

AMENDED IN SENATE JUNE 25, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1469

Introduced by Committee on Budget (Blumenfield (Chair), Alejo, Bonilla, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)

January 10, 2012

An act relating to the Budget Act of 2012.—An act to amend Section 680 of the Business and Professions Code, to amend Section 43.7 of the Civil Code, to amend Sections 1179.3, 1180.6, 1250.2, 1254, 1254.1, 1266.1, 1275.1, 1275.5, 1324.20, 1343, 1373, 1422.1, 1502, 1502.4, 1507, 1522.08, 1522.41, 1522.42, 1530.9, 1562.3, 11217, 11998.1, 50451, 50685.5, 50687.5, 50689, 120840, 124174.4, 128454, 128456, and 129230 of, and to repeal Section 1565 of, the Health and Safety Code, to amend Sections 10125, 10127, and 12693.61 of the Insurance Code, and to amend Sections 21, 359, 708, 4005.1, 4011, 4030, 4031, 4032, 4033, 4040, 4050, 4051, 4052, 4060, 4061, 4080, 4090, 4091, 4094, 4094.1, 4094.2, 4094.7, 4095, 4096.5, 4098.2, 4340, 4369.4, 4681, 4681.1, 4696.1, 4835, 4844, 5150, 5151, 5152, 5157, 5202, 5270.12, 5325, 5326, 5326.1, 5326.15, 5326.3, 5326.8, 5326.9, 5326.91, 5326.95, 5328, 5348, 5349, 5349.1, 5358, 5366.1, 5370.2, 5400, 5402, 5404, 5405, 5510, 5513, 5514, 5520, 5530, 5585.21, 5585.22, 5585.50, 5585.55, 5601, 5602, 5604, 5607, 5610, 5650, 5651, 5652.7, 5653, 5653.1, 5654, 5655, 5664, 5664.5, 5666, 5675, 5675.1, 5675.2, 5676, 5688.6, 5692, 5701, 5701.1, 5705, 5707, 5709, 5710, 5714, 5715, 5717, 5750, 5751, 5751.1, 5751.2, 5751.7, 5768, 5770, 5770.5, 5771, 5771.3, 5772, 5803, 5805, 5806, 5807, 5809, 5813.6, 5814, 5815, 5851.5, 5852, 5852.5, 5854, 5855, 5855.5, 5863, 5867.5, 5868, 5869, 5872, 5878, 5880, 5881, 5901, 5909, 6002.15, 6002.40, 6007, 6551, 7100, 9101,

11325.7, 11462.01, 11495.1, 14021.4, 14021.5, 14053.3, 14108.1, 14110.15, 14131.07, 14132.73, 14167.1, 14167.11, 14168.1, 14169.1, 14456.5, 14680, 14681, 14683, 14684, 14684.1, 14685, 18358.15, 18986.40, 18987.7, and 18994.9 of, to amend the heading of Article 2 (commencing with Section 5510) of Chapter 6.2 of Part 1 of Division 5 of, to amend and renumber Sections 4070, 4071, 5711, 5716, 5718, 5719, 5720, 5721, 5722, 5723, 5724, 5775, 5776, 5777, 5777.5, 5777.6, 5777.7, 5778, 5778.3, 5780, 5781, and 5783 of, to amend and repeal Sections 5779, 5782, 14021.3, and 14682, of, to amend, renumber, and repeal Section 5719.5 of, to add Sections 4005.6, 4005.7, 14682.1, 14685.1, 14702, 14703, 14704, and 14707.5 to, to repeal Sections 5600.8, 5673, 5708, 5712, 5723.5, 5750.1, 5804, 14640, and 25002 of, to repeal the heading of Article 4 (commencing with Section 4070) of Chapter 2 of Part 1 of Division 4 of, to repeal Article 1 (commencing with Section 4074) and Article 2 (commencing with Section 4075) of Chapter 3 of Part 1 of Division 4 of, to repeal Article 2.5 (commencing with Section 5689) of Chapter 2.5 of Part 2 of Division 5 of, to repeal Article 3 (commencing with Section 5810) of Part 3 of Division 5 of, and to repeal Chapter 5 (commencing with Section 4097) of Part 1 of Division 4 of, the Welfare and Institutions Code, relating to health and human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 1469, as amended, Committee on Budget. ~~Budget Act of 2012.~~
Health and human services.

Under existing law, the State Department of Mental Health is authorized and required to perform various functions relating to the care and treatment of persons with mental disorders. Under existing law, services for these individuals may be provided in psychiatric hospitals or other types of facilities, as well as in community settings.

This bill would eliminate or modify certain duties of, and programs administered by, the State Department of Mental Health, and would transfer the functions of the State Department of Mental Health to other state departments. The transferred responsibilities would include, among others, transferring licensing authority for psychiatric health facilities, as defined, to the State Department of Social Services, transferring authority for oversight of group homes for seriously emotionally disturbed children and community treatment facilities, and certain

duties relating to drug and alcohol abuse programs, to the State Department of Health Care Services, and transferring to the State Department of State Hospitals jurisdiction over individuals under the treatment of state hospitals.

This bill would abolish the existing Licensing and Certification Fund, Mental Health, and would create in its place the Mental Health Facility Licensing Fund, which, upon appropriation by the Legislature, would fund administrative and other activities in support of the mental health licensing and certification functions of the State Department of Social Services.

This bill would make various related, technical, and conforming changes to reflect the transfer of state mental health responsibilities.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Under existing law, the State Department of Mental Health is required to implement mental health care services, as specified, for Medi-Cal recipients. Existing law, commencing July 1, 2012, requires state administrative functions for the operation of Medi-Cal specialty mental health managed care, the Early and Periodic, Screening, Diagnosis, and Treatment (EPSDT) Program, and applicable functions related to federal Medicaid requirements that are performed by the State Department of Mental Health to be transferred to the State Department of Health Care Services.

This bill would transfer the administration of mental health services described above for Medi-Cal beneficiaries to the State Department of Health Care Services, effective July 1, 2012, and would make related changes.

Existing law provides that clinics providing Medi-Cal specialty mental health services are not required to be licensed as a condition to reimbursement.

This bill would require instead that clinics providing those services be certified as a condition to reimbursement.

Existing law, to the extent permitted under federal law, authorizes funds deposited into a local health and welfare trust fund from the Sales Tax Account of the Local Revenue Fund to be used to match federal Medicaid funds in order to achieve the maximum federal reimbursement possible.

This bill would instead authorize, to the extent permitted under specified provisions of law, that funds distributed to counties from the Mental Health Subaccount, the Mental Health Equity Subaccount, and the Vehicle License Collection Account of the Local Revenue Fund, funds from the Mental Health Account and the Behavioral Health Subaccount from the Local Revenue Fund 2011, funds from the Mental Health Services Fund, and any other funds from which the Controller makes distributions to the counties be used to pay for services provided by these funds that the counties may certify as public expenditures in order to achieve the maximum federal reimbursement possible.

This bill would make related and conforming changes relating to federal audit exceptions.

Existing law requires the State Department of Mental Health to implement managed mental health care for Medi-Cal beneficiaries through fee-for-service or capitated rate contracts with mental health plans, as specified.

This bill would instead require the State Department of Health Care Services to implement managed mental health care for Medi-Cal beneficiaries through contracts with mental health plans. The bill would make various changes to associated contracting procedures and would specify the sources from which fines and penalties for noncompliance with specialty mental health service requirements may be satisfied.

Existing law provides that a contract with a mental health plan may be renewed, for a period not to exceed 3 years, if the mental health plan continues to meet specified requirements.

This bill would delete the 3-year limitation on renewed contracts.

Existing law specifies responsibilities and procedures for audit exceptions, disallowances, and appeals for Medi-Cal specialty mental health services provided by mental health plans and mental health plan subcontractors. Existing law limits the maximum amount withheld for purposes of audit exceptions or disallowances to 25% of each payment, as specified.

This bill would revise the responsibilities and procedures relating to audit exceptions, disallowances, and appeals, would eliminate obsolete language, and would make conforming and clarifying changes. The bill would authorize the department to increase the amount withheld to an amount greater than 25% of each payment in order to comply with federal laws and regulations.

Existing law requires the State Department of Mental Health to allocate funds for the provision of mental health services to Medi-Cal

eligible persons over 20 years of age to counties of over one million population that own and operate an acute psychiatric health facility, as specified.

This bill would delete that provision.

Existing law provides that counties have the right of first refusal to serve as a mental health plan.

This bill would repeal these provisions on November 7, 2012, if a specified provision of law takes effect.

Existing law requires the Secretary for California Health and Human Services to establish a process by which options for achieving universal health care coverage are developed.

This bill would delete these provisions.

This bill would delete obsolete provisions of law, and would make conforming, clarifying, and technical changes.

This bill would appropriate the sum of \$1,000 from the General Fund to the State Department of Health Care Services for administration.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

This bill would become operative contingent upon the enactment of AB 1480 or SB 1020 of the 2011–12 Regular Session.

~~*This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.*~~

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

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

1 SECTION 1. *This act is titled and may be cited as 2011*
2 *Realignment Legislation.*

3 SEC. 2. *Section 680 of the Business and Professions Code is*
4 *amended to read:*

5 680. (a) Except as otherwise provided in this section, a health
6 care practitioner shall disclose, while working, his or her name
7 and practitioner’s license status, as granted by this state, on a name
8 tag in at least 18-point type. A health care practitioner in a practice
9 or an office, whose license is prominently displayed, may opt to
10 not wear a name tag. If a health care practitioner or a licensed
11 clinical social worker is working in a psychiatric setting or in a
12 setting that is not licensed by the state, the employing entity or
13 agency shall have the discretion to make an exception from the

1 name tag requirement for individual safety or therapeutic concerns.
2 In the interest of public safety and consumer awareness, it shall
3 be unlawful for any person to use the title “nurse” in reference to
4 himself or herself and in any capacity, except for an individual
5 who is a registered nurse or a licensed vocational nurse, or as
6 otherwise provided in Section 2800. Nothing in this section shall
7 prohibit a certified nurse assistant from using his or her title.

8 (b) Facilities licensed by the State Department of Social
9 Services, ~~the State Department of Mental Health~~, or the State
10 Department of *Public Health Services* shall develop and implement
11 policies to ensure that health care practitioners providing care in
12 those facilities are in compliance with subdivision (a). The State
13 Department of Social Services, ~~the State Department of Mental~~
14 ~~Health~~, and the State Department of *Public Health Services* shall
15 verify through periodic inspections that the policies required
16 pursuant to subdivision (a) have been developed and implemented
17 by the respective licensed facilities.

18 (c) For purposes of this article, “health care practitioner” means
19 any person who engages in acts that are the subject of licensure
20 or regulation under this division or under any initiative act referred
21 to in this division.

22 *SEC. 3. Section 43.7 of the Civil Code is amended to read:*

23 43.7. (a) There shall be no monetary liability on the part of,
24 and no cause of action for damages shall arise against, any member
25 of a duly appointed mental health professional quality assurance
26 committee that is established in compliance with Section ~~4070~~
27 *14725* of the Welfare and Institutions Code, for any act or
28 proceeding undertaken or performed within the scope of the
29 functions of the committee which is formed to review and evaluate
30 the adequacy, appropriateness, or effectiveness of the care and
31 treatment planned for, or provided to, mental health patients in
32 order to improve quality of care by mental health professionals if
33 the committee member acts without malice, has made a reasonable
34 effort to obtain the facts of the matter as to which he or she acts,
35 and acts in reasonable belief that the action taken by him or her is
36 warranted by the facts known to him or her after the reasonable
37 effort to obtain facts.

38 (b) There shall be no monetary liability on the part of, and no
39 cause of action for damages shall arise against, any professional
40 society, any member of a duly appointed committee of a medical

1 specialty society, or any member of a duly appointed committee
2 of a state or local professional society, or duly appointed member
3 of a committee of a professional staff of a licensed hospital
4 (provided the professional staff operates pursuant to written bylaws
5 that have been approved by the governing board of the hospital),
6 for any act or proceeding undertaken or performed within the scope
7 of the functions of the committee which is formed to maintain the
8 professional standards of the society established by its bylaws, or
9 any member of any peer review committee whose purpose is to
10 review the quality of medical, dental, dietetic, chiropractic,
11 optometric, acupuncture, psychotherapy, or veterinary services
12 rendered by physicians and surgeons, dentists, dental hygienists,
13 podiatrists, registered dietitians, chiropractors, optometrists,
14 acupuncturists, veterinarians, marriage and family therapists,
15 professional clinical counselors, or psychologists, which committee
16 is composed chiefly of physicians and surgeons, dentists, dental
17 hygienists, podiatrists, registered dietitians, chiropractors,
18 optometrists, acupuncturists, veterinarians, marriage and family
19 therapists, professional clinical counselors, or psychologists for
20 any act or proceeding undertaken or performed in reviewing the
21 quality of medical, dental, dietetic, chiropractic, optometric,
22 acupuncture, psychotherapy, or veterinary services rendered by
23 physicians and surgeons, dentists, dental hygienists, podiatrists,
24 registered dietitians, chiropractors, optometrists, acupuncturists,
25 veterinarians, marriage and family therapists, professional clinical
26 counselors, or psychologists or any member of the governing board
27 of a hospital in reviewing the quality of medical services rendered
28 by members of the staff if the professional society, committee, or
29 board member acts without malice, has made a reasonable effort
30 to obtain the facts of the matter as to which he, she, or it acts, and
31 acts in reasonable belief that the action taken by him, her, or it is
32 warranted by the facts known to him, her, or it after the reasonable
33 effort to obtain facts. "Professional society" includes legal, medical,
34 psychological, dental, dental hygiene, dietetic, accounting,
35 optometric, acupuncture, podiatric, pharmaceutical, chiropractic,
36 physical therapist, veterinary, licensed marriage and family therapy,
37 licensed clinical social work, licensed professional clinical
38 counselor, and engineering organizations having as members at
39 least 25 percent of the eligible persons or licentiates in the
40 geographic area served by the particular society. However, if the

1 society has fewer than 100 members, it shall have as members at
2 least a majority of the eligible persons or licentiates in the
3 geographic area served by the particular society.

4 “Medical specialty society” means an organization having as
5 members at least 25 percent of the eligible physicians and surgeons
6 within a given professionally recognized medical specialty in the
7 geographic area served by the particular society.

8 (c) This section does not affect the official immunity of an
9 officer or employee of a public corporation.

10 (d) There shall be no monetary liability on the part of, and no
11 cause of action for damages shall arise against, any physician and
12 surgeon, podiatrist, or chiropractor who is a member of an
13 underwriting committee of an interindemnity or reciprocal or
14 interinsurance exchange or mutual company for any act or
15 proceeding undertaken or performed in evaluating physicians and
16 surgeons, podiatrists, or chiropractors for the writing of
17 professional liability insurance, or any act or proceeding undertaken
18 or performed in evaluating physicians and surgeons for the writing
19 of an interindemnity, reciprocal, or interinsurance contract as
20 specified in Section 1280.7 of the Insurance Code, if the evaluating
21 physician and surgeon, podiatrist, or chiropractor acts without
22 malice, has made a reasonable effort to obtain the facts of the
23 matter as to which he or she acts, and acts in reasonable belief that
24 the action taken by him or her is warranted by the facts known to
25 him or her after the reasonable effort to obtain the facts.

26 (e) This section shall not be construed to confer immunity from
27 liability on any quality assurance committee established in
28 compliance with Section ~~4070~~ 14725 of the Welfare and
29 Institutions Code or hospital. In any case in which, but for the
30 enactment of the preceding provisions of this section, a cause of
31 action would arise against a quality assurance committee
32 established in compliance with Section ~~4070~~ 14725 of the Welfare
33 and Institutions Code or hospital, the cause of action shall exist as
34 if the preceding provisions of this section had not been enacted.

35 *SEC. 4. Section 1179.3 of the Health and Safety Code is*
36 *amended to read:*

37 1179.3. (a) (1) The Office of Statewide Health Planning and
38 Development shall develop and administer a competitive grants
39 program for projects located in rural areas of California.

1 (2) The office shall define “rural area” for the purposes of this
2 section after receiving public input and upon recommendation of
3 the Interdepartmental Rural Health Coordinating Committee and
4 the Rural Health Programs Liaison.

5 (3) The purpose of the grants program shall be to fund
6 innovative, collaborative, cost-effective, and efficient projects that
7 pertain to the delivery of health and medical services in rural areas
8 of the state.

9 (4) The office shall develop and establish uses for the funds to
10 fund special projects that alleviate problems of access to quality
11 health care in rural areas and to compensate public and private
12 health care providers associated with direct delivery of patient
13 care. The funds shall be used for medical and hospital care and
14 treatment of patients who cannot afford to pay for services and for
15 whom payment will not be made through private or public
16 programs.

17 (5) The office shall administer the funds appropriated by the
18 Legislature for purposes of this section. Entities eligible for these
19 funds shall include rural health providers served by the programs
20 operated by the office, the State Department of Alcohol and Drug
21 Programs, the Emergency Medical Services Authority, the State
22 Department of Health Care Services, the State Department of
23 Public Health, ~~the State Department of Mental Health~~, and the
24 Managed Risk Medical Insurance Board. The grant funds shall be
25 used to expand existing services or establish new services and shall
26 not be used to supplant existing levels of service. Funds
27 appropriated by the Legislature for this purpose may be expended
28 in the fiscal year of the appropriation or the subsequent fiscal year.

29 (b) The Office of Statewide Health Planning and Development
30 shall establish the criteria and standards for eligibility to be used
31 in requests for proposals or requests for application, the application
32 review process, determining the maximum amount and number of
33 grants to be awarded, preference and priority of projects,
34 compliance monitoring, and the measurement of outcomes achieved
35 after receiving comment from the public at a meeting held pursuant
36 to the Bagley-Keene Open Meeting Act (Article 9 (commencing
37 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title
38 2 of the Government Code).

1 (c) The Office of Statewide Health Planning and Development
2 shall make information regarding the status of the funded projects
3 available at the public meetings described in subdivision (b).

4 *SEC. 5. Section 1180.6 of the Health and Safety Code is*
5 *amended to read:*

6 1180.6. The State Department of ~~Public Health Services~~, the
7 State Department of ~~Mental Health State Hospitals~~, the State
8 Department of Social Services, and the State Department of
9 Developmental Services shall annually provide information to the
10 Legislature, during Senate and Assembly budget committee
11 hearings, about the progress made in implementing this division.
12 This information shall include the progress of implementation and
13 barriers to achieving full implementation.

14 *SEC. 6. Section 1250.2 of the Health and Safety Code is*
15 *amended to read:*

16 1250.2. (a) As defined in Section 1250, “health facility”
17 includes a “psychiatric health facility,” defined to mean a health
18 facility, licensed by the State Department of ~~Mental Health~~ *Social*
19 *Services*, that provides 24-hour inpatient care for mentally
20 disordered, incompetent, or other persons described in Division 5
21 (commencing with Section 5000) or Division 6 (commencing with
22 Section 6000) of the Welfare and Institutions Code. This care shall
23 include, but not be limited to, the following basic services:
24 psychiatry, clinical psychology, psychiatric nursing, social work,
25 rehabilitation, drug administration, and appropriate food services
26 for those persons whose physical health needs can be met in an
27 affiliated hospital or in outpatient settings.

28 It is the intent of the Legislature that the psychiatric health
29 facility shall provide a distinct type of service to psychiatric
30 patients in a 24-hour acute inpatient setting. The State Department
31 of ~~Mental Health~~ *Social Services* shall require regular utilization
32 reviews of admission and discharge criteria and lengths of stay in
33 order to assure that these patients are moved to less restrictive
34 levels of care as soon as appropriate.

35 (b) The State Department of ~~Mental Health~~ *Social Services* may
36 issue a special permit to a psychiatric health facility for it to provide
37 structured outpatient services (commonly referred to as SOPS)
38 consisting of morning, afternoon, or full daytime organized
39 programs, not exceeding 10 hours, for acute daytime care for
40 patients admitted to the facility. This subdivision shall not be

1 construed as requiring a psychiatric health facility to apply for a
2 special permit to provide these alternative levels of care.

3 The Legislature recognizes that, with access to structured
4 outpatient services, as an alternative to 24-hour inpatient care,
5 certain patients would be provided with effective intervention and
6 less restrictive levels of care. The Legislature further recognizes
7 that, for certain patients, the less restrictive levels of care eliminate
8 the need for inpatient care, enable earlier discharge from inpatient
9 care by providing a continuum of care with effective aftercare
10 services, or reduce or prevent the need for a subsequent readmission
11 to inpatient care.

12 (c) Any reference in any statute to Section 1250 of the Health
13 and Safety Code shall be deemed and construed to also be a
14 reference to this section.

15 (d) Notwithstanding any other provision of law, and to the extent
16 consistent with federal law, a psychiatric health facility shall be
17 eligible to participate in the medicare program under Title XVIII
18 of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.),
19 and the medicaid program under Title XIX of the federal Social
20 Security Act (42 U.S.C. Sec. 1396 et seq.), if all of the following
21 conditions are met:

22 (1) The facility is a licensed facility.

23 (2) The facility is in compliance with all related statutes and
24 regulations enforced by the State Department of ~~Mental Health~~
25 *Social Services*, including regulations contained in Chapter 9
26 (commencing with Section 77001) of Division 5 of Title 22 of the
27 California Code of Regulations.

28 (3) The facility meets the definitions and requirements contained
29 in subdivisions (e) and (f) of Section 1861 of the federal Social
30 Security Act (42 U.S.C. Sec. ~~1395x(e)~~ *1395x(e)* and (f)), including
31 the approval process specified in Section 1861(e)(7)(B) of the
32 *federal Social Security Act* (42 U.S.C. Sec. ~~1395x(e)(7)(B)~~), which
33 requires that the state agency responsible for licensing hospitals
34 has assured that the facility meets licensing requirements.

35 (4) The facility meets the conditions of participation for hospitals
36 pursuant to Part 482 of Title 42 of the Code of Federal Regulations.

37 *SEC. 7. Section 1254 of the Health and Safety Code is amended*
38 *to read:*

39 1254. (a) Except as provided in subdivision (e), the state
40 department shall inspect and license health facilities. The state

1 department shall license health facilities to provide their respective
2 basic services specified in Section 1250. Except as provided in
3 Section 1253, the state department shall inspect and approve a
4 general acute care hospital to provide special services as specified
5 in Section 1255. The state department shall develop and adopt
6 regulations to implement the provisions contained in this section.

7 (b) Upon approval, the state department shall issue a separate
8 license for the provision of the basic services enumerated in
9 subdivision (c) or (d) of Section 1250 whenever these basic services
10 are to be provided by an acute care hospital, as defined in
11 subdivision (a), (b), or (f) of that section, where the services
12 enumerated in subdivision (c) or (d) of Section 1250 are to be
13 provided in any separate freestanding facility, whether or not the
14 location of the separate freestanding facility is contiguous to the
15 acute care hospital. The same requirement shall apply to any new
16 freestanding facility constructed for the purpose of providing basic
17 services, as defined in subdivision (c) or (d) of Section 1250, by
18 any acute care hospital on or after January 1, 1984.

19 (c) (1) Those beds licensed to an acute care hospital which,
20 prior to January 1, 1984, were separate freestanding beds and were
21 not part of the physical structure licensed to provide acute care,
22 and which beds were licensed to provide those services enumerated
23 in subdivision (c) or (d) of Section 1250, are exempt from the
24 requirements of subdivision (b).

25 (2) All beds licensed to an acute care hospital and located within
26 the physical structure in which acute care is provided are exempt
27 from the requirements of subdivision (b) irrespective of the date
28 of original licensure of the beds, or the licensed category of the
29 beds.

30 (3) All beds licensed to an acute care hospital owned and
31 operated by the State of California or any other public agency are
32 exempt from the requirements of subdivision (b).

33 (4) All beds licensed to an acute care hospital in a rural area as
34 defined by Chapter 1010, of the Statutes of 1982, are exempt from
35 the requirements of subdivision (b), except where there is a
36 freestanding skilled nursing facility or intermediate care facility
37 which has experienced an occupancy rate of 95 percent or less
38 during the past 12 months within a 25-mile radius or which may
39 be reached within 30 minutes using a motor vehicle.

1 (5) All beds licensed to an acute care hospital which meet the
2 criteria for designation within peer group six or eight, as defined
3 in the report entitled Hospital Peer Grouping for Efficiency
4 Comparison, dated December 20, 1982, and published by the
5 California Health Facilities Commission, and all beds in hospitals
6 which have fewer than 76 licensed acute care beds and which are
7 located in a census designation place of 15,000 or less population,
8 are exempt from the requirements of subdivision (b), except where
9 there is a free-standing skilled nursing facility or intermediate care
10 facility which has experienced an occupancy rate of 95 percent or
11 less during the past 12 months within a 25-mile radius or which
12 may be reached within 30 minutes using a motor vehicle.

13 (6) All beds licensed to an acute care hospital which has had a
14 certificate of need approved by a health systems agency on or
15 before July 1, 1983, are exempt from the requirements of
16 subdivision (b).

17 (7) All beds licensed to an acute care hospital are exempt from
18 the requirements of subdivision (b), if reimbursement from the
19 Medi-Cal program for beds licensed for the provision of services
20 enumerated in subdivision (c) or (d) of Section 1250 and not
21 otherwise exempt does not exceed the reimbursement which would
22 be received if the beds were in a separately licensed facility.

23 (d) Except as provided in Section 1253, the state department
24 shall inspect and approve a general acute care hospital to provide
25 special services as specified in Section 1255. The state department
26 shall develop and adopt regulations to implement subdivisions (a)
27 to (d), inclusive, of this section.

28 (e) The State Department of ~~Mental Health~~ *Social Services* shall
29 inspect and license psychiatric health facilities. The State
30 Department of ~~Mental Health~~ *Social Services* shall license
31 psychiatric health facilities to provide their basic services specified
32 in Section 1250.2. The State Department of ~~Mental Health~~ *Social*
33 *Services* shall develop and adopt regulations to implement this
34 subdivision.

35 *SEC. 8. Section 1254.1 of the Health and Safety Code is*
36 *amended to read:*

37 1254.1. (a) The State Department of ~~Mental Health~~ *Social*
38 *Services* shall license psychiatric health facilities to provide their
39 basic services specified in Section 1250.

1 (b) Any reference in any statute to Section 1254 shall be deemed
 2 and construed to also be a reference to this section.

3 *SEC. 9. Section 1266.1 of the Health and Safety Code is*
 4 *amended to read:*

5 1266.1. (a) Each new or renewal application for a license for
 6 a psychiatric health facility shall be accompanied by a fee ~~equal~~
 7 ~~in amount to the fee for an acute psychiatric hospital as specified~~
 8 ~~in subdivision (a) of Section 1266 or, as modified by subdivision~~
 9 ~~(e) credited to the State Department of Social Services for its costs~~
 10 ~~incurred in the review of psychiatric health facility programs, in~~
 11 ~~connection with the licensing of these facilities. The amount of the~~
 12 ~~fees shall be determined and collected by the State Department of~~
 13 ~~Social Services, but the total amount of the fees collected shall not~~
 14 ~~exceed the actual costs of licensure and review of psychiatric~~
 15 ~~health facility programs, including, but not limited to, the costs of~~
 16 ~~processing the application, inspection costs, and other related~~
 17 ~~costs.~~

18 (b) New or renewal licensure application fees for psychiatric
 19 health facilities shall be collected by the State Department of
 20 ~~Mental Health~~ *Social Services.*

21 ~~(c) The State Department of Mental Health shall make available~~
 22 ~~to the Legislature and other interested parties, on or before January~~
 23 ~~17 of each year, information describing program costs within the~~
 24 ~~State Department of Mental Health for licensure, regulation, and~~
 25 ~~monitoring of psychiatric health facilities.~~

26 ~~(d)~~

27 (c) The annual fees shall be waived for any psychiatric health
 28 facility conducted, maintained, or operated by this state or any
 29 state department, authority, bureau, commission, or officer, or by
 30 the Regents of the University of California, or by a local hospital
 31 district, city, county, or city and county.

32 ~~(e)~~

33 (d) If additional private psychiatric health facilities seek new
 34 licensure on or after January 1, 1991, the State Department of
 35 ~~Mental Health~~ *Social Services* may increase the fees for all private
 36 psychiatric health facilities with more than nine beds sufficient to
 37 accommodate the increased level of workload and costs.

38 ~~(f)~~

1 (e) (1) Any licensee desiring to obtain a special permit to offer
2 and provide structured outpatient services shall file an application
3 with the State Department of ~~Mental Health~~ *Social Services*.

4 (2) The application for a special permit, if any, shall be
5 submitted with each new or renewal application for a license for
6 a psychiatric health facility, and shall be accompanied by a
7 reasonable fee, as determined by the State Department of ~~Mental~~
8 ~~Health~~ *Social Services*, not to exceed the actual costs of
9 administration related to the special permit. An application for a
10 special permit submitted by a psychiatric health facility operated
11 by a public entity shall be exempt from the fee required pursuant
12 to this section for the issuance of the special permit.

13 (3) The State Department of ~~Mental Health~~ *Social Services* shall
14 not issue a special permit unless the applicant furnishes all of the
15 following:

16 (A) Its annual licensing fee required pursuant to subdivision
17 (a).

18 (B) A completed application submitted on forms furnished by
19 the department.

20 (C) A written agreement ensuring that the facility will have
21 additional staffing for the services to be provided under the special
22 permit, that the additional staffing will meet the same professional
23 standards as required by regulation for inpatient services, and that
24 a coordinator of these services will be appointed.

25 (D) Any other information or documentation as may be required
26 by the department for its proper and efficient administration and
27 enforcement of special permit services.

28 (4) The provision of structured outpatient services pursuant to
29 a special permit may be as an alternative to admission to inpatient
30 services, as aftercare services following discharge from inpatient
31 care, or as both.

32 *SEC. 10. Section 1275.1 of the Health and Safety Code is*
33 *amended to read:*

34 1275.1. (a) Notwithstanding any rules or regulations governing
35 other health facilities, the regulations developed by the State
36 Department of ~~Mental Health~~ *Social Services* for psychiatric health
37 facilities shall prevail. The regulations applying to psychiatric
38 health facilities shall prescribe standards of adequacy, safety, and
39 sanitation of the physical plant, of staffing with duly qualified

1 licensed personnel, and of services based on the needs of the
 2 persons served thereby.

3 (b) The regulations shall include standards appropriate for two
 4 levels of disorder:

5 (1) Involuntary ambulatory psychiatric patients.

6 (2) Voluntary ambulatory psychiatric patients.

7 For purposes of this subdivision, “ambulatory patients” shall
 8 include, but not be limited to, deaf, blind, and physically
 9 handicapped persons. Disoriented persons who are not bedridden
 10 or confined to a wheelchair shall also be considered as ambulatory
 11 patients.

12 (c) The regulations shall not require, but may permit building
 13 and services requirements for hospitals which are only applicable
 14 to physical health care needs of patients that can be met in an
 15 affiliated hospital or in outpatient settings including, but not limited
 16 to, such requirements as surgical, dietary, laboratory, laundry,
 17 central supply, radiologic, and pharmacy.

18 (d) The regulations shall include provisions for an “open
 19 planning” architectural concept.

20 (e) The regulations shall exempt from seismic requirements all
 21 structures of Type V and of one-story construction.

22 (f) Standards for involuntary patients shall include provisions
 23 to allow for restraint and seclusion of patients. ~~Such~~ *These*
 24 standards shall provide for adequate safeguards for patient safety
 25 and protection of patient rights.

26 (g) The regulations shall provide for the retention by the
 27 psychiatric health facility of a consultant pharmacist, who shall
 28 supervise and review pharmaceutical services within the facility
 29 and perform ~~such~~ *any* other services, including prevention of the
 30 unlawful diversion of controlled substances subject to abuse, as
 31 the state department may by regulation require. Regulations
 32 adopted pursuant to this subdivision shall take into consideration
 33 the varying bed sizes of psychiatric health facilities.

34 *SEC. 11. Section 1275.5 of the Health and Safety Code is*
 35 *amended to read:*

36 1275.5. (a) The regulations relating to the licensing of
 37 hospitals, heretofore adopted by the *State* Department of Public
 38 Health pursuant to Chapter 2 (commencing with Section 1400) of
 39 Division 2, and in effect immediately prior to July 1, 1973, shall
 40 remain in effect and shall be fully enforceable with respect to any

1 hospital required to be licensed by this chapter, unless and until
2 the regulations are readopted, amended, or repealed by the director.

