

AMENDED IN SENATE AUGUST 27, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1260

Introduced by Assembly Member Huffman
(Coauthors: Assembly Members Beall, Blumenfield, Galgiani, Jones,
Krekorian, and Portantino)
(Coauthor: Senator DeSaulnier)

February 27, 2009

~~An act to amend Section 4933 of the Business and Professions Code, relating to acupuncture.~~ *An act to amend Section 95020 of the Government Code, and to amend Sections 4685, 4686.5, 4688.1, 4688.2, and 4692 of the Welfare and Institutions Code, relating to developmental services.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1260, as amended, Huffman. ~~Acupuncture.~~ *Developmental services: regional centers.*

Existing law, the California Early Intervention Services Act, provides a statewide system of coordinated, comprehensive, family-centered, multidisciplinary, and interagency programs that are responsible for providing appropriate early intervention services and support to all eligible infants and toddlers, as defined, and their families. Existing law requires a written individualized family service plan (IFSP) that includes, among other things, a statement of the specific early intervention services necessary to meet the unique needs of the infant or toddler, including, but not limited to, the frequency, intensity, location, duration, and method of delivering the services, and ways of

providing services in natural generic environments, including group training for parents on behavioral intervention techniques in lieu of some or all of the in-home parent training component of the behavior intervention services, and purchase of neighborhood preschool services and needed qualified personnel in lieu of infant development programs. After July 1, 2009, existing law requires the regional center to consider the use of group training for parents on behavior intervention techniques in lieu of some or all of the in-home parent training component of the behavior intervention services at the time of the development, review, or modification of an infant's or toddler's IFSP.

This bill would allow small group training by a qualified professional using culturally appropriate materials to be given prior to some or all of the in-home parent training component of the behavior intervention services. The bill would also require the IFSP team to consider, at the time of development, review, or modification of an infant's or toddler's IFSP, small group training by a qualified professional using appropriate materials prior to some or all of the in-home parent training component of the behavior intervention services.

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is responsible for providing various services and supports to individuals with developmental disabilities through contracts with local, nonprofit regional centers. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. Those services and supports include, among other things, respite services, alternative senior programs, and alternative customized programs.

This bill would prohibit the regional centers from purchasing more than 98% of the annualized volume of in-home and out-of-home respite services utilized by a consumer who received those services in the 2008–09 fiscal year. The bill would also require the regional centers to take appropriate steps to make sure that sufficient program capacity exists to meet the individual needs of consumers wishing to enroll in alternative senior programs or alternative customized programs that are consistent with the individual's IPP.

Existing law prohibits regional centers from compensating various specified programs for providing services to a consumer, and from compensating transportation to those services, on specified holidays, including November 11 and the 4 business days between December 25 and January 1. Under existing law, if the holiday falls on a Saturday

or a Sunday, the following Monday is deemed the holiday in lieu of the day observed.

This bill would remove the November 11 holiday from the above prohibition, add the day after Thanksgiving Day, and remove the prohibition with regard to the four business days between December 25 and January 1 after July 1, 2011. Additionally, the bill would make the Friday before the holiday the observed day if the holiday falls on a Saturday.

~~Existing law, the Acupuncture Licensure Act, provides for the licensure and regulation of the practice of acupuncture and establishes the Acupuncture Board to enforce and administer these provisions.~~

~~Under existing law, the board is comprised of 7 members, 3 acupuncturists and 4 public members, and 5 members constitute a quorum to conduct business.~~

~~This bill would instead specify that 4 members of the board, including at least one acupuncturist, constitute a quorum to conduct business.~~

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

The people of the State of California do enact as follows:

1 SECTION 1. Section 95020 of the Government Code is
2 amended to read:

3 95020. (a) An eligible infant or toddler shall have an
4 individualized family service plan. The individualized family
5 service plan shall be used in place of an individualized education
6 program required pursuant to Sections 4646 and 4646.5 of the
7 Welfare and Institutions Code, the individualized program plan
8 required pursuant to Section 56340 of the Education Code, or any
9 other applicable service plan.

