonconforming Structural Performance Category-1 (SPC-1) building, who has not requested an extension of the deadline described in subdivision (a) or (b) of Section 130060, shall submit a report to the department no later than April 15, 2007, describing the status of each building in complying with the requirements of Section 130060. The report shall identify at least all of the following:

(1)Each building that is subject to subdivision (a) of Section 130060.

(2)The project number or numbers for retrofit or replacement of each building.

(3)The projected construction start date or dates and projected construction completion date or dates.

(4)The building or buildings to be removed from acute care service and the projected date or dates of this action.

(b)An owner of a general acute care hospital building that is classified as a nonconforming, Structural Performance Category-1 (SPC-1) building, who has requested an extension of the deadline described in subdivision (a) or (b) of Section 130060, shall submit a report to the department no later than June 30, 2009, describing the status of each building in complying with the requirements of Section 130060. The report shall identify, at a minimum, all of the following:

(1)Each building that is subject to subdivision (a) of Section 130060.

(2)The project number or numbers for retrofit or replacement of each building.

(3)The projected construction start date or dates and projected construction completion date or dates.

(4)The building or buildings to be removed from acute care service and the projected date or dates of that action.

(c)An owner of a general acute care hospital building that is classified as a nonconforming, Structural Performance Category-1 (SPC-1) building, shall submit a report to the department no later than November 1, 2010, describing the status of each building in complying with the requirements of Section 130060, and annually thereafter shall update the department with any changes or adjustments. The report shall identify at least all of the following:

(1)For each building that is subject to subdivision (a) of Section 130060 that is planned for retrofit or replacement, the report shall identify:

(A)Whether the hospital owner intends to retrofit or replace the building to SPC-2, SPC-3, SPC-4, or SPC-5.

(B)The deadline, as described in Section 130060 or 130061.5, for retrofit or replacement of the building that

the hospital owner intends to meet, and the applicable extension for which the hospital owner has been approved.

(C)The project number or numbers for retrofit or replacement of each building.

(D)The projected construction start date or dates and projected construction completion date or dates.

(E)The most recent project status and approvals.

(F)The number of inpatient beds and patient days, by type of unit and type of service to be provided.

(2)For the building or buildings to be removed from acute care service, the following information shall be included:

(A)The projected date or dates the building will be removed from service.

(B)The planned uses of the building or buildings to be removed from acute care service.

(C)The inpatient services currently delivered in the building or buildings.

(D)The number of inpatient beds and patient days, by type of unit and type of service, for the years 2008, 2009, and 2010.

(E)Whether the general acute care services and beds will be relocated to a new or retrofitted building and any corresponding building sites or project numbers.

(3)Each hospital owner shall also report, for each facility for which any buildings will be removed from acute care service, any net change in the number of inpatient beds, by type of unit and type of service, taking into account beds provided in buildings to be taken out of service, beds provided in buildings to be retrofitted or replaced, and beds provided in any other buildings used for general acute care inpatient services by the facility.

(4)Each hospital owner shall report any general acute care hospital inpatient service that is provided in any general acute care hospital building that is rated SPC-1.

(5)Each hospital owner shall report the final configuration of all buildings on its campus showing how each building will comply with the SPC-5/NPC-4 or 5 requirements, whether by retrofit or by replacement, and the type of services that will be provided in each general acute care hospital building.

(d)The department shall make the information required by subdivisions (a) and (b), available on its internet website within 90 days of receipt of this information.

(e)The department shall make the information required by subdivision (c) available on its internet website within 90 days of receipt of this information. The department shall include the hospital name, hospital owners, and location of the buildings included in the report, and, to the extent possible, for service areas containing buildings for which hospital owners report information pursuant to subdivision (c), include information on the number of inpatient beds, by type of unit and type of service, provided by facilities operating buildings that are classified as SPC-2, SPC-3, SPC-4, and SPC-5.

(f)Hospitals that have not reported pursuant to this section are not eligible for the extension provided in subdivision (f) of Section 130060.

(g)A hospital that has not submitted a report pursuant to this section shall be assessed a fine of ten dollars ($10) per licensed acute care bed per day, but in no case to exceed one thousand dollars ($1,000) per day for each SPC-1 building not in compliance with this section until it has complied with the provisions of this section. These fines shall be deposited into the Hospital Building Fund as specified pursuant to Section 129795. A hospital assessed a fine pursuant to this section may appeal the assessment to the Hospital Building Safety Board.

(Amended by Stats. 2021, Ch. 143, Sec. 330. (AB 133) Effective July 27, 2021.)

130061.5.

(a)The Legislature finds and declares the following:

(1)By enacting this section, the Legislature reinforces its commitment to ensuring the seismic safety of hospitals in California. In order to meet that commitment, this section provides a mechanism for hospitals that lack the financial capacity to retrofit Structural Performance Category-1 (SPC-1) buildings by 2013 to, instead, redirect available capital and borrowing capacity to replace those building by 2020. The mechanism is intended to allow these hospitals to meet the seismic requirements, and provide state agencies and the public with more timely and detailed information about the progress these hospitals are making toward seismic safety compliance.

(2)This section requires hospitals seeking this assistance to demonstrate that their financial condition does not allow them to retrofit these buildings by 2013, and requires them to meet specified benchmarks in order to be eligible for the extended timelines set forth in this section. Failure to meet any of these benchmarks shall result in the hospital being noncompliant and subject the hospital to loss of licensure.

(3)It is the intent of the Legislature to ensure the continuation of services in medically underserved communities in which the closure of the hospital would have significant negative impacts on access to health care services in the community.

(4)It is also the intent of the Legislature that this section be implemented very narrowly to target only facilities that are essential providers in underserved communities and that lack the financial capacity to retrofit SPC-1 buildings by 2013.

(b)A hospital owner may meet the requirements of subdivision (a) of Section 130060 by replacing all of its buildings subject to that subdivision by January 1, 2020, if it meets all of the following conditions:

(1)The hospital owner has requested an extension of the deadline described in subdivision (a) or (b) of Section 130060.

(2)(A)The department certifies that the hospital owner lacks the financial capacity to meet the requirements of subdivision (a) of Section 130060 for that building. In order to receive the certification, the hospital owner shall file with the department by January 1, 2009, financial information as required by the department. This information shall include a schedule demonstrating that, as of the end of the hospital ownersmost recent fiscal year for which the hospital owner has filed its annual financial data with the department by July 1, 2007, the hospital ownersannual financial data for that fiscal year show that the hospital owner meets all of the following financial conditions:

(i)The ownersnet long-term debt to capitalization ratio, as measured by the ratio of net long-term debt to net long-term debt plus equity, was above 60 percent.

(ii)The ownersdebt service coverage, as measured by the ratio of net income plus depreciation expense plus interest expense to current maturities on long-term debt plus interest expense, was below 4.5.

(iii)The ownerscash-to-debt ratio, as measured by the ratio of cash plus marketable securities plus limited use cash plus limited use investments to current maturities on long-term debt plus net long-term debt, was below 90 percent.

(B)The department shall certify that a hospital owner applying for relief under this subdivision meets each of these financial conditions. For the purposes of this subdivision, a hospital owner shall be eligible for certification only if the annual financial data required by this paragraph for the hospital owners and all of its hospital affiliates, considered in total, meets all of these financial conditions. For purposes of this section, hospital affiliate means any hospital owned by an entity that controls, is controlled by, or is under the common control of, directly or through intermediate entity, the entity that owns the specified hospital. The applicant hospital owner shall bear all costs for review, but not to exceed the costs of review, of its financial information.

(3)The hospital owner files with the department, by January 1, 2009, a declaration that the hospital for which the hospital owner is seeking relief under this subdivision shall satisfy all of the following conditions:

(A)The hospital shall maintain a contract with the California Medical Assistance Commission (CMAC) under the selective provider contracting program, unless in an open area as established by CMAC.

(B)The hospital shall maintain at least basic emergency medical services if the hospital provided emergency medical services at the basic or higher level as of July 1, 2007.

(C)The hospital meets any of the following criteria:

(i)The hospital is located within a Medically Underserved Area or a Health Professions Shortage Area designated by the federal government pursuant to Sections 330 and 332 of the federal Public Health Service Act (42 U.S.C. Secs. 254b and 254e).

(ii)The department determines, by means of a health impact assessment, that removal of the building or buildings from service may diminish significantly the availability or accessibility of health care services to an underserved community.

(iii)The CMAC determines that the hospital is essential to providing and maintaining Medi-Cal services in the hospitalsservice area.

(iv)The hospital demonstrates that, based on annual utilization data submitted to the office for 2006 or later, the hospital had in one year over 30 percent of all discharges for either Medi-Cal or indigent patients in the county in which the hospital is located.

(4)The hospital owner submits, by January 1, 2010, a facility master plan for all the buildings that are subject to subdivision (a) of Section 130060 that the hospital intends to replace by January 1, 2020. The facility master plan shall identify at least all of the following:

(A)Each building that is subject to subdivision (a) of Section 130060.

(B)The plan to replace each building with buildings that would be in compliance with subdivision (a) of Section 130065.

(C)The building or buildings to be removed from acute care service and the projected date or dates of that action.

(D)The location for any new building or buildings, including, but not limited to, whether the owner has received a permit for that location. The replacement buildings shall be planned within the same service area as the buildings to be removed from service.

(E)A copy of the preliminary design for the new building or buildings.

(F)The number of beds available for acute care use in each new building.

(G)The timeline for completed plan submission.

(H)The proposed construction timeline.

(I)The proposed cost at the time of submission.

(J)A copy of any records indicating the hospital governing boardsapproval of the facility plan.

(5)By January 1, 2013, the hospital owner submits to the department a building plan that is deemed ready for review by the department, for each building.

(6)By January 1, 2015, the hospital owner receives a building permit to begin construction, for each building that the owner intends to replace pursuant to the master plan.

(7)Within six months of receipt of the building permit, the hospital owner submits a construction timeline that identifies at least all of the following:

(A)Each building that is subject to subdivision (a) of Section 130060.

(B)The project number or numbers for replacement of each building.

(C)The projected construction start date or dates and projected construction completion date or dates.

(D)The building or buildings to be removed from acute care.

(E)The estimated cost of construction.

(F)The name of the contractor.

(8)Every six months thereafter, the hospital owner reports to the department on the status of the project, including any delays or circumstances that could materially affect the estimated completion date.

(9)The hospital owner pays to the department an additional fee, to be determined by the department, sufficient to cover the additional cost incurred by the department for maintaining all reporting requirements established under this section, including, but not limited to, the costs of reviewing and verifying the financial information submitted pursuant to paragraph (2). This additional fee shall not include any cost for review of the plans or other duties related to receiving a building or occupancy permit.

(c)The department may also approve an extension of the deadline described in subdivision (a) or (b) of Section 130060 for a general acute care hospital building that is classified as a nonconforming SPC-1 building and is owned or operated by a county, city, or county and city that has requested an extension of this deadline by June 30, 2009, if the owner files a declaration with the department stating that as of the date of that filing the owner lacks the ability to meet the requirements of subdivision (a) of Section 130060 for that building pursuant to subdivision (b) of that section. The declaration shall state the commitment of the hospital to replace those buildings by January 1, 2020, with other buildings that meet the requirements of Section 130065 and shall meet the requirements of paragraphs (4) to (9), inclusive, of subdivision (b).

(d)A hospital filing a declaration pursuant to this section but failing to meet any of the deadlines set forth in this section shall be deemed in violation of this section and Section 130060, and shall be subject to loss of licensure.

(Amended by Stats. 2021, Ch. 143, Sec. 331. (AB 133) Effective July 27, 2021.)

130062.

(a)For the purposes of this section, the following terms have the following meanings:

(1)Rebuild plan means a plan to meet seismic standards primarily by constructing a new conforming SPC-5 building for use in lieu of an SPC-1 building.

(2)Removal plan means a plan to meet seismic standards primarily by removing acute care services or beds from the hospitalslicense.

(3)Replacement plan means a plan to meet seismic standards primarily by relocating acute care services or beds from nonconforming buildings into a conforming building.

(4)Retrofit plan means a plan to meet seismic standards primarily by modifying the building in a manner that brings the building up to SPC-2, SPC-4D, or SPC-5 standards.

(b)(1)Except as specified in paragraph (2), all hospitals seeking an extension for their SPC-1 buildings shall submit to the department an application, in a manner acceptable to the department, by April 1, 2019.

(2)If Providence Tarzana Medical Center in the City of Los Angeles or UCSF Benioff ChildrensHospital in the City of Oakland seeks an extension for its SPC-1 buildings, it shall submit to the department an application, in a manner acceptable to the department, by September 1, 2019.

(3)At a minimum, an application described in paragraph (1) or (2) shall state which of the seismic compliance methods described in subdivision (a) will be used for each SPC-1 building.

(c)A hospital owner that has been granted an extension pursuant to subdivision (g) of Section 130060 or subdivision (b) of Section 130061.5 may request, and the department shall grant, an additional extension of time as set forth in this section.

(d)(1)For a hospital that seeks an extension for compliance based on a replacement plan or retrofit plan, the owner shall submit a construction schedule, obtain a building permit, and begin construction by April 1, 2020.

(2)Using the construction schedule submitted pursuant to paragraph (1), the hospital and the department shall identify at least two major milestones relating to the compliance plan that will be used as the basis for determining whether the hospital is making adequate progress toward meeting the seismic compliance deadline.

(3)Failure to comply with the requirements described in paragraph (1) or (2), or to meet any milestone agreed to pursuant to paragraph (2), shall result in the assessment of a fine of five thousand dollars ($5,000) per calendar day until the requirements or milestones, respectively, are met.

(4)Final seismic compliance shall be achieved by July 1, 2022.

(e)(1)For a hospital that seeks an extension for compliance based on a rebuild plan, the department shall grant an extension of up to five years. The owner shall submit, in a manner acceptable to the department, no later than July 1, 2020, the rebuild plan, deemed ready for review, and shall submit a construction schedule, obtain a building permit, and begin construction no later than January 1, 2022.

(2)The hospital and the department shall identify at least two major milestones, agreed upon by the hospital and the department, that will be used as the basis for determining whether the hospital is making adequate progress toward meeting the seismic compliance deadline.

(3)Failure to comply with the requirements described in paragraph (1) or (4), or to meet any milestone agreed to pursuant to paragraph (2) or (4), shall result in the assessment of a fine of five thousand dollars ($5,000) per calendar day until the requirements or milestones, respectively, are met.

(4)For a hospital that has previously submitted to the department a rebuild project under construction, the department may accept certification from the hospital that it has obtained appropriate building permits consistent with an approved incremental plan review and that construction thereunder has commenced and is continuing. The previously approved construction schedule shall be amended to reflect the extension being requested, and at least two new major milestones shall be identified. The owner shall not be required to resubmit construction plans previously submitted to the department, and the department may not impose new or different requirements for any increment already approved or building permit already issued by the department as a condition for granting an extension.

(5)Final seismic compliance shall be achieved, and a certificate of occupancy shall be obtained, by January 1, 2025.

(f)The department may grant an adjustment to the requirements described in paragraph (1) or (2) of subdivision (d) or paragraph (1) or (4) of subdivision (e), or the milestones agreed to pursuant to paragraph (2) of subdivision (d) or paragraph (2) or (4) of subdivision (e), as necessary to deal with contractor, labor, or material delays, or with acts of God, or with governmental entitlements, experienced by the hospital. If that adjustment is granted, the hospital shall submit a revised construction schedule, and the hospital and the department shall identify at least two new major milestones consistent with the adjustment. Failure to comply with the revised construction schedule or meet any of the major milestones shall result in penalties as specified in paragraph (3) of subdivision (d) and paragraph (3) of subdivision (e). The adjustment shall not exceed the corresponding final seismic compliance date specified in paragraph (4) of subdivision (d) or paragraph (5) of subdivision (e).

(g)The duration of an extension granted by the department pursuant to this section shall not exceed the maximums permitted by this section. Moreover, within that limit, the department shall not grant an extension that exceeds the amount of time needed by the owner to come into compliance. The

determination by the department regarding the length of the extension to be granted shall be based upon a showing by the owner of the facts necessitating the additional time. It shall include a review of the plan and all the documentation submitted in the application for the extension, and shall permit only that additional time necessary to allow the owner to deal with compliance plan issues that cannot be fully met without the extension.

(h)No extension shall be granted pursuant to this section for SPC-1 buildings unless the owner has submitted to the department, by January 1, 2018, a seismic compliance plan.

(i)An extension shall not be granted pursuant to this section for seismic compliance based upon a removal plan.

(j)(1)Except as specified in paragraph (2), in lieu of the reporting requirements described in Section 130061, a hospital granted an extension pursuant to this section shall provide a quarterly status report to the department, with the first report due on July 1, 2019, and every October 1, January 1, April 1, and July 1 thereafter, until seismic compliance is achieved.

(2)In lieu of the reporting requirements described in Section 130061, if Providence Tarzana Medical Center in the City of Los Angeles or UCSF Benioff ChildrensHospital in the City of Oakland is granted an extension pursuant to this section based on an application submitted on or after April 1, 2019, the first quarterly status report shall be due on October 1, 2019, and every January 1, April 1, July 1, and October 1 thereafter, until seismic compliance is achieved.

(3)The office shall post the status reports described in paragraphs (1) and (2) on its internet website.

(k)Before June 1, 2019, the office shall provide the Legislature with an inventory of the SPC category of each hospital building. A report submitted to the Legislature pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

(l)(1)The office may revoke an extension granted pursuant to this section for a hospital building where the assessment for a penalty exceeds 60 days.

(2)Notwithstanding any other law, any penalties assessed pursuant to this section shall be deposited into the General Fund within 45 days of assessment or within 45 days following a determination on appeal, if any. A hospital assessed a penalty pursuant to this section may appeal the assessment to the Hospital Building Safety Board, provided the hospital posts the funds for any penalties with the department, to be held pending the resolution of the appeal.

(3)The department shall not issue a construction final or certificate of occupancy for the building until all assessed penalties accrued pursuant to this section have been paid in full or, if an appeal is pending, have been posted subject to resolution of the appeal. Penalties deposited by the hospital pursuant to paragraph (2) shall be considered paid in full for purposes of issuing a construction final or certificate of occupancy. This paragraph is in addition to, and is not intended to supersede, any other requirements that must be met by the hospital for issuance of a construction final or certificate of occupancy.

(m)The department may promulgate emergency regulations as necessary to implement this section.

(Amended by Stats. 2021, Ch. 143, Sec. 332. (AB 133) Effective July 27, 2021.)

130063.

(a) With regard to a general acute care hospital building located in Seismic Zone 3 as indicated in the 1995 edition of the California Building Standards Code, any hospital may request an exemption from Non-Structural Performance Category-3 requirements in Title 24 of the California Code of Regulations if the hospital building complies with the year 2002 nonstructural requirements.

(b) The department shall determine the maximum allowable level of earthquake ground shaking potential for purposes of this section.

(c) To qualify for an exemption under this section, a hospital shall provide a site-specific engineering geologic report that demonstrates an earthquake ground shaking potential below the maximum allowable level of earthquake ground shaking potential determined by the department pursuant to subdivision (b).

(d) (1) To demonstrate an earthquake ground shaking potential as provided in subdivision (c), a hospital shall submit a site-specific engineering geologic report to the department.

(2) The department shall forward the report received from a hospital to the Division of Mines and Geology in the Department of Conservation for purposes of a review.

(3) If, after review of the analysis, the Division of Mines and Geology concurs with the findings of the report, it shall return the report with a statement of concurrence to the office. Upon the receipt of the statement, if the ground shaking potential is below that established pursuant to subdivision (b), the department shall grant the exemption requested.

(e) A hospital building that is eligible for an exemption under this section shall meet the January 1, 2030, nonstructural requirement deadline if the building is to be used for general acute care inpatient services after January 1, 2030.

(f) A hospital requesting an exemption pursuant to this section shall pay the actual expenses incurred by the department and the Division of Mines and Geology.

(g) All regulatory submissions to the California Building Standards Commission made by the department for purposes of this section shall be deemed to be emergency regulations and shall be adopted as emergency regulations. This emergency regulation authority shall remain in effect until January 1, 2004.

(Amended by Stats. 2021, Ch. 143, Sec. 333. (AB 133) Effective July 27, 2021.)

130063.1.

Notwithstanding Section 130063, a county-owned general acute care hospital building is allowed an extension of the Non-structural Performance Category-2 requirements of Title 24 of the California Code of Regulations if all of the following conditions are met:

(a) The county submitted the compliance plan on or before January 1, 2001.

(b) The county submitted the Non-structural Performance Category-2 building plans to the Department of Health Care Access and Information on or before September 1, 2001.

(c) The county complies with the year 2002 nonstructural requirements established by regulation 12 months after receipt of the building permit approval letter from the Department of Health Care Access and Information.

(Amended by Stats. 2021, Ch. 143, Sec. 334. (AB 133) Effective July 27, 2021.)

130063.2.

Notwithstanding Section 130063, an existing county-owned general acute care hospital building may receive a one-year extension of the January 1, 2002, deadline for the Non-structural Performance Category-2 requirements in Title 24 of the California Code of Regulations if all of the following conditions are met:

(a) The existing hospital building is removed from general acute care service on or before January 1, 2003.

(b) Construction of the replacement building that will meet the 2030 nonstructural and structural deadline requirements, which commenced before January 1, 2001, is completed by January 1, 2003.

(Added by Stats. 2001, Ch. 247, Sec. 2. Effective January 1, 2002.)

130064.

(a)In lieu of the extension described in subdivision (f) of Section 130060, the department may grant an extension to a general acute care hospital pursuant to either subdivision (c) or (f) if the hospital building will not meet the seismic safety standards of that section by January 1, 2013, due to a local planning delay.

(b)When applying for an extension under this section, the owner of the general acute care hospital shall submit to the department documentation that includes at least all of the following:

(1)The original schedule of the project or projects as had been originally anticipated.

(2)The schedule of the project or projects as currently projected.

(3)A timeline for the submission of documents to the local planning authority or jurisdiction.

(4)Documentation that the local planning authority for the project and for the enabling phases of the project does not grant approvals prior to November 1, 2010, where the hospital had originally filed the local application prior to January 1, 2008.

(5)A proposed construction timeframe demonstrating the completion of the project once the permit is issued. The construction timeframe shall be approved by the department and shall only include the amount of time that is reasonably necessary to complete the construction required to meet the seismic safety requirements.

(c)The department may grant an extension, in full one-year increments, but no longer than three consecutive years, that compensates for delays determined pursuant to subdivision (d).

(d)The department shall conduct a comprehensive review of the schedule for the project or projects

according to criteria specified in this section. This review shall encompass the project or projects under the jurisdiction of the department, as well as other project phases not under the jurisdiction of the department. The department shall consider the cumulative effect of local approval timelines for all elements of the project or projects, inclusive of changes in scope or sequence of the project or projects required by the local planning process. The department may grant extensions based on an evaluation of each of the following circumstances:

(1)Where the local planning authority approvals have delayed or will delay the construction start date of the project or projects.

(2)Where the local conditions of approval on a project or projects extend the duration beyond the originally anticipated construction completion date.

(3)Where the cumulative effect of delays on the project or projects creates additional construction delays due to local seasonal weather impact requirements of the local planning authority.

(4)Construction related to the seismic retrofit or replacement project has begun by January 1, 2013.

(5)The project or projects were submitted for review by the department no later than January 1, 2009.

(6)The project or projects have received a building permit from the department no later than January 1, 2012.

(e)Every six months after the approval of the extension, the hospital owner shall report to the department on the status of the project or projects, demonstrating that it is making reasonable progress toward meeting the construction timeline.

(f)The department may grant an additional extension of up to two years in addition to the extension granted pursuant to subdivisions (c) and (d) only if the project or projects meet all of the following criteria:

(1)A matrix of buildings at the hospital that identifies compliance of each building to the standards required by Section 130065 at the completion of the project or projects.

(2)The construction timelines submitted pursuant to subdivision (a) were determined to go beyond three years from the date the building permit was issued.

(3)Acute care services will not be provided in any SPC-1 building at any time during the extension.

(4)The hospital demonstrates that it has, and maintains throughout the extension, life safety systems in all acute care patient care areas that do not depend on, and are not routed through, an SPC-1 building.

(5)The hospital either demonstrates that the SPC-1 building does not pose a structural risk to an adjoining hospital building that is used for acute care services or mitigates the risk in accordance with a deadline described in subdivision (f) of Section 130060 that the department determines will best protect patient safety.

(g)The department may revoke an extension granted pursuant to this section for any hospital building where the work of construction is abandoned or suspended for a period of at least six months, unless the hospital demonstrates that the abandonment or suspension was caused by factors beyond its control.

(h)The department may revoke an extension granted pursuant to this section if it is determined that any information submitted pursuant to this section was falsified in any manner by the hospital or if the hospital

fails to meet any of the criteria or conditions specified in this section.

(i)Regulatory submissions made by the department to the California Building Standards Commission pursuant to this section shall be deemed, and shall be adopted as, emergency regulations.

(j)The hospital owner that applies for an extension pursuant to this section shall pay to the department an additional fee, to be determined by the department, sufficient to cover the additional cost incurred by the office for maintaining all reporting requirements established under this section, including, but not limited to, the costs of reviewing and verifying the extension documentation submitted pursuant to this section. This additional fee shall not include any cost for review of the plans or other duties related to receiving a building or occupancy permit.

(k)A hospital denied an extension pursuant to this section may appeal the denial to the Hospital Building Safety Board.

(Amended by Stats. 2021, Ch. 143, Sec. 335. (AB 133) Effective July 27, 2021.)

130065.

In accordance with the compliance schedule approved by the department, but in any case no later than January 1, 2030, owners of all acute care inpatient hospitals shall either:

(a) Demolish, replace, or change to nonacute care use all hospital buildings not in substantial compliance with the regulations and standards developed by the department pursuant to the Alfred E. Alquist Hospital Facilities Seismic Safety Act and this act.

(b) Seismically retrofit all acute care inpatient hospital buildings so that they are in substantial compliance with the regulations and standards developed by the department pursuant to the Alfred E. Alquist Hospital Facilities Seismic Safety Act and this act.

Upon compliance with this section, the hospital shall be issued a written notice of compliance by the department. The department shall send a written notice of violation to hospital owners that fail to comply with this section.

(Amended by Stats. 2021, Ch. 143, Sec. 336. (AB 133) Effective July 27, 2021.)

130066.

Before January 1, 2020, the owner of an acute care inpatient hospital whose building does not substantially comply with the seismic safety regulations or standards described in Section 130065 shall submit to the department an attestation that the board of directors of that hospital is aware that the hospital building is required to meet the January 1, 2030, deadline for substantial compliance with those regulations and standards.

(Amended by Stats. 2021, Ch. 143, Sec. 337. (AB 133) Effective July 27, 2021.)

130066.5.

(a)Before January 1, 2024, the owner of an acute care inpatient hospital that includes a building that does not substantially comply with the seismic safety regulations or standards described in Section 130065 shall post in any lobby or waiting area generally accessible to patients or the public a notice provided by the department that the hospital is not in compliance with the seismic safety requirements that the hospital is required to meet by January 1, 2030. The notice shall be posted until the time the owner receives notification from the department that it meets the requirements described in Section 130065.

(b)On or before January 1, 2024, and annually thereafter, the owner of an acute care inpatient hospital that includes a building that does not substantially comply with the seismic safety regulations or standards described in Section 130065 shall provide an annual status update on the Structural Performance Category ratings of the buildings and the services provided in each hospital building on the hospital campus to all of the following entities until each of the hospital buildings owned by that hospital building owner is compliant with Section 130065:

(1)The county board of supervisors in whose jurisdiction the hospital building is located.

(2)The city council in whose jurisdiction the hospital building is located, if applicable.

(3)Any labor union representing workers who work in a building that does not substantially comply with the seismic safety regulations or standards described in Section 130065.

(4)The board of directors of the special district or joint powers agency that provides fire and emergency medical services in the jurisdiction in which the hospital building is located, if applicable.

(5)The department.

(6)The board of directors of the hospital.

(7)The local office of emergency services or the equivalent agency.

(8)The Office of Emergency Services.

(9)The medical health operational area coordinator.

(c)Before July 1, 2023, the department shall develop the notice required in subdivision (a) with the intent that the notice will clearly convey to patients and the public that the hospital building does not meet seismic safety standards intended to ensure that the hospital will be capable of continued operation following an earthquake. For SPC-2 buildings, the notice shall clearly state, The State of California has determined that this building does not significantly jeopardize life, but may not be repairable or functional following an earthquake.□ For other buildings that are not compliant with the seismic safety regulations or standards described in Section 130065, the notice shall state, The State of California has determined that the hospital building is at risk of not being functional to provide care to its patients or the community after an earthquake.□ In its discretion, the department may develop multiple notices in order to provide a more detailed description of different hospital buildings™ failure to meet the seismic safety regulations or standards described in Section 130065.

(Added by Stats. 2022, Ch. 584, Sec. 4. (AB 1882) Effective January 1, 2023.)

130067.

(a)Notwithstanding any other law, including, but not limited to Sections 130060 and 130061, the office may waive the requirements for the Seton Medical Center in Daly City to comply with this chapter, in whole or in part, if both of the following occur:

(1)The Seton Medical Center submits a plan to the office, on or before January 15, 2022, that proposes compliance with the applicable seismic safety standards of this chapter, and the regulations promulgated pursuant to this chapter, on or before July 1, 2023.

(2)The office accepts the plan submitted by the Seton Medical Center as feasible to complete and promoting public safety.

(b)If the office accepts the plan pursuant to subdivision (a), the Seton Medical Center shall report to the office, in the manner required by the office, on its progress to timely complete the plan, on or before all of the following dates:

(1)April 1, 2022.

(2)July 1, 2022.

(3)October 1, 2022.

(4)January 1, 2023.

(5)April 1, 2023.

(c)The office may revoke its waiver, in whole or in part, of the requirements of this chapter, if the Seton Medical Center fails to timely report progress that the office deems is sufficient to complete the plan.

(Added by Stats. 2021, Ch. 65, Sec. 1. (AB 1527) Effective January 1, 2022.)

130068.

(a)Notwithstanding any other law, including, but not limited to, Sections 130060 and 130061, the department may waive the requirements of this chapter, in whole or in part, for O™Connor Hospital and Santa Clara Valley Medical Center in the City of San Jose if both of the following occur:

(1)(A)The hospital or medical center submits to the department, within 30 days following the effective date of this statute, a plan for compliance with the applicable seismic safety standards of this chapter, and the regulations promulgated pursuant to this chapter.

(B)For the O™Connor Hospital seismic update, the plan shall provide for compliance on or before July 1, 2023.

(C)For the Santa Clara Valley Medical Building F (Services Building) Seismic Upgrade, the plan shall provide for compliance on or before July 1, 2025.

(D)For the Santa Clara Valley Medical Center Building N (RSC) Tier 2 Upgrades, the plan shall provide for compliance on or before December 31, 2025.

(E)For the Santa Clara Valley Medical Center Old Main Demolition and Rebuild project, the plan shall provide for compliance on or before July 1, 2026.

(2)The department accepts the plan submitted by the hospital or medical center based on it being feasible to complete and promoting public safety. The department shall not unreasonably reject the plan, unreasonably impose conditions on the acceptance of the plan, or unreasonably withhold or delay acceptance or rejection of the plan.

(b)If the department accepts the hospitalsor medical centersplan pursuant to subdivision (a), the hospital or medical center shall report to the department, in the manner required by the department, on its progress to timely complete its plan, on or before all of the following dates:

(1)April 1, 2023.

(2)July 1, 2023.

(3)October 1, 2023.

(4)January 1, 2024.

(5)April 1, 2024.

(6)July 1, 2024.

(7)October 1, 2024.

(8)January 1, 2025.

(9)April 1, 2025.

(10)July 1, 2025.

(11)October 1, 2025.

(12)January 1, 2026.

(13)April 1, 2026.

(14)July 1, 2026.

(c)The department may revoke its waiver of the requirements of this chapter, in whole or in part, if O™Connor Hospital or Santa Clara Valley Medical Center fails to timely report progress that the department reasonably deems is sufficient to complete their respective plans if both of the following are true:

(1)The lack of timely reporting, lack of reasonable progress, or both, is not due to unforeseen circumstances outside the control of the County of Santa Clara.

(2)If the office intends to revoke the waiver, or any part of the waiver, the department provides at least 90 days™ written notice to the County of Santa Clara prior to the effective date of the revocation and, during the notice period, the department provides the County of Santa Clara a reasonable opportunity to cure the noncompliance that forms the basis of the intended revocation.

(d)(1)(A)A hospital with a waiver approved under this section shall be subject to penalties for failure to meet milestones expressed in its compliance plan or any requirement of this section.

(B)The county shall bear the responsibility of paying any penalties.

(2)If the county fails to pay the assessed penalty amount within 30 days of the initial notice of penalties from the department, the department shall collect legal interest of 10 percent and the costs associated with recovery of any arrears.

(3)Upon a failure by the county to make a payment to the department within 60 days of notice of penalties, the department shall apply Section 1.4.5.1.2.1 of the California Administrative Code and withhold any building permits except maintenance and emergency repairs.

(4)Upon a failure by the county to make a payment 90 days after the notice of penalties, the department shall collect the full amount due, including costs and interest, either under the authority of Chapter 4.3 (commencing with Section 16580) of Part 2 of Division 4 of Title 2 of the Government Code or by withholding the amount from any general fund appropriations.

(e)The provisions of this section shall be retroactively applied so that there is no period of noncompliance if the passage of the act that added this section overlaps with the reporting requirements set forth elsewhere in this article.

(Amended by Stats. 2023, Ch. 304, Sec. 1. (AB 1471) Effective October 4, 2023.)

130069.

(a)Notwithstanding any other law, including, but not limited to, Sections 130060 and 130061, the department may waive the requirements of this chapter, in whole or in part, for Pacifica Hospital of the Valley in the County of Los Angeles if both of the following occur:

(1)The hospital submits a plan to the department, on or before September 15, 2022, that proposes compliance with the applicable seismic safety standards of this chapter, and the regulations promulgated pursuant to this chapter, on or before January 1, 2025.

(2)The department accepts the plan submitted by the hospital based on it being feasible to complete and promoting public safety.

(b)If the department accepts the hospitalsplan pursuant to subdivision (a), the hospital shall report to the department, in the manner required by the department, on its progress to timely complete its plan, on or before the following dates:

(1)October 1, 2022.

(2)January 1, 2023.

(3)April 1, 2023.

(4)July 1, 2023.

(5)October 1, 2023.

(6)January 1, 2024.

(7)April 1, 2024.

(8)July 1, 2024.

(9)October 1, 2024.

(c)The department may revoke its waiver of the requirements of this chapter, in whole or in part, if Pacifica Hospital of the Valley fails to timely report progress that the department reasonably deems is sufficient to complete the plan.

(d)The provisions of this section shall be retroactively applied so that there is no period of noncompliance if the passage of the act that added this section overlaps with the reporting requirements in Section 130062.

(Added by Stats. 2022, Ch. 592, Sec. 1. (AB 2404) Effective September 27, 2022.)

130070.

The department shall notify the State Department of Public Health of the hospital owners that have received a written notice of violation for failure to comply with either Section 130060 or 130065. Unless the hospital places its license in voluntary suspense, the State Department of Public Health shall suspend or refuse to renew the license of a hospital that has received a notice of violation from the department because of its failure to comply with either Section 130060 or 130065. The license shall be reinstated or renewed upon presentation to the State Department of Public Health of a written notice of compliance issued by the department.

(Amended by Stats. 2021, Ch. 143, Sec. 338. (AB 133) Effective July 27, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=107.&title=&part=7.&chapter=1.5.&article=

__Health and Safety Code - HSC__

__DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]__

(Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28.)

__PART 7. FACILITIES DESIGN REVIEW AND CONSTRUCTION [129675 - 130079]__

(Part 7 added by Stats. 1995, Ch. 415, Sec. 9.)

__CHAPTER 1.5. Small and Rural Hospital Relief Program [130075 - 130079]__

(Chapter 1.5 added by Stats. 2021, Ch. 489, Sec. 2.)

