

# ACTION REQUIRED

## AB 847 (Berg), CHAPTER 315, STATUTES OF 2005

**Affects:** Residential Care Facilities for the Elderly (RCFEs) and Adult Community Care Facilities (CCFs)

**Subject:** Programs for All-Inclusive Care for the Elderly (PACE)

**Summary:** This legislation adds Sections 1231.5, 1580.1, 1734.5, and 100315 to the Health and Safety (H&S) Code to permit the California Department of Health Services (DHS), the California Department of Social Services (CDSS) and the California Department of Aging (CDA) to grant exemptions from licensing requirements to PACE programs. (For facilities licensed by CDSS these "exemptions" would be waivers and exceptions.) The facilities commonly operated by PACE programs are adult day health care centers, primary care clinics, and home health agencies, all licensed by DHS. PACE programs do not currently operate any RCFEs or adult CCFs, but AB 847 would apply if a PACE program chose to operate a facility licensed by CDSS in the future. PACE programs must comply with multiple requirements from multiple sources: federal regulations; a contract with DHS; and multiple state licensing regulations. This law is intended to increase efficiency and prevent duplication by providing a vehicle to consolidate and streamline some of those requirements.

PACE programs provide a comprehensive array of medical and long-term care services that enable participants to remain in their own homes. (PACE participants may live in an RCFE or an adult residential facility, which would be considered their "home.") PACE participants must be at least 55 years old and eligible for placement in an intermediate care or skilled nursing facility. There are currently four PACE programs operating in California—On Lok Senior Health Services, San Francisco; Sutter Senior Care, Sacramento; Center for Elders' Independence, Oakland; and AltaMed Health Services, Los Angeles.

### **Implementation:**

AB 847 would apply to CDSS if a PACE program applied for a license to operate an RCFE or an adult CCF and then sought related waivers or exceptions. While any licensee may seek waivers or exceptions to licensing regulations, AB 847 permits PACE programs to seek them to statute as well.

A PACE program that wishes to obtain a waiver or exception to a licensing regulation or law must submit a written request and substantiating evidence supporting the request, to CDSS. The written request must include, but is not limited to, the following:

- (1) A description of how the applicable state requirement conflicts with or is inconsistent with state or federal requirements related to the PACE model.
- (2) An analysis demonstrating why the conflict or inconsistency cannot be resolved without a waiver or exception.

- (3) A description of how the PACE program plans to comply with the intent of the requirements described in (1) above.
- (4) A description of how the PACE program will monitor its compliance with the terms and conditions under which the waiver or exception is granted.

A local licensing office that receives a waiver or exception request from a PACE program should forward the request to the Statewide Senior or Adult Care Program Office within 5 days. The Statewide Program Office will coordinate with the Senior or Adult Care Policy Unit in processing the request. The Senior Care Policy Unit will provide consultation to the Statewide Program Office, and coordinate with the DHS Licensing and Certification Policy Unit and other entities as appropriate.

CDSS must approve or deny waiver or exception requests from a PACE program within 60 days of submission. Under AB 847, CDSS must consult with DHS and CDA in determining whether to grant such waivers and exceptions, but no request pertaining to a facility that CDSS licenses can be granted without CDSS's approval. A waiver or exception granted under this bill may be suspended or revoked if CDSS determines that a PACE program is not abiding by the terms and conditions of the waiver or exception. If Licensing staff determine that a PACE program is not following the conditions of a waiver or exception, the matter should be referred to the Program office for review.