3 (b) The regulations relating to private institutions receiving or
4 caring for any mentally disordered persons, mentally retarded
5 persons, and other incompetent persons, heretofore adopted by the
6 Department of Mental Hygiene pursuant to Chapter 1 (commencing
7 with Section 7000) of Division 7 of the Welfare and Institutions
8 Code, and in effect immediately prior to July 1, 1973, shall remain
9 in effect and shall be fully enforceable with respect to any facility,
10 establishment, or institution for the reception and care of mentally
11 disordered persons, mentally retarded persons and other
12 incompetent persons, required to be licensed by the provisions of
13 this chapter unless and until said regulations are readopted,
14 amended, or repealed by the director.

15 (c) (1) All regulations relating to the licensing of psychiatric
16 health facilities heretofore adopted by the State Department of
17 Health Services, pursuant to authority now vested in the State
18 Department of Mental Health by Section 5652.5 of the Welfare
19 and Institutions Code, and in effect immediately preceding
20 September 20, 1988, shall remain in effect and shall be fully
21 enforceable by the State Department of Mental Health with respect
22 to any facility or program required to be licensed as a psychiatric
23 health facility, unless and until readopted, amended, or repealed
24 by the Director of Mental Health.

25 (2) *The State Department of Social Services shall succeed to*
26 *and be vested with all duties, powers, purposes, functions,*
27 *responsibilities, and jurisdiction of the State Department of Mental*
28 *Health, described in paragraph (1), as they relate to licensing*
29 *psychiatric health facilities.*

30 *SEC. 12. Section 1324.20 of the Health and Safety Code is*
31 *amended to read:*

32 1324.20. For purposes of this article, the following definitions
33 shall apply:

34 (a) (1) “Continuing care retirement community” means a
35 provider of a continuum of services, including independent living
36 services, assisted living services as defined in paragraph (5) of
37 subdivision (a) of Section 1771, and skilled nursing care, on a
38 single campus, that is subject to Section 1791, or a provider of
39 such a continuum of services on a single campus that has not

1 received a Letter of Exemption pursuant to subdivision (d) of
2 Section 1771.3.

3 (2) Notwithstanding paragraph (1), beginning with the 2010–11
4 rate year and for every rate year thereafter, the term “continuing
5 care retirement community” shall have the definition contained in
6 paragraph (11) of subdivision (c) of Section 1771.

7 (b) “Department,” unless otherwise specified, means the State
8 Department of Health Care Services.

9 (c) (1) “Exempt facility” means a skilled nursing facility that
10 is part of a continuing care retirement community, a skilled nursing
11 facility operated by the state or another public entity, a unit that
12 provides pediatric subacute services in a skilled nursing facility,
13 a skilled nursing facility that is certified by the ~~State Department~~
14 ~~of Mental Health~~ *department* for a special treatment program and
15 is an institution for mental disease as defined in Section 1396d(i)
16 of Title 42 of the United States Code, or a skilled nursing facility
17 that is a distinct part of a facility that is licensed as a general acute
18 care hospital.

19 (2) Notwithstanding paragraph (1), beginning with the 2010–11
20 rate year and for every rate year thereafter, the term “exempt
21 facility” shall mean a skilled nursing facility that is part of a
22 continuing care retirement community, as defined in paragraph
23 (2) of subdivision (a), a skilled nursing facility operated by the
24 state or another public entity, a unit that provides pediatric subacute
25 services in a skilled nursing facility, a skilled nursing facility that
26 is certified by the ~~State Department of Mental Health~~ *department*
27 for a special treatment program and is an institution for mental
28 disease as defined in Section 1396d(i) of Title 42 of the United
29 States Code, or a skilled nursing facility that is a distinct part of a
30 facility that is licensed as a general acute care hospital.

31 (3) Notwithstanding paragraph (1), beginning with the 2010–11
32 rate year and every rate year thereafter, a multilevel facility, as
33 described in paragraph (1) of subdivision (a), shall not be exempt
34 from the quality assurance fee requirements pursuant to this article,
35 unless it meets the definition of a continuing care retirement
36 community in paragraph (11) of subdivision (c) of Section 1771.

37 (4) (A) Notwithstanding paragraph (1), beginning with the
38 2011–12 rate year, and every rate year thereafter, a unit that
39 provides freestanding pediatric subacute care services in a skilled
40 nursing facility, as described in paragraph (1) of subdivision (c),

1 shall not be exempt from the quality assurance fee requirements
2 pursuant to this article.

3 (B) For the purposes of this article, “freestanding pediatric
4 subacute care unit” has the same meaning as defined in Section
5 51215.8 of Title 22 of the California Code of Regulations.

6 (d) (1) “Net revenue” means gross resident revenue for routine
7 nursing services and ancillary services provided to all residents
8 by a skilled nursing facility, less Medicare revenue for routine and
9 ancillary services, including Medicare revenue for services
10 provided to residents covered under a Medicare managed care
11 plan, less payer discounts and applicable contractual allowances
12 as permitted under federal law and regulation.

13 (2) Notwithstanding paragraph (1), for the 2009–10, 2010–11,
14 and 2011–12 rate years, and each rate year thereafter, “net revenue”
15 means gross resident revenue for routine nursing services and
16 ancillary services provided to all residents by a skilled nursing
17 facility, including Medicare revenue for routine and ancillary
18 services and Medicare revenue for services provided to residents
19 covered under a Medicare managed care plan, less payer discounts
20 and applicable contractual allowances as permitted under federal
21 law and regulation. To implement this paragraph, the department
22 shall request federal approval pursuant to Section 1324.27.

23 (3) “Net revenue” does not mean charitable contributions and
24 bad debt.

25 (e) “Payer discounts and contractual allowances” means the
26 difference between the facility’s resident charges for routine or
27 ancillary services and the actual amount paid.

28 (f) “Skilled nursing facility” means a licensed facility as defined
29 in subdivision (c) of Section 1250.

30 *SEC. 13. Section 1343 of the Health and Safety Code is*
31 *amended to read:*

32 1343. (a) This chapter shall apply to health care service plans
33 and specialized health care service plan contracts as defined in
34 subdivisions (f) and (o) of Section 1345.

35 (b) The director may by the adoption of rules or the issuance of
36 orders deemed necessary and appropriate, either unconditionally
37 or upon specified terms and conditions or for specified periods,
38 exempt from this chapter any class of persons or plan contracts if
39 the director finds the action to be in the public interest and not
40 detrimental to the protection of subscribers, enrollees, or persons

1 regulated under this chapter, and that the regulation of the persons
2 or plan contracts is not essential to the purposes of this chapter.

3 (c) The director, upon request of the Director of Health Care
4 Services, shall exempt from this chapter any county-operated pilot
5 program contracting with the State Department of Health Care
6 Services pursuant to Article 7 (commencing with Section 14490)
7 of Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions
8 Code. The director may exempt noncounty-operated pilot programs
9 upon request of the Director of Health Care Services. Those
10 exemptions may be subject to conditions the Director of Health
11 Care Services deems appropriate.

12 (d) Upon the request of the Director of ~~Mental Health Care~~
13 *Services*, the director may exempt from this chapter any mental
14 health plan contractor or any capitated rate contract under ~~Part 2.5~~
15 ~~(commencing with Section 5775) of Division 5 Chapter 8.9~~
16 ~~(commencing with Section 14700) of Part 3 of Division 9~~ of the
17 Welfare and Institutions Code. Those exemptions may be subject
18 to conditions the Director of ~~Mental Health Care Services~~ deems
19 appropriate.

20 (e) This chapter shall not apply to:

21 (1) A person organized and operating pursuant to a certificate
22 issued by the Insurance Commissioner unless the entity is directly
23 providing the health care service through those entity-owned or
24 contracting health facilities and providers, in which case this
25 chapter shall apply to the insurer's plan and to the insurer.

26 (2) A plan directly operated by a bona fide public or private
27 institution of higher learning which directly provides health care
28 services only to its students, faculty, staff, administration, and their
29 respective dependents.

30 (3) A person who does all of the following:

31 (A) Promises to provide care for life or for more than one year
32 in return for a transfer of consideration from, or on behalf of, a
33 person 60 years of age or older.

34 (B) Has obtained a written license pursuant to Chapter 2
35 (commencing with Section 1250) or Chapter 3.2 (commencing
36 with Section 1569).

37 (C) Has obtained a certificate of authority from the State
38 Department of Social Services.

39 (4) The Major Risk Medical Insurance Board when engaging
40 in activities under Chapter 8 (commencing with Section 10700)

1 of Part 2 of Division 2 of the Insurance Code, Part 6.3
2 (commencing with Section 12695) of Division 2 of the Insurance
3 Code, and Part 6.5 (commencing with Section 12700) of Division
4 2 of the Insurance Code.

5 (5) The California Small Group Reinsurance Fund.

6 *SEC. 14. Section 1373 of the Health and Safety Code is*
7 *amended to read:*

8 1373. (a) A plan contract may not provide an exception for
9 other coverage if the other coverage is entitlement to Medi-Cal
10 benefits under Chapter 7 (commencing with Section 14000) or
11 Chapter 8 (commencing with Section 14200) of Part 3 of Division
12 9 of the Welfare and Institutions Code, or Medicaid benefits under
13 Subchapter 19 (commencing with Section 1396) of Chapter 7 of
14 Title 42 of the United States Code.

15 Each plan contract shall be interpreted not to provide an
16 exception for the Medi-Cal or Medicaid benefits.

17 A plan contract shall not provide an exemption for enrollment
18 because of an applicant's entitlement to Medi-Cal benefits under
19 Chapter 7 (commencing with Section 14000) or Chapter 8
20 (commencing with Section 14200) of Part 3 of Division 9 of the
21 Welfare and Institutions Code, or Medicaid benefits under
22 Subchapter 19 (commencing with Section 1396) of Chapter 7 of
23 Title 42 of the United States Code.

24 A plan contract may not provide that the benefits payable
25 thereunder are subject to reduction if the individual insured has
26 entitlement to the Medi-Cal or Medicaid benefits.

27 (b) A plan contract that provides coverage, whether by specific
28 benefit or by the effect of general wording, for sterilization
29 operations or procedures shall not impose any disclaimer,
30 restriction on, or limitation of, coverage relative to the covered
31 individual's reason for sterilization.

32 As used in this section, "sterilization operations or procedures"
33 shall have the same meaning as that specified in Section 10120 of
34 the Insurance Code.

35 (c) Every plan contract that provides coverage to the spouse or
36 dependents of the subscriber or spouse shall grant immediate
37 accident and sickness coverage, from and after the moment of
38 birth, to each newborn infant of any subscriber or spouse covered
39 and to each minor child placed for adoption from and after the date
40 on which the adoptive child's birth parent or other appropriate

1 legal authority signs a written document, including, but not limited
2 to, a health facility minor release report, a medical authorization
3 form, or a relinquishment form, granting the subscriber or spouse
4 the right to control health care for the adoptive child or, absent
5 this written document, on the date there exists evidence of the
6 subscriber's or spouse's right to control the health care of the child
7 placed for adoption. No plan may be entered into or amended if it
8 contains any disclaimer, waiver, or other limitation of coverage
9 relative to the coverage or insurability of newborn infants of, or
10 children placed for adoption with, a subscriber or spouse covered
11 as required by this subdivision.

12 (d) (1) Every plan contract that provides that coverage of a
13 dependent child of a subscriber shall terminate upon attainment
14 of the limiting age for dependent children specified in the plan,
15 shall also provide that attainment of the limiting age shall not
16 operate to terminate the coverage of the child while the child is
17 and continues to meet both of the following criteria:

18 (A) Incapable of self-sustaining employment by reason of a
19 physically or mentally disabling injury, illness, or condition.

20 (B) Chiefly dependent upon the subscriber for support and
21 maintenance.

22 (2) The plan shall notify the subscriber that the dependent child's
23 coverage will terminate upon attainment of the limiting age unless
24 the subscriber submits proof of the criteria described in
25 subparagraphs (A) and (B) of paragraph (1) to the plan within 60
26 days of the date of receipt of the notification. The plan shall send
27 this notification to the subscriber at least 90 days prior to the date
28 the child attains the limiting age. Upon receipt of a request by the
29 subscriber for continued coverage of the child and proof of the
30 criteria described in subparagraphs (A) and (B) of paragraph (1),
31 the plan shall determine whether the child meets that criteria before
32 the child attains the limiting age. If the plan fails to make the
33 determination by that date, it shall continue coverage of the child
34 pending its determination.

35 (3) The plan may subsequently request information about a
36 dependent child whose coverage is continued beyond the limiting
37 age under this subdivision but not more frequently than annually
38 after the two-year period following the child's attainment of the
39 limiting age.

1 (4) If the subscriber changes carriers to another plan or to a
2 health insurer, the new plan or insurer shall continue to provide
3 coverage for the dependent child. The new plan or insurer may
4 request information about the dependent child initially and not
5 more frequently than annually thereafter to determine if the child
6 continues to satisfy the criteria in subparagraphs (A) and (B) of
7 paragraph (1). The subscriber shall submit the information
8 requested by the new plan or insurer within 60 days of receiving
9 the request.

10 (5) (A) Except as set forth in subparagraph (B), under no
11 circumstances shall the limiting age be less than 26 years of age
12 with respect to plan years beginning on or after September 23,
13 2010.

14 (B) For plan years beginning before January 1, 2014, a group
15 health care service plan contract that qualifies as a grandfathered
16 health plan under Section 1251 of the federal Patient Protection
17 and Affordable Care Act (Public Law 111-148) and that makes
18 available dependent coverage of children may exclude from
19 coverage an adult child who has not attained 26 years of age only
20 if the adult child is eligible to enroll in an eligible
21 employer-sponsored health plan, as defined in Section 5000A(f)(2)
22 of the Internal Revenue Code, other than a group health plan of a
23 parent.

24 (C) (i) With respect to a child (I) whose coverage under a group
25 or individual plan contract ended, or who was denied or not eligible
26 for coverage under a group or individual plan contract, because
27 under the terms of the contract the availability of dependent
28 coverage of children ended before the attainment of 26 years of
29 age, and (II) who becomes eligible for that coverage by reason of
30 the application of this paragraph, the health care service plan shall
31 give the child an opportunity to enroll that shall continue for at
32 least 30 days. This opportunity and the notice described in clause
33 (ii) shall be provided not later than the first day of the first plan
34 year beginning on or after September 23, 2010, consistent with
35 the federal Patient Protection and Affordable Care Act (Public
36 Law 111-148), as amended by the federal Health Care and
37 Education Reconciliation Act of 2010 (Public Law 111-152), and
38 any additional federal guidance or regulations issued by the United
39 States Secretary of Health and Human Services.

1 (ii) The health care service plan shall provide written notice
2 stating that a dependent described in clause (i) who has not attained
3 26 years of age is eligible to enroll in the plan for coverage. This
4 notice may be provided to the dependent's parent on behalf of the
5 dependent. If the notice is included with other enrollment materials
6 for a group plan, the notice shall be prominent.

7 (iii) In the case of an individual who enrolls under this
8 subparagraph, coverage shall take effect no later than the first day
9 of the first plan year beginning on or after September 23, 2010.

10 (iv) A dependent enrolling in a group health plan for coverage
11 pursuant to this subparagraph shall be treated as a special enrollee
12 as provided under the rules of Section 146.117(d) of Title 45 of
13 the Code of Federal Regulations. The health care service plan shall
14 offer the recipient of the notice all of the benefit packages available
15 to similarly situated individuals who did not lose coverage by
16 reason of cessation of dependent status. Any difference in benefits
17 or cost-sharing requirements shall constitute a different benefit
18 package. A dependent enrolling in a group health plan for coverage
19 pursuant to this subparagraph shall not be required to pay more
20 for coverage than similarly situated individuals who did not lose
21 coverage by reason of cessation of dependent status.

22 (D) Nothing in this section shall require a health care service
23 plan to make coverage available for a child of a child receiving
24 dependent coverage. Nothing in this section shall be construed to
25 modify the definition of "dependent" as used in the Revenue and
26 Taxation Code with respect to the tax treatment of the cost of
27 coverage.

28 (e) A plan contract that provides coverage, whether by specific
29 benefit or by the effect of general wording, for both an employee
30 and one or more covered persons dependent upon the employee
31 and provides for an extension of the coverage for any period
32 following a termination of employment of the employee shall also
33 provide that this extension of coverage shall apply to dependents
34 upon the same terms and conditions precedent as applied to the
35 covered employee, for the same period of time, subject to payment
36 of premiums, if any, as required by the terms of the policy and
37 subject to any applicable collective bargaining agreement.

38 (f) A group contract shall not discriminate against handicapped
39 persons or against groups containing handicapped persons. Nothing
40 in this subdivision shall preclude reasonable provisions in a plan

1 contract against liability for services or reimbursement of the
2 handicap condition or conditions relating thereto, as may be
3 allowed by rules of the director.

4 (g) Every group contract shall set forth the terms and conditions
5 under which subscribers and enrollees may remain in the plan in
6 the event the group ceases to exist, the group contract is terminated,
7 or an individual subscriber leaves the group, or the enrollees'
8 eligibility status changes.

9 (h) (1) A health care service plan or specialized health care
10 service plan may provide for coverage of, or for payment for,
11 professional mental health services, or vision care services, or for
12 the exclusion of these services. If the terms and conditions include
13 coverage for services provided in a general acute care hospital or
14 an acute psychiatric hospital as defined in Section 1250 and do
15 not restrict or modify the choice of providers, the coverage shall
16 extend to care provided by a psychiatric health facility as defined
17 in Section 1250.2 operating pursuant to licensure by the State
18 Department of ~~Mental Health~~ *Social Services*. A health care service
19 plan that offers outpatient mental health services but does not cover
20 these services in all of its group contracts shall communicate to
21 prospective group contractholders as to the availability of outpatient
22 coverage for the treatment of mental or nervous disorders.

23 (2) No plan shall prohibit the member from selecting any
24 psychologist who is licensed pursuant to the Psychology Licensing
25 Law (Chapter 6.6 (commencing with Section 2900) of Division 2
26 of the Business and Professions Code), any optometrist who is the
27 holder of a certificate issued pursuant to Chapter 7 (commencing
28 with Section 3000) of Division 2 of the Business and Professions
29 Code or, upon referral by a physician and surgeon licensed pursuant
30 to the Medical Practice Act (Chapter 5 (commencing with Section
31 2000) of Division 2 of the Business and Professions Code), (A)
32 any marriage and family therapist who is the holder of a license
33 under Section 4980.50 of the Business and Professions Code, (B)
34 any licensed clinical social worker who is the holder of a license
35 under Section 4996 of the Business and Professions Code, (C) any
36 registered nurse licensed pursuant to Chapter 6 (commencing with
37 Section 2700) of Division 2 of the Business and Professions Code,
38 who possesses a master's degree in psychiatric-mental health
39 nursing and is listed as a psychiatric-mental health nurse by the
40 Board of Registered Nursing, (D) any advanced practice registered

1 nurse certified as a clinical nurse specialist pursuant to Article 9
2 (commencing with Section 2838) of Chapter 6 of Division 2 of
3 the Business and Professions Code who participates in expert
4 clinical practice in the specialty of psychiatric-mental health
5 nursing, to perform the particular services covered under the terms
6 of the plan, and the certificate holder is expressly authorized by
7 law to perform these services, or (E) any professional clinical
8 counselor who is the holder of a license under Chapter 16
9 (commencing with Section 4999.10) of Division 2 of the Business
10 and Professions Code.

11 (3) Nothing in this section shall be construed to allow any
12 certificate holder or licensee enumerated in this section to perform
13 professional mental health services beyond his or her field or fields
14 of competence as established by his or her education, training, and
15 experience.

16 (4) For the purposes of this section:

17 (A) “Marriage and family therapist” means a licensed marriage
18 and family therapist who has received specific instruction in
19 assessment, diagnosis, prognosis, and counseling, and
20 psychotherapeutic treatment of premarital, marriage, family, and
21 child relationship dysfunctions, which is equivalent to the
22 instruction required for licensure on January 1, 1981.

23 (B) “Professional clinical counselor” means a licensed
24 professional clinical counselor who has received specific
25 instruction in assessment, diagnosis, prognosis, counseling, and
26 psychotherapeutic treatment of mental and emotional disorders,
27 which is equivalent to the instruction required for licensure on
28 January 1, 2012.

29 (5) Nothing in this section shall be construed to allow a member
30 to select and obtain mental health or psychological or vision care
31 services from a certificate holder or licenseholder who is not
32 directly affiliated with or under contract to the health care service
33 plan or specialized health care service plan to which the member
34 belongs. All health care service plans and individual practice
35 associations that offer mental health benefits shall make reasonable
36 efforts to make available to their members the services of licensed
37 psychologists. However, a failure of a plan or association to comply
38 with the requirements of the preceding sentence shall not constitute
39 a misdemeanor.

1 (6) As used in this subdivision, “individual practice association”
2 means an entity as defined in subsection (5) of Section 1307 of
3 the federal Public Health Service Act (42 U.S.C. Sec. 300e-1(5)).

4 (7) Health care service plan coverage for professional mental
5 health services may include community residential treatment
6 services that are alternatives to inpatient care and that are directly
7 affiliated with the plan or to which enrollees are referred by
8 providers affiliated with the plan.

9 (i) If the plan utilizes arbitration to settle disputes, the plan
10 contracts shall set forth the type of disputes subject to arbitration,
11 the process to be utilized, and how it is to be initiated.

12 (j) A plan contract that provides benefits that accrue after a
13 certain time of confinement in a health care facility shall specify
14 what constitutes a day of confinement or the number of consecutive
15 hours of confinement that are requisite to the commencement of
16 benefits.

17 (k) If a plan provides coverage for a dependent child who is
18 over 26 years of age and enrolled as a full-time student at a
19 secondary or postsecondary educational institution, the following
20 shall apply:

21 (1) Any break in the school calendar shall not disqualify the
22 dependent child from coverage.

23 (2) If the dependent child takes a medical leave of absence, and
24 the nature of the dependent child’s injury, illness, or condition
25 would render the dependent child incapable of self-sustaining
26 employment, the provisions of subdivision (d) shall apply if the
27 dependent child is chiefly dependent on the subscriber for support
28 and maintenance.

29 (3) (A) If the dependent child takes a medical leave of absence
30 from school, but the nature of the dependent child’s injury, illness,
31 or condition does not meet the requirements of paragraph (2), the
32 dependent child’s coverage shall not terminate for a period not to
33 exceed 12 months or until the date on which the coverage is
34 scheduled to terminate pursuant to the terms and conditions of the
35 plan, whichever comes first. The period of coverage under this
36 paragraph shall commence on the first day of the medical leave of
37 absence from the school or on the date the physician and surgeon
38 determines the illness prevented the dependent child from attending
39 school, whichever comes first. Any break in the school calendar

1 shall not disqualify the dependent child from coverage under this
2 paragraph.

3 (B) Documentation or certification of the medical necessity for
4 a leave of absence from school shall be submitted to the plan at
5 least 30 days prior to the medical leave of absence from the school,
6 if the medical reason for the absence and the absence are
7 foreseeable, or 30 days after the start date of the medical leave of
8 absence from school and shall be considered prima facie evidence
9 of entitlement to coverage under this paragraph.

10 (4) This subdivision shall not apply to a specialized health care
11 service plan or to a Medicare supplement plan.

12 *SEC. 15. Section 1422.1 of the Health and Safety Code is*
13 *amended to read:*

14 1422.1. (a) Notwithstanding Section 1422, the State
15 Department of ~~Public Health Services~~ shall conduct, when feasible,
16 annual licensing inspections of licensed long-term health care
17 facilities providing special treatment programs for the mentally
18 disordered, concurrently with inspections conducted by the State
19 Department of ~~Mental Health Care Services~~ for the purposes of
20 approving the special treatment program.

21 (b) The State Department of ~~Public Health Services~~ survey
22 teams conducting inspections pursuant to this section shall include
23 at least one licensed mental health professional if the inspections
24 are not done concurrently pursuant to subdivision (a).

25 (c) Survey team members shall receive training specific to the
26 mental health treatment needs of mentally disordered residents
27 served in these facilities.

28 *SEC. 16. Section 1502 of the Health and Safety Code is*
29 *amended to read:*

30 1502. As used in this chapter:

31 (a) “Community care facility” means any facility, place, or
32 building that is maintained and operated to provide nonmedical
33 residential care, day treatment, adult day care, or foster family
34 agency services for children, adults, or children and adults,
35 including, but not limited to, the physically handicapped, mentally
36 impaired, incompetent persons, and abused or neglected children,
37 and includes the following:

38 (1) “Residential facility” means any family home, group care
39 facility, or similar facility determined by the director, for 24-hour
40 nonmedical care of persons in need of personal services,

1 supervision, or assistance essential for sustaining the activities of
2 daily living or for the protection of the individual.

3 (2) “Adult day program” means any community-based facility
4 or program that provides care to persons 18 years of age or older
5 in need of personal services, supervision, or assistance essential
6 for sustaining the activities of daily living or for the protection of
7 these individuals on less than a 24-hour basis.

8 (3) “Therapeutic day services facility” means any facility that
9 provides nonmedical care, counseling, educational or vocational
10 support, or social rehabilitation services on less than a 24-hour
11 basis to persons under 18 years of age who would otherwise be
12 placed in foster care or who are returning to families from foster
13 care. Program standards for these facilities shall be developed by
14 the department, pursuant to Section 1530, in consultation with
15 therapeutic day services and foster care providers.

16 (4) “Foster family agency” means any organization engaged in
17 the recruiting, certifying, and training of, and providing
18 professional support to, foster parents, or in finding homes or other
19 places for placement of children for temporary or permanent care
20 who require that level of care as an alternative to a group home.
21 Private foster family agencies shall be organized and operated on
22 a nonprofit basis.

23 (5) “Foster family home” means any residential facility
24 providing 24-hour care for six or fewer foster children that is
25 owned, leased, or rented and is the residence of the foster parent
26 or parents, including their family, in whose care the foster children
27 have been placed. The placement may be by a public or private
28 child placement agency or by a court order, or by voluntary
29 placement by a parent, parents, or guardian. It also means a foster
30 family home described in Section 1505.2.

31 (6) “Small family home” means any residential facility, in the
32 licensee’s family residence, that provides 24-hour care for six or
33 fewer foster children who have mental disorders or developmental
34 or physical disabilities and who require special care and supervision
35 as a result of their disabilities. A small family home may accept
36 children with special health care needs, pursuant to subdivision
37 (a) of Section 17710 of the Welfare and Institutions Code. In
38 addition to placing children with special health care needs, the
39 department may approve placement of children without special
40 health care needs, up to the licensed capacity.

1 (7) “Social rehabilitation facility” means any residential facility
 2 that provides social rehabilitation services for no longer than 18
 3 months in a group setting to adults recovering from mental illness
 4 who temporarily need assistance, guidance, or counseling. Program
 5 components shall be subject to program standards pursuant to
 6 Article 1 (commencing with Section 5670) of Chapter 2.5 of Part
 7 2 of Division 5 of the Welfare and Institutions Code.

8 (8) “Community treatment facility” means any residential
 9 facility that provides mental health treatment services to children
 10 in a group setting and that has the capacity to provide secure
 11 containment. Program components shall be subject to program
 12 standards developed and enforced by the State Department of
 13 ~~Mental Health~~ *Care Services* pursuant to Section 4094 of the
 14 Welfare and Institutions Code.

15 Nothing in this section shall be construed to prohibit or
 16 discourage placement of persons who have mental or physical
 17 disabilities into any category of community care facility that meets
 18 the needs of the individual placed, if the placement is consistent
 19 with the licensing regulations of the department.

20 (9) “Full-service adoption agency” means any licensed entity
 21 engaged in the business of providing adoption services, that does
 22 all of the following:

- 23 (A) Assumes care, custody, and control of a child through
- 24 relinquishment of the child to the agency or involuntary termination
- 25 of parental rights to the child.
- 26 (B) Assesses the birth parents, prospective adoptive parents, or
- 27 child.
- 28 (C) Places children for adoption.
- 29 (D) Supervises adoptive placements.

30 Private full-service adoption agencies shall be organized and
 31 operated on a nonprofit basis. As a condition of licensure to provide
 32 intercountry adoption services, a full-service adoption agency shall
 33 be accredited and in good standing according to Part 96 of Title
 34 22 of the Code of Federal Regulations, or supervised by an
 35 accredited primary provider, or acting as an exempted provider,
 36 in compliance with Subpart F (commencing with Section 96.29)
 37 of Part 96 of Title 22 of the Code of Federal Regulations.

38 (10) “Noncustodial adoption agency” means any licensed entity
 39 engaged in the business of providing adoption services, that does
 40 all of the following:

1 (A) Assesses the prospective adoptive parents.

2 (B) Cooperatively matches children freed for adoption, who are
3 under the care, custody, and control of a licensed adoption agency,
4 for adoption, with assessed and approved adoptive applicants.

5 (C) Cooperatively supervises adoptive placements with a
6 full-service adoptive agency, but does not disrupt a placement or
7 remove a child from a placement.

8 Private noncustodial adoption agencies shall be organized and
9 operated on a nonprofit basis. As a condition of licensure to provide
10 intercountry adoption services, a noncustodial adoption agency
11 shall be accredited and in good standing according to Part 96 of
12 Title 22 of the Code of Federal Regulations, or supervised by an
13 accredited primary provider, or acting as an exempted provider,
14 in compliance with Subpart F (commencing with Section 96.29)
15 of Part 96 of Title 22 of the Code of Federal Regulations.

16 (11) “Transitional shelter care facility” means any group care
17 facility that provides for 24-hour nonmedical care of persons in
18 need of personal services, supervision, or assistance essential for
19 sustaining the activities of daily living or for the protection of the
20 individual. Program components shall be subject to program
21 standards developed by the State Department of Social Services
22 pursuant to Section 1502.3.

23 (12) “Transitional housing placement facility” means a
24 community care facility licensed by the department pursuant to
25 Section 1559.110 to provide transitional housing opportunities to
26 persons at least 16 years of age, and not more than 18 years of age
27 unless the requirements of Section 11403 and paragraph (1) of
28 subdivision (a) of Section 11403.2 of the Welfare and Institutions
29 Code are met, who are in out-of-home placement under the
30 supervision of the county department of social services or the
31 county probation department, and who are participating in an
32 independent living program.

33 (b) “Department” or “state department” means the State
34 Department of Social Services.

35 (c) “Director” means the Director of Social Services.

36 *SEC. 17. Section 1502.4 of the Health and Safety Code is*
37 *amended to read:*

38 1502.4. (a) (1) A community care facility licensed as a group
39 home for children pursuant to this chapter may accept for
40 placement, and provide care and supervision to, a child assessed

1 as seriously emotionally disturbed as long as the child does not
2 need inpatient care in a licensed health facility.

3 (2) For the purpose of this chapter, the following definitions
4 shall apply:

5 (A) “Inpatient care in a licensed health facility” means care and
6 supervision at a level greater than incidental medical services as
7 specified in Section 1507.

8 (B) “Seriously emotionally disturbed” means the same as
9 paragraph (2) of subdivision (a) of Section 5600.3 of the Welfare
10 and Institutions Code.

11 (b) If a child described in subdivision (a) is placed into a group
12 home program classified at rate classification level 13 or rate
13 classification level 14 pursuant to Section 11462.01 of the Welfare
14 and Institutions Code, the licensee shall meet both of the following
15 requirements:

16 (1) The licensee shall agree to accept, for placement into its
17 group home program, only children who have been assessed as
18 seriously emotionally disturbed by either of the following:

19 (A) An interagency placement committee, as described in
20 Section 4096 of the Welfare and Institutions Code or by a licensed
21 mental health professional, as defined in Sections 629 to 633,
22 inclusive, of Title 9 of the California Code of Regulations.

23 (B) A licensed mental health professional pursuant to paragraph
24 (3) of subdivision (i), or subdivision (j), of Section 11462.01 of
25 the Welfare and Institutions Code if the child is privately placed
26 or only county funded.

27 (2) The program is certified by the State Department of ~~Mental~~
28 Health *Care Services*, pursuant to Section 4096.5 of the Welfare
29 and Institutions Code, as a program that provides mental health
30 treatment services for seriously emotionally disturbed children.

31 (c) The department shall not evaluate, or have any responsibility
32 or liability with regard to the evaluation of, the mental health
33 treatment services provided pursuant to this section and paragraph
34 (3) of subdivision (f) of Section 11462.01 of the Welfare and
35 Institutions Code.