130075.

The Small and Rural Hospital Relief Program is hereby established under the administration of the Department of Health Care Access and Information for the purpose of funding seismic safety compliance with respect to small hospitals, rural hospitals, and critical access hospitals in the state.

(Added by Stats. 2021, Ch. 489, Sec. 2. (SB 395) Effective January 1, 2022.)

130076.

For purposes of this chapter:

(a)Department means the Department of Health Care Access and Information.

(b)Fund means the Small and Rural Hospital Relief Fund established in Section 130077.

(c)Seismic safety compliance means compliance with Article 9 (commencing with Section 130050) of Chapter 1.

(d)Qualified applicant means any of the following hospitals:

(1)A small hospital.

(2)A rural hospital.

(3)A critical access hospital.

(Added by Stats. 2021, Ch. 489, Sec. 2. (SB 395) Effective January 1, 2022.)

130077.

(a)The Small and Rural Hospital Relief Fund is hereby established in the Treasury.

(b)Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated, without regard to fiscal years, for the administration and funding of the grant program pursuant to this chapter.

(Added by Stats. 2021, Ch. 489, Sec. 2. (SB 395) Effective January 1, 2022.)

130078.

(a)The department shall provide a grant to a qualified applicant that meets both of the following criteria:

(1)Seismic safety compliance imposes a financial burden on the applicant that may result in hospital closure.

(2)The hospital closure described in paragraph (1) would substantially impact the accessibility to health care in the communities surrounding the hospital.

(b)A grant provided by the department pursuant to this section may be used only for funding seismic safety compliance.

(Added by Stats. 2021, Ch. 489, Sec. 2. (SB 395) Effective January 1, 2022.)

130079.

The department may adopt regulations necessary to implement this chapter.

(Added by Stats. 2021, Ch. 489, Sec. 2. (SB 395) Effective January 1, 2022.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=108.&title=&part=&chapter=&article=

__Health and Safety Code - HSC__

__DIVISION 108. CALIFORNIA CHILDREN AND FAMILIES PROGRAM [130100 - 130158]__

(Heading of Division 108 amended by Stats. 1999, Ch. 126, Sec. 1.)

130100.

There is hereby created a program in the state for the purposes of promoting, supporting, and improving the early development of children from the prenatal stage to five years of age. These purposes shall be accomplished through the establishment, institution, and coordination of appropriate standards, resources, and integrated and comprehensive programs emphasizing community awareness, education, nurturing, child care, social services, health care, and research.

(a)It is the intent of this act to facilitate the creation and implementation of an integrated, comprehensive, and collaborative system of information and services to enhance optimal early childhood development and to ensure that children are ready to enter school. This system should function as a network that promotes accessibility to all information and services from any entry point into the system. It is further the intent of this act to emphasize local decisionmaking, to provide for greater local flexibility in designing delivery systems, and to eliminate duplicate administrative systems.

(b)The programs authorized by this act shall be administered by the California Children and Families Commission and by county children and families commissions. In administering this act, the state and county commissions shall use outcome-based accountability to determine future expenditures.

(c)This division shall be known and may be cited as the California Children and Families Act of 1998.

(Amended by Stats. 2002, Ch. 245, Sec. 1. Effective January 1, 2003. Note: This section was added on Nov. 3, 1998, by initiative Prop. 10.)

130105.

The California Children and Families Trust Fund is hereby created in the State Treasury.

(a)The California Children and Families Trust Fund shall consist of moneys collected pursuant to the taxes imposed by Section 30131.2 of the Revenue and Taxation Code.

(b)All costs to implement this act shall be paid from moneys deposited in the California Children and Families Trust Fund.

(c)The State Board of Equalization shall determine within one year of the passage of this act the effect that additional taxes imposed on cigarettes and tobacco products by this act has on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the State Board of Equalization to be the direct result of additional taxes imposed by this act, the State Board of Equalization shall determine the fiscal effect the decrease in consumption has on the funding of any Proposition 99 (the Tobacco Tax and Health Protection Act of 1988) state health-related education or research programs in effect as of November 1, 1998, and the Breast Cancer Fund programs that are funded by excise taxes on cigarettes and tobacco products. Funds shall be transferred from the California Children and Families Trust Fund to those affected programs as necessary to offset the revenue decrease directly resulting from the imposition of additional taxes by this act. These reimbursements shall occur, and at any times, as determined necessary to further the intent of this subdivision.

(d)Moneys shall be allocated and appropriated from the California Children and Families Trust Fund as

follows:

(1)Twenty percent shall be allocated and appropriated to separate accounts of the state commission for expenditure according to the following formula:

(A)Six percent shall be deposited in a Mass Media Communications Account for expenditures for communications to the general public utilizing television, radio, newspapers, and other mass media on subjects relating to and furthering the goals and purposes of this act, including, but not limited to, methods of nurturing and parenting that encourage proper childhood development, the informed selection of child care, information regarding health and social services, the prevention and cessation of tobacco, alcohol, and drug use by pregnant women, the detrimental effects of secondhand smoke on early childhood development, and to ensure that children are ready to enter school. Any funds not needed in this account may be transferred to the Unallocated Account described in subparagraph (F), upon approval by the state commission.

(B)Five percent shall be deposited in an Education Account for expenditures to ensure that children are ready to enter school and for programs relating to education, including, but not limited to, the development of educational materials, professional and parental education and training, and technical support for county commissions in the areas described in subparagraph (A) of paragraph (1) of subdivision (b) of Section 130125. Any funds not needed in this account may be transferred to the Unallocated Account described in subparagraph (F), upon approval by the state commission.

(C)Three percent shall be deposited in a Child Care Account for expenditures to ensure that children are ready to enter school and for programs relating to child care, including, but not limited to, the education and training of child care providers, the development of educational materials and guidelines for child care workers, and other areas described in subparagraph (B) of paragraph (1) of subdivision (b) of Section 130125. Any funds not needed in this account may be transferred to the Unallocated Account described in subparagraph (F), upon approval by the state commission.

(D)Three percent shall be deposited in a Research and Development Account for expenditures to ensure that children are ready to enter school and for the research and development of best practices and standards for all programs and services relating to early childhood development established pursuant to this act, and for the assessment and quality evaluation of those programs and services. Any funds not needed in this account may be transferred to the Unallocated Account described in subparagraph (F), upon approval by the state commission.

(E)One percent shall be deposited in an Administration Account for expenditures for the administrative functions of the state commission. Any funds not needed for the administrative functions of the state commission may be transferred to the Unallocated Account described in subparagraph (F), upon approval by the state commission.

(F)Two percent shall be deposited in an Unallocated Account for expenditure by the state commission for any of the purposes of this act described in Section 130100 provided that none of these moneys shall be expended for the administrative functions of the state commission.

(G)In the event that, for whatever reason, the expenditure of any moneys allocated and appropriated for the purposes specified in subparagraphs (A) to (F), inclusive, is enjoined by a final judgment of a court of competent jurisdiction, then those moneys shall be available for expenditure by the state commission for mass media communication emphasizing the need to eliminate smoking and other tobacco use by pregnant women, the need to eliminate smoking and other tobacco use by persons under 18 years of age, and the need to eliminate exposure to secondhand smoke.

(H)Any moneys allocated and appropriated to any of the accounts described in subparagraphs (A) to (F), inclusive, that are not encumbered or expended within any applicable period prescribed by law shall (together with the accrued interest on the amount) revert to and remain in the same account for the next fiscal period.

(2)Eighty percent shall be allocated and appropriated to county commissions in accordance with Section 130140.

(A)The moneys allocated and appropriated to county commissions shall be deposited in each local Children and Families Trust Fund administered by each county commission, and shall be expended only for the purposes authorized by this act and in accordance with the county strategic plan approved by each county commission.

(B)Any moneys allocated and appropriated to any of the county commissions that are not encumbered or expended within any applicable period prescribed by law shall (together with the accrued interest on the amount) revert to and remain in the same local Children and Families Trust Fund for the next fiscal period under the same conditions as set forth in subparagraph (A).

(e)All grants, gifts, or bequests of money made to or for the benefit of the state commission from public or private sources to be used for early childhood development programs shall be deposited in the California Children and Families Trust Fund and expended for the specific purpose for which the grant, gift, or bequest was made. The amount of any such grant, gift, or bequest shall not be considered in computing the amount allocated and appropriated to the state commission pursuant to paragraph (1) of subdivision (d).

(f)All grants, gifts, or bequests of money made to or for the benefit of any county commission from public or private sources to be used for early childhood development programs shall be deposited in the local Children and Families Trust Fund and expended for the specific purpose for which the grant, gift, or bequest was made. The amount of any such grant, gift, or bequest shall not be considered in computing the amount allocated and appropriated to the county commissions pursuant to paragraph (2) of subdivision (d).

(Amended by Stats. 2009, Ch. 157, Sec. 1. (AB 1422) Effective September 22, 2009. Note: This section was added on Nov. 3, 1998, by initiative Prop. 10.)

130110.

(a)There is hereby established a California Children and Families Commission, which may also be known as First 5 California, composed of seven voting members and two ex officio members.

(b)The voting members shall be selected, pursuant to Section 130115, from persons with knowledge, experience, and expertise in early child development, child care, education, social services, public health, the prevention and treatment of tobacco and other substance abuse, behavioral health, and medicine (including, but not limited to, representatives of statewide medical and pediatric associations or societies), upon consultation with public and private sector associations, organizations, and conferences composed of professionals in these fields.

(c)The Secretary of the California Health and Human Services Agency and the Secretary for Education, or their designees, shall serve as ex officio nonvoting members of the state commission.

(Amended by Stats. 2003, Ch. 378, Sec. 1. Effective January 1, 2004. Note: This section was added on Nov. 3, 1998, by initiative Prop. 10.)

130115.

The Governor shall appoint three members of the state commission, one of whom shall be designated as chairperson. One of the Governorsappointees shall be either a county health officer or a county health executive. The Speaker of the Assembly and the Senate Rules Committee shall each appoint two members of the state commission. Of the members first appointed by the Governor, one shall serve for a term of four years, and two for a term of two years. Of the members appointed by the Speaker of the Assembly and the Senate Rules Committee, one appointed by the Speaker of the Assembly and the Senate Rules Committee shall serve for a period of four years with the other appointees to serve for a period of three years. Thereafter, all appointments shall be for four-year terms. No appointee shall serve as a member of the state commission for more than two four-year terms.

(Added November 3, 1998, by initiative Proposition 10. Effective (by Sec. 7 of Prop. 10) on date election results were certified.)

130120.

The state commission shall, within three months after a majority of its voting members have been appointed, hire an executive director. The state commission shall thereafter hire such other staff as necessary or appropriate. The executive director and staff shall be compensated as determined by the state commission, consistent with moneys available for appropriation in the Administration Account. All professional staff employees of the state commission shall be exempt from civil service. The executive director shall act under the authority of, and in accordance with the direction of, the state commission.

(Added November 3, 1998, by initiative Proposition 10. Effective (by Sec. 7 of Prop. 10) on date election results were certified.)

130125.

The powers and duties of the state commission shall include, but are not limited to, the following:

(a)Providing for statewide dissemination of public information and educational materials to members of the general public and to professionals for the purpose of developing appropriate awareness and knowledge regarding the promotion, support, and improvement of early childhood development.

(b)Adopting guidelines for an integrated and comprehensive statewide program of promoting, supporting, and improving early childhood development that enhances the intellectual, social, emotional, and physical development of children in California.

(1)The state commissionsguidelines shall, at a minimum, address the following matters:

(A)Parental education and support services in all areas required for, and relevant to, informed and healthy

parenting. Examples of parental education shall include, but are not limited to, prenatal and postnatal infant and maternal nutrition, education and training in newborn and infant care and nurturing for optimal early childhood development, parenting and other necessary skills, child abuse prevention, and avoidance of tobacco, drugs, and alcohol during pregnancy. Examples of parental support services shall include, but are not limited to, family support centers offering an integrated system of services required for the development and maintenance of self-sufficiency, domestic violence prevention and treatment, tobacco and other substance abuse control and treatment, voluntary intervention for families at risk, and any other prevention and family services and counseling critical to successful early childhood development.

(B)The availability and provision of high quality, accessible, and affordable child care, both in-home and at child care facilities, that emphasizes education, training and qualifications of care providers, increased availability and access to child care facilities, resource and referral services, technical assistance for caregivers, and financial and other assistance to ensure appropriate child care for all households.

(C)The provision of child health care services that emphasize prevention, diagnostic screenings, and treatment not covered by other programs; and the provision of prenatal and postnatal maternal health care services that emphasize prevention, immunizations, nutrition, treatment of tobacco and other substance abuse, general health screenings, and treatment services not covered by other programs.

(2)The state commission shall conduct at least one public hearing on its proposed guidelines before they are adopted.

(3)The state commission shall, on at least an annual basis, periodically review its adopted guidelines and revise them as may be necessary or appropriate.

(c)Defining the results to be achieved by the adopted guidelines, and collecting and analyzing data to measure progress toward attaining these results.

(d)Providing for independent research, including the evaluation of any relevant programs, to identify the best standards and practices for optimal early childhood development, and establishing and monitoring demonstration projects.

(e)Soliciting input regarding program policy and direction from individuals and entities with experience in early childhood development, facilitating the exchange of information between these individuals and entities, and assisting in the coordination of the services of public and private agencies to deal more effectively with early childhood development.

(f)Providing technical assistance to county commissions in adopting and implementing county strategic plans for early childhood development.

(g)Reviewing and considering the annual audits and reports transmitted by the county commissions and, following a public hearing, adopting a written report that consolidates, summarizes, analyzes, and comments on those annual audits and reports.

(h)Applying for gifts, grants, donations, or contributions of money, property, facilities, or services from any person, corporation, foundation, or other entity, or from the state or any agency or political subdivision thereof, or from the federal government or any agency or instrumentality thereof, in furtherance of a statewide program of early childhood development.

(i)Entering into any contracts and allocating funds to county commissions as necessary or appropriate to carry out the provisions and purposes of this act.

(j)Making recommendations to the Governor and the Legislature for changes in state laws, regulations, and services necessary or appropriate to carry out an integrated and comprehensive program of early childhood development in an effective and cost-efficient manner.

(Amended by Stats. 2002, Ch. 245, Sec. 3. Effective January 1, 2003. Note: This section was added on Nov. 3, 1998, by initiative Prop. 10.)

130130.

Procedures for the conduct of business by the state commission not specified in this act shall be contained in bylaws adopted by the state commission. A majority of the voting members of the state commission shall constitute a quorum. All decisions of the state commission, including the hiring of the executive director, shall be by a majority of four votes.

(Added November 3, 1998, by initiative Proposition 10. Efective (by Sec. 7 of Prop. 10) on date election results were certified.)

130135.

Voting members of the state commission shall not be compensated for their services, except that they shall be paid reasonable per diem and reimbursement of reasonable expenses for attending meetings and discharging other official responsibilities as authorized by the state commission.

(Added November 3, 1998, by initiative Proposition 10. Efective (by Sec. 7 of Prop. 10) on date election results were certified.)

130140.

Any county or counties developing, adopting, promoting, and implementing local early childhood development programs consistent with the goals and objectives of this act shall receive moneys pursuant to paragraph (2) of subdivision (d) of Section 130105 in accordance with the following provisions:

(a)For the period between January 1, 1999, and June 30, 2000, county commissions shall receive the portion of the total moneys available to all county commissions equal to the percentage of the number of births recorded in the relevant county (for the most recent reporting period) in proportion to the entire number of births recorded in California (for the same period), provided that each of the following requirements has first been satisfied:

(1)The countysboard of supervisors has adopted an ordinance containing the following minimum provisions:

(A)The establishment of a county children and families commission. The county commission shall be appointed by the board of supervisors and shall consist of at least five but not more than nine members.

(i)Two members of the county commission shall be from among the county health officer and persons

responsible for management of the following county functions: childrensservices, public health services, behavioral health services, social services, and tobacco and other substance abuse prevention and treatment services.

(ii)One member of the county commission shall be a member of the board of supervisors.

(iii)The remaining members of the county commission shall be from among the persons described in clause (i) and persons from the following categories: recipients of project services included in the county strategic plan; educators specializing in early childhood development; representatives of a local child care resource or referral agency, or a local child care coordinating group; representatives of a local organization for prevention or early intervention for families at risk; representatives of community-based organizations that have the goal of promoting nurturing and early childhood development; representatives of local school districts; and representatives of local medical, pediatric, or obstetric associations or societies.

(B)The manner of appointment, selection, or removal of members of the county commission, the duration and number of terms county commission members shall serve, and any other matters that the board of supervisors deems necessary or convenient for the conduct of the county commissionsactivities, provided that members of the county commission shall not be compensated for their services, except they shall be paid reasonable per diem and reimbursement of reasonable expenses for attending meetings and discharging other official responsibilities as authorized by the county commission.

(C)The requirement that the county commission adopt an adequate and complete county strategic plan for the support and improvement of early childhood development within the county.

(i)The county strategic plan shall be consistent with, and in furtherance of the purposes of, this act and any guidelines adopted by the state commission pursuant to subdivision (b) of Section 130125 that are in effect at the time the plan is adopted.

(ii)The county strategic plan shall, at a minimum, include the following: a description of the goals and objectives proposed to be attained; a description of the programs, services, and projects proposed to be provided, sponsored, or facilitated; and a description of how measurable outcomes of such programs, services, and projects will be determined by the county commission using appropriate reliable indicators. No county strategic plan shall be deemed adequate or complete until and unless the plan describes how programs, services, and projects relating to early childhood development within the county will be integrated into a consumer-oriented and easily accessible system.

(iii)The county commission shall, on at least an annual basis, be required to review its county strategic plan and to revise the plan as may be necessary or appropriate.

(iv)The county commission shall measure the outcomes of county funded programs through the use of applicable, reliable indicators and review that information on a periodic basis as part of the public review of its county strategic plan.

(D)The requirement that the county commission conduct at least one public hearing on its proposed county strategic plan before the plan is adopted.

(E)The requirement that the county commission conduct at least one public hearing on its periodic review of the county strategic plan before any revisions to the plan are adopted.

(F)The requirement that the county commission submit its adopted county strategic plan, and any subsequent revisions thereto, to the state commission.

(G)The requirement that the county commission prepare and adopt an annual audit and report pursuant to Section 130150. The county commission shall conduct at least one public hearing prior to adopting any annual audit and report.

(H)The requirement that the county commission conduct at least one public hearing on each annual report by the state commission prepared pursuant to subdivision (b) of Section 130150.

(I)Two or more counties may form a joint county commission, adopt a joint county strategic plan, or implement joint programs, services, or projects.

(2)The countysboard of supervisors has established a county commission and has appointed a majority of its members.

(3)The county has established a local Children and Families Trust Fund pursuant to subparagraph (A) of paragraph (2) of subdivision (d) of Section 130105.

(b)Notwithstanding any provision of this act to the contrary, no moneys made available to county commissions under subdivision (a) shall be expended to provide, sponsor, or facilitate any programs, services, or projects for early childhood development until and unless the county commission has first adopted an adequate and complete county strategic plan that contains the provisions required by clause (ii) of subparagraph (C) of paragraph (1) of subdivision (a).

(c)In the event that any county elects not to participate in the California Children and Families Program, the moneys remaining in the California Children and Families Trust Fund shall be reallocated and reappropriated to participating counties in the following fiscal year.

(d)For the fiscal year commencing on July 1, 2000, and for each fiscal year thereafter, county commissions shall receive the portion of the total moneys available to all county commissions equal to the percentage of the number of births recorded in the relevant county (for the most recent reporting period) in proportion to the number of births recorded in all of the counties participating in the California Children and Families Program (for the same period), provided that each of the following requirements has first been satisfied:

(1)The county commission has, after the required public hearings, adopted an adequate and complete county strategic plan conforming to the requirements of subparagraph (C) of paragraph (1) of subdivision (a), and has submitted the plan to the state commission.

(2)The county commission has conducted the required public hearings, and has prepared and submitted all audits and reports required pursuant to Section 130150.

(3)The county commission has conducted the required public hearings on the state commission annual reports prepared pursuant to subdivision (b) of Section 130150.

(4)The county commission, in a public hearing, has adopted policies that are consistent with the following state laws:

(A)With regard to conflict of interest of the commission members, the county commissionspolicies shall be consistent with Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code, Article 4.7 (commencing with Section 1125) of Chapter 1 of Division 4 of Title 1 of the Government Code, and Chapter 7 (commencing with Section 87100) of Title 9 of the Government Code.

(B)With regard to contracting and procurement, the county commissionspolicies shall be consistent with Article 7 (commencing with Section 54201) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, Chapter 2 (commencing with Section 2000) of Part 1 of Division 2 of the Public Contract Code, Section 3410 of the Public Contract Code, and Chapter 3.5 (commencing with Section 22150) of Part 3 of Division 2 of the Public Contract Code.

(5)The county commission, in a public hearing, has adopted a limit on the percentage of the county commissionsoperating budget that may be spent on administrative functions, pursuant to guidelines issued by the state commission that define administrative functions.

(6)The county commission has adopted, in a public hearing, policies and processes establishing the salaries and benefits of employees of the county commission. Salaries and benefits shall conform with established county commission or county government policies.

(e)In the event that any county elects not to continue participation in the California Children and Families Program, any unencumbered and unexpended moneys remaining in the local Children and Families Trust Fund shall be returned to the California Children and Families Trust Fund for reallocation and reappropriation to participating counties in the following fiscal year.

(f)For purposes of this section, relevant county means the county in which the mother of the child whose birth is being recorded resides.

(Amended by Stats. 2006, Ch. 111, Sec. 1. Effective January 1, 2007. Note: This section was added on Nov. 3, 1998, by initiative Prop. 10.)

130140.1.

(a) In the event a county elects to participate in the California Children and Families Program, and satisfies the requirements set forth in Section 130140, the county may establish a county commission that is either of the following:

(1) A legal public entity separate from the county.

(2) An agency of the county with independent authority over the strategic plan described in Section 130140 and the local trust fund established pursuant to subparagraph (A) of paragraph (2) of subdivision (d) of Section 130105.

(b) In the event a county elects to establish a county commission as specified in paragraph (1) of subdivision (a), the following conditions shall apply:

(1) The county commission shall be considered a legal public entity separate from the county, and shall file a statement as required by Section 53051 of the Government Code.

(2) The powers, duties, and responsibilities of the county commission shall include, but shall not be limited to, the following:

(A) The power to employ personnel and contract for personal services required to meet its obligations.

(B) The power to enter into any contracts necessary or appropriate to carry out the provisions of this division.

(C) The power to acquire, possess, and dispose of real or personal property, as necessary or appropriate to carry out the provisions and purposes of this division.

(D) The power to sue or be sued.

(3) The county commission shall be deemed to be a public agency that is a unit of local government for purposes of all grant programs and other funding and loan guarantee programs.

(4) Any obligations of the county commission, statutory, contractual, or otherwise, shall be obligations solely of the commission.

(5) All claims or actions for money or damages against a county commission shall be governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code, except as provided by other statutes or regulations that expressly apply to county commissions.

(6) The county commission, its members, and its employees are protected by the immunities applicable to public entities and public employees governed by Part 1 (commencing with Section 810) and Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code, except as provided by other statutes or regulations that apply expressly to the county commissions.

(7) If a county board of supervisors elects not to continue the countysparticipation in the California Children and Families Program, the board shall adopt an ordinance terminating the county commission.

(A) In terminating its county commission, the board of supervisors shall allow, to the extent possible, an appropriate transition period to allow for the county commissionsthen-existing obligations to be satisfied.

(B) In event of termination, any unencumbered and unexpended moneys remaining in the local Children and Families Trust Fund shall be distributed pursuant to subdivision (e) of Section 130140.

(C) Prior to the termination of the county commission, the board of supervisors shall notify the state Children and Families Commission of its intent to terminate the county commission.

(D) The liabilities of the county commission shall not become obligations of the county upon either the termination of the county commission or the liquidation or disposition of the county commissionsremaining assets.

(c) If a county elects to establish a county commission as provided in paragraph (2) of subdivision (a), the county commission shall be deemed to be an agency of the county with independent authority over the strategic plan described in Section 130140 and the local Children and Families Trust Fund established pursuant to subparagraph (A) of paragraph (2) of subdivision (d) of Section 130105.

(d) Any county commission established prior to the effective date of this section that substantially complies with the provisions of either subdivision (b) or (c) shall be deemed to be in compliance with this section.

(e) (1) Individually identifiable physical or mental health information, substance abuse information, child care or education information, personnel or employment information, financial information, criminal justice information, or demographic information, regarding a child or a childsparent, legal guardian, or other family member, that is provided to a county commission by a parent, legal guardian, family member, health care provider, health plan, public health authority, school, law enforcement agency, social services agency,

probation agency, or any other source, shall be considered confidential, and may be disclosed only to a person, agency, or entity that receives funding from the county commission, by way of a grant award or contract or as a service provider for the provision of early childhood services, and only to the extent necessary to the provision of services, unless further disclosure is authorized by a written consent of the parent or legal guardian, or where disclosure is required by state or federal law.

(2) Confidential information identified in accordance with this section shall not be subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(Amended by Stats. 2002, Ch. 664, Sec. 153. Effective January 1, 2003.)

130145.

The state commission and each county commission shall establish one or more advisory committees to provide technical and professional expertise and support for any purposes that will be beneficial in accomplishing the purposes of this act. Each advisory committee shall meet and shall make recommendations and reports as deemed necessary or appropriate.

(Added November 3, 1998, by initiative Proposition 10. Effective (by Sec. 7 of Prop. 10) on date election results were certified.)

130150.

(a)On or before October 15 of each year, each county commission shall conduct an audit of, and issue a written report on the implementation and performance of, its functions during the preceding fiscal year, including, at a minimum, the manner in which funds were expended, the progress toward, and the achievement of, program goals and objectives, and information on programs funded and populations served for all funded programs.

On or before November 1 of each year, each county commission shall submit its audit and report to the state commission for inclusion in the state commissionsconsolidated report required in subdivision (b). Each commission shall submit its report in a format prescribed by the state commission if the state commission approves that format in a public meeting prior to the fiscal year during which it is to be used by the county commissions. The state commission shall develop the format in consultation with the county commissions.

(b)The state commission shall, on or before January 31 of each year, do both of the following:

(1)Conduct an audit and prepare a written report on the implementation and performance of the state commission functions during the preceding fiscal year, including, at a minimum, the manner in which funds were expended and the progress toward, and the achievement of, program goals and objectives.

(2)Prepare a written report that consolidates, summarizes, analyzes, and comments on the annual audits and reports submitted by all of the county commissions and the Controller for the preceding fiscal year. The written report shall include a listing, by category, of the aggregate expenditures on program areas funded by the state and county commissions pursuant to the purposes of this act, according to a format prescribed by the state commission. This report by the state commission shall be transmitted to the Governor, the

Legislature, and each county commission.

(3)In the event a county commission does not submit the information prescribed in subdivision (a), the state commission may withhold funds that would otherwise have been allocated to the county commission from the California Children and Families Trust Fund pursuant to Section 130140 until the county commission submits the data as required by subdivision (a).

(c)The state commission shall make copies of each of its annual audits and reports available to members of the general public on request and at no cost. The state commission shall furnish each county commission with copies of those documents in a number sufficient for local distribution by the county commission to members of the general public on request and at no cost.

(d)Each county commission shall make copies of its annual audits and reports available to members of the general public on request and at no cost.

(Amended by Stats. 2005, Ch. 243, Sec. 1. Effective January 1, 2006. Note: This section was added on Nov. 3, 1998, by initiative Prop. 10.)

130151.

(a)In addition to the requirements in Section 130150, the Controller shall issue guidelines for expanded annual audits of each county commission required pursuant to subdivision (b) of Section 130150 and associated quality control functions, subject to funding by the state commission.

(b)The scope of the audits shall address a review of county commission policies and practices with respect to the following elements:

(1)Contracting and procurement policies, to determine whether they are in place pursuant to paragraph (4) of subdivision (d) of Section 130140, whether state and county commissions are operating in accordance with these policies, and whether these policies contain provisions to ensure that the grants and contracts are consistent with the state or county commissionsstrategic plan.

(2)Administrative costs, to ensure that the county commissionsdefinitions comply with the state commissionsguidelines and that the county commission has a process in place to monitor these costs.

(3)Policies and procedures, established pursuant to paragraph (4) of subdivision (d) of Section 130140, designed to assure compliance by the state commission and county commissions with all applicable state and local conflict-of-interest statutes and regulations.

(4)Policies and practices designed to assure that county commissions are adhering to county commission ordinances established pursuant to paragraph (1) of subdivision (a) of Section 130140.

(5)Long-range financial plans, to determine whether state and county commissions have these plans and that the plans have been formally adopted by the commission in a public hearing.

(6)Financial condition of the commission.

(7)Amount commissions spend on program evaluation and the documented results of these expenditures.

(8)Salaries and benefit policies, to determine whether the county commissionemployee salaries and benefits comply with the policies that the county commission adopted pursuant to paragraph (6) of subdivision (d) of Section 130140.

(c)The auditor for the state commission or the county commission shall submit each audit report, upon completion, simultaneously to both the Controller and to the state commission or applicable county commission.

(d)The state commission and each respective county commission shall schedule a public hearing within two months of receipt of the audit to discuss findings within the report and any response to the findings. Within two weeks of the public hearing, the state or county commission shall submit to the Controller a response to the audit findings.

(e)Within six months of the state or county commissionsresponse pursuant to subdivision (d), the Controller shall determine whether a county commission has successfully corrected its practices in response to the findings contained in the audit report. The Controller may, after that determination, recommend to the state commission to withhold the allocation of money that the county commission would otherwise receive from the California Children and Families Trust Fund until the Controller determines that the county commission has a viable plan and the ability to correct the practices identified in the audit.

(f)The Controller shall prepare a summary report of the final audits and submit the report to the state commission by November 1 of each year for inclusion in the annual report required pursuant to subdivision (b) of Section 130150.

(g)On or before April 30, 2006, the Controller shall present to the state commission in a public meeting the final audit guidelines and implementation plan. When developing the guidelines, the Controller shall consider the reasonableness of the projected costs and administrative burden of the required audit functions.

(Added by Stats. 2005, Ch. 243, Sec. 2. Effective January 1, 2006.)

130155.

The following definitions apply for purposes of this act:

(a)Act means the California Children and Families Act of 1998.

(b)County commission means each county children and families commission established in accordance with Section 130140.

(c)County strategic plan means the plan adopted by each county children and families commission and submitted to the California Children and Families Commission pursuant to Section 130140.

(d)State commission means the California Children and Families Commission established in accordance with Section 130110.

(Amended by Stats. 1999, Ch. 126, Sec. 6. Effective July 14, 1999. Note: This section was added on Nov. 3, 1998, by initiative Prop. 10.)

130156.

The Children and Families Health and Human Services Fund is hereby established in the State Treasury. The Children and Families Health and Human Services Fund shall be used, upon appropriation by the Legislature, to provide health and human services, including, but not limited to, direct health care services, to children from birth through five years of age.

(Added by Stats. 2011, Ch. 4, Sec. 2. (AB 99) Effective March 24, 2011.)

130157.

Notwithstanding paragraph (1) of subdivision (d) of Section 130105, for the 2011“12 fiscal year, fifty million dollars ($50,000,000) from the accounts described in subparagraphs (A) to (F), inclusive, of paragraph (1) of subdivision (d) of Section 130105, including reserve funds, upon approval of the state commission, shall be transferred to and deposited in the Children and Families Health and Human Services Fund to support state health and human services programs for children from birth through five years of age. The state commission shall ensure that these funds are available for the purposes described in this section. To the extent it is necessary or appropriate for the state commission to disencumber existing obligations to meet the requirements of this section, the state commission, including, but not limited to, its representatives, officers, directors, and employees, including its attorneys and other persons, is hereby released from any and all liability, rights, claims, demands, and actions, known and unknown, which any party may have, arising in connection with the disencumbering of funds or obligations in accordance with this section. For purposes of this section, state health and human services programs includes, but is not limited to, direct health care services.

(Added by Stats. 2011, Ch. 4, Sec. 3. (AB 99) Effective March 24, 2011.)

130158.

(a)Notwithstanding paragraph (2) of subdivision (d) of Section 130105, for the 2011“12 fiscal year, nine hundred fifty million dollars ($950,000,000) from the combined balances of all the county Children and Families Trust Funds, including reserve funds, as provided for in subparagraphs (A) and (B) of paragraph (2) of subdivision (d) of Section 130105, shall be transferred to and deposited in the Children and Families Health and Human Services Fund, to support state health and human services programs for children from birth through five years of age.

(b)For purposes of this section, state health and human services programs includes, but is not limited to, direct health care services and county commission includes, but is not limited to, county commissions, account holders for local children and families trust funds, and county government fiscal agents.

(c)The share of the amount specified in subdivision (a) required of each county commission shall be determined in the following manner and subject to the following conditions:

(1)A county commission that received less than six hundred thousand dollars ($600,000) in California Children and Families Trust Fund revenues in the 2009“10 fiscal year is exempt from this section and is not

required to deposit funds in the Children and Families Health and Human Services Fund as part of the budget solution described in subdivision (a).

(2)By June 30, 2012, each county commission not exempted by paragraph (1) shall remit for deposit into the Children and Families Health and Human Services Fund, 50 percent of its county commission funding, which includes total reserved, total unreserved-designated, and total unreserved-undesignated local children and families trust funds as of June 30, 2010. No funds other than revenues received pursuant to the California Children and Families Act of 1998 shall be remitted for deposit into the Children and Families Health and Human Services Fund.

(3)Notwithstanding paragraph (2), county commission payments for deposit into the Children and Families Health and Human Services Fund shall not cause any county commissionsfund balance to fall below the amount received by the county commission from the California Children and Families Trust Fund in the 2009“10 fiscal year.

(4)Full payments to the Children and Families Health and Human Services Fund shall be made by county commissions within the 2011“12 fiscal year. Notwithstanding any other provision of law, no 2012“13 allocation to a county commission shall occur prior to the full payment being made.

(5)Notwithstanding paragraphs (1) to (4), inclusive, the total combined remittances from county commissions in the 2011“12 fiscal year shall equal nine hundred fifty million dollars ($950,000,000). To the extent paragraphs (1) to (4), inclusive, result in more than nine hundred fifty million dollars ($950,000,000) being provided by county commissions in total, the difference shall be proportionally returned to all contributing county commissions.

(d)Pursuant to subdivision (c), each county commission, as defined in subdivision (b), shall ensure that the funds for transfer and deposit to the Children and Families Health and Human Services Fund are not encumbered and are available for the purposes described in this section. To the extent that it is necessary or appropriate for a county commission to disencumber existing obligations to meet the requirements of this section, the county commission, including, but not limited to, its representatives, officers, directors, and employees, including its attorneys and other persons, is hereby released from any and all liability, rights, claims, demands, and actions, known and unknown, which any party may have, arising in connection with the disencumbering of funds, or obligations in accordance with this section.

(e)After a county commissionsshare of the nine hundred fifty million dollars ($950,000,000) specified in subdivision (a) has been determined pursuant to subdivision (c), that county commission, or appropriate agent or entity, shall remit those funds to the Controller for deposit into the Children and Families Health and Human Services Fund. The entire share of funds for each county commission shall be remitted within the 2011“12 fiscal year, and may be done, in equal amounts, on a monthly basis.

(Added by Stats. 2011, Ch. 4, Sec. 4. (AB 99) Effective March 24, 2011.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=109.&title=&part=&chapter=&article=

__Health and Safety Code - HSC__

__DIVISION 109. Center for Data Insights and Innovation [130200 - 130211]__

(Division 109 repealed and added by Stats. 2021, Ch. 696, Sec. 11.)

130200.

There is hereby established within the California Health and Human Services Agency the Center for Data Insights and Innovation to ensure the enforcement of state law mandating the confidentiality of medical information. The Center for Data Insights and Innovation shall be administered by a director who shall also serve as the California Health and Human Services Chief Data Officer and shall be appointed by the Secretary of California Health and Human Services.

(Repealed and added by Stats. 2021, Ch. 696, Sec. 11. (AB 172) Effective October 8, 2021.)