10 (b) For an infant or toddler who has been evaluated for the first
11 time, a meeting to share the results of the evaluation, to determine
12 eligibility and, for children who are eligible, to develop the initial
13 individualized family service plan shall be conducted within 45
14 calendar days of receipt of the written referral. Evaluation results
15 and determination of eligibility may be shared in a meeting with
16 the family prior to the individualized family service plan. Written
17 ~~parent~~ *parental* consent to evaluate and assess shall be obtained
18 within the 45-day timeline. A regional center, local educational
19 agency, or the designee of one of those entities shall initiate and

1 conduct this meeting. Families shall be afforded the opportunity
2 to participate in all decisions regarding eligibility and services.

3 (c) Parents shall be fully informed of their rights, including the
4 right to invite another person, including a family member~~or~~, an
5 advocate~~or~~, a peer parent, or any or all of them, to accompany
6 them to any or all individualized family service plan meetings.
7 With parental consent, a referral shall be made to the local family
8 resource center or network.

9 (d) The individualized family service plan shall be in writing
10 and shall address all of the following:

11 (1) A statement of the infant's or toddler's present levels of
12 physical development including vision, hearing, and health status,
13 cognitive development, communication development, social and
14 emotional development, and adaptive developments.

15 (2) With the concurrence of the family, a statement of the
16 family's concerns, priorities, and resources related to meeting the
17 special developmental needs of the eligible infant or toddler.

18 (3) A statement of the major outcomes expected to be achieved
19 for the infant or toddler and family where services for the family
20 are related to meeting the special developmental needs of the
21 eligible infant or toddler.

22 (4) The criteria, procedures, and timelines used to determine
23 the degree to which progress toward achieving the outcomes is
24 being made and whether modifications or revisions are necessary.

25 (5) (A) A statement of the specific early intervention services
26 necessary to meet the unique needs of the infant or toddler as
27 identified in paragraph (3), including, but not limited to, the
28 frequency, intensity, location, duration, and method of delivering
29 the services, and ways of providing services in natural~~generic~~
30 environments, including *small* group training for parents on
31 behavioral intervention techniques *by a qualified professional*
32 *using culturally sensitive materials* in lieu of some or all of the
33 in-home parent training component of the behavior intervention
34 services, and purchase of neighborhood preschool services and
35 needed qualified personnel in lieu of infant development programs.

36 (B) Effective July 1, 2009, at the time of development, review,
37 or modification of an infant's or toddler's individualized family
38 service plan, the~~regional center~~ *individual family service planning*
39 *team* shall consider both of the following:

1 (i) The use of *small* group training by a *qualified professional*
2 *using appropriate materials* for parents on behavior intervention
3 techniques, ~~in lieu of~~ *prior to* some or all of the in-home parent
4 training component of the behavior intervention services.

5 (ii) The purchase of neighborhood preschool services and needed
6 qualified personnel, in lieu of infant development programs.

7 (C) *Nothing in this section shall prevent or replace the in-home*
8 *parent training necessary for the health or safety of the consumer*
9 *or family.*

10 (6) A statement of the agency responsible for providing the
11 identified services.

12 (7) The name of the service coordinator who shall be responsible
13 for facilitating implementation of the plan and coordinating with
14 other agencies and persons.

15 (8) The steps to be taken to ensure transition of the infant or
16 toddler upon reaching three years of age to other appropriate
17 services. These may include, as appropriate, special education or
18 other services offered in natural environments.

19 (9) The projected dates for the initiation of services in paragraph
20 (5) and the anticipated duration of those services.