36 *SEC. 18. Section 1507 of the Health and Safety Code is*
37 *amended to read:*

38 1507. (a) Notwithstanding any other provision of law,
39 incidental medical services may be provided in a community care
40 facility. If the medical services constitute a substantial component

1 of the services provided by the community care facility as defined
2 by the director in regulations, the medical services component
3 shall be approved as set forth in Chapter 1 (commencing with
4 Section 1200) or Chapter 2 (commencing with Section 1250).

5 (b) Notwithstanding any other provision of law, if the
6 requirements of subdivision (c) are met, the department shall permit
7 incidental medical services to be provided in community care
8 facilities for adults by facility staff who are not licensed health
9 care professionals but who are trained by a licensed health care
10 professional and supervised according to the client's individualized
11 health care plan prepared pursuant to subdivision (c). Incidental
12 medical services provided by trained facility staff for the following
13 conditions shall be limited as follows:

14 (1) Colostomy and ileostomy: changing bags and cleaning
15 stoma.

16 (2) Urinary catheter: emptying bags in day care facilities;
17 emptying and changing bags in residential facilities.

18 (3) Gastrostomy: feeding, hydration, cleaning stoma, and adding
19 medication per physician's or nurse practitioner's orders for the
20 routine medication of patients with chronic, stable conditions.

21 (c) Facility staff may provide incidental medical services if the
22 following conditions have been met:

23 (1) For regional center clients the following shall apply:

24 (A) An individualized health care plan, which may be part of a
25 client's individual program plan, shall be prepared for each client
26 by a health care team that shall include the client or his or her
27 designee if the client is not able to participate in planning his or
28 her health care, the client's primary care physician or nurse
29 practitioner or other health care professional designated by the
30 physician or nurse practitioner, the licensee or licensee's designee,
31 any involved social worker or regional center worker, and any
32 health care professional designated to monitor the client's
33 individualized health care plan.

34 (B) The client's individualized health care plan shall be
35 reassessed at least every 12 months or more frequently as
36 determined by the client's physician or nurse practitioner during
37 the time the client receives incidental medical services in the
38 facility.

39 (C) The client's regional center, primary care physician or nurse
40 practitioner, or other health care professional designated by the

1 physician or nurse practitioner shall identify the health care
2 professional who shall be responsible for training facility staff in
3 the provision of incidental medical services.

4 (D) Facility staff shall be trained by the identified health care
5 professional practicing within his or her scope of practice who
6 shall monitor, according to the individualized health care plan, the
7 staff's ability to provide incidental medical services and who shall
8 review, correct, or update facility staff training as the health care
9 professional deems necessary.

10 (E) The regional center or placing agency shall evaluate,
11 monitor, and have responsibility for oversight of the incidental
12 medical services provided in the facility by facility staff. However,
13 nothing in this section shall preclude the department from taking
14 an administrative action against a licensee or facility staff member
15 for failure or refusal to carry out, or negligence in carrying out,
16 his or her duties in providing these incidental medical services.

17 (2) For persons who are not regional center clients, the following
18 shall apply:

19 (A) An individualized health care plan shall be prepared that
20 includes the physician's or nurse practitioner's order for services
21 to be provided during the time the client is in the day care facility.
22 The plan shall be prepared by a team that includes the client or his
23 or her designee if the client is not able to participate in planning
24 his or her care, the client's social worker, conservator, or legal
25 guardian, as appropriate, a licensed health care professional, and
26 the licensee or the licensee's designee.

27 (B) The client's individualized health care plan shall be
28 reassessed at least every 12 months or more frequently as
29 determined by the client's physician or nurse practitioner during
30 the time the client receives incidental medical services in the
31 facility.

32 (C) A licensed health care professional practicing within his or
33 her scope of practice shall train the staff of the facility on
34 procedures for caring for clients who require incidental medical
35 services and shall periodically review, correct, or update facility
36 staff training as the health care professional deems necessary.

37 (d) Facilities providing incidental medical services shall remain
38 in substantial compliance with all other applicable regulations of
39 the department.

1 (e) The department shall adopt emergency regulations for
2 community care facilities for adults by February 1, 1997, to do all
3 of the following:

4 (1) Specify incidental medical services that may be provided.
5 These incidental medical services shall include, but need not be
6 limited to, any of the following: gastrostomy, colostomy, ileostomy,
7 and urinary catheters.

8 (2) Specify the conditions under which incidental medical
9 services may be provided.

10 (3) Specify the medical services that, due to the level of care
11 required, are prohibited services.

12 (f) The department shall consult with the State Department of
13 Developmental Services, the State Department of ~~Mental~~ Health
14 *Care Services*, the Association of Regional Center Agencies, and
15 provider associations in the development of the regulations required
16 by subdivision (e).

17 *SEC. 19. Section 1522.08 of the Health and Safety Code, as*
18 *amended by Section 16 of Chapter 483 of the Statutes of 2007, is*
19 *amended to read:*

20 1522.08. (a) In order to protect the health and safety of persons
21 receiving care or services from individuals or facilities licensed
22 or certified by the state, the California Department of Aging, State
23 Department of Public Health, State Department of Alcohol and
24 Drug Programs, State Department of ~~Mental~~ Health *Care Services*,
25 State Department of Social Services, and the Emergency Medical
26 Services Authority may share information with respect to
27 applicants, licensees, certificates, or individuals who have been
28 the subject of any administrative action resulting in the denial,
29 suspension, probation, or revocation of a license, permit, or
30 certificate, or in the exclusion of any person from a facility who
31 is subject to a background check, as otherwise provided by law.

32 (b) The State Department of Social Services shall maintain a
33 centralized system for the monitoring and tracking of final
34 administrative actions, to be used by the California Department
35 of Aging, State Department of Public Health, State Department of
36 Alcohol and Drug Programs, State Department of ~~Mental~~ Health
37 *Care Services*, State Department of Social Services, and the
38 Emergency Medical Services Authority as a part of the background
39 check process. The State Department of Social Services may charge
40 a fee to departments under the jurisdiction of the California Health

1 and Human Services Agency sufficient to cover the cost of
2 providing those departments with the final administrative action
3 specified in subdivision (a). To the extent that additional funds are
4 needed for this purpose, implementation of this subdivision shall
5 be contingent upon a specific appropriation provided for this
6 purpose in the annual Budget Act.

7 (c) The State Department of Social Services, in consultation
8 with the other departments under the jurisdiction of the California
9 Health and Human Services Agency, may adopt regulations to
10 implement this section.

11 (d) For the purposes of this section and Section 1499,
12 “administrative action” means any proceeding initiated by the
13 California Department of Aging, State Department of Public
14 Health, State Department of Alcohol and Drug Programs, State
15 Department of ~~Mental Health~~ *Care Services*, State Department of
16 Social Services, and the Emergency Medical Services Authority
17 to determine the rights and duties of an applicant, licensee, or other
18 individual or entity over which the department has jurisdiction.
19 “Administrative action” may include, but is not limited to, action
20 involving the denial of an application for, or the suspension or
21 revocation of, any license, special permit, administrator certificate,
22 criminal record clearance, or exemption.

23 *SEC. 20. Section 1522.41 of the Health and Safety Code is*
24 *amended to read:*

25 1522.41. (a) The director, in consultation and collaboration
26 with county placement officials, group home provider
27 organizations, the Director of ~~Mental Health~~ *Care Services*, and
28 the Director of Developmental Services, shall develop and establish
29 a certification program to ensure that administrators of group home
30 facilities have appropriate training to provide the care and services
31 for which a license or certificate is issued.

32 (b) (1) In addition to any other requirements or qualifications
33 required by the department, an administrator of a group home
34 facility shall successfully complete a department-approved
35 certification program, pursuant to subdivision (c), prior to
36 employment. An administrator employed in a group home on the
37 effective date of this section shall meet the requirements of
38 paragraph (2) of subdivision (c).

1 (2) In those cases where the individual is both the licensee and
2 the administrator of a facility, the individual shall comply with all
3 of the licensee and administrator requirements of this section.

4 (3) Failure to comply with this section shall constitute cause for
5 revocation of the license of the facility.

6 (4) The licensee shall notify the department within 10 days of
7 any change in administrators.

8 (c) (1) The administrator certification programs shall require
9 a minimum of 40 hours of classroom instruction that provides
10 training on a uniform core of knowledge in each of the following
11 areas:

12 (A) Laws, regulations, and policies and procedural standards
13 that impact the operations of the type of facility for which the
14 applicant will be an administrator.

15 (B) Business operations.

16 (C) Management and supervision of staff.

17 (D) Psychosocial and educational needs of the facility residents.

18 (E) Community and support services.

19 (F) Physical needs for facility residents.

20 (G) Administration, storage, misuse, and interaction of
21 medication used by facility residents.

22 (H) Resident admission, retention, and assessment procedures,
23 including the right of a foster child to have fair and equal access
24 to all available services, placement, care, treatment, and benefits,
25 and to not be subjected to discrimination or harassment on the
26 basis of actual or perceived race, ethnic group identification,
27 ancestry, national origin, color, religion, sex, sexual orientation,
28 gender identity, mental or physical disability, or HIV status.

29 (I) Nonviolent emergency intervention and reporting
30 requirements.

31 (J) Basic instruction on the existing laws and procedures
32 regarding the safety of foster youth at school and the ensuring of
33 a harassment- and violence-free school environment contained in
34 the School Safety and Violence Prevention Act (Article 3.6
35 commencing with Section 32228) of Chapter 2 of Part 19 of
36 Division 1 of Title 1 of the Education Code).

37 (2) The department shall adopt separate program requirements
38 for initial certification for persons who are employed as group
39 home administrators on the effective date of this section. A person
40 employed as an administrator of a group home facility on the

1 effective date of this section shall obtain a certificate by completing
2 the training and testing requirements imposed by the department
3 within 12 months of the effective date of the regulations
4 implementing this section. After the effective date of this section,
5 these administrators shall meet the requirements imposed by the
6 department on all other group home administrators for certificate
7 renewal.

8 (3) Individuals applying for certification under this section shall
9 successfully complete an approved certification program, pass a
10 written test administered by the department within 60 days of
11 completing the program, and submit to the department the
12 documentation required by subdivision (d) within 30 days after
13 being notified of having passed the test. The department may
14 extend these time deadlines for good cause. The department shall
15 notify the applicant of his or her test results within 30 days of
16 administering the test.

17 (d) The department shall not begin the process of issuing a
18 certificate until receipt of all of the following:

19 (1) A certificate of completion of the administrator training
20 required pursuant to this chapter.

21 (2) The fee required for issuance of the certificate. A fee of one
22 hundred dollars (\$100) shall be charged by the department to cover
23 the costs of processing the application for certification.

24 (3) Documentation from the applicant that he or she has passed
25 the written test.

26 (4) Submission of fingerprints pursuant to Section 1522. The
27 department may waive the submission for those persons who have
28 a current clearance on file.

29 (5) That person is at least 21 years of age.

30 (e) It shall be unlawful for any person not certified under this
31 section to hold himself or herself out as a certified administrator
32 of a group home facility. Any person willfully making any false
33 representation as being a certified administrator or facility manager
34 is guilty of a misdemeanor.

35 (f) (1) Certificates issued under this section shall be renewed
36 every two years and renewal shall be conditional upon the
37 certificate holder submitting documentation of completion of 40
38 hours of continuing education related to the core of knowledge
39 specified in subdivision (c). No more than one-half of the required
40 40 hours of continuing education necessary to renew the certificate

1 may be satisfied through online courses. All other continuing
2 education hours shall be completed in a classroom setting. For
3 purposes of this section, an individual who is a group home facility
4 administrator and who is required to complete the continuing
5 education hours required by the regulations of the State Department
6 of Developmental Services, and approved by the regional center,
7 may have up to 24 of the required continuing education course
8 hours credited toward the 40-hour continuing education
9 requirement of this section. Community college course hours
10 approved by the regional centers shall be accepted by the
11 department for certification.

12 (2) Every administrator of a group home facility shall complete
13 the continuing education requirements of this subdivision.

14 (3) Certificates issued under this section shall expire every two
15 years on the anniversary date of the initial issuance of the
16 certificate, except that any administrator receiving his or her initial
17 certification on or after July 1, 1999, shall make an irrevocable
18 election to have his or her recertification date for any subsequent
19 recertification either on the date two years from the date of issuance
20 of the certificate or on the individual's birthday during the second
21 calendar year following certification. The department shall send
22 a renewal notice to the certificate holder 90 days prior to the
23 expiration date of the certificate. If the certificate is not renewed
24 prior to its expiration date, reinstatement shall only be permitted
25 after the certificate holder has paid a delinquency fee equal to three
26 times the renewal fee and has provided evidence of completion of
27 the continuing education required.

28 (4) To renew a certificate, the certificate holder shall, on or
29 before the certificate expiration date, request renewal by submitting
30 to the department documentation of completion of the required
31 continuing education courses and pay the renewal fee of one
32 hundred dollars (\$100), irrespective of receipt of the department's
33 notification of the renewal. A renewal request postmarked on or
34 before the expiration of the certificate shall be proof of compliance
35 with this paragraph.

36 (5) A suspended or revoked certificate shall be subject to
37 expiration as provided for in this section. If reinstatement of the
38 certificate is approved by the department, the certificate holder,
39 as a condition precedent to reinstatement, shall submit proof of
40 compliance with paragraphs (1) and (2) of subdivision (f), and

1 shall pay a fee in an amount equal to the renewal fee, plus the
2 delinquency fee, if any, accrued at the time of its revocation or
3 suspension. Delinquency fees, if any, accrued subsequent to the
4 time of its revocation or suspension and prior to an order for
5 reinstatement, shall be waived for a period of 12 months to allow
6 the individual sufficient time to complete the required continuing
7 education units and to submit the required documentation.
8 Individuals whose certificates will expire within 90 days after the
9 order for reinstatement may be granted a three-month extension
10 to renew their certificates during which time the delinquency fees
11 shall not accrue.

12 (6) A certificate that is not renewed within four years after its
13 expiration shall not be renewed, restored, reissued, or reinstated
14 except upon completion of a certification training program, passing
15 any test that may be required of an applicant for a new certificate
16 at that time, and paying the appropriate fees provided for in this
17 section.

18 (7) A fee of twenty-five dollars (\$25) shall be charged for the
19 reissuance of a lost certificate.

20 (8) A certificate holder shall inform the department of his or
21 her employment status and change of mailing address within 30
22 days of any change.

23 (g) Unless otherwise ordered by the department, the certificate
24 shall be considered forfeited under either of the following
25 conditions:

26 (1) The department has revoked any license held by the
27 administrator after the department issued the certificate.

28 (2) The department has issued an exclusion order against the
29 administrator pursuant to Section 1558, 1568.092, 1569.58, or
30 1596.8897, after the department issued the certificate, and the
31 administrator did not appeal the exclusion order or, after the appeal,
32 the department issued a decision and order that upheld the
33 exclusion order.

34 (h) (1) The department, in consultation and collaboration with
35 county placement officials, provider organizations, the State
36 Department of ~~Mental Health~~ *Care Services*, and the State
37 Department of Developmental Services, shall establish, by
38 regulation, the program content, the testing instrument, the process
39 for approving certification training programs, and criteria to be
40 used in authorizing individuals, organizations, or educational

1 institutions to conduct certification training programs and
2 continuing education courses. The department may also grant
3 continuing education hours for continuing courses offered by
4 accredited educational institutions that are consistent with the
5 requirements in this section. The department may deny vendor
6 approval to any agency or person in any of the following
7 circumstances:

8 (A) The applicant has not provided the department with evidence
9 satisfactory to the department of the ability of the applicant to
10 satisfy the requirements of vendorization set out in the regulations
11 adopted by the department pursuant to subdivision (j).

12 (B) The applicant person or agency has a conflict of interest in
13 that the person or agency places its clients in group home facilities.

14 (C) The applicant public or private agency has a conflict of
15 interest in that the agency is mandated to place clients in group
16 homes and to pay directly for the services. The department may
17 deny vendorization to this type of agency only as long as there are
18 other vendor programs available to conduct the certification
19 training programs and conduct education courses.

20 (2) The department may authorize vendors to conduct the
21 administrator's certification training program pursuant to this
22 section. The department shall conduct the written test pursuant to
23 regulations adopted by the department.

24 (3) The department shall prepare and maintain an updated list
25 of approved training vendors.

26 (4) The department may inspect certification training programs
27 and continuing education courses, including online courses, at no
28 charge to the department, to determine if content and teaching
29 methods comply with regulations. If the department determines
30 that any vendor is not complying with the requirements of this
31 section, the department shall take appropriate action to bring the
32 program into compliance, which may include removing the vendor
33 from the approved list.

34 (5) The department shall establish reasonable procedures and
35 timeframes not to exceed 30 days for the approval of vendor
36 training programs.

37 (6) The department may charge a reasonable fee, not to exceed
38 one hundred fifty dollars (\$150) every two years, to certification
39 program vendors for review and approval of the initial 40-hour
40 training program pursuant to subdivision (c). The department may

1 also charge the vendor a fee, not to exceed one hundred dollars
2 (\$100) every two years, for the review and approval of the
3 continuing education courses needed for recertification pursuant
4 to this subdivision.

5 (7) (A) A vendor of online programs for continuing education
6 shall ensure that each online course contains all of the following:

7 (i) An interactive portion in which the participant receives
8 feedback, through online communication, based on input from the
9 participant.

10 (ii) Required use of a personal identification number or personal
11 identification information to confirm the identity of the participant.

12 (iii) A final screen displaying a printable statement, to be signed
13 by the participant, certifying that the identified participant
14 completed the course. The vendor shall obtain a copy of the final
15 screen statement with the original signature of the participant prior
16 to the issuance of a certificate of completion. The signed statement
17 of completion shall be maintained by the vendor for a period of
18 three years and be available to the department upon demand. Any
19 person who certifies as true any material matter pursuant to this
20 clause that he or she knows to be false is guilty of a misdemeanor.

21 (B) Nothing in this subdivision shall prohibit the department
22 from approving online programs for continuing education that do
23 not meet the requirements of subparagraph (A) if the vendor
24 demonstrates to the department's satisfaction that, through
25 advanced technology, the course and the course delivery meet the
26 requirements of this section.

27 (i) The department shall establish a registry for holders of
28 certificates that shall include, at a minimum, information on
29 employment status and criminal record clearance.

30 (j) Subdivisions (b) to (i), inclusive, shall be implemented upon
31 regulations being adopted by the department, by January 1, 2000.

32 (k) Notwithstanding any provision of law to the contrary,
33 vendors approved by the department who exclusively provide
34 either initial or continuing education courses for certification of
35 administrators of a group home facility as defined by regulations
36 of the department, an adult residential facility as defined by
37 regulations of the department, or a residential care facility for the
38 elderly as defined in subdivision (k) of Section 1569.2, shall be
39 regulated solely by the department pursuant to this chapter. No

1 other state or local governmental entity shall be responsible for
2 regulating the activity of those vendors.

3 *SEC. 21. Section 1522.42 of the Health and Safety Code is*
4 *amended to read:*

5 1522.42. (a) The department, in consultation and collaboration
6 with county placement officials, provider organizations, the State
7 Department of ~~Mental Health Care Services~~, and the State
8 Department of Developmental Services, shall adopt regulations
9 that establish standardized training and continuing education
10 curricula for facility managers and direct child care workers in
11 group homes.

12 (b) The regulations required by subdivision (a) shall specify the
13 date by which new and current employees shall be required to meet
14 the standardized training and continuing education requirements.
15 For persons employed as child care staff and facility managers on
16 the effective date of the regulations, the department shall provide
17 adequate time for these persons to comply with the regulatory
18 requirements.

19 *SEC. 22. Section 1530.9 of the Health and Safety Code is*
20 *amended to read:*

21 1530.9. (a) The department shall, with the advice and
22 assistance of the State Department of ~~Mental Health Care Services~~,
23 counties, parent and children's advocacy groups, and group home
24 providers, adopt regulations for the licensing of licensed
25 community treatment facilities at the earliest possible date, ~~but no~~
26 ~~later than December 31, 1994.~~

27 (b) The regulations adopted pursuant to this section shall specify
28 requirements for facility operation and maintenance.

29 (c) Program certification and standards enforcement shall be
30 the responsibility of the State Department of ~~Mental Health Care~~
31 ~~Services~~, pursuant to Section 4094 of the Welfare and Institutions
32 Code. The State Department of Social Services shall not issue a
33 community treatment facility license unless the applicant has
34 obtained certification of compliance from the State Department
35 of ~~Mental Health Care Services~~.

36 *SEC. 23. Section 1562.3 of the Health and Safety Code is*
37 *amended to read:*

38 1562.3. (a) The Director of Social Services, in consultation
39 with the Director of ~~Mental Health Care Services~~ and the Director
40 of Developmental Services, shall establish a training program to

1 ensure that licensees, operators, and staffs of adult residential
2 facilities, as defined in paragraph (1) of subdivision (a) of Section
3 1502, have appropriate training to provide the care and services
4 for which a license or certificate is issued. The training program
5 shall be developed in consultation with provider organizations.

6 (b) (1) An administrator of an adult residential care facility, as
7 defined in paragraph (1) of subdivision (a) of Section 1502, shall
8 successfully complete a department-approved certification program
9 pursuant to subdivision (c) prior to employment.

10 (2) In those cases where the individual is both the licensee and
11 the administrator of a facility, the individual shall comply with
12 both the licensee and administrator requirements of this section.

13 (3) Failure to comply with this section shall constitute cause for
14 revocation of the license of the facility.

15 (4) The licensee shall notify the department within 30 days of
16 any change in administrators.

17 (c) (1) The administrator certification program shall require a
18 minimum of 35 hours of classroom instruction that provides
19 training on a uniform core of knowledge in each of the following
20 areas:

21 (A) Laws, regulations, and policies and procedural standards
22 that impact the operations of the type of facility for which the
23 applicant will be an administrator.

24 (B) Business operations.

25 (C) Management and supervision of staff.

26 (D) Psychosocial needs of the facility residents.

27 (E) Community and support services.

28 (F) Physical needs for facility residents.

29 (G) Use, misuse, and interaction of medication commonly used
30 by facility residents.

31 (H) Resident admission, retention, and assessment procedures.

32 (I) Nonviolent crisis intervention for administrators.

33 (2) The requirement for 35 hours of classroom instruction
34 pursuant to this subdivision shall not apply to persons who were
35 employed as administrators prior to July 1, 1996. A person holding
36 the position of administrator of an adult residential facility on June
37 30, 1996, shall file a completed application for certification with
38 the department on or before April 1, 1998. In order to be exempt
39 from the 35-hour training program and the test component, the
40 application shall include documentation showing proof of

1 continuous employment as the administrator of an adult residential
2 facility between, at a minimum, June 30, 1994, and June 30, 1996.
3 An administrator of an adult residential facility who became
4 certified as a result of passing the department-administered
5 challenge test, that was offered between October 1, 1996, and
6 December 23, 1996, shall be deemed to have fulfilled the
7 requirements of this paragraph.

8 (3) Unless an extension is granted to the applicant by the
9 department, an applicant for an administrator's certificate shall,
10 within 60 days of the applicant's completion of classroom
11 instruction, pass the written test provided in this section.

12 (d) The department shall not begin the process of issuing a
13 certificate until receipt of all of the following:

14 (1) A certificate of completion of the administrator training
15 required pursuant to this chapter.

16 (2) The fee required for issuance of the certificate. A fee of one
17 hundred dollars (\$100) shall be charged by the department to cover
18 the costs of processing the application for certification.

19 (3) Documentation from the applicant that he or she has passed
20 the written test.

21 (4) Submission of fingerprints. The department and the
22 Department of Justice shall expedite the criminal record clearance
23 for holders of certificates of completion. The department may
24 waive the submission for those persons who have a current
25 clearance on file.

26 (e) It shall be unlawful for any person not certified under this
27 section to hold himself or herself out as a certified administrator
28 of an adult residential facility. Any person willfully making any
29 false representation as being a certified administrator is guilty of
30 a misdemeanor.

31 (f) (1) Certificates issued under this section shall be renewed
32 every two years and renewal shall be conditional upon the
33 certificate holder submitting documentation of completion of 40
34 hours of continuing education related to the core of knowledge
35 specified in subdivision (c). No more than one-half of the required
36 40 hours of continuing education necessary to renew the certificate
37 may be satisfied through online courses. All other continuing
38 education hours shall be completed in a classroom setting. For
39 purposes of this section, an individual who is an adult residential
40 facility administrator and who is required to complete the

1 continuing education hours required by the regulations of the State
2 Department of Developmental Services, and approved by the
3 regional center, shall be permitted to have up to 24 of the required
4 continuing education course hours credited toward the 40-hour
5 continuing education requirement of this section. Community
6 college course hours approved by the regional centers shall be
7 accepted by the department for certification.

8 (2) Every licensee and administrator of an adult residential
9 facility is required to complete the continuing education
10 requirements of this subdivision.

11 (3) Certificates issued under this section shall expire every two
12 years, on the anniversary date of the initial issuance of the
13 certificate, except that any administrator receiving his or her initial
14 certification on or after January 1, 1999, shall make an irrevocable
15 election to have his or her recertification date for any subsequent
16 recertification either on the date two years from the date of issuance
17 of the certificate or on the individual's birthday during the second
18 calendar year following certification. The department shall send
19 a renewal notice to the certificate holder 90 days prior to the
20 expiration date of the certificate. If the certificate is not renewed
21 prior to its expiration date, reinstatement shall only be permitted
22 after the certificate holder has paid a delinquency fee equal to three
23 times the renewal fee and has provided evidence of completion of
24 the continuing education required.

25 (4) To renew a certificate, the certificate holder shall, on or
26 before the certificate expiration date, request renewal by submitting
27 to the department documentation of completion of the required
28 continuing education courses and pay the renewal fee of one
29 hundred dollars (\$100), irrespective of receipt of the department's
30 notification of the renewal. A renewal request postmarked on or
31 before the expiration of the certificate is proof of compliance with
32 this paragraph.

33 (5) A suspended or revoked certificate is subject to expiration
34 as provided for in this section. If reinstatement of the certificate
35 is approved by the department, the certificate holder, as a condition
36 precedent to reinstatement, shall submit proof of compliance with
37 paragraphs (1) and (2) of subdivision (f) and shall pay a fee in an
38 amount equal to the renewal fee, plus the delinquency fee, if any,
39 accrued at the time of its revocation or suspension. Delinquency
40 fees, if any, accrued subsequent to the time of its revocation or

1 suspension and prior to an order for reinstatement, shall be waived
2 for one year to allow the individual sufficient time to complete the
3 required continuing education units and to submit the required
4 documentation. Individuals whose certificates will expire within
5 90 days after the order for reinstatement may be granted a
6 three-month extension to renew their certificates during which
7 time the delinquency fees shall not accrue.

8 (6) A certificate that is not renewed within four years after its
9 expiration shall not be renewed, restored, reissued, or reinstated
10 except upon completion of a certification training program, passing
11 any test that may be required of an applicant for a new certificate
12 at that time, and paying the appropriate fees provided for in this
13 section.

14 (7) A fee of twenty-five dollars (\$25) shall be charged for the
15 reissuance of a lost certificate.

16 (8) A certificate holder shall inform the department of his or
17 her employment status within 30 days of any change.

18 (g) The certificate shall be considered forfeited under the
19 following conditions:

20 (1) The administrator has had a license revoked, suspended, or
21 denied as authorized under Section 1550.

22 (2) The administrator has been denied employment, residence,
23 or presence in a facility based on action resulting from an
24 administrative hearing pursuant to Section 1522 or Section 1558.

25 (h) (1) The department, in consultation with the State
26 Department of ~~Mental Health~~ *Care Services* and the State
27 Department of Developmental Services, shall establish, by
28 regulation, the program content, the testing instrument, the process
29 for approving certification training programs, and criteria to be
30 used in authorizing individuals, organizations, or educational
31 institutions to conduct certification training programs and
32 continuing education courses. These regulations shall be developed
33 in consultation with provider organizations, and shall be made
34 available at least six months prior to the deadline required for
35 certification. The department may deny vendor approval to any
36 agency or person in any of the following circumstances:

37 (A) The applicant has not provided the department with evidence
38 satisfactory to the department of the ability of the applicant to
39 satisfy the requirements of vendorization set out in the regulations
40 adopted by the department pursuant to subdivision (i).

1 (B) The applicant person or agency has a conflict of interest in
2 that the person or agency places its clients in adult residential
3 facilities.

4 (C) The applicant public or private agency has a conflict of
5 interest in that the agency is mandated to place clients in adult
6 residential facilities and to pay directly for the services. The
7 department may deny vendorization to this type of agency only as
8 long as there are other vendor programs available to conduct the
9 certification training programs and conduct education courses.

10 (2) The department may authorize vendors to conduct the
11 administrator's certification training program pursuant to provisions
12 set forth in this section. The department shall conduct the written
13 test pursuant to regulations adopted by the department.

14 (3) The department shall prepare and maintain an updated list
15 of approved training vendors.

16 (4) The department may inspect certification training programs
17 and continuing education courses, including online courses, at no
18 charge to the department, to determine if content and teaching
19 methods comply with regulations. If the department determines
20 that any vendor is not complying with the intent of this section,
21 the department shall take appropriate action to bring the program
22 into compliance, which may include removing the vendor from
23 the approved list.

24 (5) The department shall establish reasonable procedures and
25 timeframes not to exceed 30 days for the approval of vendor
26 training programs.

27 (6) The department may charge a reasonable fee, not to exceed
28 one hundred fifty dollars (\$150) every two years to certification
29 program vendors for review and approval of the initial 35-hour
30 training program pursuant to subdivision (c). The department may
31 also charge the vendor a fee not to exceed one hundred dollars
32 (\$100) every two years for the review and approval of the
33 continuing education courses needed for recertification pursuant
34 to this subdivision.

35 (7) (A) A vendor of online programs for continuing education
36 shall ensure that each online course contains all of the following:

37 (i) An interactive portion in which the participant receives
38 feedback, through online communication, based on input from the
39 participant.

1 (ii) Required use of a personal identification number or personal
2 identification information to confirm the identity of the participant.

3 (iii) A final screen displaying a printable statement, to be signed
4 by the participant, certifying that the identified participant
5 completed the course. The vendor shall obtain a copy of the final
6 screen statement with the original signature of the participant prior
7 to the issuance of a certificate of completion. The signed statement
8 of completion shall be maintained by the vendor for a period of
9 three years and be available to the department upon demand. Any
10 person who certifies as true any material matter pursuant to this
11 clause that he or she knows to be false is guilty of a misdemeanor.

12 (B) Nothing in this subdivision shall prohibit the department
13 from approving online programs for continuing education that do
14 not meet the requirements of subparagraph (A) if the vendor
15 demonstrates to the department's satisfaction that, through
16 advanced technology, the course and the course delivery meet the
17 requirements of this section.

18 ~~(i) This section shall be operative upon regulations being~~
19 ~~adopted by the department, no later than July 1, 1996, to implement~~
20 ~~the administrator certification program as provided for in this~~
21 ~~section. If regulations are not adopted by the department, or are~~
22 ~~adopted after July 1, 1996, this section shall not become operative.~~

23 ~~(j)~~

24 (i) The department shall establish a registry for holders of
25 certificates that shall include, at a minimum, information on
26 employment status and criminal record clearance.