130201.

The Legislature finds and declares all of the following:

(a)The California Health and Human Services Agency manages great amounts of valuable data on all aspects of life for Californians, including, but not limited to, health care delivery, business, social services, child welfare, and public health.

(b)California has long recognized that securing individual privacy rights and confidentiality of personal health and medical records is of paramount importance to establishing public confidence in the provision of state services, and that ensuring transparent accountability, governance, and oversight are critical components to maintaining the publicstrust.

(c)Data is a fundamental asset that can be more fully utilized without compromising patient privacy and data security. Improving and streamlining collection practices, interoperability of data and technology, data infrastructure, data security, and data sharing is critical to the improvement of the lives of Californians and will foster person-centered and not program-centered decisionmaking.

(d)When data practices safeguard individual privacy, interpreting and using data improves public programs and policies and enriches the lives of people in many ways, including, but not limited to, all of the following:

(1)Analytics increase efficiency and help target resources to vulnerable and underserved populations.

(2)Data analytics allow for optimal use of existing resources and information assets to drive operational decisions and avoid changes that may result in adverse impacts or negative outcomes for vulnerable and underserved populations.

(3)Health and social services outcomes are improved through use of analytics to identify underserved populations, detect gaps in services, and improve and facilitate access to programs and services.

(4)Demographic and services information can be assessed to identify and address disparities, including racial, ethnic, gender, and geographic disparities, in health and socioeconomic status to advance equity and improve person-centered outcomes.

(e)Information sharing among state departments for integrated health and social services has been hindered by a lack of standardized interpretation and application of health privacy laws throughout the state. State departments often do not share information for integrated health and social services, even when sharing is appropriate, lawful, and permissible to all identifiable individuals. In order to provide efficient and effective health and social services, information should be securely exchanged among state departments in a manner that prioritizes individual privacy and autonomy over access to personal data.

(f)Unmitigated sharing and centralization of personal data relating to individuals presents unique risks to privacy, as that data can be used in concert to produce profiles revealing intimate details of individuals™ personal lives. Any policy related to data sharing, especially among governmental entities, must, therefore, be responsive to potential risks to personal privacy and include safeguards against invasive or excessive sharing of personal information.

(g)Data sharing has the potential to positively affect health and social services outcomes by linking vulnerable populations to services for which they are eligible.

(h)It is the intent of the Legislature to establish the Center for Data Insights and Innovation to do all of the following:

(1)Establish health information sharing guidance that balances the need for patient privacy with the benefits of data sharing to support and encourage integrated care and services to assist California health and social services organizations.

(2)Increase privacy protections by ensuring only required health data is transmitted for purposes and uses consistent with state and federal law.

(3)Administer the State Committee for the Protection of Human Subjects.

(4)Collect data and publish reports on quality of care and patient experience.

(5)Administer the California Health and Human Services Agency Open Data Portal.

(6)Develop and administer the California Health and Human Services Agency Research Data Hub and other future data initiatives.

(7)Improve and strengthen the security of data processes within the departments of the California Health and Human Services Agency.

(8)Identify and guide tangible and program-specific efforts, from the California Health and Human Services Agency leadership perspective, toward enhanced person-centered services that bridge and connect access to all health and social services programs for which an individual may be eligible.

(Added by Stats. 2021, Ch. 696, Sec. 11. (AB 172) Effective October 8, 2021.)

130202.

For the purposes of this division, the following definitions apply:

(a)Bona fide research has the same meaning as subdivision (f) of Section 820 of Title 11 of the California Code of Regulations.

(b)Center means the Center for Data Insights and Innovation.

(c)Chief Data Officer means the Director of the Center for Data Insights and Innovation.

(d)CHHS Open Data Portal means the California Health and Human Services Agency Open Data Portal.

(e)Director means the Director of the Center for Data Insights and Innovation.

(f)HIPAA means the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

(g)Research Data Hub means the California Health and Human Services Agency Research Data Hub or future iterations and names of that product.

(h)State entities means all state departments, agencies, boards, commissions, programs, and other organizational units of the executive branch of state government.

(i)Qualified researcher means state entities, clinical investigators, including investigators conducting epidemiologic studies, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes.

(Added by Stats. 2021, Ch. 696, Sec. 11. (AB 172) Effective October 8, 2021.)

130203.

(a)The center shall assume statewide leadership, coordination, policy formulation, direction, and oversight responsibilities for compliance with state and federal health information privacy laws, including, but not limited to, the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), and the federal Health Information Technology for Economic and Clinical Health Act (Title XIII of the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5)), and implementing regulations. The center shall exercise full authority relative to state entities to establish policy, provide direction to state entities, provide guidance on data sharing, monitor progress, and report on compliance activities.

(b)Beginning January 1, 2022, the center shall complete an independent security assessment as described in Section 11549.3 of the Government Code at least once every three years and, consistent with subdivision (d) of that section, submit any resulting report and recommendations to the Office of Emergency Services.

(c)All state entities subject to HIPAA shall complete an assessment, in a form specified by the center, to determine the impact of HIPAA on their operations. All state entities shall cooperate with the center to

determine whether the state entity is subject to HIPAA, including, but not limited to, providing a completed assessment, as prescribed by the center.

(d)All state entities shall cooperate with the efforts of the center to monitor HIPAA and health information privacy compliance activities and to obtain information on these activities. Information obtained about these activities shall not include personal information, as defined in subdivision (a) of Section 1798.3 of the Civil Code.

(e)All state entities affected by HIPAA shall comply with the decisions of the director in achieving compliance with HIPAA and other health information privacy laws, including whether a state entity is subject to HIPAA and other state and federal health information privacy requirements.

(f)(1)The center shall assume statewide leadership, coordination, direction, and oversight responsibilities for determining which provisions of state law concerning health information are preempted by HIPAA, or are more protective of individually identifiable health information, pursuant to Section 160.203 of Title 45 of the Code of Federal Regulations. State entities impacted by HIPAA shall, at the direction of the center, do both of the following:

(i)Assist in determining which state laws concerning personal medical information are preempted by HIPAA.

(ii)Conform to all determinations made by the center concerning HIPAA preemption issues.

(2)If the center determines that a state law is preempted by HIPAA, the center shall provide the determination and a recommendation for a solution to the Secretary of California Health and Human Services.

(g)State entities are responsible for ensuring compliance with state and federal health information privacy laws, including, but not limited to, HIPAA. To the extent that funds are appropriated in the annual Budget Act, the center shall do all of the following to assist state entities in complying with health information requirements:

(1)Develop uniform policies on privacy, patient rights, and other matters related to health information requirements that shall be adopted and implemented by all state entities. In developing these policies, the center shall consult with representatives from the private sector, state government, and other public entities, including at least two consumer representatives, at least one of whom shall have expertise in privacy and security of health information.

(2)Specify training and tools, such as protocols for assessment and reporting and any other tools determined by the director, for compliance with health information requirements.

(3)Develop statewide guidance on health information sharing to support integrated health care and social services, including guidance on state and federal health information privacy laws, regulations, and policies. In developing this guidance, the center shall consult with representatives from the private sector, state government, and other public entities relevant to the provision of health care and social services, including privacy advocates, patient rights representatives, and county administrators of health and human services programs and their association representatives.

(4)Represent the State of California in discussions on health data sharing, data interoperability, HIPAA, and substance use disorder information requirements contained in Part 2 of Title 42 of the Code of Federal Regulations with the federal Department of Health and Human Services. The center may review and approve all comments related to data sharing, data interoperability, HIPAA, and substance use disorder information

requirements contained in Part 2 of Title 42 of the Code of Federal Regulations that state entities propose for submission to the federal Department of Health and Human Services or any other body or organization.

(5)Coordinate and communicate with other affected entities, including, but not limited to, the Department of Technology and State Chief Data Officer.

(6)Monitor the compliance activities of state entities with state and federal health information requirements and require these entities to report on their activities at times specified by the director, using a format prescribed by the director.

(7)Develop standards for the centersuse in determining the extent of compliance with health information requirements.

(8)Provide technical assistance to state entities on information sharing and compliance with state and federal health information privacy requirements.

(h)(1)(A)Beginning March 1, 2022, and annually thereafter, the center shall provide to the Legislature, and post on its internet website, a written update that outlines its major endeavors, including the challenges encountered, the milestones achieved toward meeting set objectives to achieve a person-centered approach in health and human services, and the data collection and sharing practices employed by the center during the preceding year.

(B)An update to be submitted to the Legislature pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(2)Upon the issuance of the update pursuant to subparagraph (A), the center shall meet with legislative staff representing the health and human services fiscal and policy areas to report on efforts for health and human services to become more person-centered in service delivery. The center shall provide updates on specific major programs serving or attempting to serve populations that are by definition considered underserved and vulnerable, including populations living in poverty and deep poverty, and who may lack access or face limitations due to age, disability, functional impairment, educational level, adverse childhood experiences, and cultural and linguistic challenges. This meeting shall occur through virtual or in-person meetings.

(Added by Stats. 2021, Ch. 696, Sec. 11. (AB 172) Effective October 8, 2021.)

130204.

(a)(1)The center shall compile annual publications, to be made publicly available on the centersinternet website, including, but not limited to, a quality of care report card that reflects health care service plans, preferred provider organizations, and medical groups.

(2)The Department of Managed Health Care, the State Department of Health Care Services, the Department of Insurance, the Exchange, the State Department of Social Services, the Office of Statewide Health Planning and Development, and any other public health coverage program or state entity shall provide to the center data concerning the quality of care report card in the time, manner, and format requested by the center. The center may also request data related to the cost of care, quality of care, patient experience, socioeconomic status impact on health, access to care, and access to social services programs.

(3)The center may request data from and contract with academic or nonprofit organizations related to

quality of health care and patient experience to develop the quality of care report card.

(b)The center shall produce an annual report to be made publicly available on the centersinternet website by December 31, 2022, and annually thereafter, of health care consumer or patient assistance help centers, call centers, ombudsperson, or other assistance centers operated by the Department of Managed Health Care, the State Department of Health Care Services, the Department of Insurance, and the Exchange, that includes, at a minimum, all of the following:

(1)The types of calls received and the number of calls.

(2)The call centersrole with regard to each type of call, question, complaint, or grievance.

(3)The call centersprotocol for responding to requests for assistance from health care consumers, including any performance standards.

(4)The protocol for referring or transferring calls outside the jurisdiction of the call center.

(5)The call centersmethodology of tracking calls, complaints, grievances, or inquiries.

(c)(1)The center may collect and analyze data on problems and complaints by, and questions from, consumers about health care coverage for the purpose of providing public information about problems faced and information needed by consumers in obtaining coverage and care. The data collected shall include demographic data, insurer or plan data, appeals, source of coverage, regulator, type of problem or issue or comparable types of problems or issues, and resolution of complaints, including timeliness of resolution. Notwithstanding Section 10231.5 of the Government Code, the center shall submit a report by December 31, 2022, and annually thereafter to the Legislature. The report shall be submitted in compliance with Section 9795 of the Government Code. The format may be modified annually as needed based upon comments from the Legislature and stakeholders.

(2)The Department of Managed Health Care, the State Department of Health Care Services, the Department of Insurance, the Exchange, and any other public health coverage programs shall provide to the center data concerning call centers to meet the reporting requirements in this section in the time, data elements, manner, and format requested by the center.

(3)For the purpose of publicly reporting information as required in paragraph (1) and this paragraph about the problems faced by consumers in obtaining care and coverage, the center shall analyze data on consumer complaints, appeals, and grievances resolved by the agencies listed in subdivision (b), including demographic data, source of coverage, insurer or plan, resolution of complaints, and other information intended to improve health care and coverage for consumers.

(d)To the extent that funds are appropriated in the annual Budget Act for this purpose, the center shall do all of the following to assist state entities that provide public health coverage programs or oversight of health insurance or health care service plans:

(1)After evaluation of data from the Department of Insurance and the Department of Managed Health Care, coordinate with public health coverage programs and state oversight departments of public and commercial health coverage programs to provide assistance related to addressing the quality of care and patient experience of public and commercial health coverage programs that have been determined to be deficient in the annual quality of care report card.

(2)Create and provide tools and education to consumers of health insurance and public health coverage

programs to better enable them to access and utilize the quality of care report card and the health care services to which they are eligible.

(3)Develop tools and education related to improvement of consumer access to care, quality of care, and addressing the disparities in quality of care related to socioeconomic status.

(4)Develop and implement consumer surveys of the patient experience, quality of care, and any other topic consistent with this section.

(5)Develop standards for departments within the California Health and Human Services Agency related to public reports published by the departments to ensure consumer readability and understanding across programs.

(e)If the departmental letters or other similar instruction are only issued to other state entities, the center may implement, interpret, or make specific this section by means of a departmental letter or other similar instruction, as necessary, notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f)For purposes of this section, the following definitions apply:

(1)Data means information that is not individually identifiable health information, as defined in Section 160.103 of Title 45 of the Code of Federal Regulations.

(2)Exchange means the California Health Benefit Exchange established pursuant to Title 22 (commencing with Section 100500) of the Government Code.

(3)Health care includes services provided by any health care coverage program.

(4)Health care service plan has the same meaning as that set forth in subdivision (f) of Section 1345. Health care service plan includes specialized health care service plans, including behavioral health plans.

(5)Health coverage program includes the Medi-Cal program, tax subsidies and premium credits under the Exchange, the Basic Health Program, if enacted, and county health care programs.

(6)Health insurance has the same meaning as set forth in Section 106 of the Insurance Code.

(Added by Stats. 2021, Ch. 696, Sec. 11. (AB 172) Effective October 8, 2021.)

130205.

(a)The center shall administer the State Committee for the Protection of Human Subjects, which is Californiasinstitutional review board. Before state information assets subject to the Information Practices Act (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code) are disclosed for research, the request for data shall be approved by the State Committee for the Protection of Human Subjects in compliance with the process in Section 1798.24 of the Civil Code. In its duties, the State Committee for the Protection of Human Subjects board shall be fully independent in its review of requests for state data, institutional review board activities, and its activities under Section 1798.24 of the Civil Code.

(b)Upon appropriation by the Legislature, the center shall administer the CHHS Open Data Portal, develop

and administer the Research Data Hub, and may develop and administer other significant data initiatives for California Health and Human Services Agency and its departments.

(c)The center shall use data to improve processes and provide strategic planning and services to the departments within the California Health and Human Services Agency, consistent with intent identified in subdivision (h) Section 130201.

(Added by Stats. 2021, Ch. 696, Sec. 11. (AB 172) Effective October 8, 2021.)

130206.

(a)The Legislature finds and declares that the center performs public health activities described in Section 164.512(b) of Title 45 of the Code of Federal Regulations when carrying out activities pursuant to this division. Personal information collected in accordance with this division is necessary to carry out projects with public health purposes.

(b)All personal information obtained or maintained by the center shall be confidential and shall be subject to the following requirements:

(1)Only deidentified and aggregated information shall be included in a publicly available analysis, data product, or research.

(2)All policies and procedures developed in implementing this division shall ensure that the privacy, security, and confidentiality of consumers™ personal information is protected, as required by the Information Practices Act of 1977, and consistent with state and federal health privacy laws, including the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Public Law 104-191) and the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and data shall not be disclosed until the center has developed a policy regarding the release of data.

(c)Unless otherwise specified in this division, personal information collected by the center from other states entities shall be exempt from the disclosure requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), and shall not be made available except pursuant to this division.

(d)Any information collected or obtained shall not be used for determinations regarding individual patient care or treatment and shall not be used for any individual eligibility or coverage decisions or similar purposes.

(Amended by Stats. 2022, Ch. 28, Sec. 114. (SB 1380) Effective January 1, 2023.)

103206.1.

(a)The center shall meet the following requirements with regard to the disclosure of information to qualified researchers:

(1)The center shall develop a comprehensive program for the use, access, and disclosure of personal information that includes data use agreements that require data users to comply with this division. The

purpose of the program is to ensure that only aggregated, deidentified information is publicly accessible. The program shall be designed to recognize a consumersright of privacy and shall include at least the privacy protection standards specified in Section 103206.2.

(2)Access to personal information shall be governed by the use, access, and disclosure program to be developed by the center pursuant to paragraph (1).

(3)The center shall establish a secure research environment for access to personal information. The environment shall include access controls sufficient to ensure that users access only the personal information specified in an approved request and that personal information is protected from unapproved use.

(4)The center shall maintain information about requests and the disposition of requests, and shall develop processes for the timely consideration and release of personal information.

(b)To meet the research and policy goals of the center, it is necessary that access to personal information by qualified researchers is controlled.

(c)Unless otherwise expressly permitted by federal or state law, the center shall not disclose personal information to anyone other than a qualified researcher, or a public health authority as defined in Section 164.501 of Title 45 of the Code of Federal Regulations.

(Added by Stats. 2021, Ch. 696, Sec. 11. (AB 172) Effective October 8, 2021.)

103206.2.

(a)(1)In granting access to qualified researchers or a public health authority pursuant to subdivision (c) of Section 103206.1, the center shall only grant access to the minimum amount of personal information necessary for an approved project or access to a dataset designed for an approved purpose.

(2)Each person who accesses or obtains personal information on behalf of a qualified researcher or public health authority shall sign a data use agreement.

(3)The data use agreement shall prohibit the recipient from further disclosure of the personal information received that is not otherwise expressly permitted by federal or state law.

(4)Violation of a data use agreement entered into pursuant to paragraph (2) shall be considered a violation of Section 1798.56 of the Civil Code and, if applicable, Section 1798.57 of the Civil Code.

(b)Access to personal information by qualified researchers shall be permissible only if the following requirements are met:

(1)If the personal information does not include any of the direct personal identifiers listed in Section 164.514(e) of Title 45 of the Code of Federal Regulations, access may be provided to qualified researchers for research and analysis purposes consistent with intent identified in subdivision (h) of Section 130201.

(2)If the personal information includes any of the direct personal identifiers listed in Section 164.514(e) of Title 45 of the Code of Federal Regulations, access may be provided only to qualified researchers for research projects that offer significant opportunities to achieve the centersintent identified in subdivision (h) of Section 130201 and shall meet all of the following criteria:

(A)The project has been approved by the Committee for the Protection of Human Subjects pursuant to subdivision (t) of Section 1798.24 of the Civil Code.

(B)The requester has documented expertise with privacy protection and with the analysis of large sets of confidential information.

(C)The research shall be made available to the center.

(Added by Stats. 2021, Ch. 696, Sec. 11. (AB 172) Effective October 8, 2021.)

130207.

(a)Effective July 1, 2021, the Center for Data Insights and Innovation Fund is hereby created in the State Treasury, and, upon appropriation by the Legislature, moneys in the fund shall be made available for the purpose of this division. Any moneys in the fund that are unexpended or unencumbered at the end of the fiscal year may be carried forward to the next succeeding fiscal year.

(b)The Center for Data Insights and Innovation Fund is the successor fund to the Office of Health Information Integrity Trust Fund. All the assets and liabilities of the Office of Health Information Integrity Trust Fund shall become assets and liabilities of the Center for Data Insights and Innovation Fund upon establishment of the Center for Data Insights and Innovation Fund.

(c)Notwithstanding Section 16305.7 of the Government Code, all interest earned on moneys that have been deposited in the fund shall be retained in the fund and used for purposes consistent with this division.

(d)The fund shall be administered by the director and moneys in the fund shall be used to pay all costs arising from the implementation of this division and rendering services to state entities as required by this division, including, but not limited to, employment and compensation of necessary personnel and expenses, such as operating and other expenses of the center and costs associated with technical assistance, and to establish reserves. At the discretion of the director, segregated, dedicated accounts within the fund may be established.

(e)The fund shall consist of all of the following:

(1)Moneys appropriated and made available by the Legislature for the purposes of this division.

(2)All revenues received from the services provided for in this division.

(3)Any other moneys that may be made available to the center from any other source, including, but not limited to, the return from investments of moneys by the Treasurer and funds received pursuant to subdivision (g).

(f)The center may collect fee-for-service payments from a nonstate entity for services provided to the nonstate entity by the State Committee for the Protection of Human Subjects.

(g)The center may also solicit funding in any of the following ways:

(1)The center may apply to the United States Secretary of Health and Human Services for federal grants.

(2)To the extent permitted by federal law, the center may seek federal financial participation for assisting beneficiaries of the Medi-Cal program.

(Added by Stats. 2021, Ch. 696, Sec. 11. (AB 172) Effective October 8, 2021.)

130208.

(a)The Office of Patient Advocate Trust Fund shall be renamed to the Health Plan Improvement Trust Fund.

(b)The moneys in the Health Plan Improvement Trust Fund shall, upon appropriation by the Legislature, be made available for the purposes in Section 130204.

(c)All moneys in the Health Plan Improvement Trust Fund created pursuant to former Section 130208, as added by Section 11 of Chapter 696 of the Statutes of 2021, shall be transferred to the renamed Health Plan Improvement Trust Fund, identified as Fund 3209 in the Department of FinancesUniform Codes Manual.

(d)Notwithstanding Section 16305.7 of the Government Code, all interest earned on moneys that have been deposited in the Health Plan Improvement Trust Fund shall be retained in the fund and used for purposes consistent with Section 130204.

(Repealed and added by Stats. 2022, Ch. 50, Sec. 9. (SB 187) Effective June 30, 2022.)

130209.

(a)Moneys transferred from the Managed Care Fund and the Insurance Fund for use by the center shall be deposited into the Health Plan Improvement Trust Fund.

(b)The share of funding from the Managed Care Fund shall be based on the number of covered lives in the state that are covered under plans regulated by the Department of Managed Health Care, including covered lives under Medi-Cal managed care, as determined by the Department of Managed Health Care, in proportion to the total number of all covered lives in the state.

(c)The share of funding to be provided from the Insurance Fund shall be based on the number of covered lives in the state that are covered under health insurance policies and benefit plans regulated by the Department of Insurance, including covered lives under Medicare supplement plans, as determined by the Department of Insurance, in proportion to the total number of all covered lives in the state.

(Added by Stats. 2021, Ch. 696, Sec. 11. (AB 172) Effective October 8, 2021.)

130210.

The director may adopt regulations to implement this division and the changes made to subdivision (t) of Section 1798.24 of the Civil Code by the act that added this section. Before adopting regulations, the center shall adopt the following standards:

(a)At least 45 days prior to adoption, the center shall post a proposed regulation on its internet website. Public comment shall be accepted by the center for at least 30 days after the proposed regulation is posted. If a member of the public requests a public hearing during the 30-day review period, the hearing shall be held prior to adoption of the regulation. The process described in this subdivision shall apply to the adoption of new regulations and to changes to existing regulations until June 30, 2024.

(b)Adoption of, and changes to, regulations adopted pursuant to this division shall not be subject to the rulemaking requirements of Section 11343.4 of, and Article 5 (commencing with Section 11346) and Article 6 (commencing with Section 11349) of Chapter 3.5, of Part 1 of Division 3 of Title 2 of the Government Code until June 30, 2024.

(c)The director shall file any regulation adopted pursuant to this division with the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations. Any regulation filed with the Office of Administrative Law pursuant to this subdivision shall include a citation to this section and any other applicable state or federal laws as providing authority for the adoption of the regulation.

(1)Any regulation adopted pursuant to this division shall become effective on the date it is filed with the Secretary of State unless the director prescribes a later date in the regulation or in a written instrument filed with the regulation.

(2)Any regulation adopted pursuant to this division shall expire the date that this division is repealed.

(Added by Stats. 2021, Ch. 696, Sec. 11. (AB 172) Effective October 8, 2021.)

130211.

The center may contract for the provision of services required to implement this division. The center shall adopt standards for the organizations with which it contracts pursuant to this section to ensure compliance with the privacy and confidentiality laws of this state, conduct privacy trainings as necessary, and regularly verify that the organizations have measures in place to ensure compliance with the adopted standards. The Legislature finds that these contracts are for a new state function and authorizes the performance of this work by independent contractors, pursuant to paragraph (2) of subdivision (b) of Section 19130 of the Government Code.

(Added by Stats. 2021, Ch. 696, Sec. 11. (AB 172) Effective October 8, 2021.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=109.7.&title=&part=&chapter=&article=

130290.

(a)On or before July 1, 2022, and subject to an appropriation in the annual Budget Act, the California Health

and Human Services Agency, along with its departments and offices and in consultation with stakeholders and local partners, shall establish the California Health and Human Services Data Exchange Framework that shall include a single data sharing agreement and common set of policies and procedures that will leverage and advance national standards for information exchange and data content, and that will govern and require the exchange of health information among health care entities and government agencies in California.

(1)The California Health and Human Services Data Exchange Framework is not intended to be an information technology system or single repository of data, rather it is technology agnostic and is a collection of organizations that are required to share health information using national standards and a common set of policies in order to improve the health outcomes of the individuals they serve.

(2)The California Health and Human Services Data Exchange Framework will be designed to enable and require real-time access to, or exchange of, health information among health care providers and payers through any health information exchange network, health information organization, or technology that adheres to specified standards and policies.

(3)The California Health and Human Services Data Exchange Framework shall align with state and federal data requirements, including the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and other applicable state and federal privacy laws related to the sharing of data among and between providers, payers, and the government, while also streamlining and reducing reporting burden.

(4)For the purposes of this section, health information means:

(A)For hospitals, clinics, and physician practices, at a minimum, the United States Core Data for Interoperability Version 1, until October 6, 2022. After that date, it shall include all electronic health information as defined under federal regulation in Section 171.102 of Title 45 of the Code of Federal Regulations and held by the entity.

(B)For health insurers and health care service plans, at a minimum, the data required to be shared under the federal Centers for Medicare and Medicaid Services Interoperability and Patient Access regulations for public programs as contained in United States Department of Health and Human Services final rule CMS-9115-F, 85 FR 25510.

(b)(1)On or before January 31, 2024, and except as provided in paragraphs (2) and (3), the entities listed in subdivision (f) shall exchange health information or provide access to health information to and from every other entity in subdivision (f) in real time as specified by the California Health and Human Services Agency pursuant to the California Health and Human Services Data Exchange Framework data sharing agreement for treatment, payment, or health care operations.

(2)The requirement in paragraph (1) shall not apply to physician practices of fewer than 25 physicians, rehabilitation hospitals, long-term acute care hospitals, acute psychiatric hospitals, critical access hospitals, and rural general acute care hospitals with fewer than 100 acute care beds, state-run acute psychiatric hospitals, and any nonprofit clinic with fewer than 10 health care providers until January 31, 2026.

(3)The requirement in paragraph (1) shall not apply to the exchange of health information related to abortion and abortion-related services.

(c)The California Health and Human Services Agency shall convene a stakeholder advisory group no later than September 1, 2021, to advise on the development and implementation of the California Health and

Human Services Data Exchange Framework.

(1)The members of the stakeholder advisory group shall be appointed by the Secretary of California Health and Human Services and shall not have a financial interest, individually or through a family member, related to issues the stakeholder advisory group will advise on.

(2)The stakeholder advisory group shall be composed of health care stakeholders and experts, including representatives of all the following:

(A)The State Department of Health Care Services.

(B)The State Department of Social Services.

(C)The Department of Managed Health Care.

(D)The Department of Health Care Access and Information.

(E)The State Department of Public Health.

(F)The Department of Insurance.

(G)The Public Employees™ Retirement System.

(H)The California Health Benefit Exchange.

(I)Health care service plans and health insurers.

(J)Physicians, including those with small practices.

(K)Hospitals, including public, private, rural, and critical access hospitals.

(L)Clinics, long-term care facilities, behavioral health facilities, or substance use disorder facilities.

(M)Consumers.

(N)Organized labor.

(O)Privacy and security professionals.

(P)Health information technology professionals.

(Q)Community health information organizations.

(R)County health, social services, and public health.

(S)Community-based organizations providing social services.

(3)The stakeholder advisory group shall provide information and advice to the California Health and Human Services Agency on health information technology issues, including all of the following:

(A)Identify which data beyond health information as defined in paragraph (4) of subdivision (a), at minimum,

should be shared for specified purposes between the entities outlined in this subdivision and subdivision (f).

(B)Identify gaps, and propose solutions to gaps, in the life cycle of health information, including gaps in any of the following:

(i)Health information creation, including the use of national standards in clinical documentation, health plan records, and social services data.

(ii)Translation, mapping, controlled vocabularies, coding, and data classification.

(iii)Storage, maintenance, and management of health information.

(iv)Linking, sharing, exchanging, and providing access to health information.

(C)Identify ways to incorporate data related to social determinants of health, such as housing and food insecurity, into shared health information.

(D)Identify ways to incorporate data related to underserved or underrepresented populations, including, but not limited to, data regarding sexual orientation and gender identity and racial and ethnic minorities.

(E)Identify ways to incorporate relevant data on behavioral health and substance use disorder conditions.

(F)Address the privacy, security, and equity risks of expanding care coordination, health information exchange, access, and telehealth in a dynamic technological, and entrepreneurial environment, where data and network security are under constant threat of attack.

(G)Develop policies and procedures consistent with national standards and federally adopted standards in the exchange of health information and ensure that health information sharing broadly implements national frameworks and agreements consistent with federal rules and programs.

(H)Develop definitions of complete clinical, administrative, and claims data consistent with federal policies and national standards.

(I)Identify how all payers will be required to provide enrollees with electronic access to their health information, consistent with rules applicable to federal payer programs.

(J)Assess governance structures to help guide policy decisions and general oversight.

(K)Identify federal, state, private, or philanthropic sources of funding that could support data access and exchange.

(4)The stakeholder advisory group shall hold public meetings with stakeholders, solicit input, and set its own meeting agendas. Meetings of the stakeholder advisory group are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(5)The members of the stakeholder advisory group shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the group.

(d)No later than April 1, 2022, the California Health and Human Services Agency shall submit an update,

including written recommendations, to the Legislature based on input from the stakeholder advisory group on the issues identified in paragraph (3) of subdivision (c).

(e)On or before January 31, 2023, the California Health and Human Services Agency shall work with the California State Association of Counties to encourage the inclusion of county health, public health, and social services, to the extent possible, as part of the California Health and Human Services Data Exchange Framework in order to assist both public and private entities to connect through uniform standards and policies. It is the intent of the Legislature that all state and local public health agencies will exchange electronic health information in real time with participating health care entities to protect and improve the health and well-being of Californians.

(f)On or before January 31, 2023, and in alignment with existing federal standards and policies, the following health care organizations shall execute the California Health and Human Services Data Exchange Framework data sharing agreement pursuant to subdivision (a):

(1)General acute care hospitals, as defined by Section 1250.

(2)Physician organizations and medical groups.

(3)Skilled nursing facilities, as defined by Section 1250, that currently maintain electronic records.

(4)Health care service plans and disability insurers that provide hospital, medical, or surgical coverage that are regulated by the Department of Managed Health Care or the Department of Insurance. This section shall also apply to a Medi-Cal managed care plan under a comprehensive risk contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code that is not regulated by the Department of Managed Health Care or the Department of Insurance.

(5)Clinical laboratories, as that term is used in Section 1265 of the Business and Professions Code, and that are regulated by the State Department of Public Health.

(6)Acute psychiatric hospitals, as defined by Section 1250.

(g)The California Health and Human Services Agency shall work with experienced nonprofit organizations and entities represented in the stakeholder advisory group in subdivision (c) to provide technical assistance to the entities outlined in subdivisions (e) and (f).

(h)On or before July 31, 2022, the California Health and Human Services Agency shall develop in consultation with the stakeholder advisory group in subdivision (c) a strategy for unique, secure digital identities capable of supporting master patient indices to be implemented by both private and public organizations in California.

(i)For purposes of implementing this section, including, but not limited to, hiring staff and consultants, facilitating and conducting meetings, conducting research and analysis, and developing the required reports, the California Health and Human Services Agency may enter into exclusive or nonexclusive contracts on a bid or negotiated basis. Contracts entered into or amended pursuant to this section shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and shall be exempt from the review or approval of any division of the Department of General Services. No person hired or otherwise retained pursuant to this subdivision shall be permitted to have any financial interest in the California Health and Human Services Data Exchange Framework or shall be,

or be affiliated with, any health care organization required to participate in the California Health and Human Services Data Exchange Framework pursuant to subdivisions (b) and (f). The term person, as used in this subdivision, means any individual, partnership, joint venture, association, corporation, or any other organization or any combination thereof.

(j)All actions to implement the California Health and Human Services Data Exchange Framework, including the adoption or development of any data sharing agreement, requirements, policies and procedures, guidelines, subgrantee contract provisions, or reporting requirements, shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The California Health and Human Services Agency, or a designee department or office under its jurisdiction, shall release program notices that detail the requirements of the California Health and Human Services Data Exchange Framework.

(Amended by Stats. 2023, Ch. 255, Sec. 4. (AB 352) Effective January 1, 2024.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=111.&title=&part=&chapter=&article=

__Health and Safety Code - HSC__

__DIVISION 111. GOLDEN BEAR STATE PHARMACY ASSISTANCE PROGRAM [130400 - 130410]__

(Division 111 added by Stats. 2001, Ch. 693, Sec. 2.)

130400.

(a) This division shall be known, and may be cited as, the Golden Bear State Pharmacy Assistance Program.

(b) As used in this division:

(1) Department means the State Department of Health Services.

(2) Fund means the Golden Bear State Pharmacy Assistance Program Rebate Fund.

(3) Medicare beneficiary means a Medicare beneficiary who is a California resident.

(Amended by Stats. 2002, Ch. 542, Sec. 3. Effective January 1, 2003.)

130401.

(a) In addition to participating in the program provided for under Article 24 (commencing with Section 4425) of Chapter 9 of Division 2 of the Business and Professions Code, any Medicare beneficiary may participate in the program provided for under this division.

(b) The department shall conduct an outreach program to inform Medicare beneficiaries of their right to participate in this program. Medicare beneficiaries shall be informed of the method by which the prescription drug discount is determined and that the discount shall periodically fluctuate. No outreach material shall contain a likeness of an elected state official.

(c) In order to participate in the program provided for under this division, a Medicare beneficiary shall be required to register on a one-time basis. Registration may be made at any pharmacy participating in this program. In order to register for the program, the Medicare beneficiary shall pay to the pharmacy an administrative fee, which the pharmacy shall retain, in an amount to be established by the department. Upon payment of this fee, the pharmacy shall issue a program registration card, which shall be prepared and provided to the pharmacy by the department, to the Medicare beneficiary.

(Amended by Stats. 2002, Ch. 542, Sec. 4. Effective January 1, 2003.)

130401.1.

(a) The department may accept on behalf of the state any gift, bequest, or donation of outreach services or materials to inform eligible Medicare beneficiaries of their right to participate in this program. Neither Section 11005 of the Government Code nor any other law requiring approval by a state officer of a gift, bequest, or donation shall apply to these gifts, bequests, or donations. For purposes of this section, outreach services may include, but not be limited to, coordinating and implementing outreach efforts and plans, and outreach materials may include, but not be limited to, brochures, pamphlets, fliers, posters, advertisements, and other promotional items.

(b) An advertisement provided as a gift, bequest, or donation pursuant to this section shall be exempt from the provisions of Article 5 (commencing with Section 11080) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 2002, Ch. 542, Sec. 5. Effective January 1, 2003.)

130402.

(a) Any pharmacy may participate in the program provided for under this division. However, this division shall apply only to prescriptions dispensed to noninstitutionalized Medicare beneficiaries.

(b) Any drug manufacturer may participate in the program provided for under this division.

(Added by Stats. 2001, Ch. 693, Sec. 2. Effective January 1, 2002.)

130403.

(a) The department shall attempt to negotiate rebate amounts with drug manufacturers for all prescription drugs purchased by Medicare beneficiaries. As part of these agreements, the department shall negotiate a separate fee in an amount required to administer each pharmacy claim reimbursement submitted to the department pursuant to Section 130405.

(b) If the department determines that it is unable to negotiate rebates with a sufficient number of drug manufacturers, it may cease to continue the implementation or operation of this division.

(Amended by Stats. 2002, Ch. 542, Sec. 6. Effective January 1, 2003.)

130404.

