

**Amend**

**Title 22. Social Security**

**Division 5. Licensing and Certification of Health Facilities, Home Health Agencies,  
Clinics, and Referral Agencies**

**Chapter 3. Skilled Nursing Facilities**

**Article 3. Required Services**

**Adopt Section 72329.2 as follows:**

**§ 72329.2. Nursing Service – Staff.**

(a) Each facility, except those skilled nursing facilities that are a distinct part of a general acute care facility or a state-owned hospital or developmental center, shall employ sufficient nursing staff to provide a minimum of 3.5 direct care service hours per patient day, except as set forth in Health and Safety Code section 1276.9. Skilled nursing facilities shall have a minimum of 2.4 hours per patient day for certified nurse assistants to meet the requirements of this subdivision.

(1) Facilities that are a distinct part of a general acute care facility or a state-owned hospital or developmental center shall continue to meet the standard set forth in Health and Safety Code section 1276.5.

(2) Facilities which provide care for persons with mental health disorders and in which psychiatric technicians provide patient care shall meet the following standards:

(A) If patients are not certified for special treatment programs, facilities shall employ sufficient staff to provide a minimum of 3.5 direct care service hours per patient day.

(B) For patients certified for special treatment programs, facilities shall employ sufficient staff to provide a minimum of 2.3 nursing hours per patient day for each patient certified to the special treatment program, exclusive of additional staff required to meet the staffing standards of the special treatment program.

(b) A facility may request a waiver to address individual patient needs in accordance with section 1276.65(c)(2) of the Health and Safety Code as long as the facility continues to meet the minimum 3.5 direct care service hour requirement.

(1) The facility shall submit a written request for a waiver with substantiating information to the Department. Until the Department adopts final regulations, the facility shall request the waiver by using the program flexibility procedures specified in section 72213, and the Department shall process the request as required by section 1276 of the Health and Safety Code. When evaluating waiver requests, the Department shall consider resident quality of care at the facility and the needs and acuity level of the residents.

(2) If there is a change in the substantiating information, the facility shall notify the Department within 15 days of the change. A request for a waiver with substantiating information included shall be updated and resubmitted annually.

(3) The facility shall post the letter of acknowledgement from the Department confirming receipt of a waiver request, as a notice of a pending waiver application. The notice shall be posted immediately adjacent to the facility's license.

(4) A facility with an approved waiver must post the waiver immediately adjacent to the facility's license.

(5) Facilities shall provide written notice of approved or pending waivers to all residents prior to execution of an admission agreement. The notice shall be either a true copy of the approval letter or a letter from the Department acknowledging receipt a waiver request.

(c) The facility may request a waiver for the 2.4 hours per patient day for certified nurse assistants requirement or the 3.5 direct care service hours requirement in accordance with section 1276.65(l) of the Health and Safety Code as long as the facility continues to meet the 3.2 nursing hours per patient day requirement.

(1) The facility shall submit a written request for a waiver with substantiating information to the Department pursuant to the All Facility Letter issued by the Department pursuant to Health and Safety Code section 1276.65(l).

(d) Implementation of this section shall be contingent on an appropriation in the annual Budget Act and continued federal approval of the Skilled Nursing Facility Quality Assurance Fee, in accordance with Health and Safety Code section 1276.65(i).

(e) Implementation of this section shall not affect the authority of the Department to continue to implement section 14126.022 of the Welfare and Institutions Code by means of All Facility Letters.

Note: Authority cited: Sections 1275, 1276.5, 1276.65 and 131200, Health and Safety Code. Reference: Sections 1276, 1276.5, 1276.65, 1276.9, 131050, 131051 and 131052, Health and Safety Code; and Section 14126.022, Welfare and Institutions Code.