27 *SEC. 24. Section 1565 of the Health and Safety Code is*
28 *repealed.*

29 ~~1565. (a) The Health and Welfare Agency shall establish the~~
30 ~~Task Force on Accreditation of Services for Children and shall~~
31 ~~convene a meeting of that body on or before January 1, 1993.~~

32 ~~(b) Membership of the Task Force on Accreditation of Services~~
33 ~~for Children shall include, but not be limited to, all of the~~
34 ~~following:~~

35 ~~(1) Two providers of residential services for children.~~

36 ~~(2) Representatives from the California Association of~~
37 ~~Children's Homes, California Association of Private Specialized~~
38 ~~Education and Services, the California Association of Services for~~
39 ~~Children, the California Probation Parole and Correctional Officers~~

1 Association, the County Mental Health Directors Association, and
2 the County Welfare Directors Association.

3 ~~(3) Representatives from the State Department of Social
4 Services, the State Department of Mental Health, the Youth
5 Authority, the State Department of Developmental Services, and
6 the State Department of Education.~~

7 ~~(4) Two representatives from university research schools with
8 expertise in children’s services, specifically standards of care.~~

9 ~~(5) One representative with experience in the accreditation of
10 agencies servicing children.~~

11 ~~(6) Two legislative representatives of policy committees dealing
12 with social service issues pertaining to children.~~

13 ~~(e) The goals of the task force shall be the development of a
14 plan for voluntary accreditation of all facilities for children in
15 out-of-home care, including group homes, foster family agencies,
16 foster family homes, and community treatment facilities, in order
17 to encourage the maximum quality of residential services for
18 children.~~

19 ~~(d) It is the intent of the Legislature that accreditation be
20 voluntary and differ from, but complement, community care
21 licensing that is a governmental activity focused upon the
22 enforcement of minimum standards for health and safety.~~

23 ~~(e) The task force may consult with additional persons, advisory
24 entities, and governmental agencies, as the task force determines
25 necessary.~~

26 ~~(f) Members of the task force shall not receive any compensation
27 related to their service on the task force that goes above or beyond
28 any compensation that they may already receive from other public
29 or private sources.~~

30 ~~(g) The plan shall include, but not be limited to, all of the
31 following:~~

32 ~~(1) Proof that the development of standards for accreditation
33 have been written with the participation of a diverse group of
34 service providers, advocacy organizations, and placement agency
35 personnel.~~

36 ~~(2) A draft of accreditation standards that are comprehensive
37 and detailed, concerned with optimal achievement rather than
38 minimal quality, and that provide for continuing and objective
39 evaluation of services through a process that allows for
40 self-appraisal and self-education.~~

1 ~~(3) A recommended schedule for implementation of~~
2 ~~accreditation of a percentage of residential facilities for children~~
3 ~~in every county, and a fiscal incentive strategy for programs that~~
4 ~~become accredited.~~

5 ~~(4) Proposed financial incentive plan for county welfare~~
6 ~~departments to participate in and encourage accreditation activities,~~
7 ~~including, but not limited to, a reduction in county administrative~~
8 ~~oversight responsibilities.~~

9 ~~(5) Recommendations on what type of organization or entity~~
10 ~~should be responsible for carrying out the accreditation functions.~~

11 ~~(6) A recommended fee schedule for the support of voluntary~~
12 ~~accreditation activities.~~

13 ~~(7) A proposed method of providing an initial orientation and~~
14 ~~ongoing technical assistance to enable and support those desiring~~
15 ~~accreditation to become accredited.~~

16 ~~(8) Recommendations for encouraging minority involvement~~
17 ~~in accreditation activities, including outreach and technical~~
18 ~~assistance targeted to agencies that are culturally and ethnically~~
19 ~~sensitive to the population served, as determined by the task force.~~

20 ~~(h) The Legislature finds and declares that the necessary~~
21 ~~expertise for development of an accreditation plan is most available~~
22 ~~through peers and colleagues. Therefore, it is the intent of the~~
23 ~~Legislature that the accreditation plan may be developed by~~
24 ~~utilizing private or public resources, and may be funded through~~
25 ~~revenues generated by private fees, public or private grants, or~~
26 ~~public funds provided by federal, state, county, or other~~
27 ~~governmental entities.~~

28 *SEC. 25. Section 11217 of the Health and Safety Code is*
29 *amended to read:*

30 11217. No person shall treat an addict for addiction to a narcotic
31 drug except in one of the following:

32 (a) An institution approved by the State Department of ~~Mental~~
33 ~~Health~~ *Social Services and the State Department of Health Care*
34 *Services*, and where the patient is at all times kept under restraint
35 and control.

36 (b) A city or county jail.

37 (c) A state prison.

38 (d) A facility designated by a county and approved by the State
39 Department of ~~Mental Health~~ *Social Services* pursuant to Division

1 5 (commencing with Section 5000) of the Welfare and Institutions
2 Code.

3 (e) A state hospital.

4 (f) A county hospital.

5 (g) A facility licensed by the State Department of Alcohol and
6 Drug Programs pursuant to Division 10.5 (commencing with
7 Section 11750).

8 (h) A facility as defined in subdivision (a) or (b) of Section 1250
9 and Section 1250.3.

10 A narcotic controlled substance in the continuing treatment of
11 addiction to a controlled substance shall be used only in those
12 programs licensed by the State Department of Alcohol and Drug
13 Programs pursuant to Article 3 (commencing with Section 11875)
14 of Chapter 1 of Part 3 of Division 10.5 on either an inpatient or
15 outpatient basis, or both.

16 This section does not apply during emergency treatment, or
17 where the patient's addiction is complicated by the presence of
18 incurable disease, serious accident, or injury, or the infirmities of
19 old age.

20 Neither this section nor any other provision of this division shall
21 be construed to prohibit the maintenance of a place in which
22 persons seeking to recover from addiction to a controlled substance
23 reside and endeavor to aid one another and receive aid from others
24 in recovering from that addiction, nor does this section or this
25 division prohibit that aid, provided that no person is treated for
26 addiction in a place by means of administering, furnishing, or
27 prescribing of controlled substances. The preceding sentence is
28 declaratory of preexisting law.

29 Neither this section or any other provision of this division shall
30 be construed to prohibit short-term narcotic detoxification treatment
31 in a controlled setting approved by the director and pursuant to
32 rules and regulations of the director. Facilities and treatment
33 approved by the director under this paragraph shall not be subject
34 to approval or inspection by the Medical Board of California, nor
35 shall persons in those facilities be required to register with, or
36 report the termination of residence with, the police department or
37 sheriff's office.

38 *SEC. 26. Section 11998.1 of the Health and Safety Code is*
39 *amended to read:*

1 11998.1. It is the intent of the Legislature that the following
2 long-term five-year goals be achieved:

3 (a) With regard to education and prevention of drug and alcohol
4 abuse programs, the following goals:

5 (1) Drug and alcohol abuse education has been included within
6 the mandatory curriculum in kindergarten and grades 1 to 12,
7 inclusive, in every public school in California.

8 (2) Basic training on how to recognize, and understand what to
9 do about, drug and alcohol abuse has been provided to
10 administrators and all teachers of kindergarten and grades 1 to 12,
11 inclusive.

12 (3) All school counselors and school nurses have received
13 comprehensive drug and alcohol abuse training.

14 (4) Each school district with kindergarten and grades 1 to 12,
15 inclusive, has appointed a drug and alcohol abuse advisory team
16 of school administrators, teachers, counselors, students, parents,
17 community representatives, and health care professionals, all of
18 whom have expertise in drug and alcohol abuse prevention. The
19 team coordinates with and receives consultation from the county
20 alcohol and drug program administrators.

21 (5) Every school board member has received basic drug and
22 alcohol abuse information.

23 (6) Each school district has a drug and alcohol abuse specialist
24 to assist the individual schools.

25 (7) Each school in grades 7 to 12, inclusive, has student peer
26 group drug and alcohol abuse programs.

27 (8) Every school district with kindergarten and grades 1 to 12,
28 inclusive, has updated written drug and alcohol abuse policies and
29 procedures including disciplinary procedures which will be given
30 to every school employee, every student, and every parent.

31 (9) The California State University and the University of
32 California have evaluated and, if feasible, established educational
33 programs and degrees in the area of drug and alcohol abuse.

34 (10) Every school district with kindergarten and grades 1 to 12,
35 inclusive, has an established parent teachers group with drug and
36 alcohol abuse prevention goals.

37 (11) Every school district has instituted a drug and alcohol abuse
38 education program for parents.

39 (12) Drug and alcohol abuse training has been imposed as a
40 condition for teacher credentialing and license renewal, and

1 knowledge on the issue is measured on the California Basic
2 Education Skills Test.

3 (13) Drug and alcohol abuse knowledge has been established
4 as a component on standardized competency tests as a requirement
5 for graduation.

6 (14) Every school district has established a parent support group.

7 (15) Every school district has instituted policies that address
8 the special needs of children who have been rehabilitated for drug
9 or alcohol abuse problems and who are reentering school. These
10 policies shall consider the loss of schooltime, the loss of academic
11 credits, and the sociological problems associated with drug and
12 alcohol abuse, its rehabilitation, and the educational delay it causes.

13 (16) The number of drug and alcohol abuse related incidents
14 on school grounds has decreased by 20 percent.

15 (b) With regard to community programs, the following goals:

16 (1) Every community-based social service organization that
17 receives state and local financial assistance has drug and alcohol
18 abuse information available for clients.

19 (2) All neighborhood watch, business watch, and community
20 conflict resolution programs have included drug and alcohol abuse
21 prevention efforts.

22 (3) All community-based programs that serve schoolaged
23 children have staff trained in drug and alcohol abuse and give a
24 clear, drug- and alcohol-free message.

25 (c) With regard to drug and alcohol abuse programs of the
26 media, the following goals:

27 (1) The state has established a comprehensive media campaign
28 that involves all facets of the drug and alcohol abuse problem,
29 including treatment, education, prevention, and intervention that
30 will result in increasing the public's knowledge and awareness of
31 the detrimental effects of alcohol and drug use, reducing the use
32 of alcohol and drugs, and increasing healthy lifestyle choices.

33 (2) The department on a statewide basis, and the county board
34 of supervisors or its designees at the local level, have:

35 (A) Assisted the entertainment industry in identifying ways to
36 use the entertainment industry effectively to encourage lifestyles
37 free of substance abuse.

38 (B) Assisted the manufacturers of drug and alcohol products in
39 identifying ways to use product advertising effectively to
40 discourage substance abuse.

1 (C) Assisted television stations in identifying ways to use
2 television programming effectively to encourage lifestyles free of
3 substance abuse.

4 (3) A statewide cooperative fundraising program with recording
5 artists and the entertainment industry has been encouraged to fund
6 drug and alcohol abuse prevention efforts in the state.

7 (d) With regard to drug and alcohol abuse health care programs,
8 the following goals:

9 (1) The number of drug and alcohol abuse-related medical
10 emergencies has decreased by 4 percent per year.

11 (2) All general acute care hospitals and AIDS medical service
12 providers have provided information to their patients on drug and
13 alcohol abuse.

14 (3) The Medical Board of California, the Psychology Examining
15 Committee, the Board of Registered Nursing, and the Board of
16 Behavioral Science Examiners have developed and implemented
17 the guidelines or regulations requiring drug and alcohol abuse
18 training for their licensees, and have developed methods of
19 providing training for those professionals.

20 (e) With regard to private sector drug and alcohol abuse
21 programs, the following goals:

22 (1) A significant percentage of businesses in the private sector
23 have developed personnel policies that discourage drug and alcohol
24 abuse and encourage supervision, training, and employee education.

25 (2) Noteworthy and publicly recognized figures and private
26 industry have been encouraged to sponsor fundraising events for
27 drug and alcohol abuse prevention.

28 (3) Every public or private athletic team has been encouraged
29 to establish policies forbidding drug and alcohol abuse.

30 (4) The private sector has established personnel policies that
31 discourage drug and alcohol abuse but encourage treatment for
32 those employees who require this assistance.

33 (f) With regard to local government drug and alcohol abuse
34 programs, the following goals:

35 (1) Every county has a five-year master plan to eliminate drug
36 and alcohol abuse developed jointly by the county-designated
37 alcohol and drug program administrators, reviewed jointly by the
38 advisory boards set forth in paragraph (2), and approved by the
39 board of supervisors. For those counties in which the alcohol and
40 drug programs are jointly administered, the administrator shall

1 develop the five-year master plan. To the degree possible, all
2 existing local plans relating to drug or alcohol abuse shall be
3 incorporated into the master plan.

4 (2) Every county has an advisory board on alcohol problems
5 and an advisory board on drug programs. The membership of these
6 advisory boards is representative of the county's population and
7 is geographically balanced. To the maximum extent possible, the
8 county advisory board on alcohol problems and the county advisory
9 board on drug programs will have representatives of the following:

- 10 (A) Law enforcement.
- 11 (B) Education.
- 12 (C) The treatment and recovery community, including a
13 representative with expertise in AIDS treatment services.
- 14 (D) Judiciary.
- 15 (E) Students.
- 16 (F) Parents.
- 17 (G) Private industry.
- 18 (H) Other community organizations involved in drug and alcohol
19 services.
- 20 (I) A representative of organized labor responsible for the
21 provision of Employee Assistance Program services.

22 If any of these areas is not represented on the advisory bodies,
23 the administrator designated in paragraph (1) shall solicit input
24 from a representative of the nonrepresented area prior to the
25 development of a master plan pursuant to paragraph (1).

26 (3) Every county public social service agency has established
27 policies that discourage drug and alcohol abuse and encourage
28 treatment and recovery services when necessary.

29 (4) Every local unit of government has an employee assistance
30 program that addresses drug and alcohol abuse problems.

31 (5) Every local unit of government has considered the potential
32 for drug and alcohol abuse problems when developing zoning
33 ordinances and issuing conditional use permits.

34 (6) Every county master plan includes treatment and recovery
35 services.

36 (6.5) Every county master plan includes specialized provisions
37 to ensure optimum alcohol and drug abuse service delivery for
38 handicapped and disabled persons.

1 (7) Every local unit of government has been encouraged to
2 establish an employee assistance program that includes the
3 treatment of drug and alcohol abuse-related programs.

4 (8) Every local governmental social service provider has
5 established a referral system under which clients with drug and
6 alcohol abuse problems can be referred for treatment.

7 (9) Every county drug and alcohol abuse treatment or recovery
8 program that serves women gives priority for services to pregnant
9 women.

10 (10) Every alcohol and drug abuse program provides ~~acquired~~
11 ~~immune deficiency syndrome (AIDS)~~ *AIDS* information to all
12 program participants.

13 (g) With regard to state and federal government drug and alcohol
14 abuse programs, the following goals:

15 (1) The Department of Alcoholic Beverage Control has informed
16 all alcohol retailers of the laws governing liquor sales and has
17 provided training available to all personnel selling alcoholic
18 beverages, on identifying and handling minors attempting to
19 purchase alcohol.

20 (2) The California Emergency Management Agency has required
21 all applicants for crime prevention and juvenile justice and
22 delinquency prevention funds to include drug and alcohol abuse
23 prevention efforts in their programs.

24 (3) All county applications for direct or indirect drug and alcohol
25 services funding from the department include a prevention
26 component.

27 (4) The Superintendent of Public Instruction has employed drug
28 and alcohol abuse school prevention specialists and assisted school
29 districts with the implementation of prevention programs.

30 (5) The State Department of ~~Mental Health~~ *Health Care Services*
31 has staff trained in drug and alcohol abuse prevention who can
32 assist local mental health programs with prevention efforts.

33 (6) The Department of the California Highway Patrol, as
34 permitted by the United States Constitution, has established routine
35 statewide sobriety checkpoints for driving while under the
36 influence.

37 (7) The Department of Corrections and the Department of the
38 Youth Authority have provided drug and alcohol abuse education
39 and prevention services for all inmates, wards, and parolees. Both
40 departments have provided drug and alcohol abuse treatment

1 services for any inmate, ward, or parolee determined to be in need
2 of these services, or who personally requests these services.

3 (8) The Department of Motor Vehicles has distributed prevention
4 materials with each driver’s license or certificate of renewal and
5 each vehicle registration renewal mailed by the Department of
6 Motor Vehicles.

7 (9) Federal prevention programs have been encouraged to follow
8 the master plan.

9 (10) State licensing and program regulations for drug and
10 alcohol abuse treatment programs have been consolidated and
11 administered by one state agency.

12 (11) State treatment funding priorities have been included to
13 specially recognize the multiple diagnosed client who would be
14 eligible for services from more than one state agency.

15 (12) Every state agency has formalized employee assistance
16 programs that include the treatment of drug and alcohol
17 abuse-related problems.

18 (13) The state master plan includes specialized provisions to
19 ensure optimum drug and alcohol abuse service delivery for
20 handicapped and disabled persons.

21 (h) With regard to private sector direct service providers, the
22 following goals:

23 (1) Drinking drivers programs have provided clear
24 measurements of successful completion of the program to the
25 courts for each court-ordered client.

26 (2) Sufficient drug and alcohol treatment and recovery services
27 exist throughout the state to meet all clients’ immediate and
28 long-range needs.

29 (3) Each county to the extent possible provides localized alcohol
30 and drug treatment and recovery services designed for individuals
31 seeking assistance for polydrug abuse.

32 (4) Adequate nonresidential and residential services are available
33 statewide for juveniles in need of alcohol or drug abuse services.

34 (5) Each provider of alcohol or drug services has been certified
35 by the state.

36 (6) Drug and alcohol abuse treatment providers provide general
37 ~~acquired immune deficiency syndrome (AIDS)~~ AIDS information
38 during treatment.

39 (i) With regard to supply regulation and reduction in conjunction
40 with drug and alcohol abuse, the following goals:

1 (1) The California National Guard supports federal, state, and
2 local drug enforcement agencies in counternarcotic operations as
3 permitted by applicable laws and regulations.

4 (2) Each county has a drug and alcohol abuse enforcement team,
5 designated by the board of supervisors. This team includes all
6 components of the criminal justice system. This team shall be
7 responsible to the board of supervisors, shall coordinate with the
8 drug and alcohol abuse advisory board and the county on all
9 criminal justice matters relating to drug and alcohol abuse, and
10 shall coordinate, and actively participate, with the county alcohol
11 and drug program administrators throughout the development and
12 implementation of the five-year master plan.

13 (3) The California Emergency Management Agency, the Youth
14 and Adult Correctional Agency, the Department of the California
15 Highway Patrol, the Office of Traffic Safety, and the Department
16 of Justice have established a state level drug and alcohol abuse
17 enforcement team that includes representatives from all facets of
18 criminal justice. The lead agency for the enforcement team has
19 been designated by the Governor. This team advises the state and
20 assists the local teams.

21 (4) The California Emergency Management Agency, the Youth
22 and Adult Correctional Agency, and the Department of Justice
23 have, as a priority when determining training subjects, prevention
24 seminars on drug and alcohol abuse. The Commission on Peace
25 Officer Standards and Training has, as a priority, when determining
26 training subjects, drug and alcohol enforcement.

27 (5) The Department of the California Highway Patrol, as
28 permitted by the United States Constitution, will, in conjunction
29 with establishing sobriety checkpoints statewide, assist local law
30 enforcement agencies with the establishment of local programs.

31 (6) Counties with more than 10 superior court judgeships have
32 established programs under which drug cases receive swift
33 prosecution by well-trained prosecutors before judges who are
34 experienced in the handling of drug cases.

35 (7) The courts, when determining bail eligibility and the amount
36 of bail for persons suspected of a crime involving a controlled
37 substance, shall consider the quantity of the substance involved
38 when measuring the danger to society if the suspect is released.

39 (8) Drunk driving jails have been established that provide
40 offender education and treatment during incarceration.

1 (9) All probation and parole officers have received drug and
2 alcohol abuse training, including particular training on drug
3 recognition.

4 (10) All parolees and persons on probation with a criminal
5 history that involves drug or alcohol abuse have conditions of
6 parole or probation that prohibit drug and alcohol abuse.

7 (11) The Judicial Council has provided training on drug and
8 alcohol abuse for the judges.

9 (12) The courts, when sentencing offenders convicted of selling
10 drugs, consider “street value” of the drugs involved in the
11 underlying crime.

12 (13) Judges have been encouraged to include drug and alcohol
13 abuse treatment and prevention services in sentences for all
14 offenders. Judges are requiring, as a condition of sentencing, drug
15 and alcohol abuse education and treatment services for all persons
16 convicted of driving under the influence of alcohol or drugs.

17 (14) Juvenile halls and jails provide clients with information on
18 drug and alcohol abuse.

19 (15) The estimated number of clandestine labs operating in
20 California has decreased by 10 percent per year.

21 (16) Each local law enforcement agency has developed, with
22 the schools, protocol on responding to school drug and alcohol
23 abuse problems.

24 (17) Every county has instituted a mandatory
25 driving-under-the-influence presentence offender evaluation
26 program.

27 *SEC. 27. Section 50451 of the Health and Safety Code is*
28 *amended to read:*

29 50451. The California Statewide Housing Plan shall incorporate
30 a statement of housing goals, policies, and objectives, as well as
31 all of the following segments:

32 (a) An evaluation and summary of housing conditions
33 throughout the state, with particular emphasis upon the availability
34 of housing for all economic segments of the state. The evaluation
35 shall include summary statistics for all counties, all multicounty
36 metropolitan areas, and rural areas, as defined and designated by
37 the Bureau of the Census of the United States Department of
38 Commerce, rather than as defined in Section 50101. The evaluation
39 shall include the existing distribution of housing by type, size,
40 gross rent, value, and, to the extent data is available, condition,

1 and the existing distribution of households by gross income, size,
2 and ethnic character for each of those areas.

3 (b) A determination of the statewide need for housing
4 development for the year the plan is revised and projected four
5 additional years ahead. The determination of statewide need shall
6 be established as the minimum number of units necessary to be
7 built or rehabilitated in order to provide sufficient housing to house
8 all residents of the state in standard, uncrowded units in suitable
9 locations.

10 (c) Goals for the provision of housing assistance for the year
11 the plan is revised and projected four additional years ahead. The
12 goals shall be established as the minimum number of households
13 to be assisted that will result in achieving, by the fourth subsequent
14 year, a substantial reduction in the number of very low income
15 households and other persons and families of low or moderate
16 income constrained to pay more than 30 percent of their gross
17 income for housing. Income groups to be considered in establishing
18 the goals shall be designated by the department and shall include
19 households a significant number of which are required to pay more
20 than 30 percent of their gross income for housing in the fiscal year
21 the plan is revised, as determined by the department.

22 (d) An identification of governmental and nongovernmental
23 constraints and obstacles and specific recommendations for their
24 removal.

25 (e) An analysis of state and local housing and building codes
26 and their enforcement. The analysis shall include consideration of
27 whether those codes contain sufficient flexibility to respond to
28 new methods of construction and new materials.

29 (f) Recommendations for actions by federal, state, and local
30 governments and the private sector that will contribute to the
31 attainment of the housing goals established for California.

32 (g) A housing strategy that coordinates the housing assistance
33 and activities of state and local agencies, including the provision
34 of housing assistance for various population groups including, but
35 not limited to, elderly persons, persons with disabilities, large
36 families, families where a female is the head of the household,
37 farmworker households, and other specific population groups as
38 deemed appropriate by the department. To inform the strategy, the
39 department shall, to the extent possible, do the following:

1 (1) Consider information compiled by the University of
 2 California pursuant to Section 9101.5 of the Welfare and
 3 Institutions Code, and from provider and consumer organizations
 4 as available.

5 (2) Consult with various state departments, including the
 6 California Department of Aging, the State Department of Social
 7 Services, the State Department of Health *Care* Services, ~~the State~~
 8 ~~Department of Mental Health~~, the Employment Development
 9 Department, the State Department of Developmental Services, and
 10 other state departments or agencies to obtain information deemed
 11 relevant to the housing needs of populations addressed in the
 12 housing strategy. This paragraph shall not be construed to require
 13 activity beyond the customary scope of the department’s planning
 14 process.

15 (h) A review of housing assistance policies, goals, and objectives
 16 affecting the homeless.

17 *SEC. 28. Section 50685.5 of the Health and Safety Code is*
 18 *amended to read:*

19 50685.5. As used in this chapter, “persons requiring supportive
 20 services” means persons who are eligible to receive housing
 21 assistance pursuant to federal law because of financial inability to
 22 provide adequate housing for themselves or persons dependent
 23 upon them, who are or will be participating in programs of
 24 rehabilitation, education, or social services, and who meet any of
 25 the following criteria:

26 (a) The person shall have been determined to be developmentally
 27 disabled, but not requiring institutional care, by the State
 28 Department of Developmental Services, a regional center
 29 established pursuant to Section 4620 of the Welfare and Institutions
 30 Code, or by the designated representative thereof.

31 (b) The person shall have been determined to be mentally
 32 disordered, but not requiring institutional care, by a local director
 33 of mental health services, by the State Department of ~~Mental Health~~
 34 *Care Services*, or by the designated representatives thereof.

35 (c) The person shall have been determined to be physically
 36 disabled by the ~~State~~ Department of Rehabilitation or by the
 37 designated representatives thereof.

38 *SEC. 29. Section 50687.5 of the Health and Safety Code is*
 39 *amended to read:*

1 50687.5. The department, after consultation with the State
2 Department of Developmental Services, the State Department of
3 Rehabilitation, or the State Department of ~~Mental Health Care~~
4 *Services*, may adopt, amend or repeal regulations for the
5 administration of this chapter.

6 The department shall submit applications for federal housing
7 subsidies for persons requiring supportive services.

8 *SEC. 30. Section 50689 of the Health and Safety Code is*
9 *amended to read:*

10 50689. (a) It is the intent of the Legislature in enacting this
11 section to provide housing assistance for the developmentally or
12 physically disabled, and mentally disordered where such assistance
13 is for the purpose of providing a transition from an institutional to
14 an independent setting, and where ~~such~~ *that* assistance is
15 administered in the context of ongoing local programs leading to
16 rehabilitation and independence.

17 (b) The department shall establish a program for the purpose of
18 housing assistance for the physically or developmentally disabled,
19 or mentally disordered. The department shall contract with local
20 agencies or nonprofit corporations incorporated pursuant to Part
21 1 (commencing with Section 9000) of Division 2 of Title 1 of the
22 Corporations Code which provide supportive services for such
23 individuals, where ~~such~~ *those* services are designed to provide a
24 transition to independent living. The local agencies or nonprofit
25 corporation shall ensure that recipients of housing assistance are
26 income qualified under guidelines for programs of the federal
27 Department of Housing and Urban Development under Section 8
28 of the United States Housing Act of 1937, as amended (42 ~~United~~
29 ~~States Code~~ *U.S.C. Sec. 1437(f)*), and shall not contract for housing
30 which exceeds such guidelines for fair market rents for the Section
31 8 program. Public and private agencies participating in the program
32 established pursuant to this section shall be those whose program
33 philosophies and activities conform substantially to the principles
34 of community living under Chapter 12 (commencing with Section
35 4830) of Division 4.5, community residential treatment under
36 Chapter 5 (commencing with Section 5450) of Part 1 of Division
37 5, and independent living under Chapter 8 (commencing with
38 Section 19800) of Part 2 of Division 10, of the Welfare and
39 Institutions Code.

1 (c) Any local agency making application for housing assistance
 2 payments to the department shall, in its application, explain how
 3 ~~such~~ *the* housing assistance payments are part of its ongoing
 4 programs to establish independent living for its disabled clientele.
 5 The department, in reviewing ~~such~~ *these* applications, may consult
 6 with the Department of Developmental Disabilities, the *State*
 7 Department of ~~Mental~~ *Health Care Services*, and the Department
 8 of Rehabilitation.

9 (d) In order to receive housing assistance payments for any
 10 specific structure pursuant to the provisions of this section, the
 11 local agency or nonprofit corporation shall not contract for rental
 12 of more than 12 units, or for rental of space for more than 24
 13 persons, in the structure. No individual shall remain in a payment
 14 assisted unit for more than 18 months.

15 *SEC. 31. Section 120840 of the Health and Safety Code is*
 16 *amended to read:*

17 120840. The *State* Department of ~~Mental~~ *Health Care Services*
 18 shall establish an AIDS mental health project, as described in this
 19 section.

20 (a) The program should include, but need not be limited to, the
 21 following:

22 (1) The conduct of a statewide needs assessment of AIDS-related
 23 mental health issues.

24 (2) The conduct of education and training for mental health
 25 professionals throughout the state.

26 (3) The conduct, through the Office of Promotion, of a media
 27 campaign on such issues as the use of support groups, the
 28 relationship between stress and the immune system, and dealing
 29 with grief.

30 (b) The *State* Department of ~~Mental~~ *Health Care Services* shall
 31 coordinate projects and resources directly with the department.

32 (c) The Director of ~~the Department of Mental~~ *Health Care*
 33 *Services* may appoint advisory groups for this project as needed.

34 (d) Notwithstanding any provision of Chapter 2 (commencing
 35 with Section 10290) of Part 2 of Division 2 of the Public Contract
 36 Code, if the Director of ~~Mental~~ *Health Care Services* determines
 37 that it is in the best interest of the state to enter into a contract for
 38 the purposes specified in this section without competitive bids,
 39 then the director may, during the 1985–86 fiscal year, enter into
 40 a sole source contract for these purposes.

1 *SEC. 32. Section 124174.4 of the Health and Safety Code is*
2 *amended to read:*

3 124174.4. The State Department of Education, in collaboration
4 with the department, shall perform the following functions:

5 (a) Coordination of programs within the State Department of
6 Education that support school health centers and programs within
7 the State Department of ~~Mental Health~~ *Care Services* and the State
8 Department of Alcohol and Drug Programs, where appropriate.

9 (b) The provision of technical assistance to facilitate and
10 encourage the establishment, retention, and expansion of school
11 health centers in public schools. For purposes of this subdivision,
12 “technical assistance” may include the provision of information
13 to local educational agencies and other entities regarding the
14 utilization of facilities, liability insurance, cooperative agreements
15 with community-based providers, and other issues pertinent to
16 school health centers.

17 *SEC. 33. Section 128454 of the Health and Safety Code is*
18 *amended to read:*

19 128454. (a) There is hereby created the Licensed Mental Health
20 Service Provider Education Program within the Health Professions
21 Education Foundation.

22 (b) For purposes of this article, the following definitions shall
23 apply:

24 (1) “Licensed mental health service provider” means a
25 psychologist licensed by the Board of Psychology, registered
26 psychologist, postdoctoral psychological assistant, postdoctoral
27 psychology trainee employed in an exempt setting pursuant to
28 Section 2910 of the Business and Professions Code, or employed
29 pursuant to a State Department of ~~Mental Health~~ *Care Services*
30 waiver pursuant to Section 5751.2 of the Welfare and Institutions
31 Code, marriage and family therapist, marriage and family therapist
32 intern, licensed clinical social worker, and associate clinical social
33 worker.

34 (2) “Mental health professional shortage area” means an area
35 designated as such by the Health Resources and Services
36 Administration (HRSA) of the United States Department of Health
37 and Human Services.

38 (c) Commencing January 1, 2005, any licensed mental health
39 service provider, including a mental health service provider who
40 is employed at a publicly funded mental health facility or a public

1 or nonprofit private mental health facility that contracts with a
2 county mental health entity or facility to provide mental health
3 services, who provides direct patient care in a publicly funded
4 facility or a mental health professional shortage area may apply
5 for grants under the program to reimburse his or her educational
6 loans related to a career as a licensed mental health service
7 provider.

8 (d) The Health Professions Education Foundation shall make
9 recommendations to the director of the office concerning all of the
10 following:

11 (1) A standard contractual agreement to be signed by the director
12 and any licensed mental health service provider who is serving in
13 a publicly funded facility or a mental health professional shortage
14 area that would require the licensed mental health service provider
15 who receives a grant under the program to work in the publicly
16 funded facility or a mental health professional shortage area for
17 at least one year.

18 (2) The maximum allowable total grant amount per individual
19 licensed mental health service provider.

20 (3) The maximum allowable annual grant amount per individual
21 licensed mental health service provider.

22 (e) The Health Professions Education Foundation shall develop
23 the program, which shall comply with all of the following
24 requirements:

25 (1) The total amount of grants under the program per individual
26 licensed mental health service provider shall not exceed the amount
27 of educational loans related to a career as a licensed mental health
28 service provider incurred by that provider.

29 (2) The program shall keep the fees from the different licensed
30 providers separate to ensure that all grants are funded by those
31 fees collected from the corresponding licensed provider groups.

32 (3) A loan forgiveness grant may be provided in installments
33 proportionate to the amount of the service obligation that has been
34 completed.

35 (4) The number of persons who may be considered for the
36 program shall be limited by the funds made available pursuant to
37 Section 128458.

38 *SEC. 34. Section 128456 of the Health and Safety Code is*
39 *amended to read:*

1 128456. In developing the program established pursuant to this
2 article, the Health Professions Education Foundation shall solicit
3 the advice of representatives of the Board of Behavioral Sciences,
4 the Board of Psychology, the State Department of ~~Mental Health~~
5 *Care Services*, the California Mental Health Directors Association,
6 the California Mental Health Planning Council, professional mental
7 health care organizations, the California Healthcare Association,
8 the Chancellor of the California Community Colleges, and the
9 Chancellor of the California State University. The foundation shall
10 solicit the advice of representatives who reflect the demographic,
11 cultural, and linguistic diversity of the state.

