

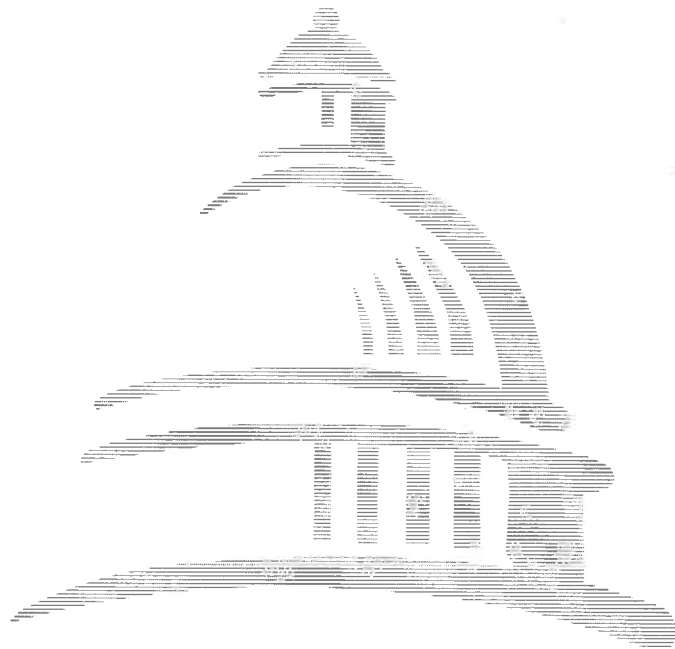
March 24, 2015

The DPH's Licensing and Certification Program

LEGISLATIVE ANALYST'S OFFICE

Presented to:
Assembly Health Committee
Hon. Rob Bonta, Chair

Assembly Aging and Long-Term Care Committee
Hon. Cheryl R. Brown, Chair





Overview of Presentation

- Overview of the Department of Public Health's (DPH's) Licensing and Certification (L&C) Program**
- Recent incidents Have Gained the Public's and Legislature's Attention**
- Legislative Oversight of L&C**
- Governor's Proposals for Addressing L&C Issues**



Overview of DPH's L&C Program

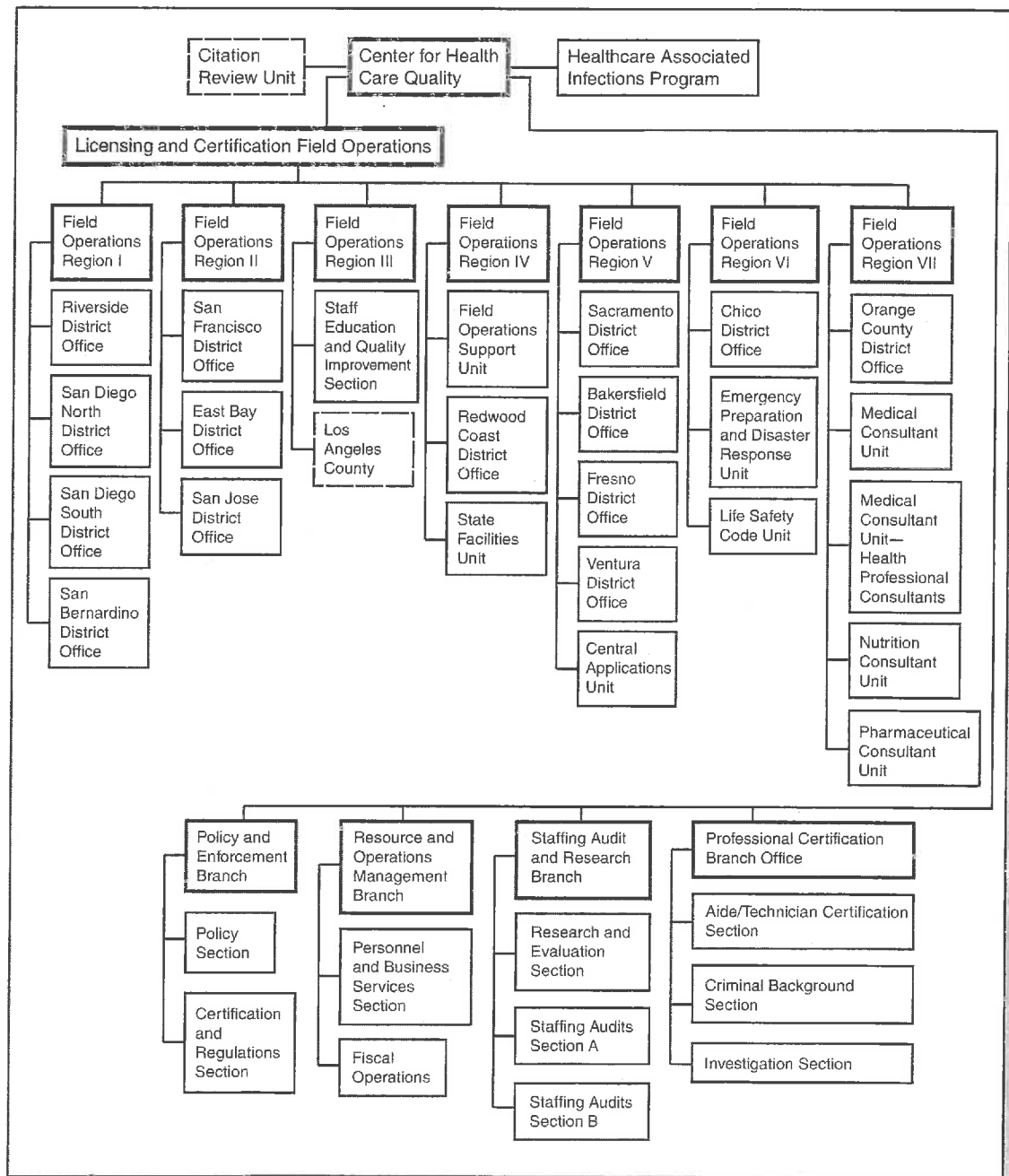
- ☑ ***The L&C Program Licenses and Certifies Certain Health Care Professionals.*** The Professional Certification Branch of the L&C Program oversees the certification of nurse assistants, home health aides, and hemodialysis technicians, and the licensing of nursing home administrators.