21 (e) Each service identified on the individualized family service
22 plan shall be designated as one of three types:

23 (1) An early intervention service, as defined in subsection (4)
24 of Section 1432 of Title 20 of the United States Code, and
25 applicable regulations, that is provided or purchased through the
26 regional center, local educational agency, or other participating
27 agency. The State Department of Health Care Services, State
28 Department of Social Services, State Department of Mental Health,
29 and State Department of Alcohol and Drug Programs shall provide
30 services in accordance with state and federal law and applicable
31 regulations, and up to the level of funding as appropriated by the
32 Legislature. Early intervention services identified ~~on~~ *in* an
33 individualized family service plan that exceed the funding,
34 statutory, and regulatory requirements of these departments shall
35 be provided or purchased by regional centers or local educational
36 agencies under subdivisions (b) and (c) of Section 95014. The
37 State Department of Health Care Services, State Department of
38 Social Services, State Department of Mental Health, and State
39 Department of Alcohol and Drug Programs shall not be required

1 to provide early intervention services over their existing funding,
2 statutory, and regulatory requirements.

3 (2) Another service, other than those specified in paragraph (1),
4 which the eligible infant or toddler or his or her family may receive
5 from other state programs, subject to the eligibility standards of
6 those programs.

7 (3) A referral to a nonrequired service that may be provided to
8 an eligible infant or toddler or his or her family. Nonrequired
9 services are those services that are not defined as early intervention
10 services or do not relate to meeting the special developmental
11 needs of an eligible infant or toddler related to the disability, but
12 that may be helpful to the family. The granting or denial of
13 nonrequired services by a public or private agency is not subject
14 to appeal under this title. Notwithstanding any other provision of
15 law or regulation to the contrary, effective July 1, 2009, with the
16 exception of durable medical equipment, regional centers shall not
17 purchase nonrequired services, but may refer a family to a
18 nonrequired service that may be available to an eligible infant or
19 toddler or his or her family.

20 (f) An annual review, and other periodic reviews, of the
21 individualized family service plan for an infant or toddler and the
22 infant's or toddler's family shall be conducted to determine the
23 degree of progress that is being made in achieving the outcomes
24 specified in the plan and whether modification or revision of the
25 outcomes or services is necessary. The frequency, participants,
26 purpose, and required processes for annual and periodic reviews
27 shall be consistent with the statutes and regulations under Part C
28 of the federal Individuals with Disabilities Education Act (20
29 U.S.C. Sec. 1431 et seq.) and this title, and shall be specified in
30 regulations adopted pursuant to Section 95028.

31 *SEC. 2. Section 4685 of the Welfare and Institutions Code is*
32 *amended to read:*

33 4685. (a) Consistent with state and federal law, the Legislature
34 finds and declares that children with developmental disabilities
35 most often have greater opportunities for educational and social
36 growth when they live with their families. The Legislature further
37 finds and declares that the cost of providing necessary services
38 and supports—~~which~~ *that* enable a child with developmental
39 disabilities to live at home is typically equal to or lower than the
40 cost of providing out-of-home placement. The Legislature places

1 a high priority on providing opportunities for children with
2 developmental disabilities to live with their families, when living
3 at home is the preferred objective in the child's individual program
4 plan.

5 (b) It is the intent of the Legislature that regional centers provide
6 or secure family support services that do all of the following:

7 (1) Respect and support the decisionmaking authority of the
8 family.

9 (2) Be flexible and creative in meeting the unique and individual
10 needs of families as they evolve over time.

11 (3) Recognize and build on family strengths, natural supports,
12 and existing community resources.

13 (4) Be designed to meet the cultural preferences, values, and
14 lifestyles of families.

15 (5) Focus on the entire family and promote the inclusion of
16 children with disabilities in all aspects of school and community.

17 (c) In order to provide opportunities for children to live with
18 their families, the following procedures shall be adopted:

19 (1) The department and regional centers shall give a very high
20 priority to the development and expansion of services and supports
21 designed to assist families that are caring for their children at home,
22 when that is the preferred objective in the individual program plan.
23 This assistance may include, but is not limited to, specialized
24 medical and dental care, special training for parents, infant
25 stimulation programs, respite for parents, homemaker services,
26 camping, day care, short-term out-of-home care, child care,
27 counseling, mental health services, behavior modification
28 programs, special adaptive equipment such as wheelchairs, hospital
29 beds, communication devices, and other necessary appliances and
30 supplies, and advocacy to assist persons in securing income
31 maintenance, educational services, and other benefits to which
32 they are entitled.