12 *SEC. 35. Section 129230 of the Health and Safety Code is*
13 *amended to read:*

14 129230. It is the intent of the Legislature in enacting this article
15 to encourage the development of facilities for community-based
16 programs that assist mental health clients living in any institutional
17 setting, including state and local inpatient hospitals, skilled nursing
18 homes, intermediate care facilities, and community care facilities
19 to move to more independent living arrangements. It is further the
20 intent of the Legislature to encourage local programs to seek
21 funding for facility development from private sources and with
22 the assistance provided pursuant to this chapter.

23 To achieve this purpose in determining eligibility for loan
24 insurance pursuant to this chapter, the following special provisions
25 apply to facilities approved in the ~~county Short-Doyle plan~~ *local*
26 *mental health program* and meeting the intentions of this article:

27 (a) Facilities shall not require approval pursuant to Section
28 129295 by the statewide system of health facility planning, the
29 area health planning agency, or the Health Advisory Council, for
30 the issuance of loan insurance, unless specifically required for the
31 facilities by the facility category of licensure.

32 (b) Notwithstanding subdivision (i) of Section 129050, any loan
33 of under three hundred thousand dollars (\$300,000) for a nonprofit
34 corporation as well as a political subdivision may be fully insured
35 equal to the total construction cost, except a loan to any proprietary
36 corporation that is insured pursuant to subdivision (d) of this
37 section.

38 (c) ~~The State Department of Mental Health or the local mental~~
39 ~~health program~~ may provide all application fees, inspection fees,
40 premiums and other administrative payments required by this

1 chapter, except with respect to any loan to a proprietary corporation
2 that is insured pursuant to subdivision (d) of this section.

3 (d) The borrower may be a proprietary corporation, provided
4 that the facility is leased to the local mental health program for the
5 duration of the insurance agreement. In these instances, all
6 provisions in this chapter and this article that apply to a nonprofit
7 corporation shall apply to the proprietary corporation, except as
8 provided in subdivisions (b) and (c) of this section.

9 (e) For the purposes of this article, subdivision (c) of Section
10 129010 shall include the purchase of existing buildings.

11 (f) Facilities shall not require approval pursuant to Section
12 129020 by the statewide system of health facility planning, the
13 area health planning agency, or the Health Advisory Council, for
14 the issuance of loan insurance, until the director of the office ~~and~~
15 ~~the Director of the Department of Mental Health determine~~
16 *determines* that the state plan developed pursuant to Section 129020
17 adequately and comprehensively addresses the need for community
18 mental health facilities and that finding is reported to the
19 appropriate policy committees of the Legislature.

20 *SEC. 36. Section 10125 of the Insurance Code is amended to*
21 *read:*

22 10125. (a) On and after January 1, 1974, every insurer issuing
23 group disability insurance which covers hospital, medical, or
24 surgical expenses shall offer coverage for expenses incurred as a
25 result of mental or nervous disorders, under the terms and
26 conditions which may be agreed upon between the group
27 policyholder and the insurer. If the terms and conditions include
28 coverage for inpatient care for nervous or mental disorders, the
29 coverage shall extend to treatment provided at all of the following
30 facilities:

31 (1) A general acute care hospital as defined in subdivision (a)
32 of Section 1250 of the Health and Safety Code.

33 (2) An acute psychiatric hospital as defined in subdivision (b)
34 of Section 1250 of the Health and Safety Code.

35 (3) A psychiatric health facility as defined by Section 1250.2
36 of the Health and Safety Code operating pursuant to licensure by
37 the State Department of ~~Mental Health~~ *Social Services*.

38 Nothing in this subdivision prohibits an insurer which negotiates
39 and enters into a contract with a professional or institutional
40 provider for alternative rates of payment pursuant to Sections

1 10133 and 11512 of this code from restricting or modifying the
2 choice of providers.

3 (b) Every insurer shall communicate to prospective group
4 policyholders as to the availability of outpatient coverage for the
5 treatment of mental or nervous disorders. Every insurer shall
6 communicate the availability of that coverage to all group
7 policyholders and to all prospective group policyholders with
8 whom they are negotiating. This coverage may include community
9 residential treatment services, as described in Section 5458 of the
10 Welfare and Institutions Code, which are alternatives to
11 institutional care.

12 *SEC. 37. Section 10127 of the Insurance Code is amended to*
13 *read:*

14 10127. On and after January 1, 1974, every self-insured
15 employee welfare benefit plan which provides coverage for
16 hospital, medical, or surgical expenses shall offer coverage for
17 expenses incurred as a result of mental or nervous disorders, under
18 the terms and conditions which may be agreed upon between the
19 self-insured welfare benefit plan and the member. If the terms and
20 conditions include coverage for services provided in a general
21 acute care hospital, or an acute psychiatric hospital as defined in
22 Section 1250 of the Health and Safety Code, and do not restrict or
23 modify the choice of providers, the coverage shall extend to care
24 provided by a psychiatric health facility, as defined by Section
25 1250.2 of the Health and Safety Code, operating pursuant to
26 licensure by the State Department of ~~Mental Health~~ *Social Services*.
27 Every plan shall communicate to prospective members as to the
28 availability of outpatient coverage for the treatment of mental or
29 nervous disorders. Every self-insured welfare benefit plan shall
30 communicate the availability of this coverage to all members and
31 prospective members. This coverage may include community
32 residential treatment services, as described in Section 5458 of the
33 Welfare and Institutions Code, which are alternatives to
34 institutional care.

35 *SEC. 38. Section 12693.61 of the Insurance Code is amended*
36 *to read:*

37 12693.61. The following provisions apply for subscribers who
38 have been identified by the participating health plans as potentially
39 seriously emotionally disturbed.

1 (a) Participating plans, to the extent feasible, including plans
 2 receiving purchasing credits shall develop memoranda of
 3 understanding, consistent with criteria established by the board in
 4 consultation with the State Department of ~~Mental Health~~ *Health*
 5 *Care Services*, for referral of subscribers who are seriously
 6 emotionally disturbed to a county mental health department. This
 7 referral does not relieve a participating plan from providing the
 8 mental health coverage specified in its contract, including
 9 assessment of, and development of, a treatment plan for serious
 10 emotional disturbance. Plans may contract with county mental
 11 health departments to provide for all, or a portion of, the services
 12 provided under the program’s mental health benefit.

13 (b) The board shall establish an accounting process under which
 14 counties providing services to subscribers who have been
 15 determined to be seriously emotionally disturbed pursuant to
 16 Section 5600.3 of the Welfare and Institutions Code can claim
 17 federal reimbursement for the services. The board shall reimburse
 18 counties pursuant to the rates set by the ~~State Department of Mental~~
 19 ~~Health~~ *State Department of Health Care Services* in accordance
 20 with Sections 5705, ~~5716, 5718, 5720, 5724, and 5778~~ *14705.7,*
 21 *14705, 14708, 14711, and 14718* of the Welfare and Institutions
 22 Code. The actual amount reimbursed by the board shall be the
 23 federal share of the cost of the subscriber.

24 (c) This section shall only become operative with federal
 25 approval of the State Child Health Plan and the approval of federal
 26 financial participation.

27 (d) Counties choosing to enter into a memorandum of
 28 understanding pursuant to subdivision (a) shall provide the
 29 nonfederal share of cost for the subscriber.

30 *SEC. 39. Section 21 of the Welfare and Institutions Code is*
 31 *amended to read:*

32 21. (a) Whenever any reference is made in any provision of
 33 this code to the “State Department of Benefit Payments” or the
 34 “Department of Benefit Payments” with respect to aid, it means
 35 the State Department of Social Services.

36 Whenever any reference is made to the “State Department of
 37 Benefit Payments” or “Department of Benefit Payments” with
 38 respect to mental disorders, it means the State Department of
 39 ~~Mental Health~~ *Care Services*. Whenever reference is made to the
 40 “State Department of Benefit Payments” or “Department of Benefit

1 Payments” with respect to developmental disabilities, it means the
2 State Department of Developmental Services.

3 (b) Whenever any reference is made in any provision of this
4 code to the “State Department of Health” or the “Department of
5 Health” with respect to health services, medical assistance, or
6 benefits, it means the State Department of Health *Care Services*
7 *or the State Department of Public Health, as applicable.*

8 Whenever any reference is made to the “State Department of
9 Health” or the “Department of Health” with respect to mental
10 disorders, it means the State Department of ~~Mental~~ *Health Care*
11 *Services*. Whenever any reference is made to the “State Department
12 of Health” or “Department of Health” in respect to developmental
13 disabilities, it means the State Department of Developmental
14 Services.

15 (c) Whenever any reference is made in any provision of this
16 code to the “Director of Benefit Payments” with respect to aid, it
17 means the Director of Social Services.

18 Whenever any reference is made to the “Director of Benefit
19 Payments” with respect to mental disorders, it means the Director
20 of ~~Mental~~ *Health Care Services*. Whenever any reference is made
21 to the “Director of Benefit Payments” with respect to
22 developmental disabilities, it means the Director of Developmental
23 Services.

24 (d) Whenever any reference is made in any provision of this
25 code to the “State Director of Health” or “Director of Health” with
26 respect to health services, medical assistance, or benefits, it means
27 the ~~State~~ Director of *Health Care Services*.

28 Whenever any reference is made to the “State Director of Health”
29 or “Director of Health” with respect to mental disorders, it means
30 *the Director of* ~~Mental~~ *Health Care Services*. Whenever any
31 reference is made to the “State Director of Health” or “Director
32 of Health” with reference to developmental disabilities, it means
33 the Director of Developmental Services.

34 *SEC. 40. Section 359 of the Welfare and Institutions Code is*
35 *amended to read:*

36 359. Whenever a minor who appears to be a danger to himself
37 or others as a result of the use of narcotics (as defined in Section
38 11001 of the Health and Safety Code), or a restricted dangerous
39 drug (as defined in Section 11901 of the Health and Safety Code),
40 is brought before any judge of the juvenile court, the judge may

1 continue the hearing and proceed pursuant to this section. The
 2 court may order the minor taken to a facility designated by the
 3 county and approved by the State Department of ~~Mental Health~~
 4 *Social Services* as a facility for 72-hour treatment and evaluation.
 5 Thereupon the provisions of Section 11922 of the Health and Safety
 6 Code shall apply, except that the professional person in charge of
 7 the facility shall make a written report to the court concerning the
 8 results of the evaluation of the minor.

9 If the professional person in charge of the facility for 72-hour
 10 evaluation and treatment reports to the juvenile court that the minor
 11 is not a danger to himself or others as a result of the use of narcotics
 12 or restricted dangerous drugs or that the minor does not require
 13 14-day intensive treatment, or if the minor has been certified for
 14 not more than 14 days of intensive treatment and the certification
 15 is terminated, the minor shall be released if the juvenile court
 16 proceedings have been dismissed; referred for further care and
 17 treatment on a voluntary basis, subject to the disposition of the
 18 juvenile court proceedings; or returned to the juvenile court, in
 19 which event the court shall proceed with the case pursuant to this
 20 chapter.

21 Any expenditure for the evaluation or intensive treatment of a
 22 minor under this section shall be considered an expenditure made
 23 under Part 2 (commencing with Section 5600) of Division 5, and
 24 shall be reimbursed by the state as are other local expenditures
 25 pursuant to that part.

26 *SEC. 41. Section 708 of the Welfare and Institutions Code is*
 27 *amended to read:*

28 708. Whenever a minor who appears to be a danger to himself
 29 or herself or others as a result of the use of controlled substances
 30 (as defined in Division 10 (commencing with Section 11000) of
 31 the Health and Safety Code), is brought before any judge of the
 32 juvenile court, the judge may continue the hearing and proceed
 33 pursuant to this section. The court may order the minor taken to a
 34 facility designated by the county and approved by the State
 35 Department of ~~Mental Health~~ *Social Services* as a facility for
 36 72-hour treatment and evaluation. Thereupon the provisions of
 37 Section 5343 of the Welfare and Institutions Code shall apply,
 38 except that the professional person in charge of the facility shall
 39 make a written report to the court concerning the results of the
 40 evaluation of the minor.

1 If the professional person in charge of the facility for 72-hour
2 evaluation and treatment reports to the juvenile court that the minor
3 is not a danger to himself or herself or others as a result of the use
4 of controlled substances or that the minor does not require 14-day
5 intensive treatment, or if the minor has been certified for not more
6 than 14 days of intensive treatment and the certification is
7 terminated, the minor shall be released if the juvenile court
8 proceedings have been dismissed; referred for further care and
9 treatment on a voluntary basis, subject to the disposition of the
10 juvenile court proceedings; or returned to the juvenile court, in
11 which event the court shall proceed with the case pursuant to this
12 chapter.

13 Any expenditure for the evaluation or intensive treatment of a
14 minor under this section shall be considered an expenditure made
15 under Part 2 (commencing with Section 5600) of Division 5, and
16 shall be reimbursed by the state as are other local expenditures
17 pursuant to that part.

18 *SEC. 42. Section 4005.1 of the Welfare and Institutions Code*
19 *is amended to read:*

20 *4005.1. ~~The department~~The State Department of State*
21 *Hospitals, the State Department of Health Care Services, and the*
22 *State Department of Social Services may adopt and enforce rules*
23 *and regulations necessary to carry out ~~its~~ their respective duties*
24 *under this division.*

25 *SEC. 43. Section 4005.6 is added to the Welfare and Institutions*
26 *Code, to read:*

27 *4005.6. All regulations heretofore adopted by the State*
28 *Department of Mental Health pursuant to authority vested in the*
29 *State Department of Health Care Services by Section 4005.1 and*
30 *in effect immediately preceding the operative date of the act that*
31 *added this section shall remain in effect and shall be fully*
32 *enforceable unless and until readopted, amended, or repealed by*
33 *the Director of Health Care Services.*

34 *SEC. 44. Section 4005.7 is added to the Welfare and Institutions*
35 *Code, to read:*

36 *4005.7. All regulations heretofore adopted by the State*
37 *Department of Mental Health pursuant to authority vested in the*
38 *State Department of Social Services by Section 4005.1 and in effect*
39 *immediately preceding the operative date of the act that added*
40 *this section shall remain in effect and shall be fully enforceable*

1 *unless and until readopted, amended, or repealed by the Director*
 2 *of Social Services.*

3 *SEC. 45. Section 4011 of the Welfare and Institutions Code is*
 4 *amended to read:*

5 ~~4011. Unless otherwise indicated in this code, the~~ *The State*
 6 ~~Department of Mental Health Care Services~~ *has jurisdiction over*
 7 *the execution of the laws relating to the care, custody, and*
 8 *treatment of mentally disordered persons, as only to the extent and*
 9 *in the manner provided in this code. The State Department of State*
 10 *Hospitals shall have jurisdiction over the execution of the laws*
 11 *relating to care and treatment of the mentally ill individuals under*
 12 *the custody of the State Department of State Hospitals.*

13 *As used in this division, “establishment” and “institution” include*
 14 *every hospital, sanitarium, boarding home, or other place receiving*
 15 *or caring for mentally disordered persons.*

16 *SEC. 46. Section 4030 of the Welfare and Institutions Code is*
 17 *amended to read:*

18 ~~4030. The Director of Mental Health Care Services~~ *shall*
 19 *organize appropriate staff of the department to ensure*
 20 *implementation of the planning, research, evaluation, technical*
 21 *assistance, and quality assurance responsibilities set forth in this*
 22 *chapter.*

23 *SEC. 47. Section 4031 of the Welfare and Institutions Code is*
 24 *amended to read:*

25 ~~4031. The State Department of Mental Health Care Services~~ *shall, to the extent resources are available, do all of the following:*

26 (a) *Conduct, sponsor, coordinate, and disseminate results of*
 27 *research and evaluation directed to the public policy issues entailed*
 28 *in the selection of resource utilization and service delivery in the*
 29 *state.*

30 (b) *Make available technical assistance to local mental health*
 31 *programs incorporating the results of research, evaluation, and*
 32 *quality assurance to local mental health programs.*

33 (c) *Implement a system of required performance reporting by*
 34 *local mental health programs.*

35 (d) *Perform any other activities useful to improving and*
 36 *maintaining the quality of state mental hospital and community*
 37 *mental health programs.*

38 *SEC. 48. Section 4032 of the Welfare and Institutions Code is*
 39 *amended to read:*
 40

1 4032. The ~~department~~ *State Department of Health Care*
2 *Services* shall, when appropriate, give and receive grants and
3 contracts for research, evaluation, and quality assurance efforts.

4 *SEC. 49. Section 4033 of the Welfare and Institutions Code is*
5 *amended to read:*

6 4033. (a) The State Department of ~~Mental~~ *Health Care*
7 *Services* shall, to the extent resources are available, comply with
8 *the Substance Abuse and Mental Health Services Administration*
9 federal planning requirements. The department shall update and
10 issue a state plan, which may also be any federally required state
11 service plan, so that citizens may be informed regarding the
12 implementation of, and long-range goals for, programs to serve
13 mentally ill persons in the state. The department shall gather
14 information from counties necessary to comply with this section.

15 (b) (1) If the State Department of ~~Mental~~ *Health Care Services*
16 makes a decision not to comply with any *Substance Abuse and*
17 *Mental Health Services Administration* federal planning
18 requirement to which this section applies, the State Department
19 of ~~Mental~~ *Health Care Services* shall submit the decision, for
20 consultation, to the California ~~Conference of Local~~ *Mental Health*
21 *Directors Association*, the California ~~Council on~~ *Mental Health*
22 *Planning Council*, and affected mental health entities.

23 (2) The State Department of ~~Mental~~ *Health Care Services* shall
24 not implement any decision not to comply with *the Substance*
25 *Abuse and Mental Health Services Administration* federal planning
26 requirements sooner than 30 days after notification of that decision,
27 in writing, by the Department of Finance, to the chairperson of the
28 committee in each house of the Legislature which considers
29 appropriations, and the Chairperson of the Joint Legislative Budget
30 Committee.

31 *SEC. 50. Section 4040 of the Welfare and Institutions Code is*
32 *amended to read:*

33 4040. The State Department of ~~Mental~~ *Health Care Services*
34 *or State Department of State Hospitals* may conduct, or contract
35 for, research or evaluation studies ~~which~~ *that* have application to
36 *mental health* policy and management issues. In selecting areas
37 for study the department shall be guided by the information needs
38 of state and local policymakers and managers, and suggestions
39 from the California ~~Conference of Local~~ *Mental Health Directors*
40 *Association*.

1 *SEC. 51. Section 4050 of the Welfare and Institutions Code is*
2 *amended to read:*

3 4050. The State Department of ~~Mental~~ *Health Care Services*
4 shall provide, to the extent resources are available, technical
5 assistance, through its own staff, or by contract, to county mental
6 health programs and other local mental health agencies in the areas
7 of program operations, research, evaluation, demonstration, or
8 quality assurance projects.

9 *SEC. 52. Section 4051 of the Welfare and Institutions Code is*
10 *amended to read:*

11 4051. The State Department of ~~Mental~~ *Health Care Services*
12 shall, to the extent resources are available, provide program
13 development guidelines, evaluation models, and operational
14 assistance on all aspects of services to mentally ill persons of all
15 ages. These services include, but are not limited to, the following:

- 16 (a) Self-help programs.
- 17 (b) Housing development.
- 18 (c) Disaster preparation.
- 19 (d) Vocational services.
- 20 (e) Regional programs.
- 21 (f) Multiple diagnosis programs.

22 *SEC. 53. Section 4052 of the Welfare and Institutions Code is*
23 *amended to read:*

24 4052. The State Department of ~~Mental~~ *Health Care Services*
25 shall, to the extent resources are available, provide training in
26 performance standards, model programs, cultural competency, and
27 program development.

28 *SEC. 54. Section 4060 of the Welfare and Institutions Code is*
29 *amended to read:*

30 4060. The ~~department~~ *State Department of Health Care*
31 *Services* shall, in order to implement Section 4050, utilize a ~~joint~~
32 ~~state-county~~ *meaningful* decisionmaking process that ~~shall include~~
33 *includes* local mental health directors and representatives of local
34 mental health boards *as well as other stakeholders as determined*
35 *by the department*. The purpose of this collaboration shall be to
36 promote effective and efficient quality mental health services to
37 the residents of the state under the realigned mental health system.

38 *SEC. 55. Section 4061 of the Welfare and Institutions Code is*
39 *amended to read:*

1 4061. (a) ~~The department~~ *State Department of Health Care*
2 *Services* shall utilize a joint state-county decisionmaking process
3 to determine the appropriate use of state and local training,
4 technical assistance, and regulatory resources to meet the mission
5 and goals of the state’s mental health system. The department shall
6 use the decisionmaking collaborative process required by this
7 section in all of the following areas:
8 (1) Providing technical assistance to *personnel of the State*
9 *Department of Mental Health Care Services* and local mental health
10 departments through direction of existing state and local mental
11 health staff and other resources.
12 (2) Analyzing mental health programs, policies, and procedures.
13 (3) Providing forums on specific topics as they relate to the
14 following:
15 (A) Identifying current level of services.
16 (B) Evaluating existing needs and gaps in current services.
17 (C) Developing strategies for achieving statewide goals and
18 objectives in the provision of services for the specific area.
19 (D) Developing plans to accomplish the identified goals and
20 objectives.
21 (4) Providing forums on policy development and direction with
22 respect to mental health program operations and clinical issues.
23 (5) Identifying and funding a statewide training and technical
24 assistance entity jointly governed by local mental health directors
25 and mental health constituency representation, which can do all
26 of the following:
27 (A) Coordinate state and local resources to support training and
28 technical assistance to promote quality mental health programs.
29 (B) Coordinate training and technical assistance to ensure
30 efficient and effective program development.
31 (C) Provide essential training and technical assistance, as
32 determined by the state-county decisionmaking process.
33 (b) Local mental health board members shall be included in
34 discussions pursuant to Section 4060 when the following areas are
35 discussed:
36 (1) Training and education program recommendations.
37 (2) Establishment of statewide forums for all organizations and
38 individuals involved in mental health matters to meet and discuss
39 program and policy issues.

1 (3) Distribution of information between the state, local programs,
 2 local mental health boards, and other organizations as appropriate.
 3 (c) The State Department of ~~Mental Health~~ *Care Services* and
 4 local mental health departments may provide staff or other
 5 resources, including travel reimbursement, for consultant and
 6 advisory services; for the training of personnel, board members,
 7 or consumers and families in state and local programs and in
 8 educational institutions and field training centers approved by the
 9 department; and for the establishment and maintenance of field
 10 training centers.

11 *SEC. 56. The heading of Article 4 (commencing with Section*
 12 *4070) of Chapter 2 of Part 1 of Division 4 of the Welfare and*
 13 *Institutions Code is repealed.*

14
 15 ~~Article 4. Medi-Cal Quality Assurance~~

16
 17 *SEC. 57. Section 4070 of the Welfare and Institutions Code is*
 18 *amended and renumbered to read:*

19 ~~4070.~~

20 *14725. (a) The State Department of ~~Mental Health~~ Health*
 21 *Care Services shall develop a quality assurance program to govern*
 22 *the delivery of ~~Short-Doyle~~ Medi-Cal specialty mental health*
 23 *services, in order to assure quality patient care based on community*
 24 *standards of practice.*

25 (b) The department shall issue standards and guidelines for local
 26 quality assurance activities. These standards and guidelines shall
 27 be reviewed and revised in consultation with the ~~Conference of~~
 28 ~~Local California~~ *Mental Health Directors Association as well as*
 29 *other stakeholders from the mental health community, including,*
 30 *but not limited to, individuals who receive services, family*
 31 *members, providers, mental health advocacy groups, and other*
 32 *interested parties. The standards and guidelines shall be based on*
 33 *federal ~~medicaid~~ Medicaid requirements.*

34 (c) The standards and guidelines developed by the department
 35 shall reflect the special problems that small rural counties have in
 36 undertaking comprehensive quality assurance systems.

37 *SEC. 58. Section 4071 of the Welfare and Institutions Code is*
 38 *amended and renumbered to read:*

1 ~~4071.~~

2 14726. The department shall approve each local program's
3 initial quality assurance plan, and shall thereafter review and
4 approve each program's ~~Short-Doyle~~ Medi-Cal *specialty mental*
5 *health services* quality assurance plan whenever the plan is
6 amended or changed.

7 *SEC. 59. Article 1 (commencing with Section 4074) of Chapter*
8 *3 of Part 1 of Division 4 of the Welfare and Institutions Code is*
9 *repealed.*

10 *SEC. 60. Article 2 (commencing with Section 4075) of Chapter*
11 *3 of Part 1 of Division 4 of the Welfare and Institutions Code is*
12 *repealed.*

13 *SEC. 61. Section 4080 of the Welfare and Institutions Code is*
14 *amended to read:*

15 4080. (a) Psychiatric health facilities, as defined in Section
16 1250.2 of the Health and Safety Code, shall only be licensed by
17 the State Department of ~~Mental Health~~ *Social Services* subsequent
18 to application by counties, county contract providers, or other
19 organizations pursuant to this part.

20 (b) (1) For counties or county contract providers that choose
21 to apply, the local mental health director shall first present to the
22 local mental health advisory board for its review an explanation
23 of the need for the facility and a description of the services to be
24 provided. The local mental health director shall then submit to the
25 governing body the explanation and description. The governing
26 body, upon its approval, may submit the application to the State
27 Department of ~~Mental Health~~ *Social Services*.

28 (2) Other organizations that will be applying for licensure and
29 do not intend to use any Bronzan-McCorquodale funds pursuant
30 to Section 5707 shall submit to the local mental health director
31 and the governing body in the county in which the facility is to be
32 located a written and dated proposal of the services to be provided.
33 The local mental health director and governing body shall have
34 30 days during which to provide any advice and recommendations
35 regarding licensure, as they deem appropriate. At any time after
36 the 30-day period, the organizations may then submit their
37 applications, along with the mental health director's and governing
38 body's advice and recommendations, if any, to the State
39 Department of ~~Mental Health~~ *Social Services*.

1 (c) The State Fire Marshal and other appropriate state agencies,
 2 to the extent required by law, shall cooperate fully with the State
 3 Department of ~~Mental Health~~ *Social Services* to ensure that the
 4 State Department of ~~Mental Health~~ *Social Services* approves or
 5 disapproves the licensure applications not later than 90 days after
 6 the application submission by a county, county contract provider,
 7 or other organization.

8 (d) Every psychiatric health facility and program for which a
 9 license has been issued shall be periodically inspected by a
 10 multidisciplinary team appointed or designated by the State
 11 Department of ~~Mental Health~~ *Social Services*. The inspection shall
 12 be conducted no less than once every two years and as often as
 13 necessary to ensure the quality of care provided. During the
 14 inspections the review team shall offer such advice and assistance
 15 to the psychiatric health facility as it deems appropriate.

16 (e) (1) The program aspects of a psychiatric health facility that
 17 shall be reviewed and may be approved by the State Department
 18 of ~~Mental Health~~ *Social Services* shall include, but not be limited
 19 to:

- 20 (A) Activities programs.
- 21 (B) Administrative policies and procedures.
- 22 (C) Admissions, including provisions for a mental evaluation.
- 23 (D) Discharge planning.
- 24 (E) Health records content.
- 25 (F) Health records services.
- 26 (G) Interdisciplinary treatment teams.
- 27 (H) Nursing services.
- 28 (I) Patient rights.
- 29 (J) Pharmaceutical services.
- 30 (K) Program space requirements.
- 31 (L) Psychiatrist and clinical psychological services.
- 32 (M) Rehabilitation services.
- 33 (N) Restraint and seclusion.
- 34 (O) Social work services.
- 35 (P) Space, supplies, and equipment.
- 36 (Q) Staffing standards.
- 37 (R) Unusual occurrences.
- 38 (S) Use of outside resources, including agreements with general
 39 acute care hospitals.
- 40 (T) Linguistic access and cultural competence.

1 (U) Structured outpatient services to be provided under special
2 permit.

3 (2) The State Department of ~~Mental Health~~ *Social Services* has
4 the sole authority to grant program flexibility.

5 (f) ~~The~~ *Commencing July 1, 2012, the* State Department of
6 ~~Mental Health~~ *Social Services* shall adopt regulations that shall
7 include, but not be limited to, all of the following:

8 (1) Procedures by which the State Department of ~~Mental Health~~
9 *Social Services* shall review and may approve the program and
10 facility requesting licensure as a psychiatric health facility as being
11 in compliance with program standards established by the
12 department.

13 (2) Procedures by which the Director of ~~Mental Health~~ *Social*
14 *Services* shall approve, or deny approval of, the program and
15 facility licensed as a psychiatric health facility pursuant to this
16 section.

17 (3) Provisions for site visits by the State Department of ~~Mental~~
18 ~~Health~~ *Social Services* for the purpose of reviewing a facility's
19 compliance with program and facility standards.

20 (4) Provisions for the State Department of ~~Mental Health~~ *Social*
21 *Services* for any administrative proceeding regarding denial,
22 suspension, or revocation of a psychiatric health facility license.

23 (5) Procedures for the appeal of an administrative finding or
24 action pursuant to paragraph (4) of this subdivision and subdivision
25 (j).

26 (g) Regulations shall be adopted by the State Department of
27 ~~Mental Health~~ *Social Services*, which shall establish standards for
28 pharmaceutical services in psychiatric health facilities. Licensed
29 psychiatric health facilities shall be exempt from requirements to
30 obtain a separate pharmacy license or permit.

31 (h) (1) It is the intent of the Legislature that the State
32 Department of ~~Mental Health~~ *Social Services* shall license the
33 facility in order to establish innovative and more competitive and
34 specialized acute care services.

35 (2) The State Department of ~~Mental Health~~ *Social Services* shall
36 review and may approve the program aspects of public or private
37 facilities, with the exception of those facilities that are federally
38 certified or accredited by a nationally recognized commission that
39 accredits health care facilities, only if the average per diem charges
40 or costs of service provided in the facility is approximately 60

1 percent of the average per diem charges or costs of similar
 2 psychiatric services provided in a general hospital.

3 (3) (A) When a private facility is accredited by a nationally
 4 recognized commission that accredits health care facilities, the
 5 ~~department~~ *State Department of Social Services* shall review and
 6 may approve the program aspects only if the average per diem
 7 charges or costs of service provided in the facility do not exceed
 8 approximately 75 percent of the average per diem charges or costs
 9 of similar psychiatric service provided in a psychiatric or general
 10 hospital.

11 (B) When a private facility serves county patients, the
 12 ~~department~~ *State Department of Social Services* shall review and
 13 may approve the program aspects only if the facility is federally
 14 certified by the ~~Health Care Financing Administration~~ *federal*
 15 *Centers for Medicare and Medicaid Services* and serves a
 16 population mix that includes a proportion of Medi-Cal patients
 17 sufficient to project an overall cost savings to the county, and the
 18 average per diem charges or costs of service provided in the facility
 19 do not exceed approximately 75 percent of the average per diem
 20 charges or costs of similar psychiatric service provided in a
 21 psychiatric or general hospital.

22 (4) When a public facility is federally certified by the ~~Health~~
 23 ~~Care Financing Administration~~ *federal Centers for Medicare and*
 24 *Medicaid Services* and serves a population mix that includes a
 25 proportion of Medi-Cal patients sufficient to project an overall
 26 program cost savings with certification, the ~~department~~ *State*
 27 *Department of Social Services* shall approve the program aspects
 28 only if the average per diem charges or costs of service provided
 29 in the facility do not exceed approximately 75 percent of the
 30 average per diem charges or costs of similar psychiatric service
 31 provided in a psychiatric or general hospital.

32 (5) (A) The State Department of ~~Mental Health Care Services~~
 33 may set a lower rate for private or public facilities than that
 34 required by paragraph (3) or paragraph (4), respectively if so
 35 required by the federal ~~Health Care Financing Administration~~
 36 *Centers for Medicare and Medicaid Services* as a condition for
 37 the receipt of federal matching funds.

38 (B) This section does not impose any obligation on any private
 39 facility to contract with a county for the provision of services to

1 Medi-Cal beneficiaries, and any contract for that purpose is subject
2 to the agreement of the participating facility.

3 (6) (A) In using the guidelines specified in this subdivision,
4 ~~the department~~ *State Department of Social Services* shall take into
5 account local conditions affecting the costs or charges.

6 (B) In those psychiatric health facilities authorized by special
7 permit to offer structured outpatient services not exceeding 10
8 daytime hours, the following limits on per diem rates shall apply:

9 (i) The per diem charge for patients in both a morning and an
10 afternoon program on the same day shall not exceed 60 percent of
11 the facility's authorized per diem charge for inpatient services.

12 (ii) The per diem charge for patients in either a morning or
13 afternoon program shall not exceed 30 percent of the facility's
14 authorized per diem charge for inpatient services.