- ☑ ***The L&C Program Licenses and Certifies Health Facilities—the Focus of Our Presentation.*** The Field Operations Branch of the L&C Program is responsible for regulatory oversight of health care facilities. The L&C Program fulfills this role by conducting periodic inspections and complaint investigations of health care facilities to ensure that they comply with federal and state laws and regulations.
 - The U.S. Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS) contracts with L&C to evaluate facilities accepting Medicare and Medicaid (Medi-Cal) payments to certify that they meet federal requirements.
 - The L&C Program licenses and/or certifies over 7,500 health care facilities and agencies in California in 30 different licensure and certification categories including: skilled nursing facilities, general acute care hospitals, community clinics, and home health agencies.
 - The L&C Program investigates nearly 42,000 complaints and entity reported incidents.

- ☑ ***L&C Program Is Located Within DPH's Center for Health Care Quality (CHCQ).*** As shown in the organization chart, the L&C Program is located within DPH's CHCQ along with the Professional Certification Branch.



Overview of DPH's L&C Program *(Continued)*





Overview of DPH's L&C Program *(Continued)*

- The L&C Field Operations Branch Works Out of District Offices.*** The Field Operations Branch is divided into seven regions. Within each region there are as many as four district offices. The DPH L&C staff working in each district office are responsible for performing L&C workload in their vicinity. The L&C workload is performed by state staff with the exception of Los Angeles County.
- The State Contracts With Los Angeles County to Perform L&C Workload.*** The state contracts with the Health Facilities Inspection Division within the Los Angeles Department of Public Health to perform L&C activities in Los Angeles County.
- L&C Staffing Based Upon Workload Estimating Model!*** The L&C Program projects the workload associated with all L&C programmatic functions and the corresponding number of positions needed to perform these functions. The projected L&C workload is largely determined by three drivers.

 - ***Facility Count.*** The number of health facilities to survey or investigate.
 - ***Activity Count.*** The number of pending and projected activities for L&C staff to perform. This is based on a projection of the number of new and renewal licensing and certification surveys and complaint investigations L&C staff will conduct in a year. The estimate also includes the workload associated with the number of pending complaints the program anticipates will roll over from prior years.
 - ***Standard Average Hours.*** The average number of hours needed to complete a licensing, certification, or investigative activity.



Overview of DPH's L&C Program *(Continued)*



L&C Program Is Funded Mainly With Special Funds and Federal Funds. The Governor's budget proposes \$255 million in total funds (\$3.8 million General Fund) for support of the L&C Program in 2015-16, which is a net increase of \$32 million in total funds (with no change to the General Fund support), above estimated 2014-15 expenditures. This year-over-year increase primarily results from the Governor's four proposals to take steps to improve the quality of the L&C Program and increase L&C staffing. We describe these proposals later in this handout.



