

98514

01/25/17 02:40 PM
RN 17 06422 PAGE 1

An act to amend Section 1531.15 of the Health and Safety Code, and to amend Sections 4684.80 and 4698 of the Welfare and Institutions Code, relating to public social services.



17064229514BILL

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

SECTION 1. Section 1531.15 of the Health and Safety Code is amended to read:

1531.15. (a) A licensee of an adult residential facility, short-term residential therapeutic program, or group home for no more than six residents, except for the larger facilities provided for in paragraph (1) of subdivision ~~(k)~~, (k) or a community crisis home, as provided in subdivision (l), that is utilizing delayed egress devices pursuant to Section 1531.1, may install and utilize secured perimeters in accordance with the provisions of this section.

(b) As used in this section, "secured perimeters" means fences that meet the requirements prescribed by this section.

(c) Only individuals meeting all of the following conditions may be admitted to or reside in a facility described in subdivision (a) utilizing secured perimeters:

(1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.

(2) The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).

(3) (A) The person shall be 14 years of age or older, except as specified in subparagraph (B).

(B) Notwithstanding subparagraph (A), a child who is at least 10 years of age and less than 14 years of age may be placed in a licensed group home described in subdivision (a) using secured perimeters only if both of the following occur:



(i) A comprehensive assessment is conducted and an individual program plan meeting is convened to determine the services and supports needed for the child to receive services in a less restrictive, unlocked residential setting in California, and the regional center requests assistance from the State Department of Developmental Services' statewide specialized resource service to identify options to serve the child in a less restrictive, unlocked residential setting in California.

(ii) The regional center requests placement of the child in a licensed group home described in subdivision (a) using secured perimeters on the basis that the placement is necessary to prevent out-of-state placement or placement in a more restrictive, locked residential setting such as a developmental center, institution for mental disease or psychiatric facility, and the State Department of Developmental Services approves the request.

(4) The person is not a foster child under the jurisdiction of the juvenile court pursuant to Section 300, 450, 601, or 602 of the Welfare and Institutions Code.

(5) (A) An interdisciplinary team, through the individual program plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined the person lacks hazard awareness or impulse control and, for his or her safety and security, requires the level of supervision afforded by a facility equipped with secured perimeters, and, but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive placement. The individual program planning team shall convene every 90 days after admission to determine and document the continued appropriateness of the current placement and progress in implementing the transition plan.



(B) The clients' rights advocate for the regional center shall be notified of the proposed admission and the individual program plan meeting and may participate in the individual program plan meeting unless the consumer objects on his or her own behalf.

(d) The licensee shall be subject to all applicable fire and building codes, regulations, and standards, and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed secured perimeters.

(e) The licensee shall provide staff training regarding the use and operation of the secured perimeters, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

(f) The licensee shall revise its facility plan of operation. These revisions shall first be approved by the State Department of Developmental Services. The plan of operation shall not be approved by the State Department of Social Services unless the licensee provides certification that the plan was approved by the State Department of Developmental Services. The plan shall include, but not be limited to, all of the following:

(1) A description of how the facility is to be equipped with secured perimeters that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143.6.

(2) A description of how the facility will provide training for staff.

(3) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and



Institutions Code, and any applicable personal rights provided in Title 22 of the California Code of Regulations.

(4) A description of how the facility will manage residents' lack of hazard awareness and impulse control behavior, which shall emphasize positive behavioral supports and techniques that are alternatives to physical, chemical, or mechanical restraints, or seclusion.

(5) A description of the facility's emergency evacuation procedures.

(6) A description of how the facility will comply with applicable health and safety standards.

(g) Secured perimeters shall not substitute for adequate staff.

(h) Emergency fire and earthquake drills shall be conducted on each shift in accordance with existing licensing requirements, and shall include all facility staff providing resident care and supervision on each shift.

(i) Interior and exterior space shall be available on the facility premises to permit clients to move freely and safely.

(j) For the purpose of using secured perimeters, the licensee shall not be required to obtain a waiver or exception to a regulation that would otherwise prohibit the locking of a perimeter fence or gate.

(k) Except as provided in subdivision (k) of Section 4684.81 of the Welfare and Institutions Code, the state shall not authorize or fund more than a combined total of 150 beds statewide in facilities with secured perimeters under this section and under Section 1267.75. The department shall notify the appropriate fiscal and policy committees of the Legislature through the January and May budget estimates prior to



authorizing an increase above a combined total of 100 beds statewide in facilities with secured perimeters under this section and under Section 1267.75.

(1) A minimum of 50 beds shall be available within programs designed for individuals who are designated incompetent to stand trial pursuant to Section 1370.1 of the Penal Code. These beds shall be within facilities that are exclusively used to provide care for individuals who are placed and participating in forensic competency training pursuant to Section 1370.1 of the Penal Code, except as provided in paragraph

(2). No more than half of these facilities may have more than six beds and no facility may have more than 15 beds.