(a) With respect to any prescription drug for which a rebate amount has been negotiated pursuant to Section 130403, upon presentation of a program registration card issued pursuant to Section 130401, a participating pharmacy shall charge Medicare beneficiaries a price for a prescription drug that does not exceed the following computed price:

(1) The Medi-Cal reimbursement rate for the prescription drug, and an amount, as set by the department, to cover electronic transmission charges.

(2) The amount ascertained pursuant to paragraph (1) shall be reduced by the rebate amount negotiated by the department pursuant to Section 130403.

(b) The pharmacy shall request, and the department shall provide, through electronic means, the price to be charged pursuant to this section.

(c) This division shall not apply to any prescription that is covered by insurance.

(Amended by Stats. 2002, Ch. 542, Sec. 7. Effective January 1, 2003.)

130405.

Whenever a pharmacy provides a prescription drug to an individual pursuant to Section 130404, the pharmacy shall bill the department for the amount computed pursuant to paragraph (2) of subdivision (a) of Section 130404 and the department shall pay that amount.

(Added by Stats. 2001, Ch. 693, Sec. 2. Effective January 1, 2002.)

130406.

(a) The department may collect prospective rebates from drug manufacturers for payment to pharmacies pursuant to Section 130405.

(b) The department shall notify a drug manufacturer of all instances in which it has paid a rebate amount

pursuant to Section 130405 with respect to one of the manufacturersdrugs.

(c) A drug manufacturer shall pay the department the amount of any rebate of which the drug manufacturer is notified pursuant to subdivision (b) that exceeds the amount collected by the department pursuant to subdivision (a).

(Amended by Stats. 2002, Ch. 542, Sec. 8. Effective January 1, 2003.)

130406.5.

(a) As part of the program provided in this division, the department may establish a system to provide a Medicare beneficiary access to a drug discount program operated by a drug manufacturer that would provide greater prescription drug discounts than are otherwise available through the program provided in this division. The program registration card issued pursuant to Section 130401 shall serve as the single point of entry to the private drug discount programs of participating manufacturers.

(b) To establish the system described in subdivision (a), the department may negotiate a contract with a drug manufacturer that operates a prescription drug discount program. To assist in these negotiations, the department may contract with a public or private entity.

(c) (1) A Medicare beneficiary shall not in any circumstance be required to participate in, or to disclose information that would determine his or her eligibility to participate in, these private drug discount programs in order to participate in the program provided in this division.

(2) Notwithstanding paragraph (1), a Medicare beneficiary may voluntarily disclose or provide information that may be necessary to determine eligibility for participation in a private drug discount program.

(Added by Stats. 2002, Ch. 542, Sec. 9. Effective January 1, 2003.)

130407.

(a) The department shall deposit all payments received pursuant to Sections 130406 and 130410 into the Golden Bear State Pharmacy Assistance Program Rebate Fund, which is hereby created in the State Treasury.

(b) Notwithstanding Section 13340 of the Government Code, the fund is hereby continuously appropriated to the department without regard to fiscal years for the purpose of paying rebates pursuant to Section 130405 and for defraying the costs of administering this division. Notwithstanding any other law, no money in the fund is available for expenditure for any other purpose or for loaning or transferring to any other fund, including the General Fund.

(Amended by Stats. 2002, Ch. 542, Sec. 10. Effective January 1, 2003.)

130407.5.

The department shall repay the General Fund the loan in the amount of one million dollars ($1,000,000),

which was appropriated to the department for startup costs associated with the program provided in this division.

(Added by Stats. 2002, Ch. 542, Sec. 11. Effective January 1, 2003.)

130408.

The department shall develop a program to prevent the occurrence of fraud under this division. An individual or entity that violates any provision of the fraud prevention program may be precluded from participating in the Golden Bear State Pharmacy Assistance Program. The department shall adopt regulations setting forth a procedure for precluding participation in the program on this basis.

(Amended by Stats. 2002, Ch. 542, Sec. 12. Effective January 1, 2003.)

130409.

The department may hire any staff needed for the implementation of this division. The department may also use the contract with the Medi-Cal fiscal intermediary or contract with another public or private entity to implement or administer the program and to enroll Medicare beneficiaries who are eligible to participate in the program, to collect rebates, and to pay claims, only if services provided under this program are specifically identified and reimbursed in a manner that does not claim federal financial reimbursement. For purposes of this division, use of the Medi-Cal program fiscal intermediary shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code. This division shall not be implemented unless and until the director executes a declaration, which shall be retained by the director, stating that all federal approvals necessary for implementation of this division have been received.

(Amended by Stats. 2002, Ch. 542, Sec. 13. Effective January 1, 2003.)

130410.

A contract executed for the purposes of this division is exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(Added by Stats. 2002, Ch. 542, Sec. 14. Effective January 1, 2003.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=112.&title=&part=&chapter=&article=

Code:Section:

Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=112.&title=&part=&chapter=1.&article=

130500.

(a)This division shall be known, and may be cited, as the California Discount Prescription Drug Program.

(b)This division shall become operative on and after July 1, 2010.

(c)The California Discount Prescription Drug Program shall be implemented only if, and to the extent that, a Budget Act or other statute that is enacted on or before February 1, 2015, includes or makes an appropriation of moneys to the department to implement this program.

(d)Notwithstanding any other provision of this division, if the California Discount Prescription Drug Program is not implemented pursuant to subdivision (c), this division shall become inoperative on February 1, 2015, and as of January 1, 2016, is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 2010, Ch. 717, Sec. 22. (SB 853) Effective October 19, 2010. Repealed conditionally on January 1, 2016, by its own provisions. Note: Control provisions in this section relate to operation, implementation, and termination of Division 112, comprising Sections 130500 to 130544.)

130501.

For purposes of this division, the following definitions shall apply:

(a)Average manufacturersprice has the same meaning as this term is defined in Section 1927(k)(1) of the federal Social Security Act (42 U.S.C. Sec. 1396r-8(k)(1)).

(b)Department means the State Department of Health Care Services.

(c)Eligible Californian means a resident of the state who meets any one or more of the following:

(1)Has total unreimbursed medical expenses equal to at least 10 percent of his or her familysincome where the familysincome does not exceed the state median family income.

(2)To the extent allowed by federal law, is enrolled in the Medicare Program, but whose prescription drugs are not covered by the Medicare Program.

(3)Has a family income that does not exceed 300 percent of the federal poverty guidelines and who does not have outpatient prescription drug coverage paid for by any one of the following:

(A)In whole by the Medi-Cal program.

(B)In whole or in part by the Healthy Families Program or other programs funded by the state.

(C)In whole or in part by another third-party payer, provided that the individual has not reached the annual limit on his or her prescription drug coverage.

(4)For purposes of this subdivision, the cost of drugs provided under this division is considered an expense incurred by the family for eligibility determination purposes.

(d)Fund means the California Discount Prescription Drug Program Fund.

(e)Manufacturer means a drug manufacturer as defined in Section 4033 of the Business and Professions Code.

(f)Manufacturersrebate means the rebate for an individual drug or aggregate rebate for a group of drugs necessary to make the price for the drug ingredients equal to or less than the applicable benchmark price.

(g)Medicaid best price has the same meaning as this term is defined in Section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. Sec. 1396r-8(c)(1)(C)).

(h)Multiple-source drug has the same meaning as this term is defined in Section 1927(k)(7) of the Social Security Act (42 U.S.C. Sec. 1396r-8(k)(7)).

(i)National drug code or NDC means the unique 10-digit, three-segment number assigned to each drug product listed under Section 510 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360). This number identifies the labeler or vendor, product, and trade package.

(j)National sales data means prescription data obtained from a national-level prescription tracking service.

(k)Participating manufacturer means a drug manufacturer that has contracted with the department to provide an individual drug or group of drugs for the program.

(l)Participating pharmacy means a pharmacy that has executed a pharmacy provider agreement with the department for this program.

(m)Pharmacy contract rate means the negotiated per prescription reimbursement rate for drugs dispensed to eligible Californians. The department shall establish a single, basic pharmacy rate, but may contract at different rates with pharmacies in order to provide access throughout the state.

(n)Prescription drug means any drug that bears the legend: Caution: federal law prohibits dispensing without prescription, â„ž only, or words of similar import.

(o)Private discount drug program means a prescription drug discount card or manufacturer patient assistance program that provides discounted or free drugs to eligible individuals. For the purposes of this division, a private discount drug program is not considered insurance or a third-party-payer program.

(p)Program means the California Discount Prescription Drug Program.

(q)Single-source drug has the same meaning as this term and the term innovator multiple-source drug are defined in Section 1927(k)(7) of the Social Security Act (42 U.S.C. Sec. 1396r-8(k)(7)).

(r)Therapeutic category means a drug or a grouping of drugs determined by the department to have similar attributes and to be alternatives for the treatment of a specific disease or condition.

(s)Volume weighted average discount means the aggregated average discount for the drugs of a manufacturer, weighted by each drugspercentage of the total prescription volume of that manufacturersdrugs. For purposes of this calculation, discounts shall include any rebate amounts used to fund program costs pursuant to Section 130542.1. Drugs excluded from contracting by the department, pursuant to subdivision (d) of Section 130506 and in a manner consistent with subdivision (c) of Section 130506, shall be excluded from the calculation of the volume weighted average discount. National sales data shall be used to calculate the volume weighted average discount pursuant to Section 130506. Program utilization data shall be used to calculate the volume weighted average discount pursuant to Section 130507.

(Amended by Stats. 2009, Ch. 140, Sec. 123. (AB 1164) Effective January 1, 2010. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=112.&title=&part=&chapter=2.&article=

__Health and Safety Code - HSC__

__DIVISION 112. CALIFORNIA DISCOUNT PRESCRIPTION DRUG PROGRAM [130500 - 130544]__

(Division 112 added by Stats. 2006, Ch. 619, Sec. 2.)

__CHAPTER 2. Prescription Drug Discounts [130505 - 130513]__

(Chapter 2 added by Stats. 2006, Ch. 619, Sec. 2.)

130505.

(a)The amount a participating, eligible Californian pays for a drug through the program shall be equal to the lower of the participating pharmacysusual and customary charge or the pharmacy contract rate pursuant to subdivision (c), less a program discount for the specific drug or an average discount for a group of drugs or all drugs covered by the program.

(b)In determining program discounts on individual drugs, the department shall take into account the rebates provided by the drugsmanufacturer.

(c)The department may contract with participating pharmacies for a rate other than the pharmacies™ usual and customary rate for prescription drugs, including multiple-source drugs.

(d)This division shall apply only to prescription drugs dispensed to eligible Californians on an outpatient basis.

(Added by Stats. 2006, Ch. 619, Sec. 2. Effective January 1, 2007. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

130506.

(a)The department shall negotiate drug discount agreements with manufacturers to provide discounts for single-source and multiple-source prescription drugs through the program. The department shall attempt to negotiate the maximum possible discount for an eligible Californian. The department shall attempt to negotiate, with each manufacturer, discounts to offer single-source prescription drugs under the program at a volume weighted average discount that is equal to or below any one of the following benchmark prices:

(1)Eighty-five percent of the average manufacturer price for a drug, as published by the federal Centers for Medicare and Medicaid Services.

(2)The lowest price provided to any nonpublic entity in the state by a manufacturer to the extent that the Medicaid best price exists under federal law.

(3)The Medicaid best price, to the extent that this price exists under federal law.

(b)The department may require the drug manufacturer to provide information that is reasonably necessary for the department to carry out its duties pursuant to this division.

(c)The department shall pursue manufacturer discount agreements to ensure that the number and type of drugs available through the program is sufficient to give an eligible Californian a formulary comparable to the Medi-Cal list of contract drugs, or if this information is available to the department, a formulary that is comparable to that provided to CalPERS enrollees.

(d)To obtain the most favorable discounts, the department may limit the number of drugs available through the program.

(e)The drug discount agreements negotiated pursuant to this section shall be used to reduce the cost of drugs purchased by program participants and to fund program costs pursuant to Section 130542.1.

(f)All information reported by a manufacturer to, negotiations with, and agreements executed with, the department or its third-party vendor pursuant to this section, shall be considered confidential and corporate proprietary information. This information shall not be subject to disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). The California State AuditorsOffice and the Controller shall have access to pricing information in a manner that is consistent with their access to this information under the Medi-Cal program and under law. The California State AuditorsOffice and the Controller may use this information only to investigate or audit the administration of the program. Neither the California State AuditorsOffice, the Controller, nor the

department may disclose this information in a form that identifies a specific manufacturer or wholesaler or prices charged for drugs of this manufacturer or wholesaler. Information provided to the department pursuant to subdivision (e) of Section 130530 shall not be affected by the confidentiality protections established by this subdivision.

(g)(1)Any pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code may participate in the program.

(2)Any manufacturer may participate in the program.

(Amended by Stats. 2021, Ch. 615, Sec. 295. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

130507.

(a)On August 1, 2017, the department shall determine whether manufacturer participation in the program has been sufficient to meet both of the following benchmarks:

(1)The number and type of drugs available through the program are sufficient to give eligible Californians a formulary comparable to the Medi-Cal list of contract drugs or, if this information is available to the department, a formulary comparable to that provided to CalPERS enrollees.

(2)The volume weighted average discount of single-source prescription drugs offered pursuant to this program is equal to or below any one of the benchmark prices described in subdivision (a) of Section 130506.

(b)On and after August 1, 2017, the department shall reassess program outcomes, at least once every year, consistent with the benchmarks described in subdivision (a).

(Amended by Stats. 2010, Ch. 717, Sec. 23. (SB 853) Effective October 19, 2010. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

130508.

To the maximum extent possible, the department shall assure that enrollment and other administrative actions are seamless to all eligible Californians.

(Added by Stats. 2006, Ch. 619, Sec. 2. Effective January 1, 2007. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

130509.

(a)The department may require prior authorization in the Medi-Cal program for any drug of a manufacturer

if the manufacturer fails to agree to a volume weighted average discount for single-source prescription drugs that is equal to or below any one of the benchmark prices described in subdivision (a) of Section 130506 and only to the extent that this requirement does not increase costs to the Medi-Cal program, as determined pursuant to subdivision (c).

(b)If prior authorization is required for a drug pursuant to this section, a Medi-Cal beneficiary shall not be denied the continued use of a drug that is part of a prescribed therapy until that drug is no longer prescribed for that beneficiarystherapy. The department shall approve or deny requests for prior authorization necessitated by this section as required by state or federal law.

(c)The department, in consultation with the Department of Finance, shall determine the fiscal impact of placing a drug on prior authorization pursuant to this section. In making this determination, the department shall consider all of the following:

(1)The net cost of the drug, including any rebates that would be lost if the drug is placed on prior authorization.

(2)The projected volume of purchases of the drug, before and after the drug is placed on prior authorization, considering the continuity of care provisions set forth in subdivision (b).

(3)The net cost of comparable drugs to which volume would be shifted if a drug is placed on prior authorization, including any additional rebates that would be received.

(4)The projected volume of purchases of comparable drugs, before and after the drug is placed on prior authorization.

(5)Any other factors determined by the department to be relevant to a determination of the fiscal impact of placing a drug on prior authorization.

(d)This section shall be implemented only to the extent permitted under federal law, and in a manner consistent with state and federal laws.

(e)This section may apply to any manufacturer that has not negotiated with the department.

(f)The department shall notify the Speaker of the Assembly and the President pro Tempore of the Senate that the department is requiring prior authorization no later than five days after making this requirement.

(g)(1)Subject to paragraph (2), this section shall be implemented on and after August 1, 2017.

(2)This section shall be implemented only if the department determines that participation by manufacturers has been insufficient to meet both of the benchmarks identified in Section 130507.

(Amended by Stats. 2010, Ch. 717, Sec. 24. (SB 853) Effective October 19, 2010. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

130510.

The names of manufacturers of single-source drugs that do or do not enter into discount agreements with

the department pursuant to this division shall be public information and shall be posted on the departmentsInternet Web site when the discount agreements are reached or the manufacturer ends negotiations, commencing within six months after the initial implementation date of this division and updated on the first of each month thereafter.

(Added by Stats. 2006, Ch. 619, Sec. 2. Effective January 1, 2007. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

130511.

(a)Each drug discount agreement shall do all of the following:

(1)Specify which of the manufacturersdrugs are included in the agreement.

(2)Permit the department to remove a drug from the agreement if there is a dispute over the drugsutilization.

(3)Permit a manufacturer to audit claims for the drugs the manufacturer provides under the program. Claims information provided to manufacturers shall comply with all federal and state privacy laws that protect a program participantshealth information.

(b)In addition to the requirements of subdivision (a), each drug discount agreement with a single-source manufacturer shall do all of the following:

(1)Require the manufacturer to make a rebate payment to the department for each drug described in paragraph (1) of subdivision (a) dispensed to a program participant.

(2)Require the manufacturer to make the rebate payments to the department on at least a quarterly basis.

(3)Require the manufacturer to provide, upon request, documentation to validate the rebate.

(c)The department may collect prospective rebates from single-source manufacturers for payment to pharmacies. The amount of the prospective discount shall be specified in the drug rebate agreements.

(d)(1)Manufacturers shall calculate and pay interest on late or unpaid rebates. The interest shall not apply to any prior period adjustments of unit rebate amounts or department utilization adjustments.

(2)For rebate payments to the program, manufacturers shall calculate and pay interest on late or unpaid rebates for quarters that begin on or after January 1, 2007.

(e)Interest required by subdivision (d) shall begin accruing 38 calendar days from the date of mailing of the invoice, including supporting utilization data sent to the manufacturer. Interest shall continue to accrue until the date of mailing of the manufacturerspayment. Interest rates and calculations for purposes of this section shall be at 10 percent.

(f)A participating manufacturer shall clearly identify all rebates, interest, and other payments, and payment transmittal forms for the program, in a manner designated by the department.

(Added by Stats. 2006, Ch. 619, Sec. 2. Effective January 1, 2007. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

130512.

(a)The department shall generate a monthly report that, at a minimum, provides all of the following:

(1)Drug utilization information.

(2)Amounts paid to pharmacies.

(3)Program discounts compared to the usual customary price.

(4)Aggregate amounts of rebates collected from manufacturers.

(5)A summary of the problems or complaints reported regarding the program.

(b)Information provided in paragraphs (1), (2), and (3) of subdivision (a) shall be at the national drug code level.

(c)The department shall generate an annual report that, in addition to the information described in subdivision (a), reports on the number of all of the following:

(1)Individuals enrolled.

(2)Individuals receiving a prescription under the program.

(3)Participating pharmacies.

(4)Participating manufacturers.

(d)All reports shall be made available on the departmentsInternet Web site.

(Added by Stats. 2006, Ch. 619, Sec. 2. Effective January 1, 2007. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

130513.

(a)The department shall establish and maintain a claims processing system that complies with all of the following requirements:

(1)Charges a price that meets the requirements of this division.

(2)Provides the pharmacy with the dollar amount of the discount to be returned to the pharmacy.

(3)Provides drug utilization review warnings to pharmacies consistent with the drug utilization review standards provided in federal law.

(b)The department shall pay a participating pharmacy the discount provided to program participants pursuant to this division by a date that is not later than two weeks after the claim is received.

(c)The department shall develop a mechanism for the program participants to report problems or complaints.

(Added by Stats. 2006, Ch. 619, Sec. 2. Effective January 1, 2007. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=112.&title=&part=&chapter=3.&article=

130520.

(a)The department shall develop an application and reapplication form for the determination of a residentseligibility for the program. An applicant, or a guardian or custodian of an applicant, may apply or reapply on behalf of the applicant and the applicantsspouse and children.

(b)The application shall, at a minimum, do all of the following:

(1)Specify the information that an applicant or the applicantsrepresentative must include in the application.

(2)Require that the applicant, or the applicantsguardian or custodian, attest that the information provided in the application is accurate to the best knowledge and belief of the applicant or the applicantsguardian or custodian.

(3)Specify that the application fee due upon submission of the applicable form is ten dollars ($10) annually.

(c)In assessing the income requirement for eligibility, the department shall use the income information reported on the application and not require additional documentation.

(d)An application may be completed at any pharmacy, physician office, or clinic participating in the program through an Internet Web site or call center staffed by trained operators approved by the department. A pharmacy, physiciansoffice, clinic, or nonprofit community organization that completes the application may keep the application fee as reimbursement for its processing costs. If it is determined that the applicant is already enrolled in the program, the fee shall be returned to the applicant and the applicant shall be informed of his or her current status as a program participant.

(e)The department shall utilize a secure electronic application process that can be used by a pharmacy, physiciansoffice, or clinic, by an Internet Web site, by a call center staffed by trained operators, by a nonprofit community organization, or through the third-party vendor to enroll applicants in the program.

(f)During the departmentsnormal working hours, the department shall make a determination of eligibility within 24 hours of receipt by the program of a completed application. The department shall mail the program participant an identification card no later than seven days after eligibility has been determined.

(g)For applications submitted through a pharmacy, the department may issue a participant identification number for eligible applicants to the pharmacy for immediate access to the California Discount Prescription Drug Program.

(h)Any program participant that has been determined to be eligible shall be enrolled for 12 months or until the program participant notifies the department of an intent to end enrollment.

(i)The department shall notify a program participant of termination of enrollment 30 days prior to the termination.

(j)A person shall be required to apply pursuant to this section for each 12-month period of eligibility.

(Added by Stats. 2006, Ch. 619, Sec. 2. Effective January 1, 2007. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

130521.

(a)The department may conduct an outreach program to inform California residents of their opportunity to participate in the program. The department shall coordinate outreach activities with the California Department of Aging, the Employment Development Department, and other state and local agencies, and nonprofit organizations that serve residents who may be eligible for the program. No outreach material shall contain the name or likeness of a drug.

(b)The department may accept on behalf of the state any gift, bequest, or donation of outreach services or materials to inform residents about the program. The name of the organization sponsoring the materials shall in no way appear on the material but shall be reported to the public and the Legislature as otherwise provided by law.

(Added by Stats. 2006, Ch. 619, Sec. 2. Effective January 1, 2007. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=112.&title=&part=&chapter=4.&article=

__CHAPTER 4. Pharmaceutical Manufacturer Patient Assistance Programs [130530- 130530.]__

(Chapter 4 added by Stats. 2006, Ch. 619, Sec. 2.)

130530.

(a)The department shall encourage a participating manufacturer to maintain those private discount drug programs that are comparable to or more extensive than those provided prior to the enactment of this division. To the extent possible, the department shall encourage a participating manufacturer to simplify the application and eligibility processes for its private discount drug program.

(b)The department may execute agreements with drug manufacturers and other private patient assistance programs to provide a single point of entry for eligibility determination and claims processing for drugs available through those programs to the extent permitted by state and federal law.

(c)The department shall develop a system to provide a program participant under this division with the best discounts on prescription drugs that are available to the participant through this program or through a drug manufacturer or other private patient assistance program.

(d)(1)The department may require an applicant to provide additional information to determine the applicantseligibility for other discount card and patient assistance programs.

(2)The department shall not require an applicant to participate in a drug manufacturer patient assistance program or to disclose information that would determine the applicantseligibility to participate in a drug manufacturer patient assistance program in order to participate in the California Discount Prescription Drug Program.

(e)In order to verify that California residents are being served by drug manufacturer patient assistance programs, the department shall require drug manufacturers to provide the department annually with all of the following information:

(1)The total value of the manufacturersdrugs provided at no or very low cost to California residents during the previous year.

(2)The total number of prescriptions or 30-day supplies of the manufacturersdrugs provided at no or very low cost to California residents during the previous year.

(f)The California Discount Prescription Drug Program card issued pursuant to this division shall serve as a single point of entry for drugs available pursuant to subdivision (a), and shall meet all legal requirements for a health benefit card.

(Added by Stats. 2006, Ch. 619, Sec. 2. Effective January 1, 2007. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=112.&title=&part=&chapter=5.&article=

__Health and Safety Code - HSC__

__DIVISION 112. CALIFORNIA DISCOUNT PRESCRIPTION DRUG PROGRAM [130500 - 130544]__

(Division 112 added by Stats. 2006, Ch. 619, Sec. 2.)

__CHAPTER 5. Administration [130540 - 130544]__

(Chapter 5 added by Stats. 2006, Ch. 619, Sec. 2.)

130540.

(a)Contracts, contract amendments, change orders, change requests, and any project or systems development notices, entered into for purposes of this division, shall be subject to the same exemptions provided for in the Medi-Cal drug program and those provided to the department in paragraph (4) of subdivision (c) of Section 124977. In addition, contracts, contract amendments, change orders, change requests, and any project or systems development notices, entered into for purposes of this division, are specifically exempt from:

(1)Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(2)The competitive bidding requirements of State Administrative Manual Management Memo 03-10.

(3)The project authority requirements of State Administrative Manual, Section 4800 et seq.

(4)Section 11.00 and Provision 6 of Item 4260-001-0001 of Section 2 of the Budget Act of 2006 and related Budget letters.

(b)Contracts with pharmacies and drug manufacturers may be entered into on a bid or nonbid basis.

(c)Change orders entered into pursuant to this division shall not require a contract amendment.

(d)To the extent that any exemption set forth in this section conflicts with exemptions set forth in paragraph (4) of subdivision (c) of Section 124977, the exemption in this section shall govern over the conflicting provision in Section 124977.

(Added by Stats. 2006, Ch. 619, Sec. 2. Effective January 1, 2007. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

130541.

To implement the program, the department may contract with a third-party vendor or utilize existing health care service provider enrollment and payment mechanisms, including the Medi-Cal programsfiscal intermediary. Drug discount agreements negotiated by a third party shall be subject to review by the department. The department may cancel a contract that it finds not in the best interests of the state or program participants. Participating pharmacy contracts entered into pursuant to Section 130505 shall be considered contracts between the participating pharmacy and the department and shall not be associated with, or leveraged against, other third-party agreements.

(Added by Stats. 2006, Ch. 619, Sec. 2. Effective January 1, 2007. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

130542.

(a)The department shall deposit all payments the department receives pursuant to this division into the California Discount Prescription Drug Program Fund, which is hereby established in the State Treasury.

(b)Notwithstanding Section 13340 of the Government Code, the fund is hereby continuously appropriated to the department without regard to fiscal year for the purpose of providing payment to participating pharmacies pursuant to this division and for defraying the costs of administering this division.

(c)Notwithstanding any other provision of law, no money in the fund is available for expenditure for any other purpose or for loaning or transferring to any other fund, including the General Fund, except as provided in Section 130542.1. The fund shall also contain any interest accrued on moneys in the fund.

(Amended by Stats. 2008, Ch. 758, Sec. 14. Effective September 30, 2008. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

130542.1.

(a)It is the intent of the Legislature that the program shall be self-financing and that General Fund moneys provided to the fund shall be repaid within five years after implementation of the program begins. The department shall provide the Legislature with a five-year projection of program revenues and expenditures as part of its annual budget request. The projection shall include a projected General Fund repayment schedule.

(b)The department may use up to 25 percent of manufacturer rebate revenues to administer the program, including the funding of a float account to finance payments to participating pharmacies in advance of the receipt of manufacturer rebates.

(Added by Stats. 2008, Ch. 758, Sec. 15. Effective September 30, 2008. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

130543.

(a)The director may adopt regulations as are necessary to implement and administer this division.

(b)Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the director may implement this division, in whole or in part, by means of a provider bulletin or other similar instructions, without taking regulatory action, provided that no bulletin or other similar instructions shall remain in effect after August 1, 2015. It is the intent that regulations adopted pursuant to this section shall be adopted on or before August 1, 2015.

(Amended by Stats. 2010, Ch. 717, Sec. 25. (SB 853) Effective October 19, 2010. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

130544.

If any provision of this division, or the application thereof, is for any reason, held invalid, ineffective, or unconstitutional by a court of competent jurisdiction, the remainder of this division, or the application of this provision, shall not be affected thereby, and to this end the provisions of this division are severable.

(Added by Stats. 2006, Ch. 619, Sec. 2. Effective January 1, 2007. Provisions operative and implemented on or after July 1, 2010, as prescribed in Section 130500. Conditionally inoperative on February 1, 2015. Repealed conditionally on January 1, 2016, pursuant to Section 130500.)

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=112.&title=&part=&chapter=&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=112.&title=&part=&chapter=&article=)

Code:Section:
Keyword(s):

Codes: Code Search

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=112.&title=&part=1.&chapter=&article=] (https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=112.&title=&part=1.&chapter=&article=)

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=112.&title=&part=1.&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 112. PUBLIC HEALTH [131000 - 131355]__

(Division 112 added by Stats. 2006, Ch. 241, Sec. 34.)

__PART 1. GENERAL PROVISIONS [131000 - 131355]__

(Part 1 added by Stats. 2006, Ch. 241, Sec. 34.)

__CHAPTER 1. Organization of the State Department of Public Health [131000 - 131021]__

(Chapter 1 added by Stats. 2006, Ch. 241, Sec. 34.)

131000.

There is in the California Health and Human Services Agency a State Department of Public Health.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131005.

(a)There is in state government an executive officer known as the State Public Health Officer, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. The State Public Health Officer shall receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

(b)The State Public Health Officer shall serve as the director of, and have control over, the State Department of Public Health.

(c)Any statutory reference to director,□ the Director of Health Services,□ the Director of Public Health,□ or the Director of the State Department of Public Health,□ regarding a function transferred to the State

Department of Public Health pursuant to Chapter 2 (commencing with Section 131050), is deemed to, instead, refer to the State Public Health Officer.

(d)Any statutory reference to department or state department regarding a function transferred to the State Department of Public Health pursuant to Chapter 2 (commencing with Section 131050), shall refer to the State Department of Public Health.

(e)The director shall be a licensed physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, who has demonstrated medical, public health, and management experience.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131006.

Upon recommendation of the director, the Governor may appoint, not to exceed, two chief deputies of the State Department of Public Health, subject to confirmation by the Senate, who shall hold office at the pleasure of the Governor. The salaries of the chief deputies shall be fixed in accordance with law.

(Amended by Stats. 2007, Ch. 483, Sec. 37.5. Effective January 1, 2008.)

131010.

The director shall have the powers of a head of the department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131019.

There is in the State Department of Public Health an Office of AIDS. The State Department of Public Health, Office of AIDS, shall be the lead agency within the state, responsible for coordinating state programs, services, and activities relating to the human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), and AIDS related conditions (ARC). Among its responsibilities, the State Department of Public Health, Office of AIDS, shall coordinate Sections 120875, Section 120880, Chapter 2 (commencing with Section 120800), Chapter 4 (commencing with Section 120900), Chapter 6 (commencing with Section 120950), Chapter 8 (commencing with Section 121025), Chapter 9 (commencing with Section 121050), Chapter 10 (commencing with Section 121075), Chapter 11 (commencing with Section 121150), Chapter 12 (commencing with Section 121200), Chapter 13 (commencing with Section 121250), and Chapter 14 (commencing with Section 121300), of Part 4 of Division 105. Any reference in those provisions to the State Department of Health Services or the State Department of Public Health shall be deemed to be a reference to the Office of AIDS within the State Department of Public Health.

(Added by renumbering Section 100119 by Stats. 2006, Ch. 241, Sec. 17. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131019.5.

(a)For purposes of this section, the following definitions shall apply:

(1)Determinants of equity means social, economic, geographic, political, and physical environmental conditions that lead to the creation of a fair and just society.

(2)Health equity means efforts to ensure that all people have full and equal access to opportunities that enable them to lead healthy lives.

(3)Health and mental health disparities means differences in health and mental health status among distinct segments of the population, including differences that occur by gender, age, race or ethnicity, sexual orientation, gender identity, education or income, disability or functional impairment, or geographic location, or the combination of any of these factors.

(4)Health and mental health inequities means disparities in health or mental health, or the factors that shape health, that are systemic and avoidable and, therefore, considered unjust or unfair.

(5)Vulnerable communities include, but are not limited to, women, racial or ethnic groups, low-income individuals and families, individuals who are incarcerated and those who have been incarcerated, individuals with disabilities, individuals with mental health conditions, children, youth and young adults, seniors, immigrants and refugees, individuals who are limited-English proficient (LEP), and lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQQ) communities, or combinations of these populations.

(6)Vulnerable places means places or communities with inequities in the social, economic, educational, or physical environment or environmental health and that have insufficient resources or capacity to protect and promote the health and well-being of their residents.

(b)The State Department of Public Health shall establish an Office of Health Equity for the purposes of aligning state resources, decisionmaking, and programs to accomplish all of the following:

(1)Achieve the highest level of health and mental health for all people, with special attention focused on those who have experienced socioeconomic disadvantage and historical injustice, including, but not limited to, vulnerable communities and culturally, linguistically, and geographically isolated communities.

(2)Work collaboratively with the Health in All Policies Task Force to promote work to prevent injury and illness through improved social and environmental factors that promote health and mental health.

(3)Advise and assist other state departments in their mission to increase access to, and the quality of, culturally and linguistically competent health and mental health care and services.

(4)Improve the health status of all populations and places, with a priority on eliminating health and mental health disparities and inequities.

(c)The duties of the Office of Health Equity shall include all of the following:

(1)Conducting policy analysis and developing strategic policies and plans regarding specific issues affecting vulnerable communities and vulnerable places to increase positive health and mental health outcomes for vulnerable communities and decrease health and mental health disparities and inequities. The policies and plans shall also include strategies to address social and environmental inequities and improve health and mental health. The office shall assist other departments in their missions to increase access to services and supports and improve quality of care for vulnerable communities.

(2)Establishing a comprehensive, cross-sectoral strategic plan to eliminate health and mental health disparities and inequities. The strategies and recommendations developed shall take into account the needs of vulnerable communities to ensure strategies are developed throughout the state to eliminate health and mental health disparities and inequities. This plan shall be developed in collaboration with the Health in All Policies Task Force. This plan shall establish goals and benchmarks for specific strategies in order to measure and track disparities and the effectiveness of these strategies. This plan shall be updated periodically, but not less than every two years, to keep abreast of data trends, best practices, promising practices, and to more effectively focus and direct necessary resources to mitigate and eliminate disparities and inequities. This plan shall be included in the report required under paragraph (1) of subdivision (d). The Office of Health Equity shall seek input from the public on the plan through an inclusive public stakeholder process.

(3)Building upon and informing the work of the Health in All Policies Task Force in working with state agencies and departments to consider health in appropriate and relevant aspects of public policy development to ensure the implementation of goals and objectives that close the gap in health status. The Office of Health Equity shall work collaboratively with the Health in All Policies Task Force to assist state agencies and departments in developing policies, systems, programs, and environmental change strategies that have population health impacts in all of the following ways, within the resources made available:

(A)Develop intervention programs with targeted approaches to address health and mental health inequities and disparities.

(B)Prioritize building cross-sectoral partnerships within and across departments and agencies to change policies and practices to advance health equity.

(C)Work with the advisory committee established pursuant to subdivision (f) and through stakeholder meetings to provide a forum to identify and address the complexities of health and mental health inequities and disparities and the need for multiple, interrelated, and multisectoral strategies.

(D)Provide technical assistance to state and local agencies and departments with regard to building organizational capacity, staff training, and facilitating communication to facilitate strategies to reduce health and mental health disparities.

(E)Highlight and share evidence-based, evidence-informed, and community-based practices for reducing health and mental health disparities and inequities.

(F)Work with local public health departments, county mental health or behavioral health departments, local social services, and mental health agencies, and other local agencies that address key health determinants, including, but not limited to, housing, transportation, planning, education, parks, and economic development. The Office of Health Equity shall seek to link local efforts with statewide efforts.

(4)Consult with community-based organizations and local governmental agencies to ensure that community perspectives and input are included in policies and any strategic plans, recommendations, and implementation activities.

(5)Assist in coordinating projects funded by the state that pertain to increasing the health and mental health status of vulnerable communities.

(6)Provide consultation and technical assistance to state departments and other state and local agencies charged with providing or purchasing state-funded health and mental health care, in their respective missions to identify, analyze, and report disparities and to identify strategies to address health and mental health disparities.

(7)Provide information and assistance to state and local departments in coordinating projects within and across state departments that improve the effectiveness of public health and mental health services to vulnerable communities and that address community environments to promote health. This information shall identify unnecessary duplication of services.

