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An act to amend Section 4094 of, and to repeal Section 14105.965 of, the Welfare and Institutions Code, relating to health services.



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

SECTION 1. Section 4094 of the Welfare and Institutions Code is amended to read:

4094. (a) The State Department of Mental Health shall establish, by regulations adopted at the earliest possible date, but no later than December 31, 1994, program standards for any facility licensed as a community treatment facility. This section shall apply only to community treatment facilities described in this subdivision.

(b) Commencing July 1, 2012, the State Department of Health Care Services may adopt or amend regulations pertaining to the program standards for any facility licensed as a community treatment facility.

(c) A certification of compliance issued by the State Department of Health Care Services shall be a condition of licensure for the community treatment facility by the State Department of Social Services. The department may, upon the request of a county, delegate the certification and supervision of a community treatment facility to the county department of mental health.

(d) The State Department of Health Care Services shall adopt regulations to include, but not be limited to, the following:

(1) Procedures by which the Director of Health Care Services shall certify that a facility requesting licensure as a community treatment facility pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code is in compliance with program standards established pursuant to this section.

(2) Procedures by which the Director of Health Care Services shall deny a certification to a facility or decertify a facility that is licensed as a community treatment facility pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, but no longer complying with program standards established pursuant to this section, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Provisions for site visits by the State Department of Health Care Services for the purpose of reviewing a facility's compliance with program standards established pursuant to this section.

(4) Provisions for the community care licensing staff of the State Department of Social Services to report to the State Department of Health Care Services when there is reasonable cause to believe that a community treatment facility is not in compliance with program standards established pursuant to this section.

(5) Provisions for the State Department of Health Care Services to provide consultation and documentation to the State Department of Social Services in any administrative proceeding regarding denial, suspension, or revocation of a community treatment facility license.

(e) The standards adopted by regulations pursuant to subdivisions (a) and (b) shall include, but not be limited to, standards for treatment, staffing, and for the use of psychotropic medication, discipline, and restraints in the facilities. The standards shall also meet the requirements of Section 4094.5.

(f) (1) A community treatment facility shall not be required by the State Department of Health Care Services to have 24-hour onsite licensed nursing staff, but shall retain at least one full-time, or full-time-equivalent, registered nurse onsite if all of the following are applicable:



(A) The facility does not use mechanical restraint.

(B) The facility only admits children who have been assessed, at the point of admission, by a licensed primary care provider and a licensed psychiatrist, who have concluded, with respect to each child, that the child does not require medical services that require 24-hour nursing coverage. For purposes of this section, a "primary care provider" includes a person defined in Section 14254, or a nurse practitioner who has the responsibility for providing initial and primary care to patients, for maintaining the continuity of care, and for initiating referral for specialist care.

(C) Other medical or nursing staff shall be available on call to provide appropriate services, when necessary, within one hour.

(D) All direct care staff shall be trained in first aid and cardiopulmonary resuscitation, and in emergency intervention techniques and methods approved by the Community Care Licensing Division of the State Department of Social Services.

(2) The State Department of Health Care Services may adopt emergency regulations as necessary to implement this subdivision. 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, and general welfare. The regulations shall be exempt from review by the Office of Administrative Law and shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 180 days unless the adopting agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, as required by subdivision (e) of Section 11346.1 of the Government Code.

(g) During the initial public comment period for the adoption of the regulations required by this section, the community care facility licensing regulations proposed by the State Department of Social Services and the program standards proposed by the State Department of Health Care Services shall be presented simultaneously.

(h) A minor shall be admitted to a community treatment facility only if the requirements of Section 4094.5 and either of the following conditions are met:

(1) The minor is within the jurisdiction of the juvenile court, and has made voluntary application for mental health services pursuant to Section 6552.

(2) Informed consent is given by a parent, guardian, conservator, or other person having custody of the minor.

(i) Any minor admitted to a community treatment facility shall have the same due process rights afforded to a minor who may be admitted to a state hospital, pursuant to the holding in *In re Roger S.* (1977) 19 Cal.3d 921. Minors who are wards or dependents of the court and to whom this subdivision applies shall be afforded due process in accordance with Section 6552 and related case law, including *In re Michael E.* (1975) 15 Cal.3d 183. Regulations adopted pursuant to Section 4094 shall specify the procedures for ensuring these rights, including provisions for notification of rights and the time and place of hearings.

~~(j) Notwithstanding Section 13340 of the Government Code, the sum of forty-five thousand dollars (\$45,000) is hereby appropriated annually from the General Fund to the State Department of Health Care Services for one personnel year to carry out the provisions of this section.~~

SEC. 2. Section 14105.965 of the Welfare and Institutions Code is repealed.