(2) When, in the joint determination of the regional center and the facility administrator, an individual would be most appropriately served in a specific program, regardless of whether the facility meets the criteria established in paragraph (1), individuals who are not similarly designated may be placed in the same facility. That placement may occur only when the individual's planning team determines that the placement and the facility plan of operation meet the individual's needs and that placement is not incompatible with the needs and safety of other facility residents.

(l) With the approval of the State Department of Developmental Services, a community crisis home, as described in Section 4698 of the Welfare and Institutions Code, may have up to eight beds. No more than one-third of community crisis homes may have more than six beds.

(A)

(m) This section shall become operative only upon the publication in Title 17 of the California Code of Regulations of emergency regulations filed by the State



Department of Developmental Services. These regulations shall be developed with stakeholders, including the State Department of Social Services, consumer advocates, and regional centers. The regulations shall establish program standards for homes that include secured perimeters, including requirements and timelines for the completion and updating of a comprehensive assessment of each consumer's needs, including the identification through the individual program plan process of the services and supports needed to transition the consumer to a less restrictive living arrangement, and a timeline for identifying or developing those services and supports. The regulations shall establish a statewide limit on the total number of beds in homes with secured perimeters. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 2. Section 4684.80 of the Welfare and Institutions Code is amended to read:

4684.80. (a) "Enhanced behavioral supports home" means a facility certified by the State Department of Developmental Services and licensed by the State Department of Social Services pursuant to Section 1567.62 of the Health and Safety Code as an adult residential facility or a group home that provides 24-hour nonmedical care to individuals with developmental disabilities who require enhanced behavioral supports, staffing, and supervision in a homelike setting. An enhanced behavioral supports home shall have a maximum capacity of four consumers, and shall conform to Section 441.530(a)(1) of Title 42 of the Code of Federal Regulations, ~~and~~. The enhanced behavioral supports home shall be eligible for federal Medicaid home- and community-based services funding. funding, unless the State Department of



Developmental Services approves the use of delayed egress devices with secured perimeters to be utilized at the enhanced behavioral supports home pursuant to Section 1531.15 of the Health and Safety Code.

(b) “Enhanced behavioral services and supports” means additional staffing supervision, facility characteristics, or other services and supports to address a consumer’s challenging behaviors, which are beyond what is typically available in other community facilities licensed as an adult residential facility or a group home to serve individuals in a community setting rather than an institution.

(c) “Individual behavior supports plan” means the plan that identifies and documents the behavior and intensive support and service needs of a consumer and details the strategies to be employed and services to be provided to address those needs, and includes the entity responsible for providing those services and timelines for when each identified individual behavior support will commence.

(d) “Individual behavior supports team” means those individuals who develop, monitor, and revise the individual behavior supports plan for consumers residing in an enhanced behavioral supports home. The team shall, at a minimum, be composed of all of the following individuals:

(1) Regional center service coordinator and other regional center representatives, as necessary.

(2) Consumer and, where appropriate, his or her conservator or authorized representative.

(3) Service provider’s board-certified behavior analyst or qualified behavior modification professional.



(4) Enhanced behavioral supports home administrator.

(5) Regional center clients' rights advocate, unless the consumer objects on his or her own behalf to participation by the clients' rights advocate.

(6) Others deemed necessary by the consumer, or his or her conservator or authorized representative, for developing a comprehensive and effective individual behavior supports plan.

SEC. 3. Section 4698 of the Welfare and Institutions Code is amended to read:

4698. (a) (1) "Community crisis home" means a facility certified by the State Department of Developmental Services pursuant to this article, and licensed by the State Department of Social Services pursuant to Article 9.7 (commencing with Section 1567.80) of Chapter 3 of Division 2 of the Health and Safety Code, as an adult residential facility, providing 24-hour nonmedical care to individuals with developmental disabilities receiving regional center services and in need of crisis intervention services who would otherwise be at risk of admission to the acute crisis center at Fairview Developmental Center or Sonoma Developmental Center, an out-of-state placement, a general acute hospital, an acute psychiatric hospital, or an institution for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5. A community crisis home shall have a maximum capacity of eight consumers.

(2) "Consumer" or "client" means an individual who has been determined by a regional center to meet the eligibility criteria of Section 4512 and applicable regulations and for whom the regional center has accepted responsibility.



(b) (1) The State Department of Developmental Services, using Community Placement Plan funds, shall establish a community-based residential option consisting of community crisis homes for adults with developmental disabilities receiving regional center services who require crisis intervention services and who would otherwise be at risk of admission to the acute crisis center at Fairview Developmental Center or Sonoma Developmental Center, an out-of-state placement, a general acute hospital, an acute psychiatric hospital, or an institution for mental disease, as described in Part 5 (commencing with Section 5900) of Division 5.

(2) The State Department of Developmental Services may issue a certificate of program approval to a community crisis home qualified pursuant to this article.