(8)Communicate and disseminate information within the department and with other state departments to assist in developing strategies to improve the health and mental health status of persons in vulnerable communities and to share strategies that address the social and environmental determinants of health.

(9)Provide consultation and assistance to public and private entities that are attempting to create innovative responses to improve the health and mental health status of vulnerable communities.

(10)Seek additional resources, including in-kind assistance, federal funding, and foundation support.

(d)In identifying and developing recommendations for strategic plans, the Office of Health Equity shall, at a minimum, do all of the following:

(1)Conduct demographic analyses on health and mental health disparities and inequities. The report shall include, to the extent feasible, an analysis of the underlying conditions that contribute to health and well-being. The first report shall be due July 1, 2014. This information shall be updated periodically, but not less than every two years, and made available through public dissemination, including posting on the departmentsInternet Web site. The report shall be developed using primary and secondary sources of demographic information available to the office, including the work and data collected by the Health in All Policies Task Force. Primary sources of demographic information shall be collected contingent on the receipt of state, federal, or private funds for this purpose.

(2)Based on the availability of data, including valid data made available from secondary sources, the report described in paragraph (1) shall address the following key factors as they relate to health and mental health disparities and inequities:

(A)Income security such as living wage, earned income tax credit, and paid leave.

(B)Food security and nutrition such as food stamp eligibility and enrollment, assessments of food access, and rates of access to unhealthy food and beverages.

(C)Child development, education, and literacy rates, including opportunities for early childhood development and parenting support, rates of graduation compared to dropout rates, college attainment, and adult literacy.

(D)Housing, including access to affordable, safe, and healthy housing, housing near parks and with access to healthy foods, and housing that incorporates universal design and visitability features.

(E)Environmental quality, including exposure to toxins in the air, water, and soil.

(F)Accessible built environments that promote health and safety, including mixed-used land, active transportation such as improved pedestrian, bicycle, and automobile safety, parks and green space, and healthy school siting.

(G)Health care, including accessible disease management programs, access to affordable, quality health and behavioral health care, assessment of the health care workforce, and workforce diversity.

(H)Prevention efforts, including community-based education and availability of preventive services.

(I)Assessing ongoing discrimination and minority stressors against individuals and groups in vulnerable communities based upon race, gender, gender identity, gender expression, ethnicity, marital status, language, sexual orientation, disability, and other factors, such as discrimination that is based upon bias and negative attitudes of health professionals and providers.

(J)Neighborhood safety and collective efficacy, including rates of violence, increases or decreases in community cohesion, and collaborative efforts to improve the health and well-being of the community.

(K)The efforts of the Health in All Policies Task Force, including monitoring and identifying efforts to include health and equity in all sectors.

(L)Culturally appropriate and competent services and training in all sectors, including training to eliminate bias, discrimination, and mistreatment of persons in vulnerable communities.

(M)Linguistically appropriate and competent services and training in all sectors, including the availability of information in alternative formats such as large font, braille, and American Sign Language.

(N)Accessible, affordable, and appropriate mental health services.

(3)Consult regularly with representatives of vulnerable communities, including diverse racial, ethnic, cultural, and LGBTQQ communities, womenshealth advocates, mental health advocates, health and mental health providers, community-based organizations and advocates, academic institutions, local public health departments, local government entities, and low-income and vulnerable consumers.

(4)Consult regularly with the advisory committee established by subdivision (f) for input and updates on the policy recommendations, strategic plans, and status of cross-sectoral work.

(e)The Office of Health Equity shall be organized as follows:

(1)A Deputy Director shall be appointed by the Governor or the State Public Health Officer, and is subject to confirmation by the Senate. The salary for the Deputy Director shall be fixed in accordance with state law.

(2)The Deputy Director of the Office of Health Equity shall report to the State Public Health Officer and shall work closely with the Director of Health Care Services to ensure compliance with the requirements of the officesstrategic plans, policies, and implementation activities.

(f)The Office of Health Equity shall establish an advisory committee to advance the goals of the office and to actively participate in decisionmaking. The advisory committee shall be composed of representatives from applicable state agencies and departments, local health departments, community-based organizations working to advance health and mental health equity, vulnerable communities, and stakeholder communities that represent the diverse demographics of the state. The chair of the advisory committee shall be a

representative from a nonstate entity. The advisory committee shall be established by no later than October 1, 2013, and shall meet, at a minimum, on a quarterly basis. Subcommittees of this advisory committee may be formed as determined by the chair.

(g)An interagency agreement shall be established between the State Department of Public Health and the State Department of Health Care Services to outline the process by which the departments will jointly work to advance the mission of the Office of Health Equity, including responsibilities, scope of work, and necessary resources.

(Added by Stats. 2012, Ch. 23, Sec. 43. (AB 1467) Effective June 27, 2012.)

131020.

All officers or employees of the department employed after July 1, 2007, shall be appointed by the director.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131021.

(a)The Legislature finds that having access to a statewide stockpile of personal protective equipment in the event of a pandemic, wildfire smoke event, or other health emergency is vital to the health and safety of its health care and essential workers, as well as the general population, which both relies on this workforce and is susceptible to disease transmission should members of this workforce needlessly be infected with transmissible disease.

(b)The following definitions apply for purposes of this section:

(1)Department means the State Department of Public Health.

(2)Office means the Office of Emergency Services.

(3)Agricultural worker means a person employed in any of the following:

(A)An agricultural occupation, as defined in Wage Order No. 14 of the Industrial Welfare Commission.

(B)An industry preparing agricultural products for the market, on the farm, as defined in Wage Order No. 13 of the Industrial Welfare Commission.

(C)An industry handling products after harvest, as defined in Wage Order No. 8 of the Industrial Welfare Commission.

(4)Essential workers means primary and secondary school workers, workers at detention facilities, as defined in Section 9500 of the Penal Code, in-home support providers, childcare providers, government workers whose work with the public continues throughout the crisis, and workers in other positions that the State Public Health Officer or the Director of the Office of Emergency Services deems vital to public health and safety, as well as economic and national security, including, but not limited to, agricultural workers.

(5)Health care worker means any worker who provides direct patient care and services directly supporting patient care, including, but not limited, to physicians, pharmacists, clinicians, nurses, aides, technicians, janitorial and housekeeping staff, food services workers, and nonmanagerial administrative staff.

(6)Personal protective equipment or PPE means protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers, including, but not limited to, N95 and other filtering facepiece respirators, elastomeric air-purifying respirators with appropriate particulate filters or cartridges, powered air purifying respirators, disinfecting and sterilizing devices and supplies, medical gowns and apparel, face masks, surgical masks, face shields, gloves, shoe coverings, and the equipment identified by or otherwise necessary to comply with Section 5199 of Title 8 of the California Code of Regulations.

(7)Provider means a licensed clinic, as described in Chapter 1 (commencing with Section 1200), an outpatient setting, as described in Chapter 1.3 (commencing with Section 1248) of, a health facility as described in Chapter 2 (commencing with Section 1250) of, or a county medical facility, as described in Chapter 2.5 (commencing with Section 1440) of, Division 2, a home health agency, a physiciansoffice, a professional medical corporation, a medical partnership, a medical foundation, a rural health clinic, as defined in Section 1395x(aa)(2) of Title 42 of the United States Code, or a federally qualified health center, as defined in Section 1395x(aa)(4) of Title 42 of the United States Code, and any other entity that provides medical services in California.

(8)Stockpile means the personal protective equipment stockpile created pursuant to subdivision (c).

(c)Within one year of the effective date of this section, the department and office, in coordination with other state agencies, shall establish a PPE stockpile, upon appropriation and as necessary.

(d) The department shall also establish guidelines for procurement, management, and distribution of PPE from the department. The department and office shall consider the recommendations of the Personal Protective Equipment Advisory Committee created pursuant to subdivision (f) in developing these guidelines. At a minimum, the guidelines shall take into account all of the following:

(1)The various types of PPE that may be required during a pandemic or other health emergency, including, but not limited to, wildfire smoke events.

(2)The shelf life of each type of PPE that may be obtained from the department and how to restock a portion of each type of PPE to ensure the procurements consist of unexpired PPE.

(3)The amount of each type of PPE that would be required for all health care workers and essential workers in the state during a 90-day pandemic or other health emergency, including, but not limited to, wildfire smoke events.

(4)Lessons learned from previous pandemics and state emergencies, including, but not limited to, supply procurement, management, and distribution.

(5)Guidance on how to define essential workers based upon different hazards.

(6)Geographical distribution of PPE storage.

(7)Guidance on how to establish policies and standards for PPE surge capacity to ensure that workers have access to an adequate supply of PPE during a pandemic or other health emergency, including, but not

limited to, wildfire smoke events.

(8)The policies and funding that would be required for the state to establish a PPE stockpile.

(9)How distribution from any procurement shall be prioritized in the event that there is insufficient PPE to meet the needs of providers or employers of essential workers, including consideration of the following:

(A)The provider or employer is in a location with a high share of low-income residents.

(B)The provider or employer is in a medically underserved area, as designated by the United States Department of Health and Human Services, Health Resources and Services Administration.

(C)The provider or employer disproportionately serves a medically underserved population, as designated by the United States Department of Health and Human Services, Health Resources and Services Administration.

(D)The provider or employer is in a county with a high infection rate or high hospitalization rate related to the declared emergency.

(e)The development of the guidelines shall be informed by the recommendations of the Personal Protective Equipment Advisory Committee pursuant to subdivision (f). The guidelines shall not establish policies or standards that are less protective or prescriptive than any federal, state, or local law on PPE standards.

(f)The Personal Protective Equipment Advisory Committee is hereby established. The advisory committee shall consist of the following:

(1)One representative of an association representing multiple types of hospitals and health systems.

(2)One representative of an association representing skilled nursing facilities.

(3)One representative of an association representing primary care clinics.

(4)One representative of a statewide association representing physicians.

(5)Two representatives of labor organizations that represent health care workers.

(6)Two representatives of labor organizations that represent nonagricultural essential workers, as defined by paragraph (4) of subdivision (b).

(7)One representative of a labor organization that represents agricultural workers, as defined by paragraph (3) of subdivision (b).

(8)One representative of an organization that represents agricultural employers.

(9)One representative from the personal protective equipment manufacturing industry.

(10)One consumer representative.

(11)One representative from an association representing counties.

(12)One representative from the State Department of Public Health.

(13)One representative from the Office of Emergency Services.

(14)One representative from the Emergency Medical Services Authority.

(15)One representative from the State Department of Social Services.

(g)The Director of the Office of Emergency Services or their designee shall appoint the representatives from paragraphs (1) through (11), inclusive, of subdivision (f).

(h)The Personal Protective Equipment Advisory Committee shall make recommendations to the office and department necessary to develop the guidelines required pursuant to subdivision (d).

(i)Nothing in this section alters an employersduty to provide respirators as required by Section 5141.1 of Title 8 of the California Code of Regulations.

(j)The department shall report to the Legislature, within six months of the effective date of the amendments to this section made by the act adding this subdivision, with regard to the amount of PPE in the stockpile, the amount of PPE from the stockpile that has been used, and the amount of anticipated future usage. The report shall be made pursuant to Section 9795 of the Government Code.

(Amended by Stats. 2021, Ch. 322, Sec. 1. (AB 73) Effective September 27, 2021.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=112.&title=&part=1.&chapter=2.&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=112.&title=&part=1.&chapter=2.&article=1.

__Health and Safety Code - HSC__

__DIVISION 112. PUBLIC HEALTH [131000 - 131355]__

(Division 112 added by Stats. 2006, Ch. 241, Sec. 34.)

__PART 1. GENERAL PROVISIONS [131000 - 131355]__

(Part 1 added by Stats. 2006, Ch. 241, Sec. 34.)

__CHAPTER 2. General Powers of the Department [131050 - 131231]__

(Chapter 2 added by Stats. 2006, Ch. 241, Sec. 34.)

__ARTICLE 1. General Provisions [131050 - 131135]__

(Article 1 added by Stats. 2006, Ch. 241, Sec. 34.)

131050.

(a)As set forth in this article, the State Department of Public Health shall succeed to and be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction of the former State Department of Health Services as they relate to public health, licensing and certification of health facilities, and any other functions performed immediately preceding the operative date of this section by, or under the supervision of, all of the following:

(1)The Deputy Director for Prevention Services of the former State Department of Health Services, excluding the Office of Clinical Preventive Medicine.

(2)The Deputy Director for Licensing and Certification.

(3)The Deputy Director for Health Information and Strategic Planning.

(4)The Deputy Director for Public Health Emergency Preparedness.

(5)The California Conference of Local Health Officers.

(6)The Deputy Director for Primary Care and Family Health as follows: Maternal, Child and Adolescent Health as set forth in Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter 3, Part 3, Part 5 excluding Articles 1 and 2 of Chapter 2, Part 7 and Part 8, of Division 106.

(b)It is the intent of the Legislature that, in implementing this article, the duties, powers, purposes, and responsibilities transferred to the State Department of Public Health shall include those formerly performed by the programs of the former State Department of Health Services set forth in this article, provided, however, that nothing in this article shall be construed to require that the State Department of Public Health be organized according to programs described in this article, or to limit the authority or discretion of the State Public Health Officer pursuant to Section 11152 of the Government Code to organize the State Department of Public Health, unless that organization is otherwise required by law. Nothing in this article shall be construed to require that the State Department of Public Health maintain, or refrain from

terminating, any program described in this article except to the extent that maintenance of the program is otherwise required by law. Nothing in this article shall be construed to limit or expand the authority of any program described in this article.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131051.

The duties, powers, functions, jurisdiction, and responsibilities transferred to the State Department of Public Health shall, pursuant to the act that added this section, include all of the following previously performed by the former State Department of Health Services:

(a)Under the jurisdiction of the Deputy Director for Prevention Services:

(1)The Office of AIDS, including but not limited to:

(A)The AIDS Drug Assistance Program (Chapter 6 (commencing with Section 120950) of Part 4 of Division 105).

(B)The AIDS Early Intervention Program (Chapter 4 (commencing with Section 120900) of Part 4 of Division 105).

(C)The CARE Services Program, provided for pursuant to the federal Ryan White CARE Act, 42 U.S.C. Section 300ff.

(D)The CARE/Health Insurance Premium Payment Program (federal Ryan White CARE Act, 42 U.S.C. Sec. 300ff).

(E)The Housing Opportunities for Persons with AIDS Program (Section 100119).

(F)The Residential AIDS Licensed Facilities Program (former Section 100119; Chapter 2 (commencing with Section 120815) of Part 4 of Division 105).

(G)The AIDS Case Management Program (federal Ryan White CARE Act, 42 U.S.C. Sec. 300ff; Chapter 2 (commencing with Section 120815) of Part 4 of Division 105).

(H)The AIDS Medi-Cal Waiver Program (former Section 100119; 42 U.S.C. Sec. 1396n(c)).

(I)The Bridge Project (former Section 100119).

(J)The HIV Therapeutic Monitoring Program (Chapter 16 (commencing with Section 121345) of Part 4 of Division 105).

(K)The Learning Immune Function Enhancement program (former Section 100119).

(L)The San Ysidro Prevention Project (Section 113019).

(M)The California Statewide Treatment Education Program (former Section 100119).

(N)The HIV Counseling and Testing Program (Section 113019).

(O)The Neighborhood Intervention Geared Toward High-Risk Testing program (former Section 100119).

(P)The Perinatal Transmission Prevention Project (Section 113019).

(Q)The California AIDS Clearinghouse (Section 113019).

(R)The California Disclosure Assistance and Partner Services/Partner Counseling and Referral Services (Section 113019).

(S)The African-American HIV Initiative (Section 113019; Chapter 13.7 (commencing with Section 120290) of Part 4 of Division 105).

(T)The Injection Drug User HIV Testing Utilizing Hepatitis C Testing High-Risk Initiative (Section 113019).

(U)The Prevention with Positives High-Risk Initiative (Section 113019).

(V)The Statewide Technical Assistance Initiatives (Section 113019).

(W)The HIV/AIDS Case Registry (Sections 113019, 120125, and 120130).

(2)The Office of Binational Border Health, including, but not limited to, all of the following:

(A)The California-Mexico Health Initiative (Part 3 (commencing with Section 475) of Division 1).

(B)The Early Warning Infectious Disease Surveillance Program (Chapter 2 (commencing with Section 1250) of Division 2; Chapter 2 (commencing with Section 120130) of Part 1 of Division 105).

(3)The Division of Communicable Disease Control, including, but not limited to, all of the following:

(A)The Infant Botulism Treatment and Prevention Program (Article 2.5 (commencing with Section 123700) of Chapter 3 of Part 2 of Division 106).

(B)The Sexually Transmitted Disease Control Program (Part 3 (commencing with Section 120500) of Division 105).

(C)The Infectious Disease Program (Chapter 2 (commencing with Section 120130) of Part 1 of Division 105).

(D)The Bioterrorism Epidemiology Program.

(E)The Vector Borne Disease (Part 11 (commencing with Section 116100) of Division 104).

(F)The Tuberculosis Control Program (Part 5 (commencing with Section 121350) of Division 105).

(G)The Microbial Diseases Laboratory (Chapter 2 (commencing with Section 100250) of Division 101).

(H)The Viral and Rickettsial Disease Laboratory (Chapter 2 (commencing with Section 100250) of Division 101).

(I)The West Nile Human Surveillance Program (Chapter 2 (commencing with Section 116110) of Part 11 of Division 104).

(J)The Immunization Program (Part 2 (commencing with Section 120325) of Division 105).

(K)The Vaccines for Children Program (Part 2 (commencing with Section 120325) of Division 105).

(4)The Division of Chronic Disease and Injury Control, including, but not limited to, all of the following:

(A)The IMPACT Prostate Cancer Treatment Program (Chapter 7 (commencing with Section 104322) of Part 1 of Division 103), until June 30, 2012. Commencing July 1, 2012, the duties, powers, functions, jurisdiction, and responsibilities of the State Department of Public Health regarding this program are hereby with the State Department of Health Care Services.

(B)The Every Woman Counts program (Breast and Cervical Cancer Screening Program) (Article 1.3 (commencing with Section 104150) of Chapter 2 of Part 1 of Division 103; Section 30461.6 of the Revenue and Taxation Code), until June 30, 2012. Commencing July 1, 2012, the duties, powers, functions, jurisdiction, and responsibilities of the State Department of Public Health regarding this program are hereby with the State Department of Health Care Services.

(C)The Well-Integrated Screening and Evaluation for Women Across the Nation Demonstration Project (Article 1.3 (commencing with Section 104150) of Chapter 2 of Part 1 of Division 103).

(D)The California Nutrition Network (Chapter 2 (commencing with Section 104575) of Part 3 of Division 103).

(E)The Cancer Research Program (Article 2 (commencing with Section 104175) of Chapter 2 of Part 1 of Division 103).

(F)The Translational Cancer Research and Technology Transfer Program (Article 2 (commencing with Section 104175) of Chapter 2 of Part 1 of Division 103).

(G)The Ken Maddy California Cancer Registry (Chapter 2 (commencing with Section 103875) of Part 2 of Division 102).

(H)The California Osteoporosis Prevention and Education Program (Chapter 1 (commencing with Section 125700) of Part 8 of Division 106).

(I)The Preventive Health Care for the Aging Program (Part 4 (commencing with Section 104900) of Division 103).

(J)The California Arthritis Prevention Program (former Section 100185).

(K)The Office of Oral Health (Chapter 3 (commencing with Section 104750) of Part 3 of Division 103).

(L)The ChildrensDental Disease Prevention Program (Article 3 (commencing with Section 104770) of Chapter 3 of Part 3 of Division 103).

(M)The Community Water Fluoridation Program (Article 3.5 (commencing with Section 116409) of Chapter 4 of Part 12 of Division 104).

(N)The California Asthma Public Health Initiative (Chapter 6.5 (commencing with Section 104316) of Part 1 of

Division 103).

(O)The California Obesity Prevention Initiative (Chapter 2 (commencing with Section 104575) of Part 3 of Division 103).

(P)The School Health Connections program (Chapter 2 (commencing with Section 104575) of Part 3 of Division 103).

(Q)The California Project LEAN (Chapter 2 (commencing with Section 104575) of Part 3 of Division 103).

(R)The California Center for Physical Activity (Section 131085).

(S)The California Diabetes Program (Section 131085).

(T)The Preventive Medicine Residency Program (Section 131090).

(U)The California Epidemiologic Investigation Service (Article 4 (commencing with Section 100325) of Chapter 2 of Part 1 of Division 101).

(V)The Continuing Professional Education Program (Section 131090).

(W)The Injury Surveillance and Epidemiology Program (Part 2 (commencing with Section 104325) of Division 103).

(X)The State and Local Injury Control Program (Chapter 1 (commencing with Section 104325) of Part 2 of Division 103).

(Y)The Office on Disability and Health (former Section 100185).

(Z)The AlzheimersDisease Program (Article 4 (commencing with Section 125275) of Chapter 2 of Part 5 of Division 106).

(AA)The California Tobacco Control Program (Chapter 1 (commencing with Section 104350) of Part 3 of Division 103).

(5)The Division of Drinking Water and Environmental Management, including, but not limited to, all of the following:

(A)The Medical Waste Management Program (Part 14 (commencing with Section 117600) of Division 104).

(B)The Department of Defense Oversight Program (Radiologic Guidance and Approvals) (Part 9 (commencing with Section 114650) of Division 104).

(C)The Nuclear Emergency Response Program (Part 9 (commencing with Section 114650) of Division 104).

(D)The Institutions Program (Environmental Surveys) (Article 5 (commencing with Section 116025) of Chapter 5 of Part 10 of Division 104).

(E)The Drinking Water Field Management program (Chapter 4 (commencing with Section 116270) of Part 12 of Division 104).

(F)The Environmental Health Specialist Registration Program (Article 1 (commencing with Section 106600) of Chapter 4 of Part 1 of Division 104).

(G)The Sanitation and Radiation Laboratory (Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101); Chapter 4 (commencing with Section 116270) of Part 12 of Division 104).

(H)The Radon Program (Chapter 7 (commencing with Section 105400) of Part 5 of Division 103; Chapter 4 (commencing with Section 116270) of Part 12, and Article 2 (commencing with Section 106750) of Chapter 4 of Part 1, of Division 104).

(I)The Shellfish Sanitation Program (Chapter 5 (commencing with Section 112150) of Part 6 of Division 104).

(J)The Ocean Beach Safety Programs (Article 2 (commencing with Section 115875) of Chapter 5 of Part 10 of Division 104).

(K)The Bioterrorism Planning and Response for Drinking Water, Medical Waste, and Environmental Health program (Article 6 (commencing with Section 101315) of Chapter 3 of Part 3 of Division 101).

(L)The Safe Drinking Water State Revolving Fund (Chapter 4.5 (commencing with Section 116760) of Part 12 of Division 104).

(M)The Drinking Water Technical Programs (Chapter 4 (commencing with Section 16270) of Part 12 of Division 104; Chapter 4.5 (commencing with Section 116760) of Part 12 of Division 104; Article 3 (commencing with Section 106875) of Chapter 4 of Part 1 of Division 104; Chapter 5 (commencing with Section 116775) of Part 12 of Division 104; Chapter 5 (commencing with Section 115825) of Part 10 of Division 104; Chapter 7 (commencing with Section 13500) of Division 7 of the Water Code; Section 13411 of the Water Code).

(N)The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50) (Division 26.5 (commencing with Section 79500) of the Water Code).

(6)The Division of Environmental and Occupational Disease Control, including, but not limited to, all of the following:

(A)The California Birth Defect Monitoring Program (Chapter 1 (commencing with Section 103825) of Part 2 of Division 102).

(B)The Childhood Lead Poisoning Prevention Program (Chapter 5 (commencing with Section 105275) of Part 5 of Division 103; Article 7 (commencing with Section 124125) of Chapter 3 of Part 2 of Division 106).

(C)The Lead Related Construction Program (Chapter 4 (commencing with Section 105250) of Part 5 of Division 103).

(D)The Epidemiology Studies Laboratory (Sections 25416, former Section 100170, Section 100325, and Section 104324.25).

(E)The Center for Autism and Developmental Disabilities Research and Epidemiology (former Section 100170).

(F)The Cancer Cluster/Environmental Investigations (former Section 100170).

(G)The Toxic Mold Program (Chapter 18 (commencing with Section 26100) of Division 20).

(H)The Federal Agency for Toxic Substances and Disease Registry Health Assessments, Education and Investigations program (former Section 100170).

(I)The Fish Contamination Outreach and Education program (former Section 100170).

(J)The Air Pollution and Cardiovascular Disease in the California Teachers Study Cohort Project (former Section 100170).

(K)The Delta Watershed Fish Project (outreach, education, and training to reduce exposures to mercury in fish) (former Section 100170).

(L)The Environmental Health Laboratory (former Section 100170; Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101).

(M)The Indoor Air Quality program (Chapter 7 (commencing with Section 105400) of Part 5 of Division 103).

(N)The Outdoor Air Quality program (Section 60.9 of the Labor Code).

(O)The Laboratory Response Network for Chemical Terrorism program (former Section 100170; Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101).

(P)The Air Quality and Human Monitoring Support Program (former Section 100170).

(Q)The Hazard Evaluation System and Information Service Program (Article 1 (commencing with Section 105175) of Chapter 2 of Part 5 of Division 103; Section 147.2 of the Labor Code).

(R)The Occupational Health Surveillance and Evaluation Program (Article 1 (commencing with Section 105175) of Chapter 2 of Part 5 of Division 103).

(S)The Occupational Lead Poisoning Prevention Program (Article 2 (commencing with Section 105185) of Chapter 2 of Part 5 of Division 103).

(T)The Occupational Blood Lead Registry (Article 2 (commencing with Section 105185) of Chapter 2 of Part 5 of Division 103).

(7)The Division of Food, Drug and Radiation Safety, including, but not limited to, all of the following:

(A)The Drug Licensing Program (Article 6 (commencing with Section 111615) of Chapter 6 of Part 5 of Division 104).

(B)The Consumer Product Safety Program (Part 3 (commencing with Section 108100) of Division 104).

(C)The Export Program (Article 2 (commencing with Section 110190) of Chapter 2 of Part 5 of Division 104).

(D)The Food Safety Inspection Program (Part 5 (commencing with Section 109875) and Part 6 (commencing with Section 111940) of Division 104).

(E)The Foodborne Illness and Tampering Emergency Response Program (Part 5 (commencing with Section 109875) of Division 104).

(F)The Retail Food Safety Program (Part 7 (commencing with Section 113700) of Division 104).

(G)The Food Safety Industry Education and Training Program (pursuant to Section 110485).

(H)The Medical Device Licensing Program (Article 6 (commencing with Section 111615) of Chapter 6 of Part 5 of Division 104).

(I)The Medical Device Safety Program (Part 5 (commencing with Section 109875) of Division 104).

(J)The Stop Tobacco Access to Kids Enforcement Program (STAKE) (Division 8.5 (commencing with Section 22950) of the Business and Professions Code).

(K)The Food and Drug Laboratory (Chapter 2 (commencing with Section 100250) of Division 101).

(L)The Drug Safety Program (Part 4 (commencing with Section 109250) and Part 5 (commencing with Section 109875) of Division 104).

(M)The General Food Safety Program (Part 5 (commencing with Section 109875) and Part 6 (commencing with Section 111940) of Division 104).

(N)The Food Testing Program (Chapter 2 (commencing with Section 100250) of Division 101).

(O)The Forensic Alcohol Testing Program (Article 2 (commencing with Section 100700) of Chapter 4 of Part 1 of Division 101).

(P)The Methadone Laboratory Regulating Program (Article 2 (commencing with Section 11839.23) of Chapter 10 of Part 2 of Division 10.5).

(Q)The Radiologic Health Program (Part 9 (commencing with Section 114650) of Division 104).

(R)The Mammography Program (Chapter 6 (commencing with Section 114840) of Part 9 of Division 104).

(S)The Radioactive Materials Licensing and Inspection Program (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104).

(T)The Radiological Technologist Certification Program (Article 5 (commencing with Section 106955) of Part 1, and Article 3 (commencing with Section 114855) of Chapter 6 of Part 9 of Division 104).

(U)The Radioactive Waste Tracking Program (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104).

(V)The Radioactive Waste Minimization Program (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104).

(W)The Low Level Radioactive Waste Management, Treatment and Disposal Program (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104).

(X)The Statewide Environmental Radiation Monitoring Program (pursuant to Section 114755).

(Y)The Department of Energy Oversight Program (Part 9 (commencing with Section 114650) of Division 104).

(Z)The X-Ray Machine Inspection and Registration and Mammography Quality Standards Act Inspection Program (Article 5 (commencing with Section 106955) of Part 1, and Article 3 (commencing with Section 114855) of Chapter 6 of Part 9 of Division 104).

(8)The Deputy Director for Laboratory Science, including, but not limited to, all of the following:

(A)The Environmental Laboratory Accreditation Program (Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101).

(B)The Laboratory Central Services Program (Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101).

(C)The National Laboratory Training Network (Section 131085).

(D)The Laboratory Field Services program (Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code).

(b)Under the jurisdiction of the Deputy Director for Licensing and Certification:

(1)The General Acute Care Hospitals Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(2)The Acute Psychiatric Hospitals Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(3)The Special Hospitals Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(4)The Chemical Dependency Recovery Hospitals Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(5)The Skilled Nursing Facilities Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(6)The Intermediate Care Facilities Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(7)The Intermediate Care Facilities-Developmentally Disabled Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(8)The Intermediate Care Facilities-Developmentally Disabled-Habilitative Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(9)The Intermediate Care Facility-Developmentally Disabled-Nursing Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(10)The Home Health Agencies Licensing Program (Chapter 8 (commencing with Section 1725) of Division 2).

(11)The Referral Agencies Licensing Program (Chapter 2.3 (commencing with Section 1400) of Division 2).

(12)The Adult Day Health Centers Licensing Program (Chapter 3.3 (commencing with Section 1570) of Division 2).

(13)The Congregate Living Health Facilities (Chapter 2 (commencing with Section 1250) of Division 2).

(14)The Psychology Clinics Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(15)The Primary Clinics"Community and Free Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(16)The Specialty Clinics"Rehab Clinics Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(17)The Dialysis Clinics Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(18)The Pediatric Day Health/Respite Care Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(19)The Alternative Birthing Centers Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(20)The Hospice Licensing Program (Chapter 2 (commencing with Section 1339.30) of Division 2).

(21)The Correctional Treatment Centers Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(22)The Medicare/Medi-Cal Certification Program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(23)The Nursing Home Administrator Professional Certification Program (Chapter 2.35 (commencing with Section 1416) of Division 2).

(24)The Certified Nursing Assistants Professional Certification Program (Chapter 2 (commencing with Section 1337) of Division 2).

(25)The Home Health Aides Professional Certification Program (Chapter 8 (commencing with Section 1725) of Division 2).

(26)The Hemodialysis Technicians Professional Certification Program (Chapter 3 (commencing with Section 1247) of Division 2 of the Business and Professions Code; Chapter 10 (commencing with Section 1794) of Division 2).

(27)The Criminal Background Clearance Program (Chapter 2 (commencing with Section 1337), Chapter 3 (commencing with Section 1520), Chapter 3.01 (commencing with Section 1569.15), Chapter 3.4 (commencing with Section 1496.80) of Division 2, and Chapter 4 (commencing with Section 11150) of Division 8).

(c)Under the jurisdiction of the Deputy Director for Health Information and Strategic Planning:

(1)The Refugee Health Program (Subpart G of Part 400 of Title 45 of the Code of Federal Regulations).

(2)The Office of County Health Services (Article 5 (commencing with Section 101300) of Chapter 3 of Part 3 of Division 101; Part 4.7 (commencing with Section 16900) of Division 9 of the Welfare and Institutions

Code).

(3)The Medically Indigent Services Program (Article 5 (commencing with Section 101300) of Chapter 3 of Part 3 of Division 101).

(4)The Office of Vital Records (Part 1 (commencing with Section 102100) of Division 102).

(5)The Office of Health Information and Research (Article 1 (commencing with Section 102175) of Chapter 2 of Part 1 of Division 102; Section 128730).

(6)The Local Public Health Services Program (Article 5 (commencing with Section 101300) of Chapter 3 of Part 3 of Division 101).

(7)The Center for Health Statistics (Part 1 (commencing with Section 102100) of Division 102; Section 128730).

(8)The Medical Marijuana Program (Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code).

(d)Under the jurisdiction of the Deputy Director for Primary Care and Family Health:

(1)The Maternal, Child and Adolescent Health program (Part 2 (commencing with Section 123225) of Division 106).

(2)The Adolescent Family Life Program (Article 1 (commencing with Section 124175) of Chapter 4 of Part 2 of Division 106).

(3)The Advanced Practice Nurse Training program (Part 2 (commencing with Section 123225) of Division 106).

(4)The Black Infant Health Program (Part 2 (commencing with Section 123225) of Division 106).

(5)The Breastfeeding Program (Article 3 (commencing with Section 123360) of Chapter 1 of Part 2 of Division 6).

(6)The California Diabetes and Pregnancy Program (Part 2 (commencing with Section 123225) of Division 106).

(7)The California Initiative to Improve Adolescent Health (Part 2 (commencing with Section 123225) of Division 106).

(8)The Childhood Injury Prevention Program (Article 4 (commencing with Section 100325) of Chapter 2 of Division 101).

(9)The Comprehensive Perinatal Services Program (Article 3 (commencing with Section 123475) of Chapter 2 of Part 2; Section 14134.5 of the Welfare and Institutions Code).

(10)The Fetal and Infant Mortality Review Program (Article 1 (commencing with Section 123650) of Chapter 3 of Part 2 of Division 106).

(11)The Human Stem Cell Research Program (Chapter 3 (commencing with Section 125290.10) of Part 5 of

Division 106; Chapter 1 (commencing with Section 125300) of Part 5.5 of Division 106).

(12)The Local Health Department Maternal, Child and Adolescent Health Program (Section 123255).

(13)The Maternal Mortality Review Program (Article 4 (commencing with Section 100325) of Chapter 2 of Division 101).

(14)The Oral Health Program (Part 2 (commencing with Section 123225) of Division 106).

(15)The Preconception Health and Health Care Initiative (Part 2 (commencing with Section 123225) of Division 106).

(16)The Regional Perinatal Programs of California (Article 4 (commencing with Section 123550) of Chapter 2 of Part 2 of Division 106).

(17)The Perinatal Dispatch Centers Outreach and Education Program (Article 4 (commencing with Section 123750) of Chapter 3 of Part 2 of Division 106).

(18)The State Early Childhood Comprehensive Services program (Part 2 (commencing with Section 123225) of Division 106).

(19)The Sudden Infant Death Syndrome Program (Article 3 (commencing with Section 123725) of Chapter 3 of Part 2 of Division 106).

(20)The Youth Pilot Program (Chapter 12.85 (commencing with Section 18987) of Part 6 of Division 9 of the Welfare and Institutions Code).

(21)The Office of Family Planning (Chapter 8.5 (commencing with Section 14500) of Part 3 of Division 9 of the Welfare and Institutions Code; Division 24 (commencing with Section 24000) of the Welfare and Institutions Code), until June 30, 2012. Commencing July 1, 2012, the duties, powers, functions, jurisdiction, and responsibilities of the State Department of Public Health regarding this office are hereby with the State Department of Health Care Services.

(22)The Community Challenge Grant Program (Section 14504.1 of the Welfare and Institutions Code, and Chapter 14 (commencing with Section 18993) of Part 6 of Division 9 of the Welfare and Institutions Code).

(23)The Information and Education Program (Section 14504.3 of the Welfare and Institutions Code).

(24)The Family PACT Program (subdivision (aa) of Section 14132 and Section 24005 of the Welfare and Institutions Code), until June 30, 2012. Commencing July 1, 2012, the duties, powers, functions, jurisdiction, and responsibilities of the State Department of Public Health regarding this program are hereby with the State Department of Health Care Services.

(25)The Male Involvement Program (Section 14504 of the Welfare and Institutions Code).

(26)The TeenSMART Outreach Program (Section 14504.2 of the Welfare and Institutions Code).

(27)The Battered Women Shelter Program (Chapter 6 (commencing with Section 124250) of Part 2 of Division 106).

