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01/26/17 04:47 PM
RN 17 04504 PAGE 1

An act to amend Sections 1502.2 and 1502.21 of the Health and Safety Code, relating to care facilities.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1502.2 of the Health and Safety Code is amended to read:

1502.2. (a) ~~Commencing January 1, 2018, Subject to subdivision (j),~~ the department shall license private alternative boarding schools, as defined in paragraph (19) of subdivision (a) of Section 1502, as a group home pursuant to this chapter. A licensed private alternative boarding school shall comply with all provisions of this chapter that are applicable to group homes, unless otherwise indicated, and with this section.

(b) A licensed private alternative boarding school shall comply with all of the following:

(1) It shall be owned and operated on a nonprofit basis by a private nonprofit corporation or a nonprofit organization.

(2) It shall prepare and maintain a current, written plan of operation, as defined by the department.

(3) It shall offer 24-hour, nonmedical care and supervision to youth who voluntarily consent to being admitted to the program and who are voluntarily admitted by his or her parent or legal guardian.

(4) (A) It shall not admit a child younger than 12 years of age.

(B) It shall not admit a youth who has been assessed by a licensed mental health professional as seriously emotionally disturbed, unless the youth does not require care in a licensed health facility and the State Department of Health Care Services has certified the facility as a program that meets the standards to provide mental health



treatment services for a child having a serious emotional disturbance, as set forth in Section 4096.5 of the Welfare and Institutions Code.

(5) It shall provide each prospective youth and his or her parent or legal guardian with an accurate written description of the programs and services to be provided. If it advertises or promotes special care, programming, or environments for persons with behavioral, emotional, or social challenges, the written description shall include how its programs and services are intended to achieve the advertised or promoted claims.

(6) It shall ensure that all individuals providing behavioral-based services to youth at the facility are licensed or certified by the appropriate agency, department, or accrediting body, as specified by the department in regulation.

(7) It shall not use secure containment or manual or mechanical restraints.

(8) If it offers access to, or holds itself out as offering access to, mental health services, it shall ensure that those services are provided by a licensed mental health provider.

(9) If it advertises or includes in its marketing materials reference to providing alcohol or substance abuse treatment, it shall ensure that the treatment is provided by a licensed or certified alcoholism or drug abuse recovery or treatment facility.

(c) A private alternative boarding school shall submit a staff training plan to the department as part of its plan of operation. In addition to the training required of group home staff, the staff training plan shall include, but not be limited to, training in all of the following subject areas:

- (1) Youth rights, as described in subdivision (d).
- (2) Physical and psychosocial needs of youth.



(3) Appropriate responses to emergencies, including an emergency intervention plan.

(4) Cultural competency and sensitivity in issues relating to the lesbian, gay, bisexual, and transgender communities.

(5) Laws pertaining to residential care facilities for youth.

(d) (1) A youth admitted to a licensed private alternative boarding school shall be accorded the following rights and any other rights adopted by the department in regulations, a list of which shall be publicly posted and accessible to youth. The personal rights enumerated in Section 84072 of Title 22 of the California Code of Regulations shall not apply.

(A) To be accorded dignity in his or her personal relationships with staff, youth, and other persons.

(B) To live in a safe, healthy, and comfortable environment where he or she is treated with respect.

(C) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.

(D) To be granted a reasonable level of personal privacy in accommodations, personal care and assistance, and visits.

(E) To confidential care of his or her records and personal information, and to approve release of those records prior to release, except as otherwise authorized or required by law.



(F) To care, supervision, and services that meet his or her individual needs and that are delivered by staff who are sufficient in numbers, qualifications, and competency to meet his or her needs and ensure his or her safety.

(G) To be served food and beverages of the quality and in the quantity necessary to meet his or her nutritional and physical needs.

(H) (i) To present grievances and recommend changes in policies, procedures, and services to the facility's staff, management, and governing authority, or any other person without restraint, coercion, discrimination, reprisal, or other retaliatory actions.

(ii) To have the licensee take prompt actions to respond to grievances presented pursuant to clause (i).

(I) To be able to contact parents or legal guardians, including visits and scheduled and unscheduled private telephone conversations, written correspondence, and electronic communications, unless prohibited by court order.

(J) To be fully informed, as evidenced by the youth's written acknowledgment, prior to, or at the time of, admission at the facility, of all the rules governing the youth's conduct and responsibilities.

(K) To receive in the admission agreement information that details the planned programs and services for the youth.

(L) To have his or her parents or legal guardians remove him or her from the facility.

(M) To consent to have visitors or telephone calls during reasonable hours, privately and without prior notice, if the visitors or telephone calls do not disrupt



planned activities and are not prohibited by court order or by the youth's parent or legal guardian.

(N) To be free of corporal punishment, physical restraints of any kind, and deprivation of basic necessities, including education, as a punishment, deterrent, or incentive.

(O) To have caregivers who have received instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth in out-of-home care.

(P) To be free from acts that seek to change his or her sexual orientation, including efforts to change his or her gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex.

(Q) To have fair and equal access to all available services, placement, care, treatment, and benefits and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(R) To be free from abusive, humiliating, degrading, or traumatizing actions.