15 (i) The licensing fees charged for these facilities shall be credited
16 to the State Department of ~~Mental Health~~ *Social Services* for its
17 costs incurred in the review of psychiatric health facility programs,
18 in connection with the licensing of these facilities.

19 (j) (1) The State Department of ~~Mental Health~~ *Social Services*
20 shall establish a system for the imposition of prompt and effective
21 civil sanctions against psychiatric health facilities in violation of
22 the laws and regulations of this state pertaining to psychiatric health
23 facilities. If the State Department of ~~Mental Health~~ *Social Services*
24 determines that there is or has been a failure, in a substantial
25 manner, on the part of a psychiatric health facility to comply with
26 the laws and regulations, the ~~director~~ *Director of Social Services*
27 may impose the following sanctions:

28 (A) Cease and desist orders.

29 (B) Monetary sanctions, which may be imposed in addition to
30 the penalties of suspension, revocation, or cease and desist orders.
31 The amount of monetary sanctions permitted to be imposed
32 pursuant to this subparagraph shall not be less than fifty dollars
33 (\$50) nor more than one hundred dollars (\$100) multiplied by the
34 licensed bed capacity, per day, for each violation. However, the
35 monetary sanction shall not exceed three thousand dollars (\$3,000)
36 per day. A facility that is assessed a monetary sanction under this
37 subparagraph, and that repeats the deficiency, may, in accordance
38 with the regulations adopted pursuant to this subdivision, be subject
39 to immediate suspension of its license until the deficiency is
40 corrected.

1 ~~(2) The department—The State Department of Social Services~~
2 shall adopt regulations necessary to implement this subdivision
3 and paragraph (5) of subdivision (f) in accordance with the
4 Administrative Procedure Act (Chapter 3.5 (commencing with
5 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
6 Code). ~~No later than January 1, 1998, the department shall adopt~~
7 ~~emergency regulations necessary to implement this subdivision~~
8 ~~and paragraph (5) of subdivision (f) in accordance with the~~
9 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~
10 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
11 ~~Code). This initial adoption of emergency regulations shall be~~
12 ~~deemed to be an emergency and necessary for the immediate~~
13 ~~preservation of the public peace, health and safety, or general~~
14 ~~welfare. These emergency regulations shall remain in effect for~~
15 ~~no more than 180 days. The certificate of compliance, as provided~~
16 ~~for in subdivision (e) of Section 11346.1 of the Government Code,~~
17 ~~for the emergency regulations adopted pursuant to this paragraph~~
18 ~~shall be submitted to the Office of Administrative Law no later~~
19 ~~than July 1, 1998.~~

20 (k) Proposed changes in the standards or regulations affecting
21 health facilities that serve the mentally disordered shall be effected
22 only with the review and coordination of the *California Health*
23 ~~and Welfare Human Services Agency.~~

24 (l) In psychiatric health facilities where the clinical director is
25 not a physician, a psychiatrist, or if one is temporarily not available,
26 a physician shall be designated who shall direct those medical
27 treatments and services that can only be provided by, or under the
28 direction of, a physician.

29 SEC. 62. *Section 4090 of the Welfare and Institutions Code is*
30 *amended to read:*

31 4090. (a) The State Department of—~~Mental Health Care~~
32 *Services* shall establish, by regulation, standards for the programs
33 listed in Chapter 2.5 (commencing with Section 5670) of Part 2
34 of Division 5. These standards shall also be applied by the
35 department to any facility licensed as a social rehabilitation facility
36 pursuant to paragraph (7) of subdivision (a) of Section 1502 of the
37 Health and Safety Code.

38 (b) In establishing the standards required by this section, the
39 department shall not establish standards which in themselves

1 impose any new or increased costs on the programs or facilities
2 affected by the standards.

3 *SEC. 63. Section 4091 of the Welfare and Institutions Code is*
4 *amended to read:*

5 4091. Nothing in Section 4090 limits the authority of the State
6 Department of ~~Mental~~ *Health Care Services* to delegate the
7 evaluation and enforcement of the program standards to a county
8 mental health program when a licensed social rehabilitation facility
9 has a contractual relationship with a county mental health program
10 and the county has requested the delegation.

11 *SEC. 64. Section 4094 of the Welfare and Institutions Code is*
12 *amended to read:*

13 4094. (a) The State Department of Mental Health shall
14 establish, by regulations adopted at the earliest possible date, but
15 no later than December 31, 1994, program standards for any facility
16 licensed as a community treatment facility. This section shall apply
17 only to community treatment facilities described in this subdivision.

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

22 (b)

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

29 (e)

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

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

38 (2) Procedures by which the Director of ~~Mental~~ *Health Care*
39 *Services* shall deny a certification to a facility or decertify a facility
40 that is licensed as a community treatment facility pursuant to

1 Chapter 3 (commencing with Section 1500) of Division 2 of the
 2 Health and Safety Code, but no longer complying with program
 3 standards established pursuant to this section, in accordance with
 4 Chapter 5 (commencing with Section 11500) of Part 1 of Division
 5 3 of Title 2 of the Government Code.

6 (3) Provisions for site visits by the State Department of ~~Mental~~
 7 *Health Care Services* for the purpose of reviewing a facility’s
 8 compliance with program standards established pursuant to this
 9 section.

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

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

21 ~~(d)~~

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

27 ~~(e)~~

28 (f) (1) Until January 1, ~~2013~~ 2014, all of the following are
 29 applicable:

30 (A) A community treatment facility shall not be required by the
 31 State Department of ~~Mental~~ *Health Care Services* to have 24-hour
 32 onsite licensed nursing staff, but shall retain at least one full-time,
 33 or full-time-equivalent, registered nurse onsite if both of the
 34 following are applicable:

35 (i) The facility does not use mechanical restraint.

36 (ii) The facility only admits children who have been assessed,
 37 at the point of admission, by a licensed primary care provider and
 38 a licensed psychiatrist, who have concluded, with respect to each
 39 child, that the child does not require medical services that require
 40 24-hour nursing coverage. For purposes of this section, a “primary

1 care provider” includes a person defined in Section 14254, or a
2 nurse practitioner who has the responsibility for providing initial
3 and primary care to patients, for maintaining the continuity of care,
4 and for initiating referral for specialist care.

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

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

11 (2) The State Department of ~~Mental Health~~ *Care Services* may
12 adopt emergency regulations as necessary to implement this
13 subdivision. The adoption of these regulations shall be deemed to
14 be an emergency and necessary for the immediate preservation of
15 the public peace, health and safety, and general welfare. The
16 regulations shall be exempt from review by the Office of
17 Administrative Law and shall become effective immediately upon
18 filing with the Secretary of State. The regulations shall not remain
19 in effect more than 180 days unless the adopting agency complies
20 with all the provisions of Chapter 3.5 (commencing with Section
21 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
22 as required by subdivision (e) of Section 11346.1 of the
23 Government Code.

24 ~~(f)~~

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

31 ~~(g)~~

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

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

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

40 ~~(h)~~

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

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

17 *SEC. 65. Section 4094.1 of the Welfare and Institutions Code*
 18 *is amended to read:*

19 4094.1. ~~(a) (1) The department~~ *The State Department of*
 20 *Health Care Services* and the State Department of Social Services,
 21 in consultation with community treatment providers, local mental
 22 health departments, and county welfare departments, shall develop
 23 joint protocols for the oversight of community treatment facilities.

24 ~~(2) Subject to subdivision (b), until the protocols and regulatory~~
 25 ~~changes required by paragraph (1) are implemented, entities~~
 26 ~~operating community treatment facilities shall comply with the~~
 27 ~~current reporting requirements and other procedural and~~
 28 ~~administrative mandates established in State Department of Mental~~
 29 ~~Health regulations governing community treatment facilities.~~

30 ~~(b) In accordance with all of the following, the State Department~~
 31 ~~of Social Services shall modify existing regulations governing~~
 32 ~~reporting requirements and other procedural and administrative~~
 33 ~~mandates, to take into account the seriousness and frequency of~~
 34 ~~behaviors that are likely to be exhibited by children placed in~~
 35 ~~community treatment facilities. The modifications required by this~~
 36 ~~subdivision shall apply for the entire 2000-01 fiscal year.~~

37 ~~(1) Notwithstanding existing regulations, the State Department~~
 38 ~~of Social Services shall issue alternative training and education~~
 39 ~~requirements for community treatment facility managers and staff,~~
 40 ~~which shall be developed in consultation with the State Department~~

1 of Mental Health, patients' rights advocates, local mental health
2 departments, county welfare offices, and providers.

3 ~~(2) The department and the State Department of Social Services~~
4 ~~shall conduct joint bimonthly visits to licensed community~~
5 ~~treatment facilities to monitor operational progress and to provide~~
6 ~~technical assistance.~~

7 ~~(3) The appropriate department shall centrally review any~~
8 ~~certification or licensure deficiency before notice of the citation~~
9 ~~is issued to the community care facility.~~

10 ~~(4) A community treatment facility shall be exempt from~~
11 ~~reporting any occurrence of the use of restraint to the State~~
12 ~~Department of Social Services, unless physical injury is sustained~~
13 ~~or unconsciousness or other medical conditions arise from the~~
14 ~~restraint. All other reporting requirements shall apply.~~

15 *SEC. 66. Section 4094.2 of the Welfare and Institutions Code*
16 *is amended to read:*

17 4094.2. (a) For the purpose of establishing payment rates for
18 community treatment facility programs, the private nonprofit
19 agencies selected to operate these programs shall prepare a budget
20 that covers the total costs of providing residential care and
21 supervision and mental health services for their proposed programs.
22 These costs shall include categories that are allowable under
23 California's Foster Care program and existing programs for mental
24 health services. They shall not include educational, nonmental
25 health medical, and dental costs.

26 (b) Each agency operating a community treatment facility
27 program shall negotiate a final budget with the local mental health
28 department in the county in which its facility is located (the host
29 county) and other local agencies, as appropriate. This budget
30 agreement shall specify the types and level of care and services to
31 be provided by the community treatment facility program and a
32 payment rate that fully covers the costs included in the negotiated
33 budget. All counties that place children in a community treatment
34 facility program shall make payments using the budget agreement
35 negotiated by the community treatment facility provider and the
36 host county.

37 (c) A foster care rate shall be established for each community
38 treatment facility program by the State Department of Social
39 Services. These rates shall be established using the existing foster
40 care ratesetting system for group homes, with modifications

1 designed as necessary. It is anticipated that all community treatment
2 facility programs will offer the level of care and services required
3 to receive the highest foster care rate provided for under the current
4 group home ratesetting system.

5 (d) For the 2001–02 fiscal year, the 2002–03 fiscal year, the
6 2003–04 fiscal year, and the 2004–05 fiscal year, community
7 treatment facility programs shall also be paid a community
8 treatment facility supplemental rate of up to two thousand five
9 hundred dollars (\$2,500) per child per month on behalf of children
10 eligible under the foster care program and children placed out of
11 home pursuant to an individualized education program developed
12 under Section 7572.5 of the Government Code. Subject to the
13 availability of funds, the supplemental rate shall be shared by the
14 state and the counties. Counties shall be responsible for paying a
15 county share of cost equal to 60 percent of the community
16 treatment rate for children placed by counties in community
17 treatment facilities and the state shall be responsible for 40 percent
18 of the community treatment facility supplemental rate. The
19 community treatment facility supplemental rate is intended to
20 supplement, and not to supplant, the payments for which children
21 placed in community treatment facilities are eligible to receive
22 under the foster care program and the existing programs for mental
23 health services.

24 (e) For initial ratesetting purposes for community treatment
25 facility funding, the cost of mental health services shall be
26 determined by deducting the foster care rate and the community
27 treatment facility supplemental rate from the total allowable cost
28 of the community treatment facility program. Payments to certified
29 providers for mental health services shall be based on eligible
30 services provided to children who are Medi-Cal beneficiaries, up
31 to the ~~statewide maximum allowances~~ *approved federal rate* for
32 these services.

33 (f) ~~The department~~ *State Department of Health Care Services*
34 shall provide the community treatment facility supplemental rates
35 to the counties for advanced payment to the community treatment
36 facility providers in the same manner as the regular foster care
37 payment and within the same required payment time limits.

38 (g) In order to facilitate the study of the costs of community
39 treatment facilities, licensed community treatment facilities shall

1 provide all documents regarding facility operations, treatment, and
2 placements requested by the department.

3 (h) It is the intent of the Legislature that the ~~department~~ *State*
4 *Department of Health Care Services* and the State Department of
5 Social Services work to maximize federal financial participation
6 in funding for children placed in community treatment facilities
7 through funds available pursuant to Titles IV-E and XIX of the
8 federal Social Security Act (Title 42 U.S.C. Sec. 670 and following
9 *et seq.* and Sec. 1396 and following) *et seq.*) and other appropriate
10 federal programs.

11 (i) The ~~department~~ *State Department of Health Care Services*
12 and the State Department of Social Services may adopt emergency
13 regulations necessary to implement joint protocols for the oversight
14 of community treatment facilities, to modify existing licensing
15 regulations governing reporting requirements and other procedural
16 and administrative mandates to take into account the seriousness
17 and frequency of behaviors that are likely to be exhibited by the
18 seriously emotionally disturbed children placed in community
19 treatment facility programs, to modify the existing foster care
20 ratesetting regulations, and to pay the community treatment facility
21 supplemental rate. The adoption of these regulations shall be
22 deemed to be an emergency and necessary for the immediate
23 preservation of the public peace, health and safety, and general
24 welfare. The regulations shall become effective immediately upon
25 filing with the Secretary of State. The regulations shall not remain
26 in effect more than 180 days unless the adopting agency complies
27 with all the provisions of Chapter 3.5 (commencing with Section
28 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
29 as required by subdivision (e) of Section 11346.1 of the
30 Government Code.

31 *SEC. 67. Section 4094.7 of the Welfare and Institutions Code*
32 *is amended to read:*

33 4094.7. (a) A community treatment facility may have both
34 secure and nonsecure beds. However, the State Department of
35 ~~Mental Health Care Services~~ shall limit the total number of beds
36 in community treatment facilities to not more than 400 statewide.
37 The State Department of ~~Mental Health Care Services~~ shall certify
38 community treatment facilities in such a manner as to ensure an
39 adequate dispersal of these facilities within the state. The State
40 Department of ~~Mental Health Care Services~~ shall ensure that there

1 is at least one facility in each of the State Department of Social
 2 Services' four regional licensing divisions.

3 (b) The State Department of ~~Mental Health~~ *Care Services* shall
 4 notify the State Department of Social Services when a facility has
 5 been certified and has met the program standards pursuant to
 6 Section 4094. The State Department of Social Services shall license
 7 a community treatment facility for a specified number of secure
 8 beds and a specified number of nonsecure beds. The number of
 9 secure and nonsecure beds in a facility shall be modified only with
 10 the approval of both the State Department of Social Services and
 11 the State Department of ~~Mental Health~~ *Care Services*.

12 (c) The State Department of ~~Mental Health~~ *Care Services* shall
 13 develop, with the advice of the State Department of Social Services,
 14 county representatives, providers, and interested parties, the criteria
 15 to be used to determine which programs among applicant providers
 16 shall be licensed. The State Department of ~~Mental Health~~ *Care*
 17 *Services* shall determine which agencies best meet the criteria,
 18 certify them in accordance with Section 4094, and refer them to
 19 the State Department of Social Services for licensure.

20 (d) Any community treatment facility proposing to serve
 21 seriously emotionally disturbed foster children shall be
 22 incorporated as a nonprofit organization.

23 (e) ~~No later than January 1, 1996, the State Department of~~
 24 ~~Mental Health shall submit its recommendation to the appropriate~~
 25 ~~policy committees of the Legislature relative to the limitation on~~
 26 ~~the number of beds set forth in this section.~~

27 *SEC. 68. Section 4095 of the Welfare and Institutions Code is*
 28 *amended to read:*

29 4095. (a) It is the intent of the Legislature that essential and
 30 culturally relevant mental health assessment, case management,
 31 and treatment services be available to wards of the court and
 32 dependent children of the court placed out of home or who are at
 33 risk of requiring out-of-home care. This can be best achieved at
 34 the community level through the active collaboration of county
 35 social service, probation, education, mental health agencies, and
 36 foster care providers.

37 (b) Therefore, using the Children's Mental Health Services Act
 38 (Part 4 (commencing with Section 5850) of Division 5) as a
 39 guideline, the State Department of ~~Mental Health~~ *Care Services*,
 40 in consultation with the California ~~Conference of Local Mental~~

1 Health Directors *Association*, the State Department of Social
2 Services, the County Welfare Directors Association, the Chief
3 Probation ~~Officer's Association~~ *Officers of California*, county
4 alcohol and drug program administrators, and foster care providers,
5 shall do all of the following:

6 (1) By July 1, 1994, develop an individualized mental health
7 treatment needs assessment protocol for wards of the court and
8 dependent children of the court.

9 (2) Define supplemental services to be made available to the
10 target population, including, but not limited to, services defined
11 in Section 540 and following of Title 9 of the California Code of
12 Regulations as of January 1, 1994, family therapy, prevocational
13 services, and crisis support activities.

14 (3) Establish statewide standardized rates for the various types
15 of services defined by the department in accordance with paragraph
16 (2), and provided pursuant to this section. The rates shall be
17 designed to reduce the impact of competition for scarce treatment
18 resources on the cost and availability of care. The rates shall be
19 implemented only when the state provides funding for the services
20 described in this section.

21 (4) By January 1, 1994, to the extent state funds are available
22 to implement this section, establish, by regulation, all of the
23 following:

24 (A) Definitions of priority ranking of subsets of the court wards
25 and dependents target population.

26 (B) A procedure to certify the mental health programs.

27 (c) (1) Only those individuals within the target population as
28 defined in regulation and determined to be eligible for services as
29 a result of a mental health treatment needs assessment may receive
30 services pursuant to this section.

31 (2) Allocation of funds appropriated for the purposes of this
32 section shall be based on the number of wards and dependents and
33 may be adjusted in subsequent fiscal years to reflect costs.

34 (3) The counties shall be held harmless for failure to provide
35 any assessment, case management, and treatment services to those
36 children identified in need of services for whom there is no funding.

37 (d) (1) ~~The department~~ *State Department of Health Care*
38 *Services* shall make information available to the Legislature, on
39 request, on the service populations provided mental health
40 treatment services pursuant to this section, the types and costs of

1 services provided, and the number of children identified in need
 2 of treatment services who did not receive the services.

3 (2) The information required by paragraph (1) may include
 4 information on need, cost, and service impact experience from the
 5 following:

6 (A) Family preservation pilot programs.

7 (B) Pilot programs implemented under the former Children’s
 8 Mental Health Services Act, as contained in Chapter 6.8
 9 (commencing with Section 5565.10) of Part 1 of Division 5.

10 (C) Programs implemented under Chapter 26 (commencing
 11 with Section 7570) of Division 7 of Title 1 of the Government
 12 Code and Section 11401.

13 (D) County experience in the implementation of Section 4096.

14 *SEC. 69. Section 4096.5 of the Welfare and Institutions Code*
 15 *is amended to read:*

16 4096.5. (a) ~~The department~~ *State Department of Health Care*
 17 *Services* shall make a determination, within 45 days of receiving
 18 a request from a group home to be classified at RCL 13 or RCL
 19 14 pursuant to Section 11462.01, to certify or deny certification
 20 that the group home program includes provisions for mental health
 21 treatment services that meet the needs of seriously emotionally
 22 disturbed children. The department shall issue each certification
 23 for a period of one year and shall specify the effective date the
 24 program met the certification requirements. A program may be
 25 recertified if the program continues to meet the criteria for
 26 certification.

27 (b) ~~The department~~ *State Department of Health Care Services*
 28 shall, in consultation with the ~~Conference of Local California~~
 29 *Mental Health Directors Association* and representatives of
 30 provider organizations, develop the criteria for the certification
 31 required by subdivision (a) by July 1, 1992.

32 (c) (1) ~~The department~~ *State Department of Health Care*
 33 *Services* may, upon the request of a county, delegate to that county
 34 the certification task.

35 (2) Any county to which the certification task is delegated
 36 pursuant to paragraph (1) shall use the criteria and format
 37 developed by the department.

38 (d) ~~The department~~ *State Department of Health Care Services*
 39 or delegated county shall notify the State Department of Social
 40 Services Community Care Licensing Division immediately upon

1 the termination of any certification issued in accordance with
2 subdivision (a).

3 *SEC. 70. Chapter 5 (commencing with Section 4097) of Part*
4 *1 of Division 4 of the Welfare and Institutions Code is repealed.*

5 *SEC. 71. Section 4098.2 of the Welfare and Institutions Code*
6 *is amended to read:*

7 4098.2. (a) The State Department of ~~Mental Health~~ *Health*
8 *Care Services*, contingent upon appropriation in the annual Budget
9 Act, may establish and implement a suicide prevention, education,
10 and gatekeeper training program to reduce the severity, duration,
11 and incidence of suicidal behaviors.

12 (b) In developing and implementing the components of this
13 program, the department shall build upon the existing network of
14 nonprofit suicide prevention programs in the state, and shall utilize
15 the expertise of existing suicide prevention programs that meet
16 any of the following criteria:

17 (1) Have been identified by a county as providing suicide
18 prevention services for that county.

19 (2) Are certified by the American Association of Suicidology.

20 (3) Meet criteria for suicide prevention programs that may be
21 established by the department.

22 (c) The program established by this section shall be consistent
23 with the public health model proposed by the Surgeon General of
24 the United States, and the system of care approach pursuant to the
25 Bronzan-McCorquodale Act, ~~Part~~ *(Part 2 (commencing with*
26 *Section 5600) of Division-5: 5).*

27 *SEC. 72. Section 4340 of the Welfare and Institutions Code is*
28 *amended to read:*

29 4340. The ~~department shall~~ *State Department of Health Care*
30 *Services may* maintain a statewide mental health prevention
31 program directed toward a reduction in the need for utilization of
32 the treatment system and the development and strengthening of
33 community support and self-help networks. ~~The department shall~~
34 *State Department of State Hospitals may* support the establishment
35 of self-help groups, which may be facilitated by an outside entity,
36 subject to the approval of the hospital administrator, at state
37 hospitals.

38 *SEC. 73. Section 4369.4 of the Welfare and Institutions Code*
39 *is amended to read:*

1 4369.4. All state agencies, including, but not limited to, the
2 California Horse Racing Board, the California Gambling Control
3 Commission, the Department of Justice, and any other agency that
4 regulates casino gambling or cardrooms within the state, and the
5 Department of Corrections *and Rehabilitation*, the ~~California Youth~~
6 ~~Authority~~ *Department of Corrections and Rehabilitation, Division*
7 *of Juvenile Justice*, the ~~State Departments~~ *Department of Health*
8 *Care Services, State Department of Alcohol and Drug Programs,*
9 ~~and Mental Health~~, and the California State Lottery, shall
10 coordinate with the office to ensure that state programs take into
11 account, as much as practicable, problem and pathological
12 gamblers. The office shall also coordinate and work with other
13 entities involved in gambling and the treatment of problem and
14 pathological gamblers.

15 *SEC. 74. Section 4681 of the Welfare and Institutions Code is*
16 *amended to read:*

17 4681. By July 1, 1977, and each year thereafter, the ~~department~~
18 *State Department of Developmental Services* shall establish rates,
19 which shall be reviewed by the state council. Such rates shall
20 annually be proposed to the Legislature by March 1 and shall be
21 operative on July 1 of each year, subject to the appropriation of
22 sufficient funds for such purpose in the Budget Act. In reviewing
23 the sufficiency of these rates that is required by March 1, 1985,
24 the department shall take into account the findings and
25 recommendations of the study conducted by the State Council on
26 Developmental Disabilities pursuant to Section 4541.

27 In establishing rates to be paid for out-of-home care, the
28 department shall include each of the cost elements in this section
29 as follows:

30 (a) Rates established for all facilities shall include an adequate
31 amount to care for “basic living needs” of a person with
32 developmental disabilities. “Basic living needs” are defined to
33 include housing (shelter, utilities, and furnishings), food, and
34 personal care. The amount required for basic living needs shall be
35 calculated each year as the average cost of an additional normal
36 child, of the ages of 12 to 17, inclusive, living at home. The amount
37 for basic living needs shall be adjusted depending on the size of
38 the out-of-home facility. These amounts shall be adjusted annually
39 to reflect cost-of-living changes. A redetermination of basic living
40 costs shall be undertaken every three years by the State Department

1 of Developmental Services, using the best available estimating
2 methods.

3 (b) Rates established for all facilities that provide direct
4 supervision for persons with developmental disabilities shall
5 include an amount for “direct supervision.” The cost of “direct
6 supervision” shall reflect the ability of the persons in the facility
7 to function with minimal, moderate, or intensive supervision.
8 Minimal supervision means that a developmentally disabled person
9 needs the assistance of other persons with certain daily activities.
10 Moderate supervision means that a developmentally disabled
11 person needs the assistance of other persons with daily activities
12 most of the time. Intensive supervision means that all the personal
13 and physical needs of a developmentally disabled person are
14 provided by other persons. The individual program plan developed
15 pursuant to Section 4646 shall determine the amount of “direct
16 supervision” required for each individual. The cost of “direct
17 supervision” is calculated as the wage costs of care-giving staff
18 depending on the needs of the person with developmental
19 disabilities. These rates shall be adjusted annually to reflect wage
20 changes and shall comply with all federal regulations for hospitals
21 and residential-care establishments under provisions of the federal
22 Fair Labor Standards Act.

23 (c) Rates established for all facilities that provide “special
24 services” for persons with developmental disabilities shall include
25 an amount to pay for these “special services” for each person
26 receiving special services. “Special services” include medical and
27 dental care and therapeutic, educational, training, or other services
28 required in the individual program plan of each person. Facilities
29 shall be paid for providing special services for each individual to
30 the extent that such services are specified in the person’s individual
31 program plan and the facility is designated provider of ~~such~~ *those*
32 special services. Rates of payment for special services shall be the
33 same as prevailing rates paid for similar services in the area.

34 (d) To the extent applicable, rates established for facilities shall
35 include a reasonable amount for “unallocated services.” Such costs
36 shall be determined using generally accepted accounting principles.
37 “Unallocated services” means the indirect costs of managing a
38 facility and includes costs of managerial personnel, facility
39 operation, maintenance and repair, employee benefits, taxes,
40 interest, insurance, depreciation, and general and administrative

1 support. If a facility serves other persons in addition to
2 developmentally disabled persons, unallocated services expenses
3 shall be reimbursed under the provision of this section, only for
4 the proportion of the costs associated with the care of
5 developmentally disabled persons.

6 (e) Rates established for facilities shall include an amount to
7 reimburse facilities for the depreciation of “mandated capital
8 improvements and equipment” as established in the state’s uniform
9 accounting manual. For purposes of this section, “mandated capital
10 improvements and equipment” are only those remodeling and
11 equipment costs incurred by a facility because an agency of
12 government has required such remodeling or equipment as a
13 condition for the use of the facility as a provider of out-of-home
14 care to persons with developmental disabilities.

15 (f) When applicable, rates established for proprietary facilities
16 shall include a reasonable “proprietary fee.”

17 (g) Rates established for all facilities shall include as a “factor”
18 an amount to reflect differences in the cost of living for different
19 geographic areas in the state.

20 (h) Rates established for developmentally disabled persons who
21 are also mentally disordered may be fixed at a higher rate. ~~The~~
22 ~~State Department of Mental Health shall establish criteria upon~~
23 ~~which higher rates may be fixed pursuant to this subdivision.~~ The
24 higher rate for developmentally disabled persons who are also
25 mentally disordered may be paid when requested by the director
26 of the regional center and approved by the Director of
27 Developmental Services.

28 This section shall apply to rates for facilities not participating
29 in the alternative residential care rate model originally authorized
30 in Item 4300-101-001 of the Budget Act of 1985, and as identified
31 in the department’s report of April 1987 entitled Alternative
32 Residential Model (ARM).

33 (i) Except as provided in subdivision (j), this section shall remain
34 in effect only until January 1, 1991, and as of that date is repealed,
35 unless a later enacted statute, which is enacted before January 1,
36 1991, deletes or extends that date.

37 (j) This section shall not be repealed until the State Department
38 of Developmental Services achieves statewide implementation of
39 the Alternative Residential Model.

1 *SEC. 75. Section 4681.1 of the Welfare and Institutions Code*
2 *is amended to read:*

3 4681.1. (a) The department shall adopt regulations that specify
4 rates for community care facilities serving persons with
5 developmental disabilities. The implementation of the regulations
6 shall be contingent upon an appropriation in the annual Budget
7 Act for this purpose. These rates shall be calculated on the basis
8 of a cost model designed by the department which ensures that
9 aggregate facility payments support the provision of services to
10 each person in accordance with his or her individual program plan
11 and applicable program requirements. The cost model shall reflect
12 cost elements that shall include, but are not limited to, all of the
13 following:

14 (1) “Basic living needs” include utilities, furnishings, food,
15 supplies, incidental transportation, housekeeping, personal care
16 items, and other items necessary to ensure a quality environment
17 for persons with developmental disabilities. The amount identified
18 for the basic living needs element of the rate shall be calculated
19 as the average projected cost of these items in an economically
20 and efficiently operated community care facility.

21 (2) “Direct care” includes salaries, wages, benefits, and other
22 expenses necessary to supervise or support the person’s functioning
23 in the areas of self-care and daily living skills, physical
24 coordination mobility, and behavioral self-control, choice making,
25 and integration. The amount identified for direct care shall be
26 calculated as the average projected cost of providing the level of
27 service required to meet each person’s functional needs in an
28 economically and efficiently operated community care facility.
29 The direct care portion of the rate shall reflect specific service
30 levels defined by the department on the basis of relative resident
31 need and the individual program plan.

32 (3) “Special services” include specialized training, treatment,
33 supervision, or other services which a person’s individual program
34 plan requires to be provided by the residential facility in addition
35 to the direct care provided under paragraph (2). The amount
36 identified for special services shall be calculated for each individual
37 based on the additional services specified in the person’s individual
38 program plan and the prevailing rates paid for similar services in
39 the area. The special services portion of the rate shall reflect a

1 negotiated agreement between the facility and the regional center
2 in accordance with Section 4648.

3 (4) “Indirect costs” include managerial personnel, facility
4 operation, maintenance and repair, other nondirect care, employee
5 benefits, contracts, training, travel, licenses, taxes, interest,
6 insurance, depreciation, and general administrative expenses. The
7 amount identified for indirect costs shall be calculated as the
8 average projected cost for these expenses in an economically and
9 efficiently operated community care facility.

10 (5) “Property costs” include mortgages, leases, rent, taxes,
11 capital or leasehold improvements, depreciation, and other
12 expenses related to the physical structure. The amount identified
13 for property costs shall be based on the fair rental value of a model
14 facility which is adequately designed, constructed, and maintained
15 to meet the needs of persons with developmental disabilities. The
16 amount identified for property costs shall be calculated as the
17 average projected fair rental value of an economically and
18 efficiently operated community care facility.

19 (b) The cost model shall take into account factors which include,
20 but are not limited to, all of the following:

21 (1) Facility size, as defined by the department on the basis of
22 the number of facility beds licensed by the State Department of
23 Social Services and vendorized by the regional center.

24 (2) Specific geographic areas, as defined by the department on
25 the basis of cost of living and other pertinent economic indicators.

26 (3) Common levels of direct care, as defined by the department
27 on the basis of services specific to an identifiable group of persons
28 as determined through the individual program plan.

29 (4) Positive outcomes, as defined by the department on the basis
30 of increased integration, independence, and productivity at the
31 aggregate facility and individual consumer level.

32 (5) Owner-operated and staff-operated reimbursement which
33 shall, not differ for facilities that are required to comply with the
34 same program requirements.

35 (c) The rates established for individual community care facilities
36 serving persons with developmental disabilities shall reflect all of
37 the model cost elements and rate development factors described
38 in this section. The cost model design shall include a process for
39 updating the cost model elements that address variables, including,
40 but not limited to, all of the following:

- 1 (1) Economic trends in California.
- 2 (2) New state or federal program requirements.
- 3 (3) Changes in the state or federal minimum wage.
- 4 (4) Increases in fees, taxes, or other business costs.

5 (5) Increases in federal supplemental security income/state
6 supplementary program for the aged, blind, and disabled payments.