33 (2) When children with developmental disabilities live with
34 their families, the individual program plan shall include a family
35 plan component which describes those services and supports
36 necessary to successfully maintain the child at home. Regional
37 centers shall consider every possible way to assist families in
38 maintaining their children at home, when living at home will be
39 in the best interest of the child, before considering out-of-home
40 placement alternatives. When the regional center first becomes

1 aware that a family may consider an out-of-home placement, or
2 is in need of additional specialized services to assist in caring for
3 the child in the home, the regional center shall meet with the family
4 to discuss the situation and the family's current needs, solicit from
5 the family what supports would be necessary to maintain the child
6 in the home, and utilize creative and innovative ways of meeting
7 the family's needs and providing adequate supports to keep the
8 family together, if possible.

9 (3) (A) To ensure that these services and supports are provided
10 in the most cost-effective and beneficial manner, regional centers
11 may utilize innovative service-delivery mechanisms, including,
12 but not limited to, vouchers; alternative respite options such as
13 foster families, vacant community facility beds, *and* crisis child
14 care facilities; *small* group training for parents on behavioral
15 intervention techniques *by a qualified professional using*
16 *appropriate materials* in lieu of some or all of the in-home parent
17 training component of the behavioral intervention services;
18 purchase of neighborhood preschool services and needed qualified
19 personnel in lieu of infant development programs; and alternative
20 child care options such as supplemental support to generic child
21 care facilities and parent child care cooperatives.

22 (B) Effective July 1, 2009, at the time of development, review,
23 or modification of a child's individualized family service plan or
24 individual program plan, the regional center shall consider both
25 of the following:

26 (i) The use of *small* group training for parents on behavioral
27 intervention techniques ~~in lieu of~~ *by a qualified professional using*
28 *appropriate materials prior to* some or all of the in-home parent
29 training component of the behavioral intervention services.

30 (ii) The purchase of neighborhood preschool services and needed
31 qualified personnel in lieu of infant development programs.

32 (C) *Nothing in this section shall prevent or replace the in-home*
33 *parent training necessary for the health or safety of the consumer*
34 *or family.*

35 (4) If the parent of ~~any~~ a child receiving services and supports
36 from a regional center believes that the regional center is not
37 offering adequate assistance to enable the family to keep the child
38 at home, the parent may initiate a request for fair hearing as
39 established in this division. A family shall not be required to start

1 a placement process or to commit to placing a child in order to
2 receive requested services.

3 (5) Nothing in this section shall be construed to encourage the
4 continued residency of adult children in the home of their parents
5 when that residency is not in the best interests of the person.

6 (6) When purchasing or providing a voucher for day care
7 services for parents who are caring for children at home, the
8 regional center may pay only the cost of the day care service that
9 exceeds the cost of providing day care services to a child without
10 disabilities. The regional center may pay in excess of this amount
11 when a family can demonstrate a financial need and when doing
12 so will enable the child to remain in the family home.

13 (7) A regional center may purchase or provide a voucher for
14 diapers for children three years of age or older. A regional center
15 may purchase or provide vouchers for diapers under three years
16 of age when a family can demonstrate a financial need and when
17 doing so will enable the child to remain in the family home.

18 *SEC. 3. Section 4686.5 of the Welfare and Institutions Code*
19 *is amended to read:*

20 4686.5. (a) Effective July 1, 2009, notwithstanding any other
21 provision of law or regulation to the contrary, all of the following
22 shall apply:

23 (1) A regional center may only purchase respite services when
24 the care and supervision needs of a consumer exceed that of an
25 individual of the same age without developmental disabilities.