(2) Paragraph (1) shall not be interpreted to require a licensed private alternative boarding school to take any action that would impair the health or safety of youth in the facility.

(e) (1) A licensed private alternative boarding school is not an eligible placement option pursuant to Section 319, 361.2, 450, or 727 of the Welfare and Institutions Code.



(2) A licensed private alternative boarding school shall not be eligible for a rate pursuant to Section 11462 of the Welfare and Institutions Code.

(f) This section does not apply to any facility operated, licensed, or certified by the Department of Corrections and Rehabilitation and its Division of Juvenile Justice, the California Conservation Corps, the Military Department, or any other governmental entity or to a boarding school that solely focuses on academics.

(g) (1) ~~On or before January 1, 2018, the~~ The department shall adopt regulations to implement this section, in consultation with interested parties, including representatives of private alternative boarding schools, former residents of private alternative boarding schools, and advocates for youth. Until regulations are adopted and become effective pursuant to the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, a private alternative boarding school shall be governed by the regulations applicable to group homes, Chapter 5 (commencing with Section 84000) of Division 6 of Title 22 of the California Code of Regulations.

(2) The department may adopt emergency regulations to implement this section. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code.

(h) A private alternative boarding school operating prior to ~~January 1, 2018,~~ the implementation of private alternative boarding school licensing shall comply with



licensing requirements ~~on or before July 1, 2018.~~ within six months of the implementation of licensing.

(i) For the purpose of this section, "youth" means a person who is 12 to 17 years of age, inclusive, or a person who is 18 years of age if he or she is completing high school or its equivalent.

(j) The department shall implement licensure of private alternative boarding schools as described in this section within 18 months after the Legislature has appropriated funds for that purpose.

SEC. 2. Section 1502.21 of the Health and Safety Code is amended to read:

1502.21. (a) ~~Commencing January 1, 2019,~~ Subject to subdivision (j), the department shall license private alternative outdoor programs, as defined in paragraph (20) of subdivision (a) of Section 1502, as a group home pursuant to this chapter. A private alternative outdoor program shall comply with the provisions of this chapter that are applicable to group homes, unless otherwise indicated, and with this section.

(b) A licensed private alternative outdoor program shall comply with all of the following:

(1) It shall be owned and operated on a nonprofit basis by a private nonprofit corporation or a nonprofit organization.

(2) It shall prepare and maintain a current, written plan of operation, as defined by the department.

(3) It shall offer 24-hour, nonmedical care and supervision to youth who voluntarily consent to being admitted to the program and who are voluntarily admitted by his or her parent or legal guardian.



(4) It shall have a ratio of one staff person to every four youths.

(5) (A) It shall not admit a child who is younger than 12 years of age.

(B) It shall not admit a youth who has been assessed by a licensed mental health professional as seriously emotionally disturbed, unless the youth does not require care in a licensed health facility and the State Department of Health Care Services has certified the program as a program that meets the standards to provide mental health treatment services for a child having a serious emotional disturbance, as set forth in Section 4096.5 of the Welfare and Institutions Code.

(6) It shall provide each prospective youth and his or her parent or legal guardian with an accurate written description of the programs and services to be provided. If it advertises or promotes special care, programming, or environments for persons with behavioral, emotional, or social challenges, the written description shall include how its programs and services are intended to achieve the advertised or promoted claims.

(7) It shall ensure that all individuals providing behavioral-based services to youth in the program are licensed or certified by the appropriate agency, department, or accrediting body, as specified by the department in regulation.

(8) It shall not use secure containment or manual or mechanical restraints.

(9) If it offers access to, or holds itself out as offering access to, mental health services, it shall ensure that those services are provided by a licensed mental health provider.

(10) If it advertises or includes in its marketing materials reference to providing alcohol or substance abuse treatment, it shall ensure that the treatment is provided by a licensed or certified alcoholism or drug abuse recovery or treatment facility.



(c) (1) In addition to the training required of group home staff by department regulations, a staff member of a licensed private alternative outdoor program who supervises youth shall receive an additional number of hours of initial and annual training, to be determined by the department in regulations developed in consultation with stakeholders.

(2) A private alternative outdoor program shall submit a staff training plan to the department as part of its plan of operation. The staff training plan shall provide for the number of additional initial and annual training hours required by paragraph (1) and shall include, but not be limited to, training in all of the following subject areas:

- (A) Youth rights, as described in subdivision (d).
- (B) Physical and psychosocial needs of youth.
- (C) Appropriate responses to emergencies, including an emergency intervention plan.
- (D) Cultural competency and sensitivity in issues relating to the lesbian, gay, bisexual, and transgender communities.
- (E) Laws pertaining to residential care facilities for youth.
- (F) Low-impact camping.
- (G) Navigation skills.
- (H) Water, food, and shelter procurement.
- (I) Recognition of poisonous plants.
- (J) Wilderness first aid.
- (K) Health issues related to acclimation and exposure.
- (L) Report writing and log maintenance.