(c) A community crisis home shall not be licensed by the State Department of Social Services until the certificate of program approval, issued pursuant to this article by the State Department of Developmental Services, has been received.

(1) A community crisis home shall be certified only if approved through a regional center community placement plan pursuant to Section 4418.25. Each home shall conform to Section 441.530(a)(1) of Title 42 of the Code of Federal Regulations, and shall be eligible for federal Medicaid home- and community-based services ~~funding.~~ funding, unless the State Department of Developmental Services approves the use of delayed egress devices with secured perimeters to be utilized at the community crisis home pursuant to Section 1531.15 of the Health and Safety Code.

(2) A consumer shall not be placed in a community crisis home unless the program is certified by the State Department of Developmental Services, pursuant to this article, and the facility is licensed by the State Department of Social Services,



pursuant to Article 9.7 (commencing with Section 1567.80) of Chapter 3 of Division 2 of the Health and Safety Code.

(3) A certificate of program approval, issued pursuant to this article by the State Department of Developmental Services, shall be a condition of licensure for the community crisis home by the State Department of Social Services, pursuant to Article 9.7 (commencing with Section 1567.80) of Chapter 3 of Division 2 of the Health and Safety Code.

(4) Community crisis homes shall exceed the minimum requirements for a Residential Facility Service Level 4-i pursuant to Sections 56004 and 56013 of Title 17 of the California Code of regulations, and shall meet all applicable statutory and regulatory requirements for facility licensing, the use of behavior modification interventions, and seclusion and restraint, including Division 1.5 (commencing with Section 1180) of the Health and Safety Code, and that are applicable to facilities licensed as adult residential facilities.

(d) Community crisis homes shall have a facility program plan approved by the State Department of Developmental Services. The facility program plan approved by the State Department of Developmental Services shall be submitted to the State Department of Social Services for inclusion in the facility plan of operation, pursuant to Section 1567.84 of the Health and Safety Code.

(e) The local regional center and each consumer's regional center shall have joint responsibility for monitoring and evaluating the provision of services in the community crisis home. Monitoring shall include at least monthly face-to-face, onsite case management visits with each consumer by his or her regional center and at least



quarterly quality assurance visits by the vendoring regional center. The State Department of Developmental Services shall monitor and ensure the regional centers' compliance with their monitoring responsibilities.

(f) A consumer's regional center shall also notify the clients' rights advocate of each community crisis home admission. Unless the consumer objects on his or her own behalf, the clients' rights advocate may participate in developing the plan to transition the consumer to his or her prior residence or an alternative community-based residential setting with needed services and supports.

(g) The State Department of Developmental Services shall establish by regulation a rate methodology for community crisis homes that includes a fixed facility component for residential services and an individualized services and supports component based on each consumer's needs as determined through the individual program plan process, which may include assistance with returning to the consumer's prior living arrangement or transitioning to an alternative community residential setting.

(h) If the State Department of Developmental Services determines that urgent action is necessary to protect a consumer residing in a community crisis home from physical or mental abuse, abandonment, or any other substantial threat to the consumer's health and safety, the State Department of Developmental Services may request that the regional center or centers remove the consumer from the community crisis home or direct the regional center or centers to obtain alternative or additional services for the consumer within 24 hours of that determination. When possible, an individual program plan (IPP) meeting shall be convened to determine the appropriate action



pursuant to this section. In any case, an IPP meeting shall be convened within 30 days following an action pursuant to this section.

(i) The Director of Developmental Services shall rescind a community crisis home's certificate of program approval when, in his or her sole discretion, a community crisis home does not maintain substantial compliance with an applicable statute, regulation, or ordinance, or cannot ensure the health and safety of consumers. The decision of the Director of Developmental Services shall be the final administrative decision. The Director of Developmental Services shall transmit his or her decision rescinding a community crisis home's certificate of program approval to the State Department of Social Services and the regional center with his or her recommendation as to whether to revoke the community crisis home license, and the State Department of Social Services shall revoke the license of the community crisis home pursuant to Section 1550 of the Health and Safety Code.

(j) The State Department of Developmental Services and regional centers shall provide the State Department of Social Services all available documentation and evidentiary support necessary for the licensing and administration of community crisis homes and enforcement of Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, and the applicable regulations.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Developmental and behavioral services.

Existing law generally regulates community crisis homes and enhanced behavioral supports homes, among other types of facilities, to provide developmental and behavioral supportive services. Existing law requires a community crisis home or an enhanced behavioral supports home to be eligible for federal medicaid home- and community-based services funding.

This bill would exempt a community crisis home or an enhanced behavioral supports home from the requirement to be eligible for this federal funding, if the State Department of Developmental Services approves the use of delayed egress devices with secured perimeters at the home, as specified. The bill would also authorize a community crisis home to have up to 8 beds, except as provided, with the approval of the department.



98514

01/25/17 02:40 PM
RN 17 06422 PAGE 2

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



170642298514BILL