

UPDATED INFORMATIVE DIGEST

Health and Safety Code sections 1275 and 100275 grant the California Department of Public Health the general authority to adopt, amend, enforce, or repeal any reasonable rules and regulations as may be necessary to enable the Department to exercise the powers and perform the duties conferred upon it. In 2007, the Department of Health Services was legislatively reorganized (Ortiz, S.B. 162, Chapter 241, Statutes of 2006) into two separate departments, the new Department of Health Care Services and the new Department of Public Health. Health and Safety Code (HSC) section 131051 transferred the duties, powers, and responsibilities of the Licensing and Certification (L&C) Program to the Department of Public Health and HSC section 131200 vests rulemaking authority for L&C in the Department of Public Health (Department).

Standards with which healthcare facilities shall comply for licensure are found in Title 22 California Code of Regulations (CCR) Division 5. The Department is proposing amendments to Division 5 of the CCR to affirm the rights of a licensed [healthcare](#) practitioner who, acting within the scope of his or her professional licensure and as a member of the medical staff, assumes overall responsibility for the care of a patient. The proposed amendments are necessary to bring the regulations into conformance with Health and Safety Code Sections 1315, 1316, and 1316.5. The proposed regulation amendments delete specific references to a physician in those instances when another category of licensed [healthcare](#) practitioner, as a member of the medical staff and within the scope of his or her professional licensure, is authorized by law to perform the function.

The statutory provisions being addressed by the proposed amendments are summarized as follows:

1. Health and Safety Code Section 1315 provides that dental services, as defined in the Dental Practice Act, may be provided patients in licensed health facilities. Such services shall be provided by persons licensed by the State of California pursuant to Section 1611 of the Business and Professions Code. However, this section shall not limit or restrict the right of a licensed physician and surgeon to perform any acts authorized under the Medical Practice Act.

2. Health and Safety Code Section 1316 provides that the rules of a health facility shall include provisions for the use of the facility by, and staff privileges for, duly licensed podiatrists within the scope of their respective licensure, subject to rules and regulations governing such use or privileges established by the health facility. Such rules and regulations shall not discriminate on the basis of whether the staff member holds a M.D., D.O., or D.P.M. degree, within the scope of their respective licensure... medical staff status shall include and provide for the right to pursue and practice full clinical and surgical privileges for holders of M.D., D.O., and D.P.M., degrees within the scope of their respective licensure....If a health service is offered, the facility shall not

discriminate between persons holding M.D., D.O., or D.P.M. degrees who are authorized by law to perform such services.

3. Health and Safety Code Section 1316.5 provides that each health facility owned and operated by the state offering care or services within the scope of practice of a psychologist shall establish rules and medical staff by laws that included provisions for medical staff membership and clinical privileges for clinical psychologists within the scope of their licensure as psychologists...the rules and regulations shall not discriminate on the basis of whether the staff member holds an M.D., D.O., D.D.S., D.P.M., or doctoral degree in psychology....medical staff status shall include and provide for the right to pursue and practice full clinical privileges for holders of a doctoral degree of psychology within the scope of their respective licensure.

4. For health facilities not owned or operated by the state, Health and Safety Code Section 1316.5 provides "The rules of a health facility not owned or operated by this state may enable the appointment of clinical psychologists on the terms and conditions that the facility shall establish. In these health facilities, clinical psychologists may hold membership and serve on committees of the medical staff and carry professional responsibilities consistent with the scope of their licensure and their competence, subject to the rules of the health facility. . . . If a health service is offered by a health facility with both licensed physicians and surgeons and clinical psychologists on the medical staff, which both licensed physicians and surgeons and clinical psychologists are authorized by law to perform, the service may be performed by either, without discrimination."

Additionally, the Department made punctuation, capitalization, and spelling changes, remedying word omissions and the updating of the authority and reference note as non-substantive amendments.

Specifically, the sections in 22CCR Division 5 proposed for amendment are as follows:

Chapter 1. General Acute Care Hospitals. Sections 70055, 70577, 70703, 70706, 70707, 70717, 70749, 70751 and 70753.

Chapter 2. Acute Psychiatric Hospital. Sections 71053, 71203, 71205, 71503, 71507, 71517, 71545, 71551 and 71553.

Chapter 3. Skilled Nursing Facilities. Sections 72091, 72109, 72303, 72311, 72315, 72319, 72337, 72413, 72423, 72433, 72453, 72461, 72471, 72515, 72523, 72525, 72528, 72543, and 72547.

Chapter 4. Intermediate Care Facilities. Sections 73077, 73089, 73301, 73303, 73311, 73313, 73315, 73325, 73329, 73399, 73409, 73449, 73469, 73479, 73489, 73517, 73519, 73523, 73524, 73543 and 73547.

Chapter 11. Chemical Dependency Recovery Hospital Licensing Regulations. Sections 79315 and 79351.

Chapter 12. Correctional Treatment Centers. Sections 79637 and 79689.

AUTHORITY: Sections 1267.10(a), 1275, 1275.2, 100275 and 131200, Health and Safety Code.

REFERENCE: Sections 1250(j), 1250.3, 1254, 1254.2, 1255, 1260.3, 1262.7, 1275, 1275.2, 1276, 1285, 1315, 1316, 1316.5, 1320, 1599, 1599.1, 1599.72, 131050, 131051 and 131052, Health and Safety Code; Section 5325, Welfare and Institutions Code; *Valdivia, et al. v. Coye*, US District Court for the Eastern District of California, Case No. CIV S-90-1226; *Cobbs v. Grant* (1972) 8 Cal. 3d 229.