7 (d) Rates established for developmentally disabled persons who
8 are also dually diagnosed with a mental disorder may be fixed at
9 a higher rate. The department shall work with the State Department
10 of ~~Mental Health~~ *Care Services* to establish criteria upon which
11 higher rates may be fixed pursuant to this subdivision. The higher
12 rate for developmentally disabled persons who are also dually
13 diagnosed with a mental disorder may be paid when requested by
14 the director of the regional center and approved by the Director of
15 Developmental Services.

16 (e) By January 1, 2001, the department shall prepare proposed
17 regulations to implement the changes outlined in this section. The
18 department may use a private firm to assist in the development of
19 these changes and shall confer with consumers, providers, and
20 other interested parties concerning the proposed regulations. By
21 May 15, 2001, and each year thereafter, the department shall
22 provide the Legislature with annual community care facility rates,
23 including any draft amendments to the regulations as required. By
24 July 1, 2001, and each year thereafter, contingent upon an
25 appropriation in the annual Budget Act for this purpose, the
26 department shall adopt emergency regulations which establish the
27 annual rates for community care facilities serving persons with
28 developmental disabilities for each fiscal year.

29 (f) During the first year of operation under the revised rate
30 model, individual facilities shall be held harmless for any reduction
31 in aggregate facility payments caused solely by the change in
32 reimbursement methodology.

33 *SEC. 76. Section 4696.1 of the Welfare and Institutions Code*
34 *is amended to read:*

35 4696.1. (a) The Legislature finds and declares that improved
36 cooperative efforts between regional centers and county mental
37 health agencies are necessary in order to achieve each of the
38 following:

- 1 (1) Increased leadership, communication, and organizational
2 effectiveness between regional centers and county mental health
3 agencies.
- 4 (2) Decreased costs and minimized fiscal risk in serving persons
5 who are dually diagnosed with mental illness and developmental
6 disabilities.
- 7 (3) Continuity of services.
- 8 (4) Improved quality of mental health outcomes for persons
9 who are dually diagnosed.
- 10 (5) Optimized utilization of agency resources by building on
11 the strengths of each organization.
- 12 (6) Timely resolution of conflicts.
- 13 (b) In order to achieve the outcomes specified in subdivision
14 (a), by July 1, 1999, each regional center and county mental health
15 agency shall develop a memorandum of understanding to do all
16 of the following:
- 17 (1) Identify staff who will be responsible for all of the following:
- 18 (A) Coordinate service activity between the two agencies.
- 19 (B) Identify dually diagnosed consumers of mutual concern.
- 20 (C) Conduct problem resolution for those consumers serviced
21 by both systems.
- 22 (2) Develop a general plan for crisis intervention for persons
23 served by both systems. The plan shall include after-hours
24 emergency response systems, interagency notification guidelines,
25 and followup protocols.
- 26 (3) Develop a procedure by which each dually diagnosed
27 consumer shall be the subject of a case conference conducted
28 jointly by both regional center staff and county mental health as
29 soon as possible after admission into a county operated or
30 contracted acute, inpatient mental health facility. The case
31 conference shall confirm the diagnosis and the treatment plan.
- 32 (4) Develop a procedure by which planning for dually diagnosed
33 consumers admitted to a mental health inpatient facility shall be
34 conducted collaboratively by both the regional center and the local
35 mental health agency and shall commence as soon as possible or
36 as deemed appropriate by the treatment staff. The discharge plan
37 shall include subsequent treatment needs and the agency
38 responsible for those services.
- 39 (5) Develop a procedure by which regional center staff and
40 county mental health staff shall collaborate to plan and provide

1 training to community service providers, including day programs,
2 residential facilities, and intermediate care facilities, regarding
3 effective services to persons who are dually diagnosed. This
4 training shall include crisis prevention with a focus on proactively
5 recognizing crisis and intervening effectively with consumers who
6 are dually diagnosed.

7 (6) Develop a procedure by which the regional center and the
8 county mental health agency shall work toward agreement on a
9 consumer-by-consumer basis on the presenting diagnosis and
10 medical necessity, as defined by regulations of the State
11 Department of ~~Mental Health~~ *Care Services*.

12 (c) The department and the State Department of ~~Mental Health~~
13 *Care Services* shall collaborate to provide a statewide perspective
14 and technical assistance to local service regions when local problem
15 resolution mechanisms have been exhausted and state level
16 participation has been requested by both local agencies.

17 (d) The director of the local regional center and the director of
18 the county mental health agency or their designees shall meet as
19 needed but no less than annually to do all of the following:

20 (1) Review the effectiveness of the interagency collaboration.

21 (2) Address any outstanding policy issues between the two
22 agencies.

23 (3) Establish the direction and priorities for ongoing
24 collaboration efforts between the two agencies.

25 (e) Copies of each memorandum of understanding shall be
26 forwarded to the State Department of Developmental Services
27 upon completion or whenever amended. The department shall
28 make copies of the memorandum of understanding available to
29 the public upon request.

30 (f) By May 15 of each year, the department shall provide all of
31 the following information to the Legislature:

32 (1) The status of the memorandums of understanding developed
33 jointly by each regional center and the county mental health agency
34 and identify any barriers to meeting the outcomes specified in this
35 section.

36 (2) The availability of mobile crisis intervention services,
37 including generic services, by regional center catchment area,
38 including the names of vendors and rates paid.

39 (3) A description of each regional center's funded emergency
40 housing options, including the names and types of vendors, the

1 number of beds and rates, including, but not limited to, crisis
 2 emergency group homes, crisis beds in a regular group home, crisis
 3 foster homes, motel or hotel or psychiatric facility beds, and
 4 whether each emergency housing option serves minors or adults
 5 and whether it is physically accessible.

6 *SEC. 77. Section 4835 of the Welfare and Institutions Code is*
 7 *amended to read:*

8 4835. The Director of Developmental Services may establish
 9 uniform operational procedures, performance and evaluation
 10 standards and utilization criteria for designated agencies pursuant
 11 to this chapter.

12 These standards and criteria shall be developed with participation
 13 by consumer organizations, area boards on developmental
 14 disabilities, the Association of Regional Center Agencies, the *State*
 15 Department of Social Services, the *State* Department of Health
 16 Care Services, the *State* Department of Education, and the
 17 Department of Rehabilitation, ~~and the Department of Mental Health~~
 18 and consultations with individuals with experience in
 19 developmental services programming.

20 *SEC. 78. Section 4844 of the Welfare and Institutions Code is*
 21 *amended to read:*

22 4844. The Director of Developmental Services shall initiate
 23 and monitor interagency performance agreements between the
 24 Department of Rehabilitation, ~~the Department of Mental Health,~~
 25 the *State* Department of Health Care Services, the *State* Department
 26 of Social Services, and the Department of Housing and Community
 27 Development to ~~assure~~ *ensure* planning, coordination, and resource
 28 sharing.

29 *SEC. 79. Section 5150 of the Welfare and Institutions Code is*
 30 *amended to read:*

31 5150. When any person, as a result of mental disorder, is a
 32 danger to others, or to himself or herself, or gravely disabled, a
 33 peace officer, member of the attending staff, as defined by
 34 regulation, of an evaluation facility designated by the county,
 35 designated members of a mobile crisis team provided by Section
 36 5651.7, or other professional person designated by the county may,
 37 upon probable cause, take, or cause to be taken, the person into
 38 custody and place him or her in a facility designated by the county
 39 and approved by the State Department of ~~Mental Health~~ *Social*
 40 *Services* as a facility for 72-hour treatment and evaluation.

1 ~~Such~~

2 *The* facility shall require an application in writing stating the
3 circumstances under which the person's condition was called to
4 the attention of the officer, member of the attending staff, or
5 professional person, and stating that the officer, member of the
6 attending staff, or professional person has probable cause to believe
7 that the person is, as a result of mental disorder, a danger to others,
8 or to himself or herself, or gravely disabled. If the probable cause
9 is based on the statement of a person other than the officer, member
10 of the attending staff, or professional person, ~~such~~ *the* person shall
11 be liable in a civil action for intentionally giving a statement which
12 he or she knows to be false.

13 *SEC. 80. Section 5151 of the Welfare and Institutions Code is*
14 *amended to read:*

15 5151. If the facility for 72-hour treatment and evaluation admits
16 the person, it may detain him or her for evaluation and treatment
17 for a period not to exceed 72 hours. Saturdays, Sundays, and
18 holidays may be excluded from the 72-hour period if the *State*
19 ~~Department of Mental Health~~ *Social Services* certifies for each
20 facility that evaluation and treatment services cannot reasonably
21 be made available on those days. The certification by the
22 department is subject to renewal every two years. The department
23 shall adopt regulations defining criteria for determining whether
24 a facility can reasonably be expected to make evaluation and
25 treatment services available on Saturdays, Sundays, and holidays.

26 Prior to admitting a person to the facility for 72-hour treatment
27 and evaluation pursuant to Section 5150, the professional person
28 in charge of the facility or his or her designee shall assess the
29 individual in person to determine the appropriateness of the
30 involuntary detention.

31 If in the judgment of the professional person in charge of the
32 facility providing evaluation and treatment, or his or her designee,
33 the person can be properly served without being detained, he or
34 she shall be provided evaluation, crisis intervention, or other
35 inpatient or outpatient services on a voluntary basis.

36 Nothing in this section shall be interpreted to prevent a peace
37 officer from delivering individuals to a designated facility for
38 assessment under Section 5150. Furthermore, the preadmission
39 assessment requirement of this section shall not be interpreted to

1 require peace officers to perform any additional duties other than
2 those specified in Sections 5150.1 and 5150.2.

3 *SEC. 81. Section 5152 of the Welfare and Institutions Code is*
4 *amended to read:*

5 5152. (a) Each person admitted to a facility for 72-hour
6 treatment and evaluation under the provisions of this article shall
7 receive an evaluation as soon as possible after he or she is admitted
8 and shall receive whatever treatment and care his or her condition
9 requires for the full period that he or she is held. The person shall
10 be released before 72 hours have elapsed only if the psychiatrist
11 directly responsible for the person's treatment believes, as a result
12 of the psychiatrist's personal observations, that the person no longer
13 requires evaluation or treatment. However, in those situations in
14 which both a psychiatrist and psychologist have personally
15 evaluated or examined a person who is placed under a 72-hour
16 hold and there is a collaborative treatment relationship between
17 the psychiatrist and psychologist, either the psychiatrist or
18 psychologist may authorize the release of the person from the hold,
19 but only after they have consulted with one another. In the event
20 of a clinical or professional disagreement regarding the early
21 release of a person who has been placed under a 72-hour hold, the
22 hold shall be maintained unless the facility's medical director
23 overrules the decision of the psychiatrist or psychologist opposing
24 the release. Both the psychiatrist and psychologist shall enter their
25 findings, concerns, or objections into the person's medical record.
26 If any other professional person who is authorized to release the
27 person believes the person should be released before 72 hours have
28 elapsed, and the psychiatrist directly responsible for the person's
29 treatment objects, the matter shall be referred to the medical
30 director of the facility for the final decision. However, if the
31 medical director is not a psychiatrist, he or she shall appoint a
32 designee who is a psychiatrist. If the matter is referred, the person
33 shall be released before 72 hours have elapsed only if the
34 psychiatrist making the final decision believes, as a result of the
35 psychiatrist's personal observations, that the person no longer
36 requires evaluation or treatment.

37 (b) Any person who has been detained for evaluation and
38 treatment shall be released, referred for further care and treatment
39 on a voluntary basis, or certified for intensive treatment, or a

1 conservator or temporary conservator shall be appointed pursuant
2 to this part as required.

3 (c) A person designated by the mental health facility shall give
4 to any person who has been detained at that facility for evaluation
5 and treatment and who is receiving medication as a result of his
6 or her mental illness, as soon as possible after detention, written
7 and oral information about the probable effects and possible side
8 effects of the medication. The State Department of ~~Mental Health~~
9 *Health Care Services* shall develop and promulgate written
10 materials on the effects of medications, for use by county mental
11 health programs as disseminated or as modified by the county
12 mental health program, addressing the probable effects and the
13 possible side effects of the medication. The following information
14 shall be given orally to the patient:

15 (1) The nature of the mental illness, or behavior, that is the
16 reason the medication is being given or recommended.

17 (2) The likelihood of improving or not improving without the
18 medication.

19 (3) Reasonable alternative treatments available.

20 (4) The name and type, frequency, amount, and method of
21 dispensing the medication, and the probable length of time the
22 medication will be taken.

23 The fact that the information has or has not been given shall be
24 indicated in the patient's chart. If the information has not been
25 given, the designated person shall document in the patient's chart
26 the justification for not providing the information. A failure to give
27 information about the probable effects and possible side effects of
28 the medication shall not constitute new grounds for release.

29 (d) The amendments to this section made by Assembly Bill 348
30 of the 2003–04 Regular Session shall not be construed to revise
31 or expand the scope of practice of psychologists, as defined in
32 Chapter 6.6 (commencing with Section 2900) of Division 2 of the
33 Business and Professions Code.

34 *SEC. 82. Section 5157 of the Welfare and Institutions Code is*
35 *amended to read:*

36 5157. (a) Each person, at the time he or she is first taken into
37 custody under provisions of Section 5150, shall be provided, by
38 the person who takes such other person into custody, the following
39 information orally. The information shall be in substantially the
40 following form:

1 My name is _____ .

2 I am a _____ .

3 (peace officer, mental health professional)

4 with _____ .

5 (name of agency)

6 You are not under criminal arrest, but I am taking you for examination by
7 mental health professionals at _____ .

8 _____

9 (name of facility)

10 You will be told your rights by the mental health staff.

11 If taken into custody at his or her residence, the person shall also be told the
12 following information in substantially the following form:

13 You may bring a few personal items with you which I will have to approve.

14 You can make a phone call and/or leave a note to tell your friends and/or family
15 where you have been taken.

16

17 (b) The designated facility shall keep, for each patient evaluated,
18 a record of the advisement given pursuant to subdivision (a) which
19 shall include:

20 (1) Name of person detained for evaluation.

21 (2) Name and position of peace officer or mental health
22 professional taking person into custody.

23 (3) Date.

24 (4) Whether advisement was completed.

25 (5) If not given or completed, the mental health professional at
26 the facility shall either provide the information specified in
27 subdivision (a), or include a statement of good cause, as defined
28 by regulations of the State Department of ~~Mental Health~~ *Social*
29 *Services*, which shall be kept with the patient’s medical record.

30 (c) Each person admitted to a designated facility for 72-hour
31 evaluation and treatment shall be given the following information
32 by admission staff at the evaluation unit. The information shall be
33 given orally and in writing and in a language or modality accessible
34 to the person. The written information shall be available in the
35 person’s native language or the language which is the person’s
36 principal means of communication. The information shall be in
37 substantially the following form:

38

39 My name is _____ .

40 My position here is _____ .

1 You are being placed into the psychiatric unit because it is our professional
2 opinion that as a result of mental disorder, you are likely to:

- 3 (check applicable)
- 4 harm yourself _____
- 5 harm someone else _____
- 6 be unable to take care of your own
- 7 food, clothing, and housing needs _____

8 We feel this is true because

9
10 (herewith a listing of the facts upon which the allegation of dangerous
11 or gravely disabled due to mental disorder is based, including pertinent
12 facts arising from the admission interview.)

13 You will be held on the ward for a period up to 72 hours.

14 This does not include weekends or holidays.

15 Your 72-hour period will begin _____
16 (day and time.)

17 During these 72 hours you will be evaluated by the hospital staff, and you
18 may be given treatment, including medications. It is possible for you to be
19 released before the end of the 72 hours. But if the staff decides that you need
20 continued treatment you can be held for a longer period of time. If you are
21 held longer than 72 hours you have the right to a lawyer and a qualified
22 interpreter and a hearing before a judge. If you are unable to pay for the lawyer,
23 then one will be provided free.

24
25 (d) For each patient admitted for 72-hour evaluation and
26 treatment, the facility shall keep with the patient’s medical record
27 a record of the advisement given pursuant to subdivision (c) which
28 shall include:

- 29 (1) Name of person performing advisement.
- 30 (2) Date.
- 31 (3) Whether advisement was completed.
- 32 (4) If not completed, a statement of good cause.

33 If the advisement was not completed at admission, the
34 advisement process shall be continued on the ward until completed.
35 A record of the matters prescribed by subdivisions (a), (b), and (c)
36 shall be kept with the patient’s medical record.

37 *SEC. 83. Section 5202 of the Welfare and Institutions Code is*
38 *amended to read:*

39 5202. The person or agency designated by the county shall
40 prepare the petition and all other forms required in the proceeding,

1 and shall be responsible for filing the petition. Before filing the
 2 petition, the person or agency designated by the county shall
 3 request the person or agency designated by the county and
 4 approved by the State Department of ~~Mental Health~~ *Social Services*
 5 to provide prepetition screening to determine whether there is
 6 probable cause to believe the allegations. The person or agency
 7 providing prepetition screening shall conduct a reasonable
 8 investigation of the allegations and make a reasonable effort to
 9 personally interview the subject of the petition. The screening shall
 10 also determine whether the person will agree voluntarily to receive
 11 crisis intervention services or an evaluation in his own home or in
 12 a facility designated by the county and approved by the State
 13 Department of ~~Mental Health~~ *Social Services*. Following
 14 prepetition screening, the person or agency designated by the
 15 county shall file the petition if satisfied that there is probable cause
 16 to believe that the person is, as a result of mental disorder, a danger
 17 to others, or to himself or herself, or gravely disabled, and that the
 18 person will not voluntarily receive evaluation or crisis intervention.

19 If the petition is filed, it shall be accompanied by a report
 20 containing the findings of the person or agency designated by the
 21 county to provide prepetition screening. The prepetition screening
 22 report submitted to the superior court shall be confidential and
 23 shall be subject to the provisions of Section 5328.

24 *SEC. 84. Section 5270.12 of the Welfare and Institutions Code*
 25 *is amended to read:*

26 5270.12. This article shall be operative only in those counties
 27 in which the county board of supervisors, by resolution, authorizes
 28 its application and, by resolution, makes a finding that any
 29 additional costs incurred by the county in the implementation of
 30 this article are funded either by new funding sufficient to cover
 31 the costs incurred by the county resulting from this article, or funds
 32 redirected from cost savings resulting from this article, or a
 33 combination thereof, so that no current service reductions will
 34 occur as a result of the enactment of this article. Compliance with
 35 this section shall be monitored by the *State Department of Mental*
 36 *Health Care Services* as part of ~~their~~ *its* review and approval of
 37 ~~county Short-Doyle plans~~ *mental health plans and performance*
 38 *contracts*.

39 *SEC. 85. Section 5325 of the Welfare and Institutions Code is*
 40 *amended to read:*

1 5325. Each person involuntarily detained for evaluation or
2 treatment under provisions of this part, *and* each person admitted
3 as a voluntary patient for psychiatric evaluation or treatment to
4 any health facility, as defined in Section 1250 of the Health and
5 Safety Code, in which psychiatric evaluation or treatment is
6 offered, ~~and each mentally retarded~~ *shall have the following rights,*
7 *a list of which shall be prominently posted in the predominant*
8 *languages of the community and explained in a language or*
9 *modality accessible to the patient in all facilities providing those*
10 *services, and otherwise brought to his or her attention by any*
11 *additional means as the Director of Health Care Services may*
12 *designate by regulation. Each person committed to a state hospital*
13 ~~pursuant to Article 5 (commencing with Section 6500) of Chapter~~
14 ~~2 of Part 2 of Division 6~~ *shall also have the following rights, a list*
15 *of which shall be prominently posted in the predominant languages*
16 *of the community and explained in a language or modality*
17 *accessible to the patient in all facilities providing—such those*
18 *services and otherwise brought to his or her attention by—such any*
19 *additional means as the Director of Mental Health State Hospitals*
20 *may designate by regulation:*

21 (a) To wear his or her own clothes; to keep and use his or her
22 own personal possessions including his or her toilet articles; and
23 to keep and be allowed to spend a reasonable sum of his or her
24 own money for canteen expenses and small purchases.

25 (b) To have access to individual storage space for his or her
26 private use.

27 (c) To see visitors each day.

28 (d) To have reasonable access to telephones, both to make and
29 receive confidential calls or to have such calls made for them.

30 (e) To have ready access to letterwriting materials, including
31 stamps, and to mail and receive unopened correspondence.

32 (f) To refuse convulsive treatment including, but not limited to,
33 any electroconvulsive treatment, any treatment of the mental
34 condition which depends on the induction of a convulsion by any
35 means, and insulin coma treatment.

36 (g) To refuse psychosurgery. Psychosurgery is defined as those
37 operations currently referred to as lobotomy, psychiatric surgery,
38 and behavioral surgery, and all other forms of brain surgery if the
39 surgery is performed for the purpose of any of the following:

1 (1) Modification or control of thoughts, feelings, actions, or
2 behavior rather than the treatment of a known and diagnosed
3 physical disease of the brain.

4 (2) Modification of normal brain function or normal brain tissue
5 in order to control thoughts, feelings, actions, or behavior.

6 (3) Treatment of abnormal brain function or abnormal brain
7 tissue in order to modify thoughts, feelings, actions or behavior
8 when the abnormality is not an established cause for those thoughts,
9 feelings, actions, or behavior.

10 Psychosurgery does not include prefrontal sonic treatment
11 wherein there is no destruction of brain tissue. The Director of
12 ~~Mental Health Care Services and the Director of State Hospitals~~
13 shall promulgate appropriate regulations to assure adequate
14 protection of patients' rights in such treatment.

15 (h) To see and receive the services of a patient advocate who
16 has no direct or indirect clinical or administrative responsibility
17 for the person receiving mental health services.

18 (i) Other rights, as specified by regulation.

19 Each patient shall also be given notification in a language or
20 modality accessible to the patient of other constitutional and
21 statutory rights which are found by the State Department of ~~Mental~~
22 ~~Health Care Services and the State Department of State Hospitals~~
23 to be frequently misunderstood, ignored, or denied.

24 Upon admission to a facility each patient, *involuntarily detained*
25 *for evaluation or treatment under provisions of this part, or as a*
26 *voluntary patient for psychiatric evaluation or treatment to a health*
27 *facility, as defined in Section 1250 of the Health and Safety Code,*
28 *in which psychiatric evaluation or treatment is offered,* shall
29 immediately be given a copy of a State Department of ~~Mental~~
30 ~~Health Care Services~~ prepared patients' rights handbook. *Each*
31 *person committed to a state hospital, upon admission, shall*
32 *immediately be given a copy of a State Department of State*
33 *Hospitals prepared patients' rights handbook.*

34 The State Department of ~~Mental Health Care Services and the~~
35 ~~State Department of State Hospitals~~ shall prepare and provide the
36 forms specified in this section ~~and~~. ~~The State Department of Health~~
37 ~~Care Services shall prepare and provide the forms specified in~~
38 Section 5157.

39 The rights specified in this section may not be waived by the
40 person's parent, guardian, or conservator.

1 *SEC. 86. Section 5326 of the Welfare and Institutions Code is*
2 *amended to read:*

3 5326. The professional person in charge of the facility *or state*
4 *hospital* or his or her designee may, for good cause, deny a person
5 any of the rights under Section 5325, except under subdivisions
6 (g) and (h) and the rights under subdivision (f) may be denied only
7 under the conditions specified in Section 5326.7. To ensure that
8 these rights are denied only for good cause, the Director of ~~Mental~~
9 *Health Care Services and Director of State Hospitals* shall adopt
10 regulations specifying the conditions under which they may be
11 denied. Denial of a person's rights shall in all cases be entered into
12 the person's treatment record.

13 *SEC. 87. Section 5326.1 of the Welfare and Institutions Code*
14 *is amended to read:*

15 5326.1. Quarterly, each local mental health director shall
16 furnish to the Director of ~~Mental~~ *Health Care Services*, the facility
17 reports of the number of persons whose rights were denied and
18 the right or rights which were denied. The content of the reports
19 from facilities shall enable the local mental health director and
20 Director of ~~Mental~~ *Health Care Services* to identify individual
21 treatment records, if necessary, for further analysis and
22 investigation. These quarterly reports, except for the identity of
23 the person whose rights are denied, shall be available, upon request,
24 to Members of the State Legislature, or a member of a county
25 board of supervisors.

26 Notwithstanding any other provision of law, information
27 pertaining to denial of rights contained in the person's treatment
28 record shall be made available, on request, to the person, his or
29 her attorney, his or her conservator or guardian, the local mental
30 health director, or his or her designee, or the ~~Patient's Rights Office~~
31 *Patients' Rights program* of the State Department of ~~Mental~~ *Health*
32 *Care Services*. The information may include consent forms,
33 required documentation for convulsive treatment, documentation
34 regarding the use of restraints and seclusion, physician's orders,
35 nursing notes, and involuntary detention and conservatorship
36 papers. The information, except for the identity of the person whose
37 rights are denied, shall be made available to the Members of the
38 State Legislature or a member of a county board of supervisors.

39 *SEC. 88. Section 5326.15 of the Welfare and Institutions Code*
40 *is amended to read:*

1 5326.15. (a) Quarterly, any doctor or facility which administers
2 convulsive treatments or psychosurgery, shall report to the local
3 mental health director, who shall transmit a copy to the Director
4 of ~~Mental Health Care Services~~, the number of persons who
5 received such treatments wherever administered, in each of the
6 following categories:

7 (1) Involuntary patients who gave informed consent.

8 (2) Involuntary patients who were deemed incapable of giving
9 informed consent and received convulsive treatment against their
10 will.

11 (3) Voluntary patients who gave informed consent.

12 (4) Voluntary patients deemed incapable of giving consent.

13 (b) *Quarterly, the State Department of State Hospitals shall*
14 *report to the Director of Health Care Services the number of*
15 *persons who received such treatments wherever administered, in*
16 *each of the following categories:*

17 (1) *Involuntary patients who gave informed consent.*

18 (2) *Involuntary patients who were deemed incapable of giving*
19 *informed consent and received convulsive treatment against their*
20 *will.*

21 (3) *Voluntary patients who gave informed consent.*

22 (4) *Voluntary patients deemed incapable of giving consent.*

23 ~~(b)~~

24 (c) Quarterly, the Director of ~~Mental Health Care Services~~ shall
25 forward to the Medical Board of California any records or
26 information received from ~~such~~ *these* reports indicating violation
27 of the law, and the regulations which have been adopted thereto.

28 *SEC. 89. Section 5326.3 of the Welfare and Institutions Code*
29 *is amended to read:*

30 5326.3. The State Department of ~~Mental Health Care Services~~
31 *and State Department of State Hospitals* shall promulgate a
32 standard written consent form, setting forth clearly and in detail
33 the matters listed in Section 5326.2, and ~~such~~ *any* further
34 information with respect to each item as deemed generally
35 appropriate to all patients.

36 The treating physician shall utilize the standard written consent
37 form and in writing supplement it with those details which pertain
38 to the particular patient being treated.

39 *SEC. 90. Section 5326.8 of the Welfare and Institutions Code*
40 *is amended to read:*

1 5326.8. Under no circumstances shall convulsive treatment be
2 performed on a minor under 12 years of age. Persons 16 and 17
3 years of age shall personally have and exercise the rights under
4 this article.

5 Persons 12 years of age and over, and under 16, may be
6 administered convulsive treatment only if all the other provisions
7 of this law are complied with and in addition:

8 (a) It is an emergency situation and convulsive treatment is
9 deemed a lifesaving treatment.

10 (b) This fact and the need for and appropriateness of the
11 treatment are unanimously certified to by a review board of three
12 board-eligible or board-certified child psychiatrists appointed by
13 the local mental health director.

14 (c) It is otherwise performed in full compliance with regulations
15 promulgated by the Director of ~~Mental Health~~ *State Hospitals*
16 under Section 5326.95.

17 (d) It is thoroughly documented and reported immediately to
18 the Director of ~~Mental Health~~ *Care Services*.

19 *SEC. 91. Section 5326.9 of the Welfare and Institutions Code*
20 *is amended to read:*

21 5326.9. (a) Any alleged or suspected violation of the rights
22 described in Chapter 2 (commencing with Section 5150) shall be
23 investigated by the local director of mental health, or his or her
24 designee. Violations of Sections 5326.2 to 5326.8, inclusive,
25 *concerning patients involuntarily detained for evaluation or*
26 *treatment under this part, or as a voluntary patient for psychiatric*
27 *evaluation or treatment to a health facility, as defined in Section*
28 *1250 of the Health and Safety Code, in which psychiatric*
29 *evaluation or treatment is offered, shall also be investigated by*
30 *the Director of ~~Mental Health~~ *Care Services*, or his or her designee.*
31 *Violations of Sections 5326.2 to 5326.8, inclusive, concerning*
32 *persons committed to a state hospital shall also be investigated*
33 *by the Director of *State Hospitals*, or his or her designee. If it is*
34 *determined by the local director of mental health or, the Director*
35 *of ~~Mental Health~~ *Care Services*, or the Director of *State Hospitals**
36 *that a right has been violated, a formal notice of violation shall be*
37 *issued.*

38 (b) Either the local director of mental health or the Director of
39 ~~Mental Health~~ *Care Services*, upon issuing a notice of violation,
40 may take any or all of the following action:

- 1 (1) Assign a specified time period during which the violation
 2 shall be corrected.
- 3 (2) Referral to the Medical Board of California or other
 4 professional licensing agency. Such board shall investigate further,
 5 if warranted, and shall subject the individual practitioner to any
 6 penalty the board finds necessary and is authorized to impose.
- 7 ~~(3) Revoke~~ *Make a recommendation to the State Department*
 8 *of Social Services to revoke the approval of the county facility*
 9 *designation. The local director of mental health may revoke a*
 10 *facility's designation and authorization under Section 5404 to*
 11 *evaluate and treat persons detained involuntarily.*
- 12 (4) Refer any violation of law to a local district attorney or the
 13 Attorney General for prosecution in any court with jurisdiction.
- 14 *(c) The Director of State Hospitals, upon issuing a notice of*
 15 *violation, may take any or all of the following actions:*
- 16 *(1) Assign a specified time period during which the violation*
 17 *shall be corrected.*
- 18 *(2) Make a referral to the Medical Board of California or other*
 19 *professional licensing agency. The board or agency shall*
 20 *investigate further, if warranted, and shall subject the individual*
 21 *practitioner to any penalty the board finds necessary and is*
 22 *authorized to impose.*
- 23 *(3) Refer any violation of law to a local district attorney or the*
 24 *Attorney General for prosecution in any court with jurisdiction.*
- 25 ~~(e)~~
- 26 *(d) Any physician who intentionally violates Sections 5326.2*
 27 *to 5326.8, inclusive, shall be subject to a civil penalty of not more*
 28 *than five thousand dollars (\$5,000) for each violation. ~~Such~~ The*
 29 *penalty may be assessed and collected in a civil action brought by*
 30 *the Attorney General in a superior court. Such intentional violation*
 31 *shall be grounds for revocation of license.*
- 32 ~~(e)~~
- 33 *(e) Any person or facility found to have knowingly violated the*
 34 *provisions of the first paragraph of Section 5325.1 or to have*
 35 *denied without good cause any of the rights specified in Section*
 36 *5325 shall pay a civil penalty, as determined by the court, of fifty*
 37 *dollars (\$50) per day during the time in which the violation is not*
 38 *corrected, commencing on the day on which a notice of violation*
 39 *was issued, not to exceed one thousand dollars (\$1,000), for each*
 40 *and every violation, except that any liability under this provision*

1 shall be offset by an amount equal to a fine or penalty imposed for
2 the same violation under the provisions of Sections 1423 to 1425,
3 inclusive, or 1428 of the Health and Safety Code. These penalties
4 shall be deposited in the general fund of the county in which the
5 violation occurred. The local district attorney or the Attorney
6 General shall enforce this section in any court with jurisdiction.
7 Where the State Department of *Public Health Services*, under the
8 provisions of Sections 1423 to 1425, inclusive, of the Health and
9 Safety Code, determines that no violation has occurred, the
10 provisions of paragraph (4) of subdivision (b) shall not apply.

11 (e)

12 (f) The remedies provided by this subdivision shall be in addition
13 to and not in substitution for any other remedies which an
14 individual may have under law.

15 *SEC. 92. Section 5326.91 of the Welfare and Institutions Code*
16 *is amended to read:*

17 5326.91. In any facility in which convulsive treatment is
18 performed on a person whether admitted to the facility as an
19 involuntary or voluntary patient, the facility will designate a
20 qualified committee to review all such treatments and to verify the
21 appropriateness and need for such treatment. The local mental
22 health director shall establish a postaudit review committee for
23 convulsive treatments administered anywhere other than in any
24 facility as defined in Section 1250 of the Health and Safety Code
25 in which psychiatric evaluation or treatment is offered. Records
26 of these committees will be subject to availability in the same
27 manner as are the records of other hospital utilization and audit
28 committees and to such other regulations as are promulgated by
29 the Director of Mental Health. Persons serving on such these
30 review committees will enjoy the same immunities as other persons
31 serving on utilization, peer review, and audit committees of health
32 care facilities.

