

HEALTH AND SAFETY CODE - HSC

DIVISION 112. PUBLIC HEALTH [131000 - 131225] (*Division 112 added by Stats. 2006, Ch. 241, Sec. 34.)*

PART 1. GENERAL PROVISIONS [131000 - 131225] (*Part 1 added by Stats. 2006, Ch. 241, Sec. 34.)*

CHAPTER 2. General Powers of the Department [131050 - 131225] (*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.)*

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 appellant's place 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.)