(28)The Women, Infants and Children Program (Article 1 (commencing with Section 123275) of Chapter 1 of

Part 2 of Division 106).

(29)The WIC Supplemental Nutrition Program (Article 1 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106).

(30)The Farmers Market Nutrition Program (Section 123279).

(31)Genetic Disease Program (Chapter 1 (commencing with Section 124975) of Part 5 of Division 106).

(32)The Newborn Screening Program (Chapter 1 (commencing with Section 124975) of Part 5 of Division 106).

(33)The Prenatal Screening Program (Chapter 1 (commencing with Section 124975) of Part 5 of Division 106).

(Amended by Stats. 2012, Ch. 23, Sec. 44. (AB 1467) Effective June 27, 2012.)

131052.

In implementing the transfer of jurisdiction pursuant to this article, the State Department of Public Health succeeds to and is vested with all the statutory duties, powers, purposes, responsibilities, and jurisdiction of the former State Department of Health Services as they relate to public health as provided for or referred to in all of the following provisions of law:

(1)Sections 550, 555, 650, 680, 1241, 1658, 2221.1, 2248.5, 2249, 2259, 2259.5, 2541.3, 2585, 2728, 3527, 4017, 4027, 4037, 4191, 19059.5, 19120, 22950, 22973.2, and 22974.8 of the Business and Professions Code.

(2)Sections 56.17, 1812.508, and 1812.543 of the Civil Code.

(3)Sections 8286, 8803, 17613, 32064, 32065, 32066, 32241, 49030, 49405, 49414, 49423.5, 49452.6, 49460, 49464, 49531.1, 56836.165, and 76403 of the Education Code.

(4)Sections 405, 6021, 6026, 18963, 30852, 41302, and 78486 of the Food and Agricultural Code.

(5)Sections 307, 355, 422, 7572, 7574, 8706, 8817, and 8909 of the Family Code.

(6)Sections 1786, 4011, 5523, 5671, 5674, 5700, 5701, 5701.5, 7115, and 15700 of the Fish and Game Code.

(7)Sections 855, 51010, and 551017.1 of the Government Code.

(8)(A)Sections 475, 1180.6, 1418.1, 1422.1, 1428.2, 1457, 1505, 1507.1, 1507.5, 1570.7, 1599.2, 1599.60, 1599.75, 1599.87, 2002, 2804, 11362.7, 11776, 11839.21, 11839.23, 11839.24, 11839.25, 11839.26, 11839.27, 11839.28, 11839.29, 11839.30, 11839.31, 11839.32, 11839.33, 11839.34, 17920.10, 17961, 18897.2, 24185, 24186, 24187, 24275, 26101, 26122, 26134, 26155, 26200, and 26203.

(B)Chapters 1, 2, 2.05, 2.3, 2.35, 2.4, 3.3, 3.9, 3.93, 3.95, 4, 4.1, 4.5, 5, 6, 6.5, 8, 8.3, 8.5, 8.6, 9, and 11 of Division 2.

(C)Articles 2 and 4 of Chapter 2, Chapter 3, and Chapter 4 of Part 1, Part 2, and Part 3 of Division 101.

(D)Division 102, including Sections 102230 and 102231.

(E)Division 103, including Sections 104145, 104181, 104182, 104182.5, 104187, 104191, 104192, 104193, 104316, 104317, 104318, 104319, 104320, 104321, 104324.2, 104324.25, 104350, 105191, 105251, 105255, 105280, 105340, and 105430.

(F)Division 104, including Sections 106615, 106675, 106770, 108115, 108855, 109282, 109910, 109915, 112155, 112500, 112650, 113355, 114460, 114475, 114650, 114710, 114850, 114855, 114985, 115061, 115261, 115340, 115736, 115880, 115885, 115915, 116064, 116183, 116270, 116365.5, 116366, 116375, 116610, 116751, 116760.20, 116825, 117100, 117924, and 119300.

(G)Division 105, including Sections 120262, 120381, 120395, 120440, 120480, 120956, 120966, 121155, 121285, 121340, 121349.1, 121480, 122410, and 122420.

(H)Part 1, Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter 3, Part 3 and Part 5 excluding Articles 1 and 2 of Chapter 2, Part 7, and Part 8 of Division 106.

(9)Sections 799.03, 10123.35, 10123.5, 10123.55, 10123.10, 10123.184, and 11520 of the Insurance Code.

(10)Sections 50.8, 142.3, 144.5, 144.7, 147.2, 4600.6, 6307.1, 6359, 6712, 9009, and 9022 of the Labor Code.

(11)Sections 4018.1, 5008.1, 7501, 7502, 7510, 7511, 7515, 7518, 7530, 7550, 7553, 7575, 7576, 11010, 11174.34, and 13990 of the Penal Code.

(12)Section 4806 of the Probate Code.

(13)Sections 15027, 25912, 28004, 30950, 41781.1, 42830, 43210, 43308, 44103, and 71081 of the Public Resources Code.

(14)Section 10405 of the Public Contract Code.

(15)Sections 883, 1507, and 7718 of the Public Utilities Code.

(16)Sections 18833, 18838, 18845.2, 18846.2, 18847.2, 18863, 30461.6, 43010.1, and 43011.1 of the Revenue and Taxation Code.

(17)Section 11020 of the Unemployment Insurance Code.

(18)Sections 22511.55, 23158, 27366, and 33000 of the Vehicle Code.

(19)Sections 5326.9, 5328, 5328.15, 14132, 16902, and 16909, and Division 24 of the Welfare and Institutions Code. Payment for services provided under the Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program pursuant to subdivision (aa) of Section 14132 and Division 24 shall be made through the State Department of Health Care Services. The State Department of Public Health and the State Department of Health Care Services may enter into an interagency agreement for the administration of those payments. This paragraph, to the extent that it applies to the Family PACT Waiver Program, shall become inoperative on June 30, 2012.

(20)Sections 13176, 13177.5, 13178, 13193, 13390, 13392, 13392.5, 13393.5, 13395.5, 13396.7, 13521, 13522, 13523, 13528, 13529, 13529.2, 13550, 13552.4, 13552.8, 13553, 13553.1, 13554, 13554.2, 13816, 13819, 13820, 13823, 13824, 13825, 13827, 13830, 13834, 13835, 13836, 13837, 13858, 13861, 13862, 13864, 13868,

13868.1, 13868.3, 13868.5, 13882, 13885, 13886, 13887, 13891, 13892, 13895.1, 13895.6, 13895.9, 13896, 13896.3, 13896.4, 13896.5, 13897, 13897.4, 13897.5, 13897.6, 13898, 14011, 14012, 14015, 14016, 14017, 14019, 14022, 14025, 14026, 14027, and 14029 of the Water Code.

(Amended by Stats. 2022, Ch. 28, Sec. 115. (SB 1380) Effective January 1, 2023.)

131052.5.

Commencing July 1, 2022, the Office of Community Partnerships and Strategic Communications, an office within the Office of Planning and Research in the Office of the Governor, succeeds to, and is vested with, all the duties and responsibilities of the State Department of Public Health related to the administration or implementation of the COVID-19 vaccine-related public education and outreach campaigns in the manner described in Section 65052.7 of the Government Code.

(Added by Stats. 2022, Ch. 48, Sec. 57. (SB 189) Effective June 30, 2022.)

131053.

In the event of any conflict between Sections 131050, 131051, and 131052, Section 131052 shall prevail over Section 131051, and Section 131050 shall prevail over Sections 131051 and 131052.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131055.

(a)All regulations and orders adopted by the former State Department of Health Services and any of its predecessors in effect immediately preceding the operative date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any action by or against the former State Department of Health Services or any of its predecessors pertaining to matters vested in the State Department of Public Health by this chapter shall not abate but shall continue in the name of the State Department of Public Health, and the State Department of Public Health shall be substituted for the former State Department of Health Services and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(b)On and after the operative date of this section, the unexpended balance of all funds available for use by the former State Department of Health Services or any of its predecessors in carrying out any functions transferred to the State Department of Public Health shall be available for use by the State Department of Public Health.

(c)All books, documents, records, and property of the former State Department of Health Services pertaining to functions transferred to the Department of Public Health shall be transferred to the State Department of Public Health.

(d)On and after the operative date of this section, positions other than that of the State Public Health Officer and the Chief Deputy filled by appointment by the Governor in the former State Department of Health Services whose principal assignment was to perform functions transferred to the State Department of Public Health shall be transferred to the State Department of Public Health. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law unless otherwise provided.

(e)Every officer and employee of the former State Department of Health Services who is performing a function transferred to the State Department of Public Health and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the State Department of Public Health pursuant to the provisions of Section 19050.9 of the Government Code. The status, position, and rights of any officer or employee of the former State Department of Health Services shall not be affected by the transfer and shall be retained by the person as an officer or employee of the State Department of Public Health, as the case may be, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131055.1.

(a)Notwithstanding Section 131050, commencing on July 1, 2012, the State Department of Health Care Services shall succeed to and be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction of the State Department of Public Health as they relate to the Breast and Cervical Cancer Screening Program pursuant to Article 1.3 (commencing with Section 104150) of Chapter 1, the Breast and Cervical Cancer Treatment Program pursuant to Article 1.5 (commencing with Section 104160) of Chapter 1, the Prostate Cancer Screening Program pursuant to Chapter 6 (commencing with Section 104310), the IMPACT Prostate Cancer Treatment Program pursuant to Chapter 7 (commencing with Section 104322) of Part 1 of Division 103, translation services pursuant to Part 3 (commencing with Section 124300) of Division 106, the Office of Family Planning pursuant to Chapter 8.5 (commencing with Section 14500) of Part 3 of Division 9 of the Welfare and Institutions Code, excluding the Personal Responsibility Education Federal Grant Program, the Family Planning, Access, Care, and Treatment (Family PACT) Program pursuant to subdivision (aa) of Section 14132, and the State-Only Family Planning Program pursuant to Division 24 (commencing with Section 24000) of the Welfare and Institutions Code.

(b)Commencing July 1, 2012, any reference to the State Department of Public Health with regard to the Breast and Cervical Cancer Screening Program pursuant to Article 1.3 (commencing with Section 104150) of Chapter 1, the Breast and Cervical Cancer Treatment Program pursuant to Article 1.5 (commencing with Section 104160) of Chapter 1, the Prostate Cancer Screening Program pursuant to Chapter 6 (commencing with Section 104310), the IMPACT Prostate Cancer Treatment Program pursuant to Chapter 7 (commencing with Section 104322) of Part 1 of Division 103, translation services pursuant to Part 3 (commencing with Section 124300) of Division 106, the Office of Family Planning pursuant to Chapter 8.5 (commencing with Section 14500) of Part 3 of Division 9 of the Welfare and Institutions Code, excluding the Personal Responsibility Education Federal Grant Program, the Family Planning, Access, Care, and Treatment (Family PACT) Program pursuant to subdivision (aa) of Section 14132, or the State-Only Family Planning Program pursuant to Division 24 (commencing with Section 24000) of the Welfare and Institutions Code, shall refer to the State Department of Health Care Services.

(c)All regulations and orders adopted by the State Department of Public Health and any of its predecessors

in effect prior to July 1, 2012, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any action by or against the State Department of Public Health and any of its predecessors pertaining to matters vested in the State Department of Health Care Services by this act shall not abate but shall continue in the name of the State Department of Health Care Services, and the State Department of Health Care Services shall be substituted for the State Department of Public Health and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(d)Commencing July 1, 2012, the unexpended balance of all funds available for use by the State Department of Public Health or any of its predecessors in carrying out any functions transferred to the State Department of Health Care Services shall be available for use by the State Department of Health Care Services.

(e)Commencing July 1, 2012, all books, documents, records, and property of the State Department of Public Health pertaining to functions transferred to the State Department of Health Care Services shall be transferred to the State Department of Health Care Services.

(f)Commencing July 1, 2012, positions filled by appointment by the Governor in the State Department of Public Health whose principal assignment was to perform functions transferred to the State Department of Health Care Services shall be transferred to the State Department of Health Care Services. Individuals in positions transferred pursuant to this subdivision shall serve at the pleasure of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law unless otherwise provided.

(g)Commencing July 1, 2012, every officer and employee of the State Department of Public Health who is performing a function transferred to the State Department of Health Care Services and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the State Department of Health Care Services pursuant to the provisions of Section 19050.9 of the Government Code. The status, position, and rights of any officer or employee of the State Department of Public Health shall not be affected by the transfer and shall be retained by the person as an officer or employee of the State Department of Health Care Services, as applicable, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except for a position that is exempt from civil service.

(h)No contract, lease, license, or any other agreement to which the State Department of Public Health is a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with State Department of Health Care Services assuming all of the rights, obligations, liabilities, and duties of the State Department of Public Health as relates to the duties, powers, purposes, responsibilities, and jurisdiction vested by this section in the State Department of Health Care Services. The assumption by the State Department of Health Care Services shall not in any way affect the rights of the parties to any contract, lease, license, or agreement.

(Added by Stats. 2012, Ch. 23, Sec. 46. (AB 1467) Effective June 27, 2012.)

131055.2.

(a)Commencing July 1, 2013, the State Department of Public Health shall succeed to and be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction of the former State Department of Alcohol and Drug Programs as they relate to the Office of Problem and Pathological Gambling (Chapter 8 (commencing with Section 4369) of Part 3 of Division 4 of the Welfare and Institutions Code).

(b)For purposes of the Office of Problem and Pathological Gambling (Chapter 8 (commencing with Section 4369) of Part 3 of Division 4 of the Welfare and Institutions Code) and the Gambling Addiction Program Fund (Article 12 (commencing with Section 19950) of Chapter 5 of Division 8 of the Business and Professions Code), references to the State Department of Alcohol and Drug Programs shall refer to the State Department of Public Health.

(c)All fees collected from licensees in accordance with Article 12 (commencing with Section 19950) of Chapter 5 of Division 8 of the Business and Professions Code and deposited into the Gambling Addiction Program Fund shall be available to the State Department of Public Health in accordance with the requirements of that section.

(d)Notwithstanding any other law, any reference in statute, regulation, or contract to the State Department of Alcohol and Drug Programs or the State Department of Alcohol and Drug Abuse shall be construed to refer to the State Department of Public Health when it relates to the transfer of duties, powers, purposes, functions, responsibilities, and jurisdiction made pursuant to this section.

(e)No contract, lease, license, or any other agreement to which the State Department of Alcohol and Drug Programs is a party shall be made void or voidable by reason of this section, but shall continue in full force and effect with the State Department of Public Health assuming all of the rights, obligations, and duties of the State Department of Alcohol and Drug Programs with respect to the transfer of duties, powers, purposes, functions, responsibilities, and jurisdiction made pursuant to this section.

(f)(1)All unexpended balances of appropriations and other funds available for use by the State Department of Alcohol and Drug Programs in connection with any function or the administration of any law transferred to the State Department of Public Health pursuant to the act that enacted this section shall be available for use by the State Department of Public Health for the purpose for which the appropriation was originally made or the funds were originally available.

(2)The State Department of Public Health may, until July 1, 2017, liquidate the prior years™ encumbrances previously obligated by the Office of Problem and Pathological Gambling. The Controller shall transfer all balances of the following Budget Act appropriations from the Office of Problem and Pathological Gambling to the State Department of Public Health, for use by the State Department of Public Health to liquidate any prior years™ encumbrances previously obligated by the Office of Problem and Pathological Gambling:

(A)Items 4200-001-0367, 4200-101-0367, and 4200-001-3110 of Section 2.00 of the Budget Act of 2011 (Chapter 33 of the Statutes of 2011).

(B)Items 4200-001-0367, 4200-101-0367, and 4200-001-3110 of Section 2.00 of the Budget Act of 2012 (Chapter 21 of the Statutes of 2012).

(g)All books, documents, forms, records, data systems, and property of the State Department of Alcohol and Drug Programs with respect to the transfer of duties, powers, purposes, functions, responsibilities, and jurisdiction made pursuant to this section shall be transferred to the State Department of Public Health.

(h)Positions filled by appointment by the Governor in the State Department of Alcohol and Drug Programs whose principal assignment was to perform functions transferred pursuant to this section shall be transferred to the State Department of Public Health. All employees serving in state civil service, other than temporary employees, who are engaged in the performance of functions transferred pursuant to this section, are transferred to the State Department of Public Health pursuant to the provisions of Section 19050.9 of the Government Code. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with

Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions the duties of which are vested in a position exempt from civil service. The personnel records of all employees transferred pursuant to this section shall be transferred to the State Department of Public Health.

(i)Any regulation, order, or other action adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, power, purpose, function, or responsibility pursuant to the Office of Problem and Pathological Gambling (Chapter 8 (commencing with Section 4369) of Part 3 of Division 4 of the Welfare and Institutions Code) and the Gambling Addiction Program Fund (Article 12 (commencing with Section 19950) of Chapter 5 of Division 8 of the Business and Professions Code) in effect prior to July 1, 2013, shall remain in effect unless or until amended, readopted, or repealed, or until they expire by their own terms, and shall be deemed to be a regulation or action of the agency to which or officer to whom the program, duty, power, purpose, function, responsibility, or jurisdiction is assigned pursuant to this section.

(j)No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, power, purpose, function, or responsibility transferred pursuant to this section, shall abate by reason of the transfer of the program, duty, power, purpose, function, or responsibility under this section.

(Amended by Stats. 2013, Ch. 361, Sec. 2. (SB 101) Effective September 26, 2013.)

131056.

The department may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:

(a)To enforce its regulations.

(b)To enjoin and abate nuisances dangerous to health.

(c)To compel the performance of any act specifically enjoined upon any person, officer, or board, by any law of this state relating to the public health.

(d)To protect and preserve the public health.

It may defend all actions and proceedings involving its powers and duties. In all actions and proceedings it shall sue and be sued under the name of the department.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131057.

With the approval of the Department of Finance, and for use in the furtherance of the work of the department, the director may accept (a) grants of interest in real property, and (b) gifts of money from public agencies or from organizations or associations organized for scientific, educational, or charitable purposes.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131057.5.

(a)The State Department of Public Health shall investigate and apply for federal funding opportunities regarding promoting healthy eating and preventing obesity, including, but not limited to, those available under the federal Food, Conservation, and Energy Act of 2008 (Public Law 110-234), the federal Patient Protection and Affordable Care Act (Public Law 111-148), and the federal Healthy, Hunger-Free Kids Act of 2010 (Public Law 111-296).

(b)Upon receipt of federal funding regarding promoting healthy eating and preventing obesity, the State Department of Public Health may, in its sole discretion, provide in-kind support and award grants to support local assistance to local governments, nonprofit organizations, and local education agencies that the department deems eligible to encourage the sale and consumption of fresh fruits and vegetables, implement programs and initiatives that prevent obesity and hunger, and promote healthy eating and access to nutritious food in underserved and urban and rural communities. The award of these grants shall be exempt from the State Contract Act (Part 2 (commencing with Section 10100)) of Division 2 of the Public Contract Code.

(Added by Stats. 2011, Ch. 503, Sec. 2. (AB 152) Effective January 1, 2012.)

131058.

The State Department of Public Health may investigate, apply for, and enter into agreements to secure federal or nongovernmental funding opportunities for the purposes of advancing public health, subject to the provisions of Section 13326 of the Government Code for federal funding or applicable administrative review and approval for nongovernmental funding opportunities.

(Added by Stats. 2014, Ch. 31, Sec. 29. (SB 857) Effective June 20, 2014.)

131071.

Notwithstanding any other provision of law, whenever the department is authorized or required by statute, regulation, the due process provisions of the 14th amendment to the United States Constitution, and of subdivision (a) of Section 7 of Article I of the California Constitution, or required by contract, to conduct an adjudicative hearing leading to a final decision of the director or the department, all of the following shall apply:

(a)The proceeding shall be conducted pursuant to the administrative adjudication provisions of Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except as specified in this section.

(b)Notwithstanding Section 11502 of the Government Code, whenever the department conducts a hearing under Chapter 4.5 (commencing with Section 11400) or Chapter 5 (commencing with Section 11500) of Part

1 of Division 3 of Title 2 of the Government Code, the hearing shall be conducted before an administrative law judge selected by the department and assigned to a hearing office that complies with the procedural requirements of Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(c)(1)Notwithstanding Section 11508 of the Government Code, whenever the department conducts a hearing under Chapter 4.5 (commencing with Section 11400) or Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the time and place of the hearing shall be determined by the staff assigned to the hearing office hearing the matter, except as provided in paragraph (2) or unless the department by regulation specifies otherwise.

(2)Formal hearings requested by health facilities shall be held in the City of Sacramento.

(d)(1)Unless otherwise specified in this section, the following sections of the Government Code shall apply to any adjudicative hearing conducted by the department only if the department has not, by regulation, specified an alternative procedure for the particular type of hearing at issue: Section 11503 relating to accusations, Section 11504 relating to statements of issues, Section 11505 relating to the contents of the statement to respondent, Section 11506 relating to the notice of defense, Section 11507.6 relating to discovery rights and procedures, Section 11508 relating to the time and place of hearings, and Section 11516 relating to amendment of accusations.

(2)Any alternative procedure specified by the department in accordance with this subdivision shall conform to the purpose of the Government Code provision it replaces insofar as it is possible to do so consistent with the specific procedural requirements applicable to the type of hearing at issue.

(3)Any alternative procedures adopted by the department under this subdivision shall not diminish the amount of notice given of the issues to be heard by the department or deprive appellants of the right to discovery suitable to the particular proceedings. Except as specified in paragraph (2) of subdivision (c), modifications of timeframes or of the place of hearing made by regulation shall not lengthen timeframes within which the department is required to act nor require hearings to be held at a greater distance from the appellantsplace of residence or business than is the case under the otherwise applicable Government Code provision.

(e)The specific timelines specified in Section 11517 of the Government Code shall not apply to any adjudicative hearing conducted by the department to the extent that the department has, by regulation, specified different timelines for the particular type of hearing at issue.

(f)In the case of any adjudicative hearing conducted by the department, transcript, as used in subdivision (c) of Section 11517 of the Government Code, shall be deemed to include any alternative form of recordation of the oral proceedings, including, but not limited to, an audiotape.

(g)Pursuant to Section 11415.50 of the Government Code, the department may, by regulation, provide for any appropriate informal procedure to be used for an informal level of review that does not itself lead to a final decision of the department or the director. The procedures specified in Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to the informal level of review. Informal conferences concerning appeals by health facilities may be held in the Cities of Sacramento or Los Angeles.

(h)Notwithstanding any other provision of law, any adjudicative hearing conducted by the department that is conducted pursuant to a federal statutory or regulatory requirement that contains specific procedures may be conducted pursuant to those procedures to the extent they are inconsistent with the procedures specified

in this section.

(i)Nothing in this section shall supersede express provisions of law that apply to any hearing that is not adjudicative in nature or that does not involve due process rights specific to an individual or specific individuals, as opposed to the general public or a segment of the general public.

(j)The regulations of the former State Department of Health Services pertaining to adjudicative hearings pursuant to Section 100171 shall apply to the department until the department adopts regulations superseding those regulations. The department may enter into an interagency agreement with the State Department of Health Care Services to have the hearing office of the State Department of Health Care Services conduct adjudicative hearings on behalf of the department in accordance with this section.

(Added by Stats. 2007, Ch. 483, Sec. 37.7. Effective January 1, 2008.)

131075.

The department may enjoin and abate public nuisances.

(Added by renumbering Section 100175 by Stats. 2006, Ch. 241, Sec. 19. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131080.

The department may advise all local health authorities, and, when in its judgment the public health is menaced, it shall control and regulate their action.

(Added by renumbering Section 100180 by Stats. 2006, Ch. 241, Sec. 20. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131082.

Every person charged with the performance of any duty under the laws of this state relating to the preservation of the public health, who willfully neglects or refuses to perform the same, is guilty of a misdemeanor.

(Added by renumbering Section 100182 by Stats. 2006, Ch. 241, Sec. 21. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131085.

(a) The department may perform any of the following activities relating to the protection, preservation, and advancement of public health:

(1)Studies.

(2)Demonstrations of innovative methods.

(3)Evaluations of existing projects.

(4)Provision of training programs.

(5)Dissemination of information.

(b)In performing an activity specified in subdivision (a), the department may do any of the following:

(1)Perform the activity directly.

(2)Enter into contracts, cooperative agreements, or other agreements for the performance of the activity.

(3)Apply for and receive grants for the performance of the activity.

(4)Award grants for the performance of the activity.

(Added by renumbering Section 100185 by Stats. 2006, Ch. 241, Sec. 22. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131088.

(a)The department, in the licensing and certification of health professions in accordance with this chapter, shall not prohibit earn and learn programs for training of personnel. The department shall use licensing and certification standards that authorize the use of earn and learn training.

(b)Notwithstanding subdivision (a), the department shall not be required to establish a mandate specifying an accrediting entity must provide earn and learn programs for training in a profession licensed or certified by the department.

(c)As used in this section, earn and learn has the same meaning as defined in subdivision (q) of Section 14005 of the Unemployment Insurance Code.

(d)This section shall become operative on January 1, 2024.

(Added by Stats. 2021, Ch. 477, Sec. 3. (AB 1273) Effective January 1, 2022. Operative January 1, 2024, by its own provisions.)

131090.

The department may provide for consultant and advisory services and for the training of technical and professional personnel in educational institutions and field training centers approved by the department, and for the establishment and maintenance of field training centers in local health departments and in the department.

(Added by renumbering Section 100190 by Stats. 2006, Ch. 241, Sec. 23. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131095.

The department shall cause special investigation of the preparation and sale of drugs and food and their adulteration.

(Added by renumbering Section 100195 by Stats. 2006, Ch. 241, Sec. 24. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131100.

The department shall perform duties as required by law for the detection and prevention of the adulteration of articles used for food and drink, and for the punishment of persons guilty of violation of any law providing against their adulteration.

(Added by renumbering Section 100200 by Stats. 2006, Ch. 241, Sec. 25. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131105.

The department shall examine and may prevent the pollution of sources of public domestic water and ice supply.

(Added by renumbering Section 100205 by Stats. 2006, Ch. 241, Sec. 26. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131110.

(a)The department shall maintain a program of Environmental Management.

(b)This section shall become operative on July 1, 2014.

(Repealed (in Sec. 126) and added by Stats. 2014, Ch. 35, Sec. 127. (SB 861) Effective June 20, 2014. Section operative July 1, 2014, by its own provisions.)

131115.

The department may maintain a mental health service that shall advise and assist local departments of health

and education in the establishment of mental health services, particularly in connection with maternal and child health conferences and in the schools of the state.

The department may conduct these activities as may be required in the development of mental health services as related to public health.

This section does not authorize any form of compulsory medical or physical examination, treatment, or control of any person.

(Added by renumbering Section 100215 by Stats. 2006, Ch. 241, Sec. 28. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131125.

The department shall enforce Section 383b of the Penal Code.

(Added by renumbering Section 100225 by Stats. 2006, Ch. 241, Sec. 29. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131130.

(a)Any person who willfully sells, keeps for sale, or offers for sale any food, drug, device, or cosmetic knowing, after a written notice from either (1) a manufacturer, wholesaler, distributor, or importer, or (2) the department or a local health officer that the product linked to an outbreak of illness, injury, or product tampering is being ordered removed from sale by the department pursuant to Section 131080, shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) nor more than ten thousand dollars ($10,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both a fine and imprisonment.

(b)If a second or subsequent violation is committed after a previous conviction under this section has become final, the person shall be punished by a fine of not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by both a fine and imprisonment.

(c)Notwithstanding any other provision of law, the court may suspend the minimum fines provided for in this section if it determines that there are circumstances in mitigation and the court states on the record its reasons for suspending the minimum fine.

(Amended by Stats. 2011, Ch. 15, Sec. 204. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

131135.

Whenever any person violates any provision of Section 131130, the court may, as a condition of probation, order the defendant to pay, in lieu of any fine, any expenses, both direct and indirect, incurred by a local

health department or the department in monitoring compliance with the order pursuant to Section 131080, including, but not limited to, the costs of conducting inspections and imposing embargoes. The total costs payable to the department and local health departments collectively imposed pursuant to this section shall not exceed the maximum fine for the offense of which the defendant is convicted.

Any amount collected under this section shall be paid to the local health department incurring the expenses or, if to reimburse costs of the department, into the General Fund.

(Added by renumbering Section 100235 by Stats. 2006, Ch. 241, Sec. 31. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=112.&title=&part=1.&chapter=2.&article=2.

__Health and Safety Code - HSC__

__DIVISION 112. PUBLIC HEALTH [131000 - 131355]__

(Division 112 added by Stats. 2006, Ch. 241, Sec. 34.)

__PART 1. GENERAL PROVISIONS [131000 - 131355]__

(Part 1 added by Stats. 2006, Ch. 241, Sec. 34.)

__CHAPTER 2. General Powers of the Department [131050 - 131231]__

(Chapter 2 added by Stats. 2006, Ch. 241, Sec. 34.)

__ARTICLE 2. Regulatory Authorization and Review [131200 - 131225]__

(Article 2 added by Stats. 2006, Ch. 241, Sec. 34.)

131200.

The department may adopt and enforce regulations for the execution of its duties.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131205.

Notwithstanding any other provision of law, the department shall submit all of its regulations on matters related to statutory responsibilities delegated to or enforced by local health departments, except emergency regulations, to the California Conference of Local Health Officers for review and comment prior to adoption. If the department deems it appropriate to implement the proposed regulations or parts thereof, contrary to the recommendations of the conference, the department shall make a public finding summarizing the reasons for acting contrary to these recommendations.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131210.

The department, after consultation with and approval by the Conference of Local Health Officers, shall by regulation establish standards of education and experience for professional and technical personnel employed in local health departments and for the organization and operation of the local health departments. These standards may include standards for the maintenance of records of services, finances, and expenditures, that shall be reported to the director in a manner and at times as the director may specify.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131215.

(a)When a dispute arises as to the interpretation or enforcement of regulations of the department that are being enforced by a city, county, city and county, or district, a request for clarification or interpretation may be submitted to the department. The department shall make a determination of the proper interpretation and required enforcement when so requested by a party to the dispute.

(b)In making its determination, the department may conduct a hearing where all interested parties may present relative comments or arguments.

(c)Determinations of the department made pursuant to this section shall be transmitted to the concerned local agency and the involved party or parties within 60 days after the receipt of the request. The determination of the department shall be binding upon the local agency and the parties subject to the regulations of the department, except when the matter may be subject to judicial review.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131220.

Notwithstanding any other provision of law, but to the extent consistent with applicable federal law or regulation, the director may, after a request by a board of supervisors of an affected county and after a public hearing held in accordance with Section 11346 of the Government Code, waive regulations pertaining to the provision of hospital services in a hospital operated by a county or under contract to a county for a county with a population of 200,000 or less on January 1, 1980, if the director makes a finding that the waiver would not affect adversely the health and safety of persons in the county. The authority contained in this section shall be in addition to, and shall not supersede or limit, any other provision of law authorizing the waiver by the department of requirements contained in regulations adopted by the department relating to health facilities.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

131225.

(a)Notwithstanding any other provision of law, the department by regulation may provide for the issuance and renewal on a two-year basis of licenses, certificates of registration, or other indicia of authority issued pursuant to this code by the department.

(b)The department may by regulation set the fee for the two-year license, certificate of registration, or other indicia, not to exceed twice the annual fee for issuance or renewal set by statute.

(Added by Stats. 2006, Ch. 241, Sec. 34. Effective January 1, 2007. Operative July 1, 2007, by Sec. 37 of Ch. 241.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=112.&title=&part=1.&chapter=2.&article=3.

131230.

(a)To the extent that funding is appropriated by the Legislature or available through private funds in each fiscal year, the department shall establish and maintain the California Electronic Violent Death Reporting System.

(b)The department shall collect data on violent deaths as reported from data sources, including, but not limited to, death certificates, law enforcement reports, and coroner or medical examiner reports. The department shall post on its Internet Web site a summary and analysis of the collected data.

(c)(1)The department may enter into a contract, grant, or other agreement with a local agency to collect the data specified in subdivision (b) within the agencysjurisdiction.

(2)(A)The department may enter into a contract, grant, or other agreement with a local agency to collect the data specified in subdivision (b) from other local agencies if the following conditions are met:

(i)The local agency entering into the agreement agrees to collect the data from the other local agencies.

(ii)The local agency entering into the agreement is not responsible for reporting to the department data that have not been made available by the other local agencies.

(B)The other local agencies described in subparagraph (A) may also enter into their own agreements with the department pursuant to paragraph (1).

(3)The data collected pursuant to paragraph (1) or (2) shall be limited to data that the local agency entering into the agreement or the other local agencies are authorized to collect within their respective jurisdictions.

(4)A local agency entering into an agreement pursuant to paragraph (1) or (2) shall collect data based on existing or new data elements required by the California Electronic Violent Death Reporting System only to the extent that resources are made available.

(d)To the extent that funding is available for this purpose, a law enforcement agency may report to the department data on the circumstances surrounding all violent deaths from investigative reports and, if available, laboratory toxicology reports to be used by the department for the limited purpose of conducting public health surveillance and epidemiology. Aggregate data shall be public, but individual identifying information shall remain confidential. The collected data shall be based on the data elements of the federal Centers for Disease Control and PreventionsNational Violent Death Reporting System.

(e)The department may apply for grants provided under the National Violent Death Reporting System for purposes of implementing this section.

(f)The department may accept private or foundation moneys to implement this section.

(g)This section does not limit data sources that the department may collect, which may include any public agency document that may contain data on violent deaths.

(Added by Stats. 2016, Ch. 712, Sec. 2. (SB 877) Effective January 1, 2017.)

131231.

For purposes of this article, violent death means a death resulting from the use of physical force or power against oneself, another person, or a group or community, and includes, but is not limited to, homicide, suicide, legal intervention deaths, unintentional firearm deaths, and undetermined intent deaths.

(Added by Stats. 2016, Ch. 712, Sec. 2. (SB 877) Effective January 1, 2017.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=112.&title=&part=1.&chapter=3.&article=

__Health and Safety Code - HSC__

__DIVISION 112. PUBLIC HEALTH [131000 - 131355]__

(Division 112 added by Stats. 2006, Ch. 241, Sec. 34.)

__PART 1. GENERAL PROVISIONS [131000 - 131355]__

(Part 1 added by Stats. 2006, Ch. 241, Sec. 34.)

__CHAPTER 3. The Office of Suicide Prevention [131300 - 131320]__

(Chapter 3 added by Stats. 2020, Ch. 142, Sec. 2.)

131300.

(a)The State Department of Public Health is hereby authorized to establish the Office of Suicide Prevention in the department pursuant to this chapter. The responsibilities of the office, if established, may include all of the following:

(1)Providing information and technical assistance to statewide and regional partners regarding best practices on suicide prevention policies and programs.

(2)Conducting state level assessment of regional and statewide suicide prevention policies and practices, including other states™ suicide prevention policies, and including specific metrics and domains as appropriate.

(3)Monitoring and disseminating data to inform prevention efforts at the state and local levels.

(4)Convening experts and stakeholders, including, but not limited to, stakeholders representing populations with high rates of suicide, to encourage collaboration and coordination of resources for suicide prevention.

(5)Reporting on progress to reduce rates of suicide.

(b)If established, the office may focus activities on groups with the highest risk, including youth, Native American youth, older adults, veterans, and LGBTQ people.

(Amended by Stats. 2021, Ch. 143, Sec. 341. (AB 133) Effective July 27, 2021. Conditionally operative pursuant to Section 131320.)

131305.

If established, the Office of Suicide Prevention may share and receive data from all entities with data relevant to the responsibilities and objectives of the office, including, but not limited to, state, federal, local, and private and nongovernmental agencies or organizations.

(Added by Stats. 2020, Ch. 142, Sec. 2. (AB 2112) Effective January 1, 2021. Conditionally operative pursuant to Section 131320.)

131310.

If established, the Office of Suicide Prevention may apply for and utilize federal, state, and foundation grants.

(Added by Stats. 2020, Ch. 142, Sec. 2. (AB 2112) Effective January 1, 2021. Conditionally operative pursuant to Section 131320.)

131315.