26 (2) ~~A regional center shall not purchase more than 21 days of~~
27 ~~out-of-home respite services in a fiscal year nor more than 90 hours~~
28 ~~of in-home respite services in a quarter, for a consumer. For a~~
29 ~~consumer who received respite services during the 2008–09 fiscal~~
30 ~~year, a regional center shall not purchase more than 98 percent~~
31 ~~of the annualized volume of in-home and out-of-home respite~~
32 ~~services utilized by that consumer in that fiscal year.~~

33 (3) (A) A regional center may grant an exemption to the
34 requirements set forth in paragraphs (1) and (2) if it is demonstrated
35 that the intensity of the consumer's care and supervision needs are
36 such that additional respite is necessary to maintain the consumer
37 in the family home, or there is an extraordinary event that impacts
38 the family member's ability to meet the care and supervision needs
39 of the consumer.

(B) For purposes of this section, “family member” means an individual who:

(i) Has a consumer residing with him or her.

(ii) Is responsible for the 24-hour care and supervision of the consumer.

(iii) Is not a licensed or certified residential care facility or foster family home receiving funds from ~~any~~ a public agency or regional center for the care and supervision provided. Notwithstanding this provision, a relative who receives foster care funds shall not be precluded from receiving respite.

(4) A regional center shall not purchase day care services to replace or supplant respite services. For purposes of this section, “day care” is defined as regularly provided care, protection, and supervision of a consumer living in the home of his or her parents, for periods of less than 24 hours per day, while the parents are engaged in employment outside of the home or educational activities leading to employment, or both.

(5) A regional center shall only consider in-home supportive services a generic resource when the approved in-home supportive services meets the respite need as identified in the consumer’s individual program plan (IPP) or individualized family service plan (IFSP).

(b) For consumers receiving respite services on July 1, 2009, as part of their IPP or IFSP, subdivision (a) shall apply on August 1, 2009.

(c) This section shall remain in effect until implementation of the individual choice budget pursuant to Section 4648.6 and certification by the Director ~~of the Department~~ of Developmental Services that the individual choice budget has been implemented and will result in state budget savings sufficient to offset the costs associated with the repeal of this section. This section shall be repealed on the date of certification.

SEC. 4. Section 4688.1 of the Welfare and Institutions Code is amended to read:

4688.1. (a) Notwithstanding any other provision of law or regulation to the contrary, vendors of behavior management, activity center, and adult development center day programs, social recreation programs, socialization training programs, community integration training programs, community activities support programs, creative art programs, and work activity programs shall

1 offer an alternative senior program component focused on the
2 needs of individuals with developmental disabilities who are over
3 50 years of age, at a rate not to exceed the lesser of thirty-five
4 dollars (\$35) per day or the vendor's existing daily rate.

5 ~~(1) The rate.~~ The alternative senior program component shall
6 be provided at a ratio of no more than eight consumers to one staff
7 member.

8 ~~(2) Consistent with the intent of the Lanterman Developmental~~
9 ~~Disabilities Services Act, the alternative senior program component~~
10 ~~shall be offered within the provider's existing vendored capacity~~
11 ~~as reflected in its program design or licensed capacity.~~

12 (b) Effective July 1, 2009, at the time of development, review,
13 or modification of an eligible consumer's individual program plan,
14 regional centers, as appropriate, shall provide information about
15 and offer an alternative senior program. The alternative senior
16 program shall be offered to eligible consumers who want to
17 transition to a program component focused on the needs and
18 interests of seniors.

19 (c) *Regional centers shall take appropriate steps to ensure that*
20 *sufficient program capacity exists to meet the individual needs of*
21 *consumers wishing to enroll in an alternative senior program that*
22 *is consistent with the individual's individual program plan.*

23 SEC. 5. Section 4688.2 of the Welfare and Institutions Code
24 is amended to read:

25 4688.2. (a) Notwithstanding any other provision of law or
26 regulation to the contrary, vendors of behavior management,
27 activity center, and adult development center adult day programs,
28 community integration training programs, and community activities
29 support services programs shall offer an alternative customized
30 program component with an appropriate staffing component to
31 meet individualized consumer needs.