~~14105.965. (a) Each eligible facility, as described in subdivision (b), may, in addition to the rate of payment that the facility would otherwise receive for Medi-Cal outpatient services, receive supplemental Medi-Cal reimbursement to the extent provided in this section.~~

~~(b) A facility shall be eligible for supplemental reimbursement only if the facility has all of the following characteristics continuously during a state fiscal year:~~

~~(1) Provides services to Medi-Cal beneficiaries.~~

~~(2) Commencing with the 2006-07 fiscal year, is a clinic that is enrolled as a Medi-Cal provider.~~

~~(3) Is owned or operated by the state, a city, county, or city and county, the University of California, or a health care district organized pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code.~~

~~(c) An eligible facility's supplemental reimbursement pursuant to this section shall be calculated and paid as follows:~~

~~(1) The supplemental reimbursement to an eligible facility, as described in subdivision (b), shall be equal to the amount of federal financial participation received as a result of the claims submitted pursuant to paragraph (2) of subdivision (g).~~

~~(2) In no instance shall the amount certified pursuant to paragraph (1) of subdivision (c), when combined with the amount received from all other sources of reimbursement from the Medi-Cal program, exceed 100 percent of projected costs, as determined pursuant to the Medi-Cal state plan, for outpatient services at each facility.~~

~~(3) The supplemental Medi-Cal reimbursement provided by this section shall be distributed under a payment methodology based on outpatient services provided to Medi-Cal patients at the eligible facility, either on a per-visit basis, per-procedure basis, or any other federally permissible basis. The department shall seek approval from the federal Centers for Medicare and Medicaid Services for the payment methodology to be utilized, and may not make any payment pursuant to this section prior to obtaining that approval.~~

~~(d) (1) It is the Legislature's intent in enacting this section to provide the supplemental reimbursement described in this section without any expenditure from the General Fund. An eligible facility, as a condition of receiving supplemental reimbursement pursuant to this section, shall enter into, and maintain, an agreement with the department for the purposes of implementing this section and reimbursing the department for the costs of administering this section.~~

~~(2) The state share of the supplemental reimbursement submitted to the federal Centers for Medicare and Medicaid Services for purposes of claiming federal financial participation shall be paid only with funds from the governmental entities described in paragraph (3) of subdivision (b) and certified to the state as provided in subdivision (e).~~

~~(e) A particular governmental entity, described in paragraph (3) of subdivision (b), on behalf of any eligible facility owned or operated by the entity, shall do all of the following:~~

~~(1) Certify, in conformity with the requirements of Section 433.51 of Title 42 of the Code of Federal Regulations, that the claimed expenditures for the outpatient services are eligible for federal financial participation.~~

~~(2) Provide evidence supporting the certification as specified by the department.~~



~~(3) Submit data as specified by the department to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation.~~

~~(4) Keep, maintain, and have readily retrievable, any records specified by the department to fully disclose reimbursement amounts to which the eligible facility is entitled, and any other records required by the federal Centers for Medicare and Medicaid Services.~~

~~(f) The department may require that any governmental entity described in paragraph (3) of subdivision (b) seeking supplemental reimbursement for an eligible facility under this section enter into an interagency agreement with the department for the purpose of implementing this section.~~

~~(g) (1) The department shall promptly seek any necessary federal approvals for the implementation of this section. If necessary to obtain federal approval, the department may limit the program to those costs that are allowable expenditures under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code). If federal approval is not obtained for implementation of this section, this section shall not be implemented.~~

~~(2) The department shall submit claims for federal financial participation for the expenditures for the services described in subdivision (c) that are allowable expenditures under federal law.~~

~~(3) The department shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures that are allowable under federal law.~~

~~(h) This section shall become inoperative in the event, and on the date, of a final judicial determination by any court of appellate jurisdiction or a final determination by the administrator of the federal Centers for Medicare and Medicaid Services that the supplemental reimbursement provided in this section must be made to any facility not described in this section.~~



LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____
General Subject: Community treatment facilities and supplemental Medi-Cal reimbursement.

(1) Existing law provides for the licensing of community treatment facilities by the State Department of Social Services and requires the State Department of Health Care Services to adopt regulations relating to program standards for those facilities. Under existing law, only seriously emotionally disturbed children, as defined, under specified criteria are placed in a community treatment facility.

Existing law appropriates \$45,000 annually from the General Fund to the State Department of Health Care Services for one personnel year to carry out the requirement on the department to adopt regulations.

This bill would repeal the above continuous appropriation.

(2) Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions.

Existing law authorizes a publicly owned or operated clinic that is enrolled as a Medi-Cal provider and that provides services to Medi-Cal beneficiaries to receive supplemental Medi-Cal reimbursement, as specified, in addition to the rate of payment that the facility would otherwise receive for Medi-Cal outpatient services. Existing law requires an eligible facility, as a condition of receiving supplemental reimbursement, to enter into, and maintain, an agreement with the department for the purposes of implementing those provisions and reimbursing the department for the costs of administering them.

This bill would repeal the above-described provisions relating to the supplemental Medi-Cal reimbursement.

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