Recent Incidents Have Gained the Public's and Legislature's Attention



Los Angeles County Issues In 2014 and Earlier. Several issues came to light regarding the Los Angeles County Health Facilities Inspection Division.

- An investigative reporter uncovered evidence that Los Angeles County had issued an unofficial policy to close certain complaints about long-term care facilities without properly investigating them.
- The County of Los Angeles Department of Auditor-Controller issued the results of its investigation of the Health Facilities Inspection Division's performance, concluding that the division had a significant workload backlog and lacked a mechanism to effectively track and manage its workload.
- In a report, DPH found Los Angeles County has significant problems with how to correctly prioritize complaints, which has resulted in delayed investigations of serious allegations.
- In April 2014, CMS notified DPH that it would withhold \$503,000 of DPH's federal funding allocation until DPH achieves certain benchmarks related to its management of its contract with Los Angeles County to perform L&C activities. (Ultimately, the CMS withheld \$251,000 in federal funds.)



Statewide L&C Program Issues. Several issues have come to light regarding the state's management of the L&C Program.

- In June 2012, CMS sent a letter to DPH expressing its concern with the ability of DPH to meet many of its Medicaid survey and certification responsibilities. The letter states that "failure to address the listed concerns and meet CMS' expectations will require CMS to initiate one or more actions that would have a negative effect on DPH's ability to avail itself of federal funds." The state was in jeopardy of losing \$1 million in federal funds if certain benchmarks were not met. (Ultimately, the CMS withheld \$138,000 in federal funds.)



Recent Incidents Have Gained the Public's and Legislature's Attention *(Continued)*

- In response to CMS concerns, DPH contracted with Hubbert System Consulting for an organizational assessment of its effectiveness and performance. The report contains 21 recommendations to allow for meaningful, measurable improvements in the L&C Program.
- In October 2014, the California State Auditor released a report that found DPH has not effectively managed investigations of complaints related to long-term health care facilities. The State Auditor made recommendations to DPH to take several actions to protect the health, safety, and well-being of residents in long-term health care facilities.



Legislative Oversight of L&C Program

- There have been long-standing concerns about the L&C Program. In an effort to improve transparency and accountability of the L&C Program, the Legislature has held oversight hearings and enacted Chapter 31, Statutes of 2014 (SB 857, Committee on Budget), that included several requirements intended to facilitate legislative oversight.
 - DPH will report quarterly on the status of long-term care facility complaints, investigations, state relicensing and federal recertification surveys, and vacancy rates within L&C.
 - By December 1, 2014, DPH will provide a report assessing the possibilities of using professional position classifications other than Health Facility Evaluator Nurses to perform licensing and certification survey or complaint workload. (The DPH has not provided the report.)
 - DPH will hold semiannual meetings for all interested stakeholders to provide feedback on improving the L&C Program.



Governor's Proposal for Addressing L&C Issues



The Governor's budget plan includes four proposals to address L&C issues.

- \$378,000 special funds to permanently establish three permanent state positions (currently administratively established) to perform quality improvement activities to improve Los Angeles County Health Facilities Inspection Division operations.
- An increase of \$2 million in special funds to implement quality improvement projects recommended in the Hubbert System Consulting report. According to DPH, many of the quality improvement initiatives recommended in the report will require knowledge, skills, expertise, or capacity that DPH lacks internally.
- An increase of \$9.5 million in special funds to augment the Los Angeles County contract to perform L&C activities in Los Angeles County. The proposal would: (1) provide \$2.6 million to fully fund the salaries for the existing 178 contract positions at current Los Angeles County salary rates, and (2) provide \$6.9 million to fund 32 additional positions. This would bring the total Los Angeles County L&C positions to 210.
- An increase of \$19.8 million in special funds in 2015-16 (\$30.4 million in 2016-17) for 173 permanent positions and 64 two-year limited-term positions, for a total of 237 positions (123 positions would become effective July 1, 2015, and 114 positions would become effective on April 1, 2016) to address L&C state workload. This would bring the total established positions in the L&C Program from 1,078 (as of December 30, 2014) to 1,315. The DPH estimates that with the 237 additional positions requested, program staff could complete the current pending investigation workload in approximately four years, while also addressing new workload and avoiding any new cases from aging.