If the Office of Suicide Prevention is established pursuant to Section 131300, all of the following shall apply:

(a)The Office of Suicide Prevention shall consult with the Mental Health Services Oversight and Accountability Commission to implement suicide prevention efforts consistent with the Mental Health Services Oversight and Accountability CommissionsSuicide Prevention Report Striving for Zero and described pursuant to Provision 1 of Item 4560-001-3085 of Section 2.00 of the Budget Act of 2020.

(b)This section does not authorize the Office of Suicide Prevention to perform any of the duties required by the commission under Part 3.7 (commencing with Section 5845) of Division 5 of, or administer any program funded by Part 4.5 (commencing with Section 5890) of Division 5 of, the Welfare and Institutions Code.

(Added by Stats. 2020, Ch. 142, Sec. 2. (AB 2112) Effective January 1, 2021. Conditionally operative pursuant to Section 131320.)

131320.

This chapter shall become operative only if funds are appropriated in the annual Budget Act or another statute for its purposes.

(Added by Stats. 2020, Ch. 142, Sec. 2. (AB 2112) Effective January 1, 2021.)

Codes Display Text

Source: [https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=112.

&title=&part=1.&chapter=4.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=112.&title=&part=1.&chapter=4.&article=)

__Health and Safety Code - HSC__

__DIVISION 112. PUBLIC HEALTH [131000 - 131355]__

(Division 112 added by Stats. 2006, Ch. 241, Sec. 34.)

__PART 1. GENERAL PROVISIONS [131000 - 131355]__

(Part 1 added by Stats. 2006, Ch. 241, Sec. 34.)

__CHAPTER 4. Childhood Drowning Data Collection Pilot Program [131350 - 131355]__

(Chapter 4 added by Stats. 2022, Ch. 817, Sec. 2.)

131350.

For purposes of this chapter, the following terms have the following meanings:

(a)Department means the State Department of Public Health.

(b)Data collection pilot program means the Childhood Drowning Data Collection Pilot Program established pursuant to this chapter.

(Added by Stats. 2022, Ch. 817, Sec. 2. (SB 855) Effective January 1, 2023. Repealed as of January 1, 2029, pursuant to Sec. 131355.)

131351.

(a)The Childhood Drowning Data Collection Pilot Program shall be administered by the department.

(b)The purpose of the data collection pilot program shall be to collect detailed data on childhood fatal and nonfatal drownings in California with a particular focus to be directed at childhood pool drownings among children one to four, inclusive, years of age. The data collection pilot program shall use existing department electronic data collection systems and determine how to highlight data on circumstances of drowning cases.

(Added by Stats. 2022, Ch. 817, Sec. 2. (SB 855) Effective January 1, 2023. Repealed as of January 1, 2029, pursuant to Sec. 131355.)

131352.

The data collection pilot program shall be implemented according to the following requirements:

(a)(1)The department shall establish the pilot program on or before January 1, 2024. On or before July 1, 2024, the department shall seek to collaborate with at least 5 but no more than 10 county child death review teams authorized pursuant to Section 11174.32 of the Penal Code, other local agencies that collect data on fatal and nonfatal drowning, or both.

(2)In soliciting participants pursuant to paragraph (1), the department shall primarily solicit counties with historically high fatal and nonfatal drowning rates among children one to four, inclusive, years of age.

(b)The data collection pilot program shall track child fatal drownings and collect detailed information on the circumstances surrounding these fatal drownings. The data collection pilot program shall also explore ways to track and collect similar data on nonfatal drowning using electronic forms and shall track that information, if feasible.

(Added by Stats. 2022, Ch. 817, Sec. 2. (SB 855) Effective January 1, 2023. Repealed as of January 1, 2029, pursuant to Sec. 131355.)

131353.

(a)(1)On or before January 1, 2026, the department shall submit a report to the appropriate legislative policy committees on the progress of the data collection program and findings of the data collection pilot program.

(2)In compiling the reports required pursuant to this section, the department shall solicit and consider stakeholder input.

(3)The report required pursuant to this subdivision shall include recommendations related to improving pool safety on a state and local level.

(b)(1)By January 1, 2027, the department shall, after consultation with an advisory group with expertise in childhood drowning prevention, submit a report on the findings of the data collection pilot program to the appropriate legislative policy committees. The department shall also post the report on its internet website.

(2)The report submitted pursuant to paragraph (1) shall include recommendations on the structure and operation of an ongoing system for collecting child drowning data and effective evidence-based state and local drowning prevention policies and best practices.

(c)The reports submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(Added by Stats. 2022, Ch. 817, Sec. 2. (SB 855) Effective January 1, 2023. Repealed as of January 1, 2029, pursuant to Sec. 131355.)

131354.

Based on the reports submitted pursuant to this chapter, the department shall develop both of the following:

(a)(1)A California Water Safety Action Plan for Children. The plan shall be a comprehensive, realistic, and executable plan patterned after the United States National Water Safety Action Plan, which aims to create water-safe communities and states.

(2)The department shall post the plan developed pursuant to this subdivision on its internet website on or before January 1, 2027.

(b)A standardized electronic form for counties to use in reporting drowning statistics developed in consultation with the state advisory group and the National Center for Fatality Review and Prevention.

(Added by Stats. 2022, Ch. 817, Sec. 2. (SB 855) Effective January 1, 2023. Repealed as of January 1, 2029, pursuant to Sec. 131355.)

131355.

This chapter shall remain in effect only until January 1, 2029, and as of that date is repealed.

(Added by Stats. 2022, Ch. 817, Sec. 2. (SB 855) Effective January 1, 2023. Repealed as of January 1, 2029, by its own provisions. Note: Repeal affects Chapter 4, commencing with Section 131350.)

Codes: Code Search

Source: https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=HSC&division=113.&title=&part=&chapter=&article=

Code:Section:
Keyword(s):

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=113.&title=&part=&chapter=1.&article=

__Health and Safety Code - HSC__

__DIVISION 113. THE ADULT HEALTH COVERAGE EXPANSION PROGRAM [131500 - 131550]__

(Division 113 added by Stats. 2007, Ch. 677, Sec. 2.)

__CHAPTER 1. General Provisions [131500 - 131502]__

(Chapter 1 added by Stats. 2007, Ch. 677, Sec. 2.)

131500.

This division shall be known and may be cited as the Adult Health Coverage Expansion Program.

(Added by Stats. 2007, Ch. 677, Sec. 2. Effective January 1, 2008.)

131501.

It is the intent of the Legislature that the Adult Health Coverage Expansion Program provide health care coverage on a pilot program basis to eligible adults domiciled and employed in Santa Clara County who are without health care coverage.

(Added by Stats. 2007, Ch. 677, Sec. 2. Effective January 1, 2008.)

131502.

The following definitions apply for purposes of this division:

(a)Local initiative has the same meaning as set forth in Section 12693.08 of the Insurance Code.

(b)Program means the Adult Health Coverage Expansion Program.

(c)Small business means an entity located in Santa Clara County that employs 50 or fewer persons, with at least 35 percent of the employees earning less than 350 percent of the federal poverty level for a family size of one, and that has not offered health care coverage to its employees for, at minimum, 12 consecutive months, provided that the provisions of any such prior coverage required the employer to contribute at least 50 percent of the total amount of the premium for that coverage. For purposes of the program authorized by this division, a small business shall be a small employer pursuant to Article 3.1 (commencing with Section 1357) of Chapter 2.2 of Division 2, subject to the provisions and exceptions of this division. Notwithstanding the company affiliation and tax filing provision of paragraph (1) of subdivision (l) of Section 1357, an individual franchise outlet shall be considered a small business.

(Added by Stats. 2007, Ch. 677, Sec. 2. Effective January 1, 2008.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=113.&title=&part=&chapter=2.&article=

__Health and Safety Code - HSC__

__DIVISION 113. THE ADULT HEALTH COVERAGE EXPANSION PROGRAM [131500 - 131550]__

(Division 113 added by Stats. 2007, Ch. 677, Sec. 2.)

__CHAPTER 2. Administration [131510 - 131511]__

(Chapter 2 added by Stats. 2007, Ch. 677, Sec. 2.)

131510.

The program may be implemented in Santa Clara County at the option of the local initiative, but if so implemented shall be as a pilot program. A maximum of 5,000 employees may be covered in the county, provided, however, that the number of enrollees may be increased pursuant to the prior approval of the Department of Managed Health Care. The local initiative shall administer the program.

(Added by Stats. 2007, Ch. 677, Sec. 2. Effective January 1, 2008.)

131511.

(a)In implementing the pilot program established pursuant to this division, the local initiative in Santa Clara County shall not be subject to the requirements of subdivision (a) of Section 1357.03. The program shall be otherwise subject to the requirements of Chapter 2.2 (commencing with Section 1340) of Division 2, including Article 3.1 (commencing with Section 1357) thereof, except as otherwise provided in this division, and shall be subject to approval as to regulatory filings with the Department of Managed Health Care as prescribed in Chapter 2.2 (commencing with Section 1340) of Division 2 and in implementing regulations promulgated by the department.

(b)Except in the case of a late enrollee or for satisfaction of a preexisting condition clause in the case of initial coverage for an eligible employee, the local initiative may not exclude any eligible employee who would otherwise be eligible for health care coverage under this division on the basis of an actual or expected health

care condition. The local initiative may not limit or exclude coverage for any eligible employee by type of illness, treatment, medical condition, or accident, except for preexisting conditions as permitted under Section 1357.06.

(c)Coverage provided through the program to an eligible small business shall be renewable with respect to all eligible employees at the option of the participating small business.

(Added by Stats. 2007, Ch. 677, Sec. 2. Effective January 1, 2008.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=113.&title=&part=&chapter=3.&article=

__Health and Safety Code - HSC__

__DIVISION 113. THE ADULT HEALTH COVERAGE EXPANSION PROGRAM [131500 - 131550]__

(Division 113 added by Stats. 2007, Ch. 677, Sec. 2.)

__CHAPTER 3. Eligibility [131520 - 131522]__

(Chapter 3 added by Stats. 2007, Ch. 677, Sec. 2.)

131520.

Notwithstanding subdivision (b) of Section 1357, only an adult age 19 to 64 years, inclusive, employed by a small business for a minimum of 20 hours per week is eligible to participate in the program if he or she has a gross annual income that is less than 350 percent of the federal poverty level for a family size of one, and his or her employer participates in the program. Dependents, spouses, and domestic partners of employees are not eligible for the program.

(Added by Stats. 2007, Ch. 677, Sec. 2. Effective January 1, 2008.)

131521.

(a)A small business may apply to the local initiative that administers the program to obtain coverage for its employees who meet the requirements of Section 131520.

(b)At least 50 percent of the employees of an otherwise eligible small business must meet the eligibility requirements of Section 131520, and at least 50 percent of those eligible employees must choose to receive coverage through the program in order for the small business to qualify to participate in the program.

(Added by Stats. 2007, Ch. 677, Sec. 2. Effective January 1, 2008.)

131522.

The program shall screen potential enrollees to determine if they meet the eligibility requirements for the Medi-Cal program.

(Added by Stats. 2007, Ch. 677, Sec. 2. Effective January 1, 2008.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=113.&title=&part=&chapter=4.&article=

Code Text

__Health and Safety Code - HSC__

__DIVISION 113. THE ADULT HEALTH COVERAGE EXPANSION PROGRAM [131500 - 131550]__

(Division 113 added by Stats. 2007, Ch. 677, Sec. 2.)

__CHAPTER 4. Benefits [131530 - 131531]__

(Chapter 4 added by Stats. 2007, Ch. 677, Sec. 2.)

131530.

The local initiative that establishes a program shall offer health care coverage through the program, and all health care services shall be provided to participants by a provider operated by the county or by a provider with whom or with which the county or the local initiative has contracted to provide health care services, except for emergency or out-of-area care or instances in which a required specialized service is not contracted for by the county or the local initiative.

(Added by Stats. 2007, Ch. 677, Sec. 2. Effective January 1, 2008.)

131531.

The health care services provided through the program to eligible employees shall, to the extent practicable, be substantially similar to the benefits offered to adults under the Healthy Families Program pursuant to Chapter 5 (commencing with Section 12693.60) of Part 6.2 of the Insurance Code, but shall include at least all of the basic health care services included in subdivision (b) of Section 1345 and in Section 1300.67 of Title 28 of the California Code of Regulations.

(Added by Stats. 2007, Ch. 677, Sec. 2. Effective January 1, 2008.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=113.&title=&part=&chapter=5.&article=

131540.

(a)(1)The cost of the health care coverage provided through the program shall be paid through a combination of contributions paid by the small business, premiums paid by participating employees, and county, federal, state, or private sector funding made available for this purpose.

(2)The local initiative may determine the amount of the employer contribution for each participating eligible employee, which shall not exceed one hundred fifty dollars ($150) per month, and the amount of the employee premium, which shall not exceed seventy-five dollars ($75) per month. The local initiative may adjust employer contribution and employee premium levels after the first year if necessary for changes in health care costs.

(3)The local initiative may structure the required employee premium amounts according to a schedule that takes into account the individual employeesage or income level, or both, in a manner similar, but not necessarily identical, to that described in Section 12693.43 of the Insurance Code, pertaining to the Healthy Families Program.

(4)The local initiative shall establish copayment levels and amounts in a manner substantially similar to that described in Section 12693.615 of the Insurance Code, pertaining to the Healthy Families Program.

(5)For purposes of the program, applicable rate charged for a covered employee in Section 1366.26 means the total premium amount paid to the health plan on behalf of an employee, including amounts paid by the small business on behalf of the employee, the premium paid by the employee, and any county, federal, state, or private sector funding, which funding shall include the value of the discounted rates negotiated pursuant to subdivision (b), as apportioned to the employee. The program shall submit to the Department of Managed Health Care the procedures the local initiative will use for purposes of establishing the rates to be paid by a person eligible for continuation coverage under Section 1366.26, and the department shall only approve those procedures if it determines that they are consistent with the requirements of the Cal-COBRA program.

(b)In order to enhance the affordability of coverage offered through the program to eligible small businesses and employees, the county and the local initiative shall negotiate discounted rates for services provided to participants in the program by providers operated by the county or by providers with whom, or with which, the county has contracted to provide health care services.

(Amended by Stats. 2008, Ch. 179, Sec. 164. Effective January 1, 2009.)

131541.

The local initiative shall be authorized to establish, participate in, or apply to funding sources in the public and private sectors for purposes of providing or securing premium subsidies for eligible employees, pursuant to fair and equitable procedures to be established by the local initiative.

(Added by Stats. 2007, Ch. 677, Sec. 2. Effective January 1, 2008.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=113.&title=&part=&chapter=6.&article=

__Health and Safety Code - HSC__

__DIVISION 113. THE ADULT HEALTH COVERAGE EXPANSION PROGRAM [131500 - 131550]__

(Division 113 added by Stats. 2007, Ch. 677, Sec. 2.)

__CHAPTER 6. Evaluation [131550- 131550.]__

(Chapter 6 added by Stats. 2007, Ch. 677, Sec. 2.)

131550.

The county and the local initiative shall together evaluate the pilot program after three years, including all of the following: the number of individuals served, the demographics of the individuals served, the number of employees turned away due to the limitation on enrollment in Section 131510, the number of small businesses participating, the number of small businesses turned away due to the limitation on enrollment of individuals, funding sources (including employees, employers, county, state, federal, and other sources), and the health status of enrollees.

(Added by Stats. 2007, Ch. 677, Sec. 2. Effective January 1, 2008.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=114.&title=&part=&chapter=&article=

__Health and Safety Code - HSC__

__DIVISION 114. Prescription Drug Discount Prohibition [132000 - 132008]__

(Division 114 added by Stats. 2017, Ch. 611, Sec. 1.)

132000.

(a)Except as provided in Section 132004, a person who manufactures a prescription drug shall not offer in the state a discount, repayment, product voucher, or other reduction in an individualsout-of-pocket expenses associated with his or her health insurance, health care service plan, or other health coverage, including, but not limited to, a copayment, coinsurance, or deductible, for a prescription drug if a lower cost generic drug is covered under the individualshealth insurance, health care service plan, or other health coverage on a lower cost-sharing tier that is designated to be therapeutically equivalent as indicated by the United States Food and Drug AdministrationsApproved Drug Products with Therapeutic Equivalence Evaluations.

(b)The prohibition in subdivision (a) shall not apply to a branded prescription drug, until the time that the first drug designated in the United States Food and Drug AdministrationsApproved Drug Products with Therapeutic Equivalence Evaluations as therapeutically equivalent to that branded prescription drug has been nationally available for three calendar months.

(Added by Stats. 2017, Ch. 611, Sec. 1. (AB 265) Effective January 1, 2018.)

132002.

Except as provided in Section 132004, a person who manufactures a prescription drug shall not offer in the state a discount, repayment, product voucher, or other reduction in the individualsout-of-pocket expenses associated with his or her health insurance, health care service plan, or other health coverage, including, but not limited to, a copayment, coinsurance, or deductible, for a prescription drug if the active ingredients of the drug are contained in products regulated by the federal Food and Drug Administration, are available without prescription at a lower cost, and are not otherwise contraindicated for treatment of the condition for which the prescription drug is approved.

(Added by Stats. 2017, Ch. 611, Sec. 1. (AB 265) Effective January 1, 2018.)

132004.

The prohibitions in Sections 132000 and 132002 shall not apply to any of the following:

(a)A discount, repayment, product voucher, or other payment to a patient or another person on the patientsbehalf for a prescription drug required under a United States Food and Drug Administration Risk Evaluation and Mitigation Strategy for the purpose of monitoring or facilitating the use of that prescription drug in a manner consistent with the approved labeling of the prescription drug.

(b)A single-tablet drug regimen for treatment or prevention of human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) that is as effective as a multitablet regimen, unless, consistent with clinical guidelines and peer-reviewed scientific and medical literature, the multitablet regimen is clinically equally effective or more effective and is more likely to result in adherence to the drug regimen.

(c)The individual has completed any applicable step therapy or prior authorization requirements for the branded prescription drug as mandated by the individualshealth insurer, health care service plan, or other health coverage.

(d)A discount, repayment, product voucher, or other reduction in an individualsout-of-pocket expenses is not associated with his or her health insurance, health care service plan, or other health coverage.

(e)Rebates received by a state agency.

(Added by Stats. 2017, Ch. 611, Sec. 1. (AB 265) Effective January 1, 2018.)

132006.

This division does not prohibit an entity, including an entity that manufactures prescription drugs or a patient assistance program that is solely funded by one or more manufacturers, from offering a pharmaceutical product free of any cost, if the product is free of cost to both the patient and his or her health insurer, health care service plan, or other health coverage.

(Added by Stats. 2017, Ch. 611, Sec. 1. (AB 265) Effective January 1, 2018.)

132008.

(a)This division shall not be deemed to affect a pharmacistsability to substitute a prescription drug pursuant to Section 4073 of the Business and Professions Code.

(b)(1)This division shall not prohibit or limit assistance to a patient provided by an independent charity patient assistance program.

(2)For purposes of this section, independent charity patient assistance program means a program that

meets all of the following requirements:

(A)The program does not allow a pharmaceutical manufacturer or an affiliate of the manufacturer, including, but not limited to, an employee, agent, officer, shareholder, contractor, wholesaler, distributor, or pharmacy benefits manager, to exert any direct or indirect influence or control over the charity or subsidy program.

(B)Assistance is awarded in a truly independent manner that severs any link between a pharmaceutical manufacturersfunding and the beneficiary.

(C)Assistance is awarded without regard to the pharmaceutical manufacturersinterest and without regard to the beneficiaryschoice of product, provider, practitioner, supplier, health insurance, health care service plan, or other health coverage.

(D)Assistance is awarded based upon a reasonable, verifiable, and uniform measure of financial need that is applied in a consistent manner.

(E)The pharmaceutical manufacturer does not solicit or receive data from the program that would facilitate the manufacturer in correlating the amount or frequency of its donations with the number of subsidized prescriptions for its products.

(Added by Stats. 2017, Ch. 611, Sec. 1. (AB 265) Effective January 1, 2018.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=114.01.&title=&part=&chapter=&article=

134000.

For purposes of this division:

(a)ANDA means abbreviated new drug application.

(b)ANDA filer means a party that owns or controls an ANDA filed with the Food and Drug Administration or has the exclusive rights under that ANDA to distribute the ANDA product.

(c)Agreement means anything that would constitute an agreement under California state law or a trust under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Division 7 of the Business and Professions Code).

(d)Agreement resolving or settling a patent infringement claim includes any agreement that is entered into within 30 days of the resolution or the settlement of the claim, or any other agreement that is contingent upon, provides a contingent condition for, or is otherwise related to the resolution or settlement of the claim. This shall include, but is not limited to, the following:

(1)Any agreement required to be provided to the Federal Trade Commission or the Antitrust Division of the United States Department of Justice under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173).

(2)Any agreement between a biosimilar or interchangeable product applicant and a reference product sponsor under the Biologics Price Competition and Innovation Act of 2009 (BPCIA) (Public Law 111-148) that resolves patent claims between the applicant and sponsor.

(e)Biosimilar biological product application filer means a party that owns or controls a biosimilar biological product application filed with the Food and Drug Administration under Section 351(k) of the Public Health Service Act (42 U.S.C. 262(k)) for licensure of a biological product as biosimilar to, or interchangeable with, a reference product, or that has the exclusive rights under the application to distribute the biosimilar biological product.

(f)NDA means new drug application.

(g)Nonreference drug filer means either:

(1)An ANDA filer.

(2)A biosimilar biological product application filer.

(h)Nonreference drug product means the product to be manufactured under an ANDA that is the subject of the patent infringement claim, a biosimilar biological product that is the product to be manufactured under the biosimilar biological product application that is the subject of the patent infringement claim, or both.

(i)Patent infringement means infringement of any patent or of any filed patent application, extension, reissue, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patents of addition, and extensions thereof.

(j)Patent infringement claim means any allegation made to a nonreference drug filer, whether or not included in a complaint filed with a court of law, that its nonreference drug product or application infringes any patent held by, or exclusively licensed to, the reference drug holder.

(k)Reference drug holder means either:

(1)A brand holder that is any of the following:

(A)The holder of an approved NDA for a drug product application filed under Section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)).

(B)A person owning or controlling enforcement of the patent listed in the Approved Drug Products With Therapeutic Equivalence Evaluations (commonly known as the FDA Orange Book) in connection with the NDA.

(C)The predecessors, subsidiaries, divisions, groups, and affiliates controlled by, controlling, or under common control with, any of the entities described in subparagraph (A) or (B), with control to be presumed by direct or indirect share ownership of 50 percent or greater, as well as the licensees, licensors, successors, and assigns of each of those entities.

(2)A biological product licenseholder, which means any of the following:

(A)The holder of an approved biological product license application for a biological drug product under Section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)).

(B)A person owning or controlling enforcement of any patents that claim the biological product that is the subject of the approved biological patent license application.

(C)The predecessors, subsidiaries, divisions, groups, and affiliates controlled by, controlling, or under common control with, any of the entities described in subparagraph (A) or (B), with control to be presumed by direct or indirect share ownership of 50 percent or greater, as well as the licensees, licensors, successors, and assigns of each of those entities.

(l)Reference drug product means the product to be manufactured by the reference drug holder and includes both branded drugs of the NDA holder and the biologic drug product of the biologic product license applicant.

(m)Statutory exclusivity means those prohibitions on the approval of drug applications under clauses (ii) through (iv), inclusive, of Section 505(c)(3)(E) (5-year and 3-year data exclusivity), Section 527 (orphan drug exclusivity), or Section 505A (pediatric exclusivity), of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(c)(3)(E), 360cc, and 355a, respectively) or on the licensing of biological product applications under Section 262(k)(7) of Title 42 of the United States Code (12-year exclusivity) or Section 262(m)(2) or (3) of Title 42 of the United States Code (pediatric exclusivity).

(Added by Stats. 2019, Ch. 531, Sec. 1. (AB 824) Effective January 1, 2020.)

134002.

(a)(1)Except as provided in paragraph (3), an agreement resolving or settling, on a final or interim basis, a patent infringement claim, in connection with the sale of a pharmaceutical product, shall be presumed to have anticompetitive effects and shall be a violation of this section if both of the following apply:

(A)A nonreference drug filer receives anything of value from another company asserting patent infringement, including, but not limited to, an exclusive license or a promise that the brand company will not launch an authorized generic version of its brand drug.

(B)The nonreference drug filer agrees to limit or forego research, development, manufacturing, marketing, or sales of the nonreference drug filersproduct for any period of time.

(2)As used in subparagraph (A) of paragraph (1), anything of value does not include a settlement of a patent infringement claim in which the consideration granted by the brand or reference drug filer to the nonreference drug filer as part of the resolution or settlement consists of only one or more of the following:

(A)The right to market the competing product in the United States before the expiration of either:

(i)A patent that is the basis for the patent infringement claim.

(ii)A patent right or other statutory exclusivity that would prevent the marketing of the drug.

(B)A covenant not to sue on a claim that the nonreference drug product infringes a United States patent.

(C)Compensation for saved reasonable future litigation expenses of the reference drug holder but only if both of the following are true:

(i)The total compensation for saved litigation expenses is reflected in budgets that the reference drug holder documented and adopted at least six months before the settlement.

(ii)The compensation does not exceed the lower of the following:

(I)Seven million five hundred thousand dollars ($7,500,000).

(II)Five percent of the revenue that the nonreference drug holder projected or forecasted it would receive in the first three years of sales of its version of the reference drug documented at least 12 months before the settlement. If no projections or forecasts are available, the compensation does not exceed two hundred fifty thousand dollars ($250,000).

(D)An agreement resolving or settling a patent infringement claim that permits a nonreference drug filer to begin selling, offering for sale, or distributing the nonreference drug product if the reference drug holder seeks approval to launch, obtains approval to launch, or launches a different dosage, strength, or form of the reference drug having the same active ingredient before the date set by the agreement for entry of the nonreference drug filer. A different form of the reference drug does not include an authorized generic version of the reference drug.

(E)An agreement by the reference drug holder not to interfere with the nonreference drug filersability to secure and maintain regulatory approval to market the nonreference drug product or an agreement to facilitate the nonreference drug filersability to secure and maintain regulatory approval to market the nonreference drug product.

(F)An agreement resolving a patent infringement claim in which the reference drug holder forgives the potential damages accrued by a nonreference drug holder for an at-risk launch of the nonreference drug product that is the subject of that claim.

(3)Parties to an agreement are not in violation of paragraph (1) if they can demonstrate by a preponderance of the evidence that either of the following are met:

(A)The value received by the nonreference drug filer described in subparagraph (A) of paragraph (1) is a fair and reasonable compensation solely for other goods or services that the nonreference drug filer has promised to provide.

(B)The agreement has directly generated procompetitive benefits and the procompetitive benefits of the agreement outweigh the anticompetitive effects of the agreement.

(b)In determining whether the parties to the agreement have met their burden under paragraph (3) of subdivision (a), the factfinder shall not presume any of the following:

(1)That entry into the marketplace could not have occurred until the expiration of the relevant patent exclusivity or that the agreementsprovision for entry of the nonreference drug product before the expiration of any patent exclusivity means that the agreement is procompetitive within the meaning of subparagraph (B) of paragraph (3) of subdivision (a).

(2)That any patent is enforceable and infringed by the nonreference drug filer in the absence of a final adjudication binding on the filer of those issues.

(3)That the agreement caused no delay in entry of the nonreference drug filersdrug product because of the

lack of federal Food and Drug Administration (FDA) approval of that or of another nonreference drug product.

(4)That the agreement caused no harm or delay due to the possibility that the nonreference drug filersdrug product might infringe some patent that has not been asserted against the nonreference drug filer or that is not subject to a final and binding adjudication on that filer as to the patentsscope, enforceability, and infringement.

(5)This subdivision shall not be construed to preclude a party from introducing evidence regarding paragraphs (1) to (4), inclusive, and shall not be construed to preclude the factfinder from making a determination regarding paragraphs (1) to (4), inclusive, based on the full scope of the evidence.

(c)In determining whether the parties to the agreement have met their burden under paragraph (3) of subdivision (a), the factfinder shall presume that the relevant product market is that market consisting of the brand or reference drug of the company alleging patent infringement and the drug product of the nonreference company accused of infringement and any other biological product that is licensed as biosimilar or is an AB-rated generic to the reference product.

(d)(1)This section does not modify, impair, limit, or supersede the applicability of the antitrust laws of California as defined in the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or the unfair competition law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code), or the availability of damages or remedies provided therein. This section does not modify, impair, limit, or supersede the right of any drug company applicant to assert claims or counterclaims against any person, under the antitrust laws or other laws relating to unfair competition of the federal antitrust law or state law.

(2)If any provision of this division, an amendment made to this division, or the application of any provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this division, the amendments made to this division, and the application of the provisions of this division or amendments to any person or circumstance shall not be affected.

(e)(1)(A)Each person that violates or assists in the violation of this section shall forfeit and pay to the State of California a civil penalty sufficient to deter violations of this section, as follows:

(i)If the person who violated this section received any value due to that violation, an amount up to three times the value received by the party that is reasonably attributable to the violation of this section, or twenty million dollars ($20,000,000), whichever is greater.

(ii)If the violator has not received anything of value as described in clause (i), an amount up to three times the value given to other parties to the agreement reasonably attributable to the violation of this section, or twenty million dollars ($20,000,000), whichever is greater.

(iii)For purposes of this subdivision, reasonably attributable to the violation shall be determined by Californiasshare of the market for the brand drug at issue in the agreement.

(B)Any penalty described in subparagraph (A) shall accrue only to the State of California and shall be recovered in a civil action brought by the Attorney General in its own name, or by any of its attorneys designated by it for that purpose, against any party to an agreement that violates this section.

(2)Each party that violates or assists in the violation of this section shall be liable for any damages, penalties,

costs, fees, injunctions, or other remedies that may be just and reasonable and available under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or the unfair competition law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code), as applicable.

(3)If the State of California is awarded penalties under subparagraph (A) of paragraph (1), it may not recover penalties pursuant to another law identified in paragraph (2). This section shall not be construed to foreclose the State of Californiasability to claim any relief or damages available in paragraph (2), other than those that are penalties.

(4)An action to enforce a cause of action for a violation of this section shall be commenced within four years after the cause of action accrued.

(Added by Stats. 2019, Ch. 531, Sec. 1. (AB 824) Effective January 1, 2020.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=116.&title=&part=&chapter=&article=

__DIVISION 116. SURPLUS MEDICATION COLLECTION AND DISTRIBUTION [150200 - 150208]__

(Division 116 added by Stats. 2005, Ch. 444, Sec. 1.)

150200.

It is the intent of the Legislature in enacting this division to authorize the establishment of a voluntary drug repository and distribution program for the purpose of distributing surplus medications to persons in need of financial assistance to ensure access to necessary pharmaceutical therapies. It is also the intent of the Legislature that the health and safety of Californians are protected and promoted through this program, while reducing unnecessary waste at licensed health and care facilities, by allowing those facilities to donate unused and unexpired medications that were never in the hands of a patient or resident and for which no credit or refund to the patient or resident could be received.

(Amended by Stats. 2012, Ch. 709, Sec. 1. (SB 1329) Effective January 1, 2013.)

150201.

For purposes of this division:

(a)Donor organization means an entity described in subdivision (a) of Section 150202.

(b)Eligible entity means all of the following:

(1)A licensed pharmacy, as defined in subdivision (a) of Section 4037 of the Business and Professions Code, that is county owned or that contracts with the county pursuant to this division and is not on probation with the California State Board of Pharmacy.

(2)A licensed pharmacy, as defined in subdivision (a) of Section 4037 of the Business and Professions Code, that is owned and operated by a primary care clinic, as defined in Section 1204, that is licensed by the State Department of Public Health and is not on probation with the California State Board of Pharmacy.

(3)A primary care clinic, as defined in Section 1204, that is licensed by the State Department of Public Health and licensed to administer and dispense drugs pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 4180 of the Business and Professions Code and is not on probation with the California State Board of Pharmacy.

(c)Medication or medications means a dangerous drug, as defined in Section 4022 of the Business and Professions Code.

(d)Participating entity means an eligible entity that has received written or electronic documentation from the county health department pursuant to paragraph (3) of subdivision (a) of Section 150204 and that operates a repository and distribution program pursuant to this division.

(Amended by Stats. 2014, Ch. 10, Sec. 3. (AB 467) Effective April 9, 2014.)

150202.

(a)Notwithstanding any other law, a donor organization is defined, for purposes of this division, to refer to the following facilities, hospitals, and entities that legally possess centrally stored, unused medication:

(1)A licensed general acute care hospital, as defined in Section 1250.

(2)A licensed acute psychiatric hospital, as defined in Section 1250.

(3)A licensed skilled nursing facility, as defined in Section 1250, including a skilled nursing facility designated as an institution for mental disease.

(4)A licensed intermediate care facility, as defined in Section 1250.

(5)A licensed intermediate care facility/developmentally disabled-habilitative facility, as defined in Section 1250.

(6)A licensed intermediate care facility/developmentally disabled-nursing facility, as defined in Section 1250.

(7)A licensed correctional treatment center, as defined in Section 1250.

(8)A licensed psychiatric health facility, as defined in Section 1250.2.

(9)A licensed chemical dependency recovery hospital, as defined in Section 1250.3.

(10)A licensed residential care facility for the elderly, as defined in Section 1569.2, with 16 or more residents.

(11)An approved mental health rehabilitation center, as described in Section 5675 of the Welfare and Institutions Code.

(12)An eligible entity, as defined in subdivision (b) of Section 150201.

(13)A juvenile facility, as described in Section 208.3 of the Welfare and Institutions Code.

(14)A local detention facility, as described in Section 6031.4 of the Penal Code.

(15)A facility that is any of the following:

(A)Licensed by the State Department of Social Services.

(B)Licensed by the State Department of Public Health.

(C)Licensed by the State Department of Health Care Services.

(D)Licensed by or under the jurisdiction of the Department of Corrections and Rehabilitation.

(E)Licensed by or under the jurisdiction of the Division of Juvenile Justice.

(16)A licensed home health agency, as defined in Section 1725.

(17)A licensed hospice agency, as defined in Section 1745.

(18)A licensed hospice facility, as defined in subdivision (n) of Section 1250.

(b)Medication donated by facilities pursuant to subdivision (a) shall meet the requirements of subdivisions (c) and (d) of Section 150204 and shall be unexpired medication that would have otherwise been destroyed by the facility or another appropriate entity.

(c)Medication eligible for donation by facilities pursuant to subdivision (a) shall be directly delivered from the dispensing pharmacy, wholesaler or manufacturer, to the facility and subsequently centrally stored. Centrally stored medication that originated from a patient or resident is not eligible for donation under this division.

(Amended by Stats. 2022, Ch. 886, Sec. 1. (SB 1346) Effective January 1, 2023.)

150202.5.

Notwithstanding any other law, a pharmacy, licensed in California and not on probation with the California State Board of Pharmacy may donate unused, unexpired medication that meets the requirements of subdivisions (c) and (d) of Section 150204, under a program established pursuant to this division and that meets either of the following requirements:

(a)The medication was received directly from a manufacturer or wholesaler.

(b)The medication was returned from a health facility to the issuing pharmacy, in a manner consistent with state and federal law.

(Amended by Stats. 2022, Ch. 886, Sec. 2. (SB 1346) Effective January 1, 2023.)

150203.

Notwithstanding any other provision of law, a wholesaler licensed pursuant to Article 11 (commencing with Section 4160) of Chapter 9 of Division 2 of the Business and Professions Code and a drug manufacturer that is legally authorized under federal law to manufacture and sell pharmaceutical drugs may donate unused medications under the voluntary drug repository and distribution program established by a county pursuant to this division.

(Added by Stats. 2005, Ch. 444, Sec. 1. Effective January 1, 2006.)

150204.

(a)(1)A county may establish, by an action of the county board of supervisors or by an action of the public health officer of the county, as directed by the county board of supervisors, a repository and distribution program for purposes of this division. The county shall advise the California State Board of Pharmacy within 30 days from the date it establishes a repository and distribution program.

(2)Only an eligible entity, pursuant to Section 150201, may participate in this program to dispense medication donated to the drug repository and distribution program.