32 ~~(1) The alternative customized program component shall be~~
33 ~~offered within the provider's existing vendored capacity, as~~
34 ~~reflected in its program design or licensed capacity. Regional~~
35 ~~centers shall take all appropriate steps to make sure that sufficient~~
36 ~~program capacity with appropriate staffing components exists to~~
37 ~~meet the individual needs of consumers wishing to enroll in an~~
38 ~~alternative customized program that is consistent with the~~
39 ~~individual's individual program plan.~~

(2) The regional center shall fund customized programs based on the vendor's existing rate and only fund those hours provided.

(b) Effective July 1, 2009, at the time of development, review, or modification of a consumer's individual program plan, regional centers, as appropriate, shall provide information about and make available the customized program option.

(1) The alternative customized program component shall be offered to individuals with developmental disabilities who want a program focused on their individualized needs and interests to develop or maintain employment or volunteer activities in lieu of their current program.

(2) Total hours of service for this alternative customized program shall range between 20 and 80 hours per month, per person, depending on the support needs of the individual.

SEC. 6. Section 4692 of the Welfare and Institutions Code is amended to read:

4692. (a) Effective August 1, 2009, subject to subdivisions (c) and (e), regional centers shall not compensate a work activity program, activity center, adult development center, behavior management program, social recreation program, adaptive skills trainer, infant development program, program support group (day service), socialization training program, client/parent support behavior intervention training program, community integration training program, community activities support service, or creative arts program, as defined in Title 17 of the California Code of Regulations, for providing ~~any~~ service to a consumer on any of the following holidays:

(1) January 1.

(2) The third Monday in January.

(3) The third Monday in February.

(4) March 31.

(5) The last Monday in May.

(6) July 4.

(7) The first Monday in September.

~~(8) November 11.~~

~~(9)~~

(8) Thanksgiving Day.

(9) *The day after Thanksgiving Day.*

(10) December 25.

(11) ~~The~~ *Until July 1, 2011, the* four business days between December 25 and January 1.

(b) Effective August 1, 2009, subject to subdivisions (c) and (e), regional centers shall not compensate a transportation vendor/family member, transportation company, transportation/additional component vendor, transportation broker, transportation assistant/vendor, transportation vendor/auto driver, or transportation vendor/public or rental car agency or taxi, in accordance with Title 17 of the California Code of Regulations, for transporting ~~any~~ *a* consumer to receive services from ~~any of~~ the vendors specified in subdivision (a) for ~~any of~~ the holidays set forth in paragraphs (1) to (11), inclusive, of subdivision (a).

(c) If a holiday listed in this section falls on a Saturday ~~or, the~~ *previous Friday shall be deemed the holiday in lieu of the day observed. If a holiday listed in this section falls on a* Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed.

(d) Contracts between the vendors described in this section and regional centers shall reflect the holiday closures set forth in this section and shall be renegotiated accordingly, as necessary.

(e) The department may adjust the holidays set forth in subdivision (a) through a program directive. This directive shall be provided to the regional centers and posted on the department's Internet Web site at least 60 days prior to the effective date of the change in holiday.

~~SECTION 1. Section 4933 of the Business and Professions Code is amended to read:~~

~~4933. (a) The board shall administer this chapter.~~

~~(b) The board may adopt, amend, or repeal, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), regulations as may be necessary to enable it to carry into effect the provisions of law relating to the practice of acupuncture.~~

~~(c) Four members of the board, including at least one member who is an acupuncturist, shall constitute a quorum to conduct business.~~

- 1 ~~(d) It shall require an affirmative vote of a majority of those~~
- 2 ~~present at a meeting of the board to take any action or pass any~~
- 3 ~~motion.~~