(d) (1) A youth admitted to a licensed private alternative outdoor program shall be accorded the following rights and any other rights adopted by the department by regulation, a list of which shall be publicly posted and accessible to youth. The personal rights enumerated in Section 84072 of Title 22 of the California Code of Regulations shall not apply.

(A) To be accorded dignity in his or her personal relationships with staff, youth, and other persons.

(B) To live in a safe, healthy, and comfortable environment where he or she is treated with respect.

(C) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.

(D) To be granted a reasonable level of personal privacy in accommodations, personal care and assistance, and visits.

(E) To confidential care of his or her records and personal information, and to approve release of those records prior to release, except as otherwise authorized or required by law.

(F) To care, supervision, and services that meet his or her individual needs and that are delivered by staff who are sufficient in numbers, qualifications, and competency to meet his or her needs and ensure his or her safety.

(G) To be served food and beverages of the quality and in the quantity necessary to meet his or her nutritional and physical needs.



(H) (i) To present grievances and recommend changes in policies, procedures, and services to the program's staff, management, and governing authority, or any other person without restraint, coercion, discrimination, reprisal, or other retaliatory actions.

(ii) To have the licensee take prompt actions to respond to grievances presented pursuant to clause (i).

(I) To be able to contact parents or legal guardians, including visits and scheduled and unscheduled private telephone conversations, written correspondence, and electronic communications, unless prohibited by court order.

(J) To be fully informed, as evidenced by the youth's written acknowledgment, prior to, or at the time of, admission in the program, of all the rules governing the youth's conduct and responsibilities.

(K) To receive in the admission agreement information that details the planned programs and services for the youth.

(L) To have his or her parents or legal guardians remove him or her from the program.

(M) To consent to have visitors or telephone calls during reasonable hours, privately and without prior notice, provided the visitors or telephone calls do not disrupt planned activities and are not prohibited by court order or by the youth's parent or legal guardian.

(N) To be free of corporal punishment, physical restraints of any kind, and deprivation of basic necessities, including education, as a punishment, deterrent, or incentive.



(O) To have caregivers who have received instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth in out-of-home care.

(P) To be free from acts that seek to change his or her sexual orientation, including efforts to change his or her gender expressions, or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex.

(Q) To have fair and equal access to all available services, placement, care, treatment, and benefits and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(R) To be free from abusive, humiliating, degrading, or traumatizing actions.

(2) Paragraph (1) shall not be interpreted to require a licensed private alternative outdoor program to take any action that would impair the health or safety of youth in the program.

(e) (1) A licensed private alternative outdoor program is not an eligible placement option pursuant to Section 319, 361.2, 450, or 727 of the Welfare and Institutions Code.

(2) A licensed private alternative outdoor program shall not be eligible for a rate pursuant to Section 11462 of the Welfare and Institutions Code.

(f) This section does not apply to programs operated, licensed, or certified by the Department of Corrections and Rehabilitation and its Division of Juvenile Justice, the California Conservation Corps, or the Military Department, programs operated by any governmental entity, any organized camp as defined in Section 18897, outdoor



activities for youth designed to be primarily recreational, including, but not limited to, activities organized by Outward Bound, Boy Scouts, Girl Scouts, Camp Fire, or other similar organizations, or any camp exclusively serving children with a medical diagnosis for a physical condition or illness, including, but not limited to, cancer, muscular dystrophy, or burn injuries.

(g) (1) ~~On or before January 1, 2019, the~~ The department shall adopt regulations to implement this section in consultation with interested parties, including representatives of private alternative outdoor programs, former participants in private alternative outdoor programs, and advocates for youth. Regulations adopted pursuant to this section shall be contained in the regulations applicable to group homes in Chapter 5 (commencing with Section 84000) of Division 6 of Title 22 of the California Code of Regulations.

(2) The department may adopt emergency regulations to implement this section. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted for this purpose from the requirements of subdivision (b) of Section 11346.1 of the Government Code.

(h) A private alternative outdoor program operating prior ~~January 1, 2019,~~ the implementation of private alternative outdoor program licensing shall comply with licensing requirements ~~on or before July 1, 2019;~~ within six months of the implementation of licensing.



(i) For the purpose of this section, “youth” means a person who is 12 to 17 years of age, inclusive, or a person who is 18 years of age if he or she is completing high school or its equivalent.

(j) The department shall implement licensure of private alternative outdoor programs as described in this section within 18 months after the Legislature has appropriated funds for that purpose.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Private alternative boarding schools and outdoor programs.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care and residential facilities by the State Department of Social Services. Existing law requires the department, commencing January 1, 2018, to license private alternative boarding schools as group homes and, commencing January 1, 2019, to license private alternative outdoor programs as group homes. Existing law requires the department to adopt regulations implementing licensure of private alternative boarding schools by January 1, 2018, and to adopt regulations implementing licensure of private alternative outdoor programs by January 1, 2019.

This bill would instead make the department's licensure of private alternative boarding schools and private alternative outdoor programs contingent upon the Legislature's appropriation of funds for that purpose and would require the department



23113

01/26/17 04:47 PM
RN 17 04504 PAGE 2

to implement licensure of private alternative boarding schools and private alternative outdoor programs within 18 months after that appropriation.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.



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