(3)An eligible entity that seeks to participate in the program shall inform the county health department and the California State Board of Pharmacy in writing of its intent to participate in the program. An eligible entity may not participate in the program until it has received written or electronic documentation from the county health department confirming that the department has received its notice of intent.

(4)(A)A participating entity shall disclose to the county health department on a quarterly basis the name and location of the source of all donated medication it receives.

(B)A participating primary care clinic, as described in Section 150201, shall disclose to the county health department the name of the licensed physician who shall be accountable to the California State Board of Pharmacy for the clinicsprogram operations pursuant to this division. This physician shall be the professional director, as defined in subdivision (c) of Section 4182 of the Business and Professions Code.

(C)The county board of supervisors or public health officer of the county shall, upon request, make available to the California State Board of Pharmacy the information in this division.

(5)The county board of supervisors, the public health officer of the county, and the California State Board of Pharmacy may prohibit an eligible or participating entity from participating in the program if the entity does not comply with the provisions of the program, pursuant to this division. If the county board of supervisors, the public health officer of the county, or the California State Board of Pharmacy prohibits an eligible or participating entity from participating in the program, it shall provide written notice to the prohibited entity

within 15 days of making this determination. The county board of supervisors, the public health officer of the county, and the California State Board of Pharmacy shall ensure that this notice also is provided to one another.

(b)A county that elects to establish a repository and distribution program pursuant to this division shall establish written procedures for, at a minimum, all of the following:

(1)Establishing eligibility for medically indigent patients who may participate in the program.

(2)Ensuring that patients eligible for the program shall not be charged for any medications provided under the program.

(3)Developing a formulary of medications appropriate for the repository and distribution program.

(4)Ensuring proper safety and management of any medications collected by and maintained under the authority of a participating entity.

(5)Ensuring the privacy of individuals for whom the medication was originally prescribed.

(c)Any medication donated to the repository and distribution program shall comply with the requirements specified in this division. Medication donated to the repository and distribution program shall meet all of the following criteria:

(1)The medication shall not be a controlled substance.

(2)The medication shall not have been adulterated, misbranded, or stored under conditions contrary to standards set by the United States Pharmacopoeia (USP) or the product manufacturer.

(3)The medication shall not have been in the possession of a patient or any individual member of the public, and in the case of medications donated by a health or care facility, as described in Section 150202, shall have been under the control of a staff member of the health or care facility who is licensed in California as a health care professional or has completed, at a minimum, the training requirements specified in Section 1569.69.

(d)(1)Only medication that is donated in unopened, tamper-evident packaging or modified unit dose containers that meet USP standards is eligible for donation to the repository and distribution program, provided lot numbers and expiration dates are affixed. Medication donated in opened containers shall not be dispensed by the repository and distribution program, and once identified, shall be quarantined immediately and handled and disposed of in accordance with the Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104).

(2)(A)A medication that is the subject of a United States Food and Drug Administration managed risk evaluation and mitigation strategy pursuant to Section 355-1 of Title 21 of the United States Code shall not be donated if this inventory transfer is prohibited by that strategy, or if the inventory transfer requires prior authorization from the manufacturer of the medication.

(B)A medication that is the subject of a United States Food and Drug Administration managed risk evaluation and mitigation strategy pursuant to Section 355-1 of Title 21 of the United States Code, the donation of which is not prohibited pursuant to subparagraph (A), shall be managed and dispensed according to the requirements of that strategy.

(e)A pharmacist or physician at a participating entity shall use his or her professional judgment in

determining whether donated medication meets the standards of this division before accepting or dispensing any medication under the repository and distribution program.

(f)A pharmacist or physician shall adhere to standard pharmacy practices, as required by state and federal law, when dispensing all medications.

(g)Medication that is donated to the repository and distribution program shall be handled in the following ways:

(1)Dispensed to an eligible patient.

(2)Destroyed.

(3)Returned to a reverse distributor or licensed waste hauler.

(4)(A)Transferred to another participating entity within the county to be dispensed to eligible patients pursuant to this division. Notwithstanding this paragraph, a participating county-owned pharmacy may transfer eligible donated medication to a participating county-owned pharmacy within another adjacent county that has adopted a program pursuant to this division, if the pharmacies transferring the medication have a written agreement between the entities that outlines protocols and procedures for safe and appropriate drug transfer that are consistent with this division.

(B)Medication donated under this division shall not be transferred by any participating entity more than once, and after it has been transferred, shall be dispensed to an eligible patient, destroyed, or returned to a reverse distributor or licensed waste hauler.

(C)Medication transferred pursuant to this paragraph shall be transferred with documentation that identifies the drug name, strength, and quantity of the medication, and the donation facility from where the medication originated shall be identified on medication packaging or in accompanying documentation. The document shall include a statement that the medication may not be transferred to another participating entity and must be handled pursuant to subparagraph (B). A copy of this document shall be kept by the participating entity transferring the medication and the participating entity receiving the medication.

(h)Medication that is donated to the repository and distribution program that does not meet the requirements of this division shall not be distributed or transferred under this program and shall be either destroyed or returned to a reverse distributor. Donated medication that does not meet the requirements of this division shall not be sold, dispensed, or otherwise transferred to any other entity.

(i)(1)Except as provided in paragraph (2), medication donated to the repository and distribution program shall be maintained in the donated packaging units until dispensed to an eligible patient under this program, who presents a valid prescription. When dispensed to an eligible patient under this program, the medication shall be in a new and properly labeled container, specific to the eligible patient and ensuring the privacy of the individuals for whom the medication was initially dispensed. Expired medication shall not be dispensed.

(2)A pharmacy that exists solely to operate the repository and distribution program may repackage a reasonable quantity of donated medicine in anticipation of dispensing the medicine to its patient population. The pharmacy shall have repackaging policies and procedures in place for identifying and recalling medications. Medication that is repackaged shall be labeled with the earliest expiration date.

(j)Medication donated to the repository and distribution program shall be segregated from the participating entitysother drug stock by physical means, for purposes including, but not limited to, inventory, accounting,

and inspection.

(k)A participating entity shall keep complete records of the acquisition and disposition of medication donated to, and transferred, dispensed, and destroyed under, the repository and distribution program. These records shall be kept separate from the participating entitysother acquisition and disposition records and shall conform to the Pharmacy Law (Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code), including being readily retrievable.

(l)Local and county protocols established pursuant to this division shall conform to the Pharmacy Law regarding packaging, transporting, storing, and dispensing all medications.

(m)County protocols established for packaging, transporting, storing, and dispensing medications that require refrigeration, including, but not limited to, any biological product as defined in Section 351 of the Public Health Service Act (42 U.S.C. Sec. 262), an intravenously injected drug, or an infused drug, shall include specific procedures to ensure that these medications are packaged, transported, stored, and dispensed at appropriate temperatures and in accordance with USP standards and the Pharmacy Law.

(n)Notwithstanding any other provision of law, a participating entity shall follow the same procedural drug pedigree requirements for donated drugs as it would follow for drugs purchased from a wholesaler or directly from a drug manufacturer.

(Amended by Stats. 2016, Ch. 316, Sec. 1. (AB 1069) Effective January 1, 2017.)

150204.5.

(a)A regional pilot program may be established in the Counties of Santa Clara and San Mateo and the City and County of San Francisco to determine the feasibility and benefits of implementing and maintaining a repository and distribution program. The regional pilot program shall run until January 1, 2030.

(b)Participating pharmacies in the regional pilot program shall be owned or operated by the Counties of Santa Clara or San Mateo or the City and County of San Francisco, licensed in California, and not on probation with the California State Board of Pharmacy.

(c)(1)Participants in the regional pilot program shall develop and implement their programs in accordance with this division.

(2)While participating in the regional pilot program, participants shall continue to meet all other legal responsibilities and requirements relating to pharmacy services and comply with all relevant state and federal statutes when administering their programs.

(d)Section 150204 shall not apply to a pilot program established pursuant to this section and Section 150204.6.

(Amended by Stats. 2023, Ch. 131, Sec. 133. (AB 1754) Effective January 1, 2024.)

150204.6.

(a)(1)A county specified in Section 150204.5 may establish, by an action of the county board of supervisors or by an action of the public health officer of the county, as directed by the county board of supervisors, a repository and distribution program for purposes of this division. The county shall advise the California State Board of Pharmacy within 30 days from the date it establishes a repository and distribution program.

(2)Only an eligible entity, pursuant to Section 150201, may participate in this program to dispense medication donated to the drug repository and distribution program.

(3)An eligible entity that seeks to participate in the program shall inform the county health department and the California State Board of Pharmacy in writing of its intent to participate in the program. An eligible entity may not participate in the program until it has received written or electronic documentation from the county health department confirming that the department has received its notice of intent.

(4)(A)A participating primary care clinic, as described in Section 150201, shall disclose to the county health department the name of the licensed physician who shall be accountable to the California State Board of Pharmacy for the clinicsprogram operations pursuant to this division. This physician shall be the professional director, as defined in subdivision (c) of Section 4182 of the Business and Professions Code.

(B)The county board of supervisors or public health officer of the county shall, upon request, make available to the California State Board of Pharmacy the information in this division.

(5)The county board of supervisors, the public health officer of the county, and the California State Board of Pharmacy may prohibit an eligible or participating entity from participating in the program if the entity does not comply with the provisions of the program, pursuant to this division. If the county board of supervisors, the public health officer of the county, or the California State Board of Pharmacy prohibits an eligible or participating entity from participating in the program, it shall provide written notice to the prohibited entity within 15 days of making this determination. The county board of supervisors, the public health officer of the county, and the California State Board of Pharmacy shall each ensure that this notice is also provided to the other two entities.

(b)A county that elects to establish a repository and distribution program pursuant to this division shall establish written procedures for, at a minimum, all of the following:

(1)Establishing eligibility for medically indigent patients who may participate in the program.

(2)Ensuring that patients eligible for the program shall not be charged for any medications provided under the program.

(3)Developing a formulary of medications appropriate for the repository and distribution program.

(4)Ensuring proper safety and management of any medications collected by and maintained under the authority of a participating entity.

(5)Ensuring the privacy of individuals for whom the medication was originally prescribed.

(c)Medication donated to the repository and distribution program or transferred between participating entities shall comply with the requirements specified in this division. Medication donated to the repository and distribution program shall meet all of the following criteria:

(1)The medication shall not be a controlled substance.

(2)The medication shall not have been adulterated, misbranded, or stored under conditions contrary to standards set by the United States Pharmacopoeia (USP) or the product manufacturer.

(3)The medication shall not have been in the possession of a patient or any individual member of the public, and in the case of medications donated by a hospital, facility, or entity, as described in Section 150202, shall have been under the control of a staff member of the health or care facility who is licensed in California as a health care professional or has completed, at a minimum, the training requirements specified in Section 1569.69.

(d)(1)Only medication that is donated in unopened, tamper-evident packaging or modified unit dose containers that meet USP standards is eligible for donation to the repository and distribution program, provided lot numbers and expiration dates are affixed. Medication donated in opened containers shall not be dispensed by the repository and distribution program, and once identified, shall be quarantined immediately and handled and disposed of in accordance with the Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104).

(2)(A)A medication that is the subject of a United States Food and Drug Administration managed risk evaluation and mitigation strategy pursuant to Section 355-1 of Title 21 of the United States Code shall not be donated if this inventory transfer is prohibited by that strategy, or if the inventory transfer requires prior authorization from the manufacturer of the medication.

(B)A medication that is the subject of a United States Food and Drug Administration managed risk evaluation and mitigation strategy pursuant to Section 355-1 of Title 21 of the United States Code, the donation of which is not prohibited pursuant to subparagraph (A), shall be managed and dispensed according to the requirements of that strategy.

(e)A pharmacist or physician at a participating entity shall use their professional judgment in determining whether donated medication meets the standards of this division before accepting or dispensing medication under the repository and distribution program.

(f)A pharmacist or physician shall adhere to standard pharmacy practices, as required by state and federal law, when dispensing all medications.

(g)Medication that is donated to the repository and distribution program shall be handled in the following ways:

(1)Dispensed to an eligible patient.

(2)Destroyed.

(3)Returned to a reverse distributor or licensed waste hauler.

(4)(A)Transferred to another participating entity within the county to be dispensed to eligible patients pursuant to this division. Notwithstanding this paragraph, a participating county-owned pharmacy may transfer eligible donated medication to a participating county-owned pharmacy within another adjacent county that has adopted a program pursuant to this division, if the pharmacies transferring the medication have a written agreement between the entities that outlines protocols and procedures for safe and appropriate drug transfer that are consistent with this division.

(B)Medication donated under this division may be transferred more than once only within the county and after the final transfer shall be dispensed to an eligible patient, destroyed, or returned to a reverse distributor

or licensed waste hauler.

(C)Medication transferred pursuant to this paragraph shall be transferred with documentation that identifies the drug name, strength, and quantity of the medication, original manufacturer lot numbers, and current expiration date. The document shall include a statement that the medication shall be handled pursuant to subparagraph (B). A copy of this document shall be kept by the participating entity transferring the medication and the participating entity receiving the medication.

(D)Medication donated from multiple facilities under this division may be commingled by the participating entity. However, in the event of a recall, recalled medication shall be destroyed at the National Drug Code level.

(E)Participating facilities shall maintain a system for recording and logging donated medication which allows the tracking of medication in each repackaged container back to the facility or facilities that donated the medication.

(h)Medication that is donated to the repository and distribution program that does not meet the requirements of this division shall not be distributed or transferred under this program and shall be either destroyed or returned to a reverse distributor. Donated medication that does not meet the requirements of this division shall not be sold, dispensed, or otherwise transferred to any other entity.

(i)(1)When dispensed to an eligible patient under this program, the donated medication shall be in a new, properly labeled container, specific to the eligible patient and ensuring the privacy of the individuals for whom the medication was initially dispensed. However, medications donated in sealed manufacturerspackaging are not required to be placed into a new container, but shall otherwise be appropriately labeled. Expired medication shall not be dispensed.

(2)The pharmacy shall have repackaging policies and procedures in place for identifying and recalling medications. Medication that is repackaged shall be labeled with the earliest expiration date. Repackaged medication can only be dispensed to patients within the county.

(j)A participating entity shall keep complete records of the acquisition and disposition of medication donated to, and transferred, dispensed, and destroyed under, the repository and distribution program. Notwithstanding any other law, the acquisition record created by a participating entity may be used as the donation, destruction, or disposition record required of a donor organization for donated medication.

(k)Local and county protocols established pursuant to this division shall conform to the Pharmacy Law regarding packaging, transporting, storing, and dispensing all medications.

(l)County protocols established for packaging, transporting, storing, and dispensing medications that require refrigeration, including, but not limited to, a biological product as defined in Section 351 of the federal Public Health Service Act (42 U.S.C. Sec. 262), an intravenously injected drug, or an infused drug, shall include specific procedures to ensure that these medications are packaged, transported, stored, and dispensed at appropriate temperatures and in accordance with USP standards and the Pharmacy Law.

(m)Notwithstanding any other law, a participating entity shall follow the same federal and state procedural drug pedigree requirements for donated drugs as it would follow for drugs purchased from a wholesaler or directly from a drug manufacturer.

(n)On January 1, 2028, the California State Board of Pharmacy shall submit to the Legislature an evaluation of the regional pilot programs and pilot participants™ compliance to program requirements as specified in this

division. The report shall comply with Section 9795 of the Government Code.

(o)A participating entity shall disclose to the California State Board of Pharmacy any medication errors, as that term is described in Section 1716 of Title 16 of the California Code of Regulations, arising out of a program under this division, within 30 days of a participating entity discovering the medication error.

(p)This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

(Amended by Stats. 2023, Ch. 131, Sec. 134. (AB 1754) Effective January 1, 2024. Repealed as of January 1, 2030, by its own provisions.)

150205.

(a)The following persons and entities shall not be subject to criminal or civil liability for injury caused when any entity or person donates, accepts, or dispenses prescription drugs in compliance with this division:

(1)A prescription drug manufacturer, wholesaler, governmental entity, or participating entity.

(2)A pharmacist or physician who accepts or dispenses prescription drugs.

(3)A licensed facility, as described in Section 150202, or a pharmacy, as described in Section 150202.5.

(b)A surplus medication collection and distribution intermediary, as described in Section 150208, shall not be subject to criminal or civil liability for injury caused when facilitating the donation of medications to or transfer of medications in compliance with this division.

(Amended by Stats. 2022, Ch. 886, Sec. 5. (SB 1346) Effective January 1, 2023.)

150206.

The immunities provided in Section 150205 shall not apply in cases of noncompliance with this division, bad faith, or gross negligence.

(Added by Stats. 2005, Ch. 444, Sec. 1. Effective January 1, 2006.)

150207.

Nothing in this division shall affect disciplinary actions taken by licensing and regulatory agencies.

(Added by Stats. 2005, Ch. 444, Sec. 1. Effective January 1, 2006.)

150208.

(a)A surplus medication collection and distribution intermediary that is licensed pursuant to Section 4169.5 of the Business and Professions Code, established for the purpose of facilitating the donation of medications to or transfer of medications between participating entities under a program established pursuant to this division is authorized to operate under this section.

(b)A surplus medication collection and distribution intermediary shall comply with the following:

(1)It shall not take possession, custody, or control of dangerous drugs and devices.

(2)It shall ensure that notification is provided to participating entities that a package has been shipped when the surplus medication collection and distribution intermediary has knowledge of the shipment and provided logistical support to facilitate a shipment directly from a donor organization, as defined in subdivision (a) of Section 150202, to a participating entity.

(3)It shall not select, or direct a donor organization, as defined in subdivision (a) of Section 150202, to select, a specific participating entity to receive surplus medications.

(c)A surplus medication collection and distribution intermediary is authorized to do the following:

(1)Charge membership, administrative, or overhead fees sufficient to cover the reasonable costs of the support and services provided.

(2)Contract directly with a county to facilitate the donation of medications to or transfer of medications between participating entities and provide general support in a countysimplementation of a program established pursuant to this division.

(d)No participating entities shall receive donated medication directly from the surplus medication collection and distribution intermediary.

(Added by Stats. 2014, Ch. 10, Sec. 6. (AB 467) Effective April 9, 2014.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=117.&title=&part=&chapter=&article=

150401.

For purposes of this division, the following definitions apply:

(a)Donor means an individual who donates unused prescription drugs to a participating practitioner for the purpose of redistribution to established patients of that practitioner.

(b)Ineligible drugs means drugs that are not able to be accepted for redistribution as part of the program established pursuant to this division. Ineligible drugs include all controlled substances, including all opioids, all compounded medications, injectable medications, drugs that have an approved United States Food and Drug Administration Risk Evaluation and Mitigation Strategy (REMS) requirement, and all growth factor medications.

(c)Participating practitioner means a person who is licensed to practice medicine by the Medical Board of California and is board certified in medical oncology or hematology and is registered with a surplus medication collection and distribution intermediary.

(d)Recipient means an individual who voluntarily receives donated prescription medications.

(e)Surplus medication collection and distribution intermediary means an entity licensed pursuant to Section 4169.5 of the Business and Professions Code as a surplus medication collection and distribution intermediary, as described in Section 150208.

(f)Unused cancer medication or medication means a medication or drug, including a dangerous drug as defined in Section 4022 of the Business and Professions Code or a drug as defined in Section 4025 of the Business and Professions Code, that is prescribed as part of a cancer treatment plan and is in its original container or packaging.

(Added by Stats. 2021, Ch. 541, Sec. 2. (SB 310) Effective January 1, 2022. Repealed as of January 1, 2027, pursuant to Section 150404.)

150403.

(a)A participating practitioner shall comply with all of the following:

(1)Be registered with a surplus medication collection and distribution intermediary in order to participate in the program established pursuant to this division and Article 11.7 (commencing with Section 4169.7) of Chapter 9 of Division 2 of the Business and Professions Code.

(2)Only accept donated medications originally prescribed for use by established patients of that participating practitioner or practice.

(3) Distribute a medication only if it will not expire before the proper use by the recipient based on the participating practitionersdirections for use.

(4)Refuse a medication that has previously been redistributed.

(5)Store all donated medications separately from all other medication stock.

(6)Store all donated medications in compliance with the manufacturersstorage requirements per the drug monograph.

(7)Remove or redact all confidential patient information, personal information, and any other information through which the prior patient could be identified from donated medications.

(8)Require all donors to read and sign the donor form approved by the surplus medication collection and distribution intermediary.

(9)Keep all donor forms and recipient forms in the records for at least three years.

(10)Examine the donated drug to determine that it has not been adulterated or misbranded and certify that

the medication has been stored in compliance with the requirements of the product.

(11)Require all recipients of a donated medication to read and sign the recipient form approved by the surplus medication collection and distribution intermediary.

(12)Dispose of any donated medications that were collected but not redistributed in accordance with all local, state, and federal requirements for the disposal of medications.

(13)Monitor all United States Food and Drug Administration (FDA) or manufacturer recalls, market withdrawals, and safety alerts and communicate with recipients if medications they received may be impacted by the FDA action.

(14)Inspect all donated medications to determine that the drugs are unaltered, safe, and suitable for redistribution and meet all of the following conditions:

(A)Tamper-resistant packaging is unopened and intact or, in the case of unit dose packaging, the tamper-resistant dose packaging is intact for each dose donated.

(B)Tablets or capsules have a uniformity of color, shape, imprint or markings, texture, and odor.

(C)Liquids have a uniformity of color, thickness, particulates, transparency, and odor.

(D)The date of donation is less than six months from the date of the initial prescription or prescription refill.

(15)Establish policies and procedures for the administration of the cancer medication recycling program, including, but not limited to, criteria for determining medication distribution to patients. Provide the surplus medication collection and distribution intermediary with updated sections of their policy and procedures manual that indicate how the practitioner will accept, reuse, and keep records of donated medications, if requested.

(b)A donor is not subject to a penalty pursuant to the Sherman Food, Drug, and Cosmetic Law, as set forth in Part 5 (commencing with Section 109875) of Division 104, for an injury caused when donating, accepting, or dispensing medication in compliance with this division, unless an injury arising from the donated medication is caused by the gross negligence, recklessness, or intentional conduct of the donor, or in cases of noncompliance with this division.

(c)A participating practitioner that receives and redistributes a donated medication is not subject to a penalty pursuant to the Sherman Food, Drug, and Cosmetic Law, as set forth in Part 5 (commencing with Section 109875) of Division 104, resulting from the condition of the donated medication unless an injury arising from the donated medication is caused by the gross negligence, recklessness, or intentional conduct of the participating practitioner, in cases of noncompliance with this division, or in cases of malpractice unrelated to the quality of the medication.

(d)The following persons and entities are not subject to criminal or civil liability for an injury caused when participating in the program established pursuant to this division, including, but not limited to, donating, accepting, or dispensing prescription drugs in compliance with this division:

(1)A prescription drug manufacturer, wholesaler, or participating entity.

(2)A participating practitioner who accepts or dispenses prescription drugs.

(3)A donor, as defined in Section 150401.

(4)A surplus medication collection and distribution intermediary.

(e)The immunities provided in subdivision (d) do not apply in cases of noncompliance with this division, gross negligence, recklessness, intentional conduct, or in cases of malpractice unrelated to the quality of the medication.

(f)This division shall not affect disciplinary actions taken by licensing and regulatory agencies.

(Added by Stats. 2021, Ch. 541, Sec. 2. (SB 310) Effective January 1, 2022. Repealed as of January 1, 2027, pursuant to Section 150404.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=118.&title=&part=&chapter=&article=

150500.

(a)The State Department of Public Health, the Department of Food and Agriculture, and the Department of Fish and Wildlife shall jointly establish and administer the One Health Program for the purpose of developing a framework for interagency coordination in responding to zoonotic diseases and reducing hazards to human and nonhuman animal health, in accordance with the One Health principles set forth by the federal Centers for Disease Control and Prevention (CDC).

(b)The State Department of Public Health, the Department of Food and Agriculture, and the Department of Fish and Wildlife shall develop the framework for the One Health Program in consultation with stakeholders, which may include, but are not limited to, the One Health Office of the CDC, the Medical Board of California, the Veterinary Medical Board, agricultural programs, institutes, or schools within the University of California system or California State University system, animal welfare organizations, and community-based organizations.

(c)(1)The State Department of Public Health, the Department of Food and Agriculture, and the Department of Fish and Wildlife, in developing the framework, shall establish goals, identify activities necessary to achieve those goals, and recommend legislation or other actions to advance One Health efforts.

(2)The three departments shall periodically post joint reports on their respective internet websites and shall submit the joint reports to the Legislative AnalystsOffice, containing the information described in paragraph (1).

(d)Upon the three departments™ initial development of the framework described in this section, the Legislative AnalystsOffice shall submit to the relevant policy and fiscal committees of the Legislature a single report containing both of the following:

(1)An assessment of whether the framework is a reasonable approach to meeting the purpose of the One Health Program as described in this section.

(2)Recommendations for ways in which the Legislature could conduct regular oversight of the frameworksimplementation.

(e)This section shall be implemented subject to an appropriation by the Legislature for the purposes described in this section.

(Added by Stats. 2022, Ch. 990, Sec. 2. (SB 1029) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=119.&title=&part=&chapter=&article=

150900.

(a)The Transgender, Gender Nonconforming, and Intersex (TGI) Wellness and Equity Fund is established in the State Treasury.

(b)The State Department of Public HealthsOffice of Health Equity shall administer the TGI Wellness and Equity Fund for purposes of funding grants to create programs, or funding existing programs, focused on coordinating trans-inclusive health care for individuals who identify as transgender, gender nonconforming, or intersex.

(c)Upon appropriation by the Legislature, moneys in the TGI Wellness and Equity Fund may be used to fund grants for the following purposes:

(1)The grants shall be available to TGI-serving organizations for the purpose of increasing the capacity of health care professionals to effectively provide TGI health care and institute TGI-inclusive best practices. This includes the creation of educational materials or facilitation of capacity-building trainings.

(2)The grants shall be available to TGI-serving organizations for the purpose of facilitating therapeutic arts programs, such as dancing, painting, or writing.

(3)The grants shall be available to TGI-serving organizations for purposes of assisting, identifying, and referring TGI people to access supportive housing. This includes case management opportunities, financial assistance, and assisting TGI people in receiving and utilizing housing vouchers. If a TGI-serving organization has already implemented a TGI-specific housing program, funding may be utilized to maintain or expand existing housing programs.

(4)The grants shall be available to a hospital, health care clinic, or other medical provider that currently provides gender-affirming health care services, such as hormone therapy or gender reassignment surgery, to continue providing those services, or to a hospital, health care clinic, or other medical provider that will establish a program that offers gender-affirming health care services and has an established relationship with a TGI-serving organization that will lead in establishing the program.

(d)A hospital, health care clinic, or other medical provider that applies for a grant must apply in partnership with a TGI-serving organization and consult with the TGI-serving organization throughout the process of creating and implementing its trans-inclusive health care program.

(e)This section does not limit or impact payer coverage requirements of health care or other social services.

(f)For purposes of this section, the following definitions apply:

(1)Health care means all of the following:

(A)Medical, behavioral, and spiritual care, which includes, but is not limited to, guided meditation and nondenominational therapy.

(B)Therapeutic arts programs, which includes, but is not limited to, dancing, painting, and writing classes.

(C)Services related to substance use disorder or substance abuse.

(D)Supportive housing as a mechanism to support TGI-identified individuals in accessing other social services.

(2)A TGI-serving organization means either of the following:

(A)A public or nonprofit organization with a mission statement that centers around serving transgender, gender nonconforming, and intersex people, and where at least 65 percent of the clients of the organization are TGI.

(B)A nonprofit that serves as the fiscal agent or sponsor for an organization described in subparagraph (A). A nonprofit that is serving as a fiscal agent or sponsor shall pass all funding to the organization, but may charge a reasonable or industry standard fee for administrative costs of not more than 16 percent.

(3)Transgender is broad and inclusive of all gender identities different from the gender a person was assigned at birth.

(4)Gender nonconforming is an inclusive term used to describe individuals who may experience a gender that is neither exclusively male nor female or is in between or beyond both of those genders, including, but not limited to, nonbinary, gender fluid, agender or without gender, third gender, genderqueer, gender variant, Two-Spirit, Hijra, Kathoey, Mak nyah, Muxe, Waria, MÄhÅ«, and Fa™afafine.

(5)Intersex is an umbrella term referring to people whose anatomy, hormones, or chromosomes fall outside the strict male and female binary.

(Amended by Stats. 2022, Ch. 869, Sec. 1. (AB 2521) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=119.1.&title=&part=&chapter=&article=

__DIVISION 119.1. Transgender, Gender Variant, and Intersex Wellness Reentry [150925- 150925.]__

(Division 119.1 added by Stats. 2023, Ch. 845, Sec. 2.)

150925.

(a)The Transgender, Gender Variant, and Intersex (TGI) Wellness Reentry Fund is established in the State Treasury.

(b)The State Department of Public HealthsOffice of Health Equity shall administer the TGI Wellness Reentry Fund for purposes of funding grants to create programs, or funding existing programs, focused on reentry programming specifically to support TGI people who have experienced carceral systems.

(c)Upon appropriation by the Legislature, moneys in the TGI Wellness Reentry Fund may be used to fund grants to existing and new TGI-specific reentry programs run by TGI-serving organizations. Reentry programs include, but are not limited to, emergency, transitional, or permanent housing, employment linkage and support, direct employment opportunities, workforce development and career development training, entrepreneurship opportunities, mental and general health care, identity document updating services, legal assistance, computer training, services navigation, case management, financial assistance and literacy, and other wraparound and comprehensive services.

(d)For purposes of this section, the following definitions apply:

(1)Transgender has the same meaning as defined in paragraph (3) of subdivision (f) of Section 150900.

(2)Gender Variant has the same meaning as gender nonconforming as defined in paragraph (4) of subdivision (f) of Section 150900.

(3)Intersex has the same meaning as defined in paragraph (5) of subdivision (f) of Section 150900.

(4)TGI-serving organization has the same meaning as defined in Section 150900.

(Added by Stats. 2023, Ch. 845, Sec. 2. (AB 1487) Effective January 1, 2024.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=119.5.&title=&part=&chapter=&article=

__DIVISION 119.5. Transgender, Gender Diverse, or Intersex Health Care Quality Standards [150950-150950.]__

(Division 119.5 added by Stats. 2022, Ch. 822, Sec. 4.)

150950.

(a)No later than March 1, 2023, the California Health and Human Services Agency shall convene a working

group of representatives from at least three TGI-serving organizations, at least three individual California residents who identify as TGI, health care providers, and one appointee representing each of the following state agencies:

(1)The Department of Managed Health Care.

(2)The Department of Insurance.

(3)The State Department of Health Care Services.

(4)The California Health Benefit Exchange.

(5)CalPERS.

(6)The State Department of Public Health.

(b)The working group shall be charged with developing a quality standard for patient experience to measure cultural competency related to the TGI community and recommend training curriculum to provide trans-inclusive health care. This shall be done with input from health care providers, experts on quality measurement, additional stakeholders, and other entities the agency deems necessary. The working group shall conduct at least four listening sessions across the state with patients from the TGI community. The quality standard and recommendations for curriculum shall be developed no later than March 1, 2024.

(c)The agency may contract with consultants to assist the working group with the implementation and administration of its duties under this section. Contracts entered into pursuant to the authority in this subdivision shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, Section 19130 of the Government Code, and Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code and shall be exempt from the review or approval of any division of the Department of General Services.

(d)For purposes of this section, the following definitions apply:

(1)TGI means transgender, gender diverse, or intersex.

(2)TGI-serving organization has the same meaning as set forth in paragraph (2) of subdivision (f) of Section 150900.

(Added by Stats. 2022, Ch. 822, Sec. 4. (SB 923) Effective January 1, 2023.)

Codes Display Text

Source: https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=120.&title=&part=&chapter=&article=

__Health and Safety Code - HSC__

__DIVISION 120. SEXUAL HEALTH EDUCATION ACCOUNTABILITY ACT [151000 - 151003]__

(Division 120 added by Stats. 2007, Ch. 602, Sec. 1.)

151000.

This division shall be known, and may be cited, as the Sexual Health Education Accountability Act.

(Added by Stats. 2007, Ch. 602, Sec. 1. Effective January 1, 2008.)

151001.

For purposes of this division, the following definitions shall apply:

(a)Age appropriate means topics, messages, and teaching methods suitable to particular ages or age groups of children and adolescents, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group.

(b)A sexual health education program means a program that provides instruction or information to prevent adolescent pregnancy, unintended pregnancy, or sexually transmitted diseases, including HIV, that is conducted, operated, or administered by any state agency, is funded directly or indirectly by the state, or receives any financial assistance from state funds or funds administered by a state agency, but does not include any program offered by a school district, a county superintendent of schools, or a community college district.

(c)Medically accurate means verified or supported by research conducted in compliance with scientific methods and published in peer review journals, when appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, including, but not limited to, the federal Centers for Disease Control and Prevention, the American Public Health Association, the Society for Adolescent Health and Medicine, the American Academy of Family Physicians, the American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists.

(Amended by Stats. 2019, Ch. 632, Sec. 12. (AB 1622) Effective January 1, 2020.)

151002.

(a)Every sexual health education program shall satisfy all of the following requirements:

(1)All information shall be medically accurate, current, and objective.

(2)Individuals providing instruction or information shall know and use the most current scientific data on human sexuality, human development, pregnancy, and sexually transmitted diseases.

(3)The program content shall be age appropriate for its targeted population.

(4)The program shall be culturally and linguistically appropriate for its targeted populations.

(5)The program shall not teach or promote religious doctrine.

(6)The program shall not reflect or promote bias against any person on the basis of disability, gender, nationality, race or ethnicity, religion, or sexual orientation, as defined in Section 422.56 of the Penal Code.

(7)The program shall provide information about the effectiveness and safety of at least one or more drug or device approved by the federal Food and Drug Administration for preventing pregnancy and for reducing the risk of contracting sexually transmitted diseases.

(b)A sexual health education program that is directed at minors shall comply with all of the criteria in subdivision (a) and shall also comply with both the following requirements:

(1)It shall include information that the only certain way to prevent pregnancy is to abstain from sexual intercourse, and that the only certain way to prevent sexually transmitted diseases is to abstain from activities that have been proven to transmit sexually transmitted diseases.

(2)If the program is directed toward minors under the age of 12 years, it may, but is not required to, include information otherwise required pursuant to paragraph (7) of subdivision (a).

(c)A sexual health education program conducted by an outside agency at a publicly funded school shall comply with the requirements of Section 51934 of the Education Code if the program addresses HIV/AIDS and shall comply with Section 51933 of the Education Code if the program addresses pregnancy prevention and sexually transmitted diseases other than HIV/AIDS.

(d)An applicant for funds to administer a sexual health education program shall attest in writing that its program complies with all conditions of funding, including those enumerated in this section. A publicly funded school receiving only general funds to provide comprehensive sexual health instruction or HIV/AIDS prevention instruction shall not be deemed an applicant for the purposes of this subdivision.

(e)If the program is conducted by an outside agency at a publicly funded school, the applicant shall indicate in writing how the program fits in with the schoolsplan to comply fully with the requirements of the California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act, Chapter 5.6 (commencing with Section 51930) of the Education Code. Notwithstanding Section 47610 of the Education Code, publicly funded school includes a charter school for the purposes of this subdivision.

(f)Monitoring of compliance with this division shall be integrated into the grant monitoring and compliance procedures. If the agency knows that a grantee is not in compliance with this section, the agency shall terminate the contract or take other appropriate action.

(g)This section shall not be construed to limit the requirements of the California Comprehensive Sexual Health and HIV/AIDS Prevention Education Act (Chapter 5.6 (commencing with Section 51930) of Part 28 of the Education Code).

(h)This section shall not apply to one-on-one interactions between a health practitioner and his or her patient in a clinical setting.

(Added by Stats. 2007, Ch. 602, Sec. 1. Effective January 1, 2008.)

151003.

This division shall apply only to grants that are funded pursuant to contracts entered into or amended on or after January 1, 2008.

(Added by Stats. 2007, Ch. 602, Sec. 1. Effective January 1, 2008.)