33 *SEC. 93. Section 5326.95 of the Welfare and Institutions Code*
34 *is amended to read:*

35 5326.95. The Director of ~~Mental Health~~ *State Hospitals* shall
36 adopt regulations to carry out the provisions of this chapter,
37 including standards defining excessive use of convulsive treatment
38 which shall be developed in consultation with the ~~conference of~~
39 ~~local mental health directors~~ *State Department of Health Care*
40 *Services and the California Mental Health Directors Association.*

1 *SEC. 94. Section 5328 of the Welfare and Institutions Code is*
2 *amended to read:*

3 5328. All information and records obtained in the course of
4 providing services under Division 4 (commencing with Section
5 4000), Division 4.1 (commencing with Section 4400), Division
6 4.5 (commencing with Section 4500), Division 5 (commencing
7 with Section 5000), Division 6 (commencing with Section 6000),
8 or Division 7 (commencing with Section 7100), to either voluntary
9 or involuntary recipients of services shall be confidential.
10 Information and records obtained in the course of providing similar
11 services to either voluntary or involuntary recipients prior to 1969
12 shall also be confidential. Information and records shall be
13 disclosed only in any of the following cases:

14 (a) In communications between qualified professional persons
15 in the provision of services or appropriate referrals, or in the course
16 of conservatorship proceedings. The consent of the patient, or his
17 or her guardian or conservator, shall be obtained before information
18 or records may be disclosed by a professional person employed
19 by a facility to a professional person not employed by the facility
20 who does not have the medical or psychological responsibility for
21 the patient's care.

22 (b) When the patient, with the approval of the physician and
23 surgeon, licensed psychologist, social worker with a master's
24 degree in social work, licensed marriage and family therapist, or
25 licensed professional clinical counselor, who is in charge of the
26 patient, designates persons to whom information or records may
27 be released, except that nothing in this article shall be construed
28 to compel a physician and surgeon, licensed psychologist, social
29 worker with a master's degree in social work, licensed marriage
30 and family therapist, licensed professional clinical counselor, nurse,
31 attorney, or other professional person to reveal information that
32 has been given to him or her in confidence by members of a
33 patient's family. Nothing in this subdivision shall be construed to
34 authorize a licensed marriage and family therapist or licensed
35 professional clinical counselor to provide services or to be in charge
36 of a patient's care beyond his or her lawful scope of practice.

37 (c) To the extent necessary for a recipient to make a claim, or
38 for a claim to be made on behalf of a recipient for aid, insurance,
39 or medical assistance to which he or she may be entitled.

1 (d) If the recipient of services is a minor, ward, dependent, or
 2 conservatee, and his or her parent, guardian, guardian ad litem,
 3 conservator, or authorized representative designates, in writing,
 4 persons to whom records or information may be disclosed, except
 5 that nothing in this article shall be construed to compel a physician
 6 and surgeon, licensed psychologist, social worker with a master’s
 7 degree in social work, licensed marriage and family therapist,
 8 licensed professional clinical counselor, nurse, attorney, or other
 9 professional person to reveal information that has been given to
 10 him or her in confidence by members of a patient’s family.

11 (e) For research, provided that the Director of ~~Mental Health~~
 12 *Care Services, the Director of State Hospitals, the Director of*
 13 *Social Services, or the Director of Developmental Services*
 14 designates by regulation, rules for the conduct of research and
 15 requires the research to be first reviewed by the appropriate
 16 institutional review board or boards. The rules shall include, but
 17 need not be limited to, the requirement that all researchers shall
 18 sign an oath of confidentiality as follows:

19
 20
 21 _____
 22 Date

23 As a condition of doing research concerning persons who have
 24 received services from ____ (fill in the facility, agency or person),
 25 I, ____, agree to obtain the prior informed consent of such persons
 26 who have received services to the maximum degree possible as
 27 determined by the appropriate institutional review board or boards
 28 for protection of human subjects reviewing my research, and I
 29 further agree not to divulge any information obtained in the course
 30 of such research to unauthorized persons, and not to publish or
 31 otherwise make public any information regarding persons who
 32 have received services such that the person who received services
 33 is identifiable.

34 I recognize that the unauthorized release of confidential
 35 information may make me subject to a civil action under provisions
 36 of the Welfare and Institutions Code.

37 (f) To the courts, as necessary to the administration of justice.

38 (g) To governmental law enforcement agencies as needed for
 39 the protection of federal and state elective constitutional officers
 40 and their families.

1 (h) To the Senate Committee on Rules or the Assembly
2 Committee on Rules for the purposes of legislative investigation
3 authorized by the committee.

4 (i) If the recipient of services who applies for life or disability
5 insurance designates in writing the insurer to which records or
6 information may be disclosed.

7 (j) To the attorney for the patient in any and all proceedings
8 upon presentation of a release of information signed by the patient,
9 except that when the patient is unable to sign the release, the staff
10 of the facility, upon satisfying itself of the identity of the attorney,
11 and of the fact that the attorney does represent the interests of the
12 patient, may release all information and records relating to the
13 patient except that nothing in this article shall be construed to
14 compel a physician and surgeon, licensed psychologist, social
15 worker with a master's degree in social work, licensed marriage
16 and family therapist, licensed professional clinical counselor, nurse,
17 attorney, or other professional person to reveal information that
18 has been given to him or her in confidence by members of a
19 patient's family.

20 (k) Upon written agreement by a person previously confined in
21 or otherwise treated by a facility, the professional person in charge
22 of the facility or his or her designee may release any information,
23 except information that has been given in confidence by members
24 of the person's family, requested by a probation officer charged
25 with the evaluation of the person after his or her conviction of a
26 crime if the professional person in charge of the facility determines
27 that the information is relevant to the evaluation. The agreement
28 shall only be operative until sentence is passed on the crime of
29 which the person was convicted. The confidential information
30 released pursuant to this subdivision shall be transmitted to the
31 court separately from the probation report and shall not be placed
32 in the probation report. The confidential information shall remain
33 confidential except for purposes of sentencing. After sentencing,
34 the confidential information shall be sealed.

35 (l) (1) Between persons who are trained and qualified to serve
36 on multidisciplinary personnel teams pursuant to subdivision (d)
37 of Section 18951. The information and records sought to be
38 disclosed shall be relevant to the provision of child welfare services
39 or the investigation, prevention, identification, management, or
40 treatment of child abuse or neglect pursuant to Chapter 11

1 (commencing with Section 18950) of Part 6 of Division 9.
2 Information obtained pursuant to this subdivision shall not be used
3 in any criminal or delinquency proceeding. Nothing in this
4 subdivision shall prohibit evidence identical to that contained
5 within the records from being admissible in a criminal or
6 delinquency proceeding, if the evidence is derived solely from
7 means other than this subdivision, as permitted by law.

8 (2) As used in this subdivision, “child welfare services” means
9 those services that are directed at preventing child abuse or neglect.

10 (m) To county patients’ rights advocates who have been given
11 knowing voluntary authorization by a client or a guardian ad litem.
12 The client or guardian ad litem, whoever entered into the
13 agreement, may revoke the authorization at any time, either in
14 writing or by oral declaration to an approved advocate.

15 (n) To a committee established in compliance with Section ~~4070~~
16 *14725*.

17 (o) In providing information as described in Section 7325.5.
18 Nothing in this subdivision shall permit the release of any
19 information other than that described in Section 7325.5.

20 (p) To the county mental health director or the director’s
21 designee, or to a law enforcement officer, or to the person
22 designated by a law enforcement agency, pursuant to Sections
23 5152.1 and 5250.1.

24 (q) If the patient gives his or her consent, information
25 specifically pertaining to the existence of genetically handicapping
26 conditions, as defined in Section 125135 of the Health and Safety
27 Code, may be released to qualified professional persons for
28 purposes of genetic counseling for blood relatives upon request of
29 the blood relative. For purposes of this subdivision, “qualified
30 professional persons” means those persons with the qualifications
31 necessary to carry out the genetic counseling duties under this
32 subdivision as determined by the genetic disease unit established
33 in the State Department of Health Care Services under Section
34 125000 of the Health and Safety Code. If the patient does not
35 respond or cannot respond to a request for permission to release
36 information pursuant to this subdivision after reasonable attempts
37 have been made over a two-week period to get a response, the
38 information may be released upon request of the blood relative.

39 (r) When the patient, in the opinion of his or her psychotherapist,
40 presents a serious danger of violence to a reasonably foreseeable

1 victim or victims, then any of the information or records specified
2 in this section may be released to that person or persons and to
3 law enforcement agencies and county child welfare agencies as
4 the psychotherapist determines is needed for the protection of that
5 person or persons. For purposes of this subdivision,
6 “psychotherapist” means anyone so defined within Section 1010
7 of the Evidence Code.

8 (s) (1) To the designated officer of an emergency response
9 employee, and from that designated officer to an emergency
10 response employee regarding possible exposure to HIV or AIDS,
11 but only to the extent necessary to comply with provisions of the
12 federal Ryan White Comprehensive AIDS Resources Emergency
13 Act of 1990 (Public Law 101-381; 42 U.S.C. Sec. 201).

14 (2) For purposes of this subdivision, “designated officer” and
15 “emergency response employee” have the same meaning as these
16 terms are used in the federal Ryan White Comprehensive AIDS
17 Resources Emergency Act of 1990 (Public Law 101-381; 42 U.S.C.
18 Sec. 201).

19 (3) The designated officer shall be subject to the confidentiality
20 requirements specified in Section 120980, and may be personally
21 liable for unauthorized release of any identifying information about
22 the HIV results. Further, the designated officer shall inform the
23 exposed emergency response employee that the employee is also
24 subject to the confidentiality requirements specified in Section
25 120980, and may be personally liable for unauthorized release of
26 any identifying information about the HIV test results.

27 (t) (1) To a law enforcement officer who personally lodges with
28 a facility, as defined in paragraph (2), a warrant of arrest or an
29 abstract of such a warrant showing that the person sought is wanted
30 for a serious felony, as defined in Section 1192.7 of the Penal
31 Code, or a violent felony, as defined in Section 667.5 of the Penal
32 Code. The information sought and released shall be limited to
33 whether or not the person named in the arrest warrant is presently
34 confined in the facility. This paragraph shall be implemented with
35 minimum disruption to health facility operations and patients, in
36 accordance with Section 5212. If the law enforcement officer is
37 informed that the person named in the warrant is confined in the
38 facility, the officer may not enter the facility to arrest the person
39 without obtaining a valid search warrant or the permission of staff
40 of the facility.

1 (2) For purposes of paragraph (1), a facility means all of the
2 following:

3 (A) A state hospital, as defined in Section 4001.

4 (B) A general acute care hospital, as defined in subdivision (a)
5 of Section 1250 of the Health and Safety Code, solely with regard
6 to information pertaining to a ~~mentally-disordered~~ person *with*
7 *mental illness* subject to this section.

8 (C) An acute psychiatric hospital, as defined in subdivision (b)
9 of Section 1250 of the Health and Safety Code.

10 (D) A psychiatric health facility, as described in Section 1250.2
11 of the Health and Safety Code.

12 (E) A mental health rehabilitation center, as described in Section
13 5675.

14 (F) A skilled nursing facility with a special treatment program
15 for ~~chronically mentally-disordered patients~~ *individuals with mental*
16 *illness*, as described in Sections 51335 and 72445 to 72475,
17 inclusive, of Title 22 of the California Code of Regulations.

18 (u) Between persons who are trained and qualified to serve on
19 multidisciplinary personnel teams pursuant to Section 15610.55,
20 15753.5, or 15761. The information and records sought to be
21 disclosed shall be relevant to the prevention, identification,
22 management, or treatment of an abused elder or dependent adult
23 pursuant to Chapter 13 (commencing with Section 15750) of Part
24 3 of Division 9.

25 (v) The amendment of subdivision (d) enacted at the 1970
26 Regular Session of the Legislature does not constitute a change
27 in, but is declaratory of, the preexisting law.

28 (w) This section shall not be limited by Section 5150.05 or 5332.

29 (x) (1) When an employee is served with a notice of adverse
30 action, as defined in Section 19570 of the Government Code, the
31 following information and records may be released:

32 (A) All information and records that the appointing authority
33 relied upon in issuing the notice of adverse action.

34 (B) All other information and records that are relevant to the
35 adverse action, or that would constitute relevant evidence as
36 defined in Section 210 of the Evidence Code.

37 (C) The information described in subparagraphs (A) and (B)
38 may be released only if both of the following conditions are met:

39 (i) The appointing authority has provided written notice to the
40 consumer and the consumer's legal representative or, if the

1 consumer has no legal representative or if the legal representative
2 is a state agency, to the clients' rights advocate, and the consumer,
3 the consumer's legal representative, or the clients' rights advocate
4 has not objected in writing to the appointing authority within five
5 business days of receipt of the notice, or the appointing authority,
6 upon review of the objection has determined that the circumstances
7 on which the adverse action is based are egregious or threaten the
8 health, safety, or life of the consumer or other consumers and
9 without the information the adverse action could not be taken.

10 (ii) The appointing authority, the person against whom the
11 adverse action has been taken, and the person's representative, if
12 any, have entered into a stipulation that does all of the following:

13 (I) Prohibits the parties from disclosing or using the information
14 or records for any purpose other than the proceedings for which
15 the information or records were requested or provided.

16 (II) Requires the employee and the employee's legal
17 representative to return to the appointing authority all records
18 provided to them under this subdivision, including, but not limited
19 to, all records and documents from any source containing
20 confidential information protected by this section, and all copies
21 of those records and documents, within 10 days of the date that
22 the adverse action becomes final except for the actual records and
23 documents or copies thereof that are no longer in the possession
24 of the employee or the employee's legal representative because
25 they were submitted to the administrative tribunal as a component
26 of an appeal from the adverse action.

27 (III) Requires the parties to submit the stipulation to the
28 administrative tribunal with jurisdiction over the adverse action
29 at the earliest possible opportunity.

30 (2) For the purposes of this subdivision, the State Personnel
31 Board may, prior to any appeal from adverse action being filed
32 with it, issue a protective order, upon application by the appointing
33 authority, for the limited purpose of prohibiting the parties from
34 disclosing or using information or records for any purpose other
35 than the proceeding for which the information or records were
36 requested or provided, and to require the employee or the
37 employee's legal representative to return to the appointing authority
38 all records provided to them under this subdivision, including, but
39 not limited to, all records and documents from any source
40 containing confidential information protected by this section, and

1 all copies of those records and documents, within 10 days of the
2 date that the adverse action becomes final, except for the actual
3 records and documents or copies thereof that are no longer in the
4 possession of the employee or the employee's legal representatives
5 because they were submitted to the administrative tribunal as a
6 component of an appeal from the adverse action.

7 (3) Individual identifiers, including, but not limited to, names,
8 social security numbers, and hospital numbers, that are not
9 necessary for the prosecution or defense of the adverse action,
10 shall not be disclosed.

11 (4) All records, documents, or other materials containing
12 confidential information protected by this section that have been
13 submitted or otherwise disclosed to the administrative agency or
14 other person as a component of an appeal from an adverse action
15 shall, upon proper motion by the appointing authority to the
16 administrative tribunal, be placed under administrative seal and
17 shall not, thereafter, be subject to disclosure to any person or entity
18 except upon the issuance of an order of a court of competent
19 jurisdiction.

20 (5) For purposes of this subdivision, an adverse action becomes
21 final when the employee fails to answer within the time specified
22 in Section 19575 of the Government Code, or, after filing an
23 answer, withdraws the appeal, or, upon exhaustion of the
24 administrative appeal or of the judicial review remedies as
25 otherwise provided by law.

26 (y) To the person appointed as the developmental services
27 decisionmaker for a minor, dependent, or ward pursuant to Section
28 319, 361, or 726.

29 *SEC. 95. Section 5348 of the Welfare and Institutions Code is*
30 *amended to read:*

31 5348. (a) For purposes of subdivision (e) of Section 5346, a
32 county that chooses to provide assisted outpatient treatment
33 services pursuant to this article shall offer assisted outpatient
34 treatment services including, but not limited to, all of the following:

35 (1) Community-based, mobile, multidisciplinary, highly trained
36 mental health teams that use high staff-to-client ratios of no more
37 than 10 clients per team member for those subject to court-ordered
38 services pursuant to Section 5346.

39 (2) A service planning and delivery process that includes the
40 following:

1 (A) Determination of the numbers of persons to be served and
2 the programs and services that will be provided to meet their needs.
3 The local director of mental health shall consult with the sheriff,
4 the police chief, the probation officer, the mental health board,
5 contract agencies, and family, client, ethnic, and citizen
6 constituency groups as determined by the director.

7 (B) Plans for services, including outreach to families whose
8 severely mentally ill adult is living with them, design of mental
9 health services, coordination and access to medications, psychiatric
10 and psychological services, substance abuse services, supportive
11 housing or other housing assistance, vocational rehabilitation, and
12 veterans' services. Plans shall also contain evaluation strategies,
13 which shall consider cultural, linguistic, gender, age, and special
14 needs of minorities and those based on any characteristic listed or
15 defined in Section 11135 of the Government Code in the target
16 populations. Provision shall be made for staff with the cultural
17 background and linguistic skills necessary to remove barriers to
18 mental health services as a result of having
19 limited-English-speaking ability and cultural differences.
20 Recipients of outreach services may include families, the public,
21 primary care physicians, and others who are likely to come into
22 contact with individuals who may be suffering from an untreated
23 severe mental illness who would be likely to become homeless if
24 the illness continued to be untreated for a substantial period of
25 time. Outreach to adults may include adults voluntarily or
26 involuntarily hospitalized as a result of a severe mental illness.

27 (C) Provision for services to meet the needs of persons who are
28 physically disabled.

29 (D) Provision for services to meet the special needs of older
30 adults.

31 (E) Provision for family support and consultation services,
32 parenting support and consultation services, and peer support or
33 self-help group support, where appropriate.

34 (F) Provision for services to be client-directed and that employ
35 psychosocial rehabilitation and recovery principles.

36 (G) Provision for psychiatric and psychological services that
37 are integrated with other services and for psychiatric and
38 psychological collaboration in overall service planning.

39 (H) Provision for services specifically directed to seriously
40 mentally ill young adults 25 years of age or younger who are

1 homeless or at significant risk of becoming homeless. These
2 provisions may include continuation of services that still would
3 be received through other funds had eligibility not been terminated
4 as a result of age.

5 (I) Services reflecting special needs of women from diverse
6 cultural backgrounds, including supportive housing that accepts
7 children, personal services coordinator therapeutic treatment, and
8 substance treatment programs that address gender-specific trauma
9 and abuse in the lives of persons with mental illness, and vocational
10 rehabilitation programs that offer job training programs free of
11 gender bias and sensitive to the needs of women.

12 (J) Provision for housing for clients that is immediate,
13 transitional, permanent, or all of these.

14 (K) Provision for clients who have been suffering from an
15 untreated severe mental illness for less than one year, and who do
16 not require the full range of services, but are at risk of becoming
17 homeless unless a comprehensive individual and family support
18 services plan is implemented. These clients shall be served in a
19 manner that is designed to meet their needs.

20 (3) Each client shall have a clearly designated mental health
21 personal services coordinator who may be part of a
22 multidisciplinary treatment team who is responsible for providing
23 or assuring needed services. Responsibilities include complete
24 assessment of the client's needs, development of the client's
25 personal services plan, linkage with all appropriate community
26 services, monitoring of the quality and followthrough of services,
27 and necessary advocacy to ensure each client receives those
28 services that are agreed to in the personal services plan. Each client
29 shall participate in the development of his or her personal services
30 plan, and responsible staff shall consult with the designated
31 conservator, if one has been appointed, and, with the consent of
32 the client, shall consult with the family and other significant
33 persons as appropriate.

34 (4) The individual personal services plan shall ensure that
35 persons subject to assisted outpatient treatment programs receive
36 age-appropriate, gender-appropriate, and culturally appropriate
37 services, to the extent feasible, that are designed to enable
38 recipients to:

39 (A) Live in the most independent, least restrictive housing
40 feasible in the local community, and, for clients with children, to

1 live in a supportive housing environment that strives for
2 reunification with their children or assists clients in maintaining
3 custody of their children as is appropriate.

4 (B) Engage in the highest level of work or productive activity
5 appropriate to their abilities and experience.

6 (C) Create and maintain a support system consisting of friends,
7 family, and participation in community activities.

8 (D) Access an appropriate level of academic education or
9 vocational training.

10 (E) Obtain an adequate income.

11 (F) Self-manage their illnesses and exert as much control as
12 possible over both the day-to-day and long-term decisions that
13 affect their lives.

14 (G) Access necessary physical health care and maintain the best
15 possible physical health.

16 (H) Reduce or eliminate serious antisocial or criminal behavior,
17 and thereby reduce or eliminate their contact with the criminal
18 justice system.

19 (I) Reduce or eliminate the distress caused by the symptoms of
20 mental illness.

21 (J) Have freedom from dangerous addictive substances.

22 (5) The individual personal services plan shall describe the
23 service array that meets the requirements of paragraph (4), and to
24 the extent applicable to the individual, the requirements of
25 paragraph (2).

26 (b) A county that provides assisted outpatient treatment services
27 pursuant to this article also shall offer the same services on a
28 voluntary basis.

29 (c) Involuntary medication shall not be allowed absent a separate
30 order by the court pursuant to Sections 5332 to 5336, inclusive.

31 (d) A county that operates an assisted outpatient treatment
32 program pursuant to this article shall provide data to the State
33 Department of ~~Mental Health Care Services~~ and, based on the
34 data, the department shall report to the Legislature on or before
35 May 1 of each year in which the county provides services pursuant
36 to this article. The report shall include, at a minimum, an evaluation
37 of the effectiveness of the strategies employed by each program
38 operated pursuant to this article in reducing homelessness and
39 hospitalization of persons in the program and in reducing
40 involvement with local law enforcement by persons in the program.

1 The evaluation and report shall also include any other measures
2 identified by the department regarding persons in the program and
3 all of the following, based on information that is available:

4 (1) The number of persons served by the program and, of those,
5 the number who are able to maintain housing and the number who
6 maintain contact with the treatment system.

7 (2) The number of persons in the program with contacts with
8 local law enforcement, and the extent to which local and state
9 incarceration of persons in the program has been reduced or
10 avoided.

11 (3) The number of persons in the program participating in
12 employment services programs, including competitive employment.

13 (4) The days of hospitalization of persons in the program that
14 have been reduced or avoided.

15 (5) Adherence to prescribed treatment by persons in the program.

16 (6) Other indicators of successful engagement, if any, by persons
17 in the program.

18 (7) Victimization of persons in the program.

19 (8) Violent behavior of persons in the program.

20 (9) Substance abuse by persons in the program.

21 (10) Type, intensity, and frequency of treatment of persons in
22 the program.

23 (11) Extent to which enforcement mechanisms are used by the
24 program, when applicable.

25 (12) Social functioning of persons in the program.

26 (13) Skills in independent living of persons in the program.

27 (14) Satisfaction with program services both by those receiving
28 them and by their families, when relevant.

29 *SEC. 96. Section 5349 of the Welfare and Institutions Code is*
30 *amended to read:*

31 5349. This article shall be operative in those counties in which
32 the county board of supervisors, by resolution, authorizes its
33 application and makes a finding that no voluntary mental health
34 program serving adults, and no children's mental health program,
35 may be reduced as a result of the implementation of this article.
36 Compliance with this section shall be monitored by the State
37 Department of ~~Mental Health Care Services~~ as part of its review
38 and approval of county ~~Short-Doyle plans~~ *performance contracts*.

39 *SEC. 97. Section 5349.1 of the Welfare and Institutions Code*
40 *is amended to read:*

1 5349.1. (a) Counties that elect to implement this article, shall,
 2 in consultation with the ~~department~~ *State Department of Health*
 3 *Care Services*, client and family advocacy organizations, and other
 4 stakeholders, develop a training and education program for
 5 purposes of improving the delivery of services to mentally ill
 6 individuals who are, or who are at risk of being, involuntarily
 7 committed under this part. This training shall be provided to mental
 8 health treatment providers contracting with participating counties
 9 and to other individuals, including, but not limited to, mental health
 10 professionals, law enforcement officials, and certification hearing
 11 officers involved in making treatment and involuntary commitment
 12 decisions.

13 (b) The training shall include both of the following:

14 (1) Information relative to legal requirements for detaining a
 15 person for involuntary inpatient and outpatient treatment, including
 16 criteria to be considered with respect to determining if a person is
 17 considered to be gravely disabled.

18 (2) Methods for ensuring that decisions regarding involuntary
 19 treatment as provided for in this part direct patients toward the
 20 most effective treatment. Training shall include an emphasis on
 21 each patient’s right to provide informed consent to assistance.

22 *SEC. 98. Section 5358 of the Welfare and Institutions Code is*
 23 *amended to read:*

24 5358. (a) (1) When ordered by the court after the hearing
 25 required by this section, a conservator appointed pursuant to this
 26 chapter shall place his or her conservatee as follows:

27 (A) For a conservatee who is gravely disabled, as defined in
 28 subparagraph (A) of paragraph (1) of subdivision (h) of Section
 29 5008, in the least restrictive alternative placement, as designated
 30 by the court.

31 (B) For a conservatee who is gravely disabled, as defined in
 32 subparagraph (B) of paragraph (1) of subdivision (h) of Section
 33 5008, in a placement that achieves the purposes of treatment of
 34 the conservatee and protection of the public.

35 (2) The placement may include a medical, psychiatric, nursing,
 36 or other state-licensed facility, or a state hospital, county hospital,
 37 hospital operated by the Regents of the University of California,
 38 a United States government hospital, or other nonmedical facility
 39 approved by the State Department of ~~Mental Health~~ *Social Services*
 40 or an agency accredited by the State Department of ~~Mental Health~~

1 *Care Services*, or in addition to any of the foregoing, in cases of
2 chronic alcoholism, to a county alcoholic treatment center.

3 (b) A conservator shall also have the right, if specified in the
4 court order, to require his or her conservatee to receive treatment
5 related specifically to remedying or preventing the recurrence of
6 the conservatee's being gravely disabled, or to require his or her
7 conservatee to receive routine medical treatment unrelated to
8 remedying or preventing the recurrence of the conservatee's being
9 gravely disabled. Except in emergency cases in which the
10 conservatee faces loss of life or serious bodily injury, no surgery
11 shall be performed upon the conservatee without the conservatee's
12 prior consent or a court order obtained pursuant to Section 5358.2
13 specifically authorizing that surgery.

14 (c) (1) For a conservatee who is gravely disabled, as defined
15 in subparagraph (A) of paragraph (1) of subdivision (h) of Section
16 5008, if the conservatee is not to be placed in his or her own home
17 or the home of a relative, first priority shall be to placement in a
18 suitable facility as close as possible to his or her home or the home
19 of a relative. For the purposes of this section, suitable facility
20 means the least restrictive residential placement available and
21 necessary to achieve the purpose of treatment. At the time that the
22 court considers the report of the officer providing conservatorship
23 investigation specified in Section 5356, the court shall consider
24 available placement alternatives. After considering all the evidence
25 the court shall determine the least restrictive and most appropriate
26 alternative placement for the conservatee. The court shall also
27 determine those persons to be notified of a change of placement.
28 The fact that a person for whom conservatorship is recommended
29 is not an inpatient shall not be construed by the court as an
30 indication that the person does not meet the criteria of grave
31 disability.

32 (2) For a conservatee who is gravely disabled, as defined in
33 subparagraph (B) of paragraph (1) of subdivision (h) of Section
34 5008, first priority shall be placement in a facility that achieves
35 the purposes of treatment of the conservatee and protection of the
36 public. The court shall determine the most appropriate placement
37 for the conservatee. The court shall also determine those persons
38 to be notified of a change of placement, and additionally require
39 the conservator to notify the district attorney or attorney

1 representing the originating county prior to any change of
 2 placement.

3 (3) For any conservatee, if requested, the local mental health
 4 director shall assist the conservator or the court in selecting a
 5 placement facility for the conservatee. When a conservatee who
 6 is receiving services from the local mental health program is
 7 placed, the conservator shall inform the local mental health director
 8 of the facility’s location and any movement of the conservatee to
 9 another facility.

10 (d) (1) Except for a conservatee who is gravely disabled, as
 11 defined in subparagraph (B) of paragraph (1) of subdivision (h)
 12 of Section 5008, the conservator may transfer his or her conservatee
 13 to a less restrictive alternative placement without a further hearing
 14 and court approval. In any case in which a conservator has
 15 reasonable cause to believe that his or her conservatee is in need
 16 of immediate more restrictive placement because the condition of
 17 the conservatee has so changed that the conservatee poses an
 18 immediate and substantial danger to himself or herself or others,
 19 the conservator shall have the right to place his or her conservatee
 20 in a more restrictive facility or hospital. Notwithstanding Section
 21 5328, if the change of placement is to a placement more restrictive
 22 than the court-determined placement, the conservator shall provide
 23 written notice of the change of placement and the reason therefor
 24 to the court, the conservatee’s attorney, the county patient’s rights
 25 advocate and any other persons designated by the court pursuant
 26 to subdivision (c).

27 (2) For a conservatee who is gravely disabled, as defined in
 28 subparagraph (B) of paragraph (1) of subdivision (h) of Section
 29 5008, the conservator may not transfer his or her conservatee
 30 without providing written notice of the proposed change of
 31 placement and the reason therefor to the court, the conservatee’s
 32 attorney, the county patient’s rights advocate, the district attorney
 33 of the county that made the commitment, and any other persons
 34 designated by the court to receive notice. If any person designated
 35 to receive notice objects to the proposed transfer within 10 days
 36 after receiving notice, the matter shall be set for a further hearing
 37 and court approval. The notification and hearing is not required
 38 for the transfer of persons between state hospitals.

39 (3) At a hearing where the conservator is seeking placement to
 40 a less restrictive alternative placement pursuant to paragraph (2),

1 the placement shall not be approved where it is determined by a
2 preponderance of the evidence that the placement poses a threat
3 to the safety of the public, the conservatee, or any other individual.

4 (4) A hearing as to placement to a less restrictive alternative
5 placement, whether requested pursuant to paragraph (2) or pursuant
6 to Section 5358.3, shall be granted no more frequently than is
7 provided for in Section 5358.3.

8 *SEC. 99. Section 5366.1 of the Welfare and Institutions Code*
9 *is amended to read:*

10 5366.1. Any person detained as of June 30, 1969, under court
11 commitment, in a private institution, a county psychiatric hospital,
12 facility of the Veterans Administration, or other agency of the
13 United States government, community mental health service, or
14 detained in a state hospital or facility of the Veterans
15 Administration upon application of a local health officer, pursuant
16 to former Section 5567 or Sections 6000 to 6019, inclusive, as
17 they read immediately preceding July 1, 1969, may be detained,
18 after January 1, 1972, for a period no longer than 180 days, except
19 as provided in this section.

20 Any person detained pursuant to this section on the effective
21 date of this section shall be evaluated by the facility designated
22 by the county and approved by the State Department of ~~Mental~~
23 ~~Health~~ *Social Services* pursuant to Section 5150 as a facility for
24 72-hour treatment and evaluation. ~~Such~~ *The* evaluation shall be
25 made at the request of the person in charge of the institution in
26 which the person is detained. If in the opinion of the professional
27 person in charge of the evaluation and treatment facility or his *or*
28 *her* designee, the evaluation of the person can be made by ~~such~~
29 *the* professional person or his *or her* designee at the institution in
30 which the person is detained, the person shall not be required to
31 be evaluated at the evaluation and treatment facility, but shall be
32 evaluated at the institution where he *or she* is detained, or other
33 place to determine if the person is a danger to others, himself *or*
34 *herself*, or gravely disabled as a result of mental disorder.

35 Any person evaluated under this section shall be released from
36 the institution in which he *or she* is detained immediately upon
37 completion of the evaluation if in the opinion of the professional
38 person in charge of the evaluation and treatment facility, or his *or*
39 *her* designee, the person evaluated is not a danger to others, or to
40 himself *or herself*, or gravely disabled as a result of mental

1 disorder, unless the person agrees voluntarily to remain in the
2 institution in which he *or she* has been detained.

3 If in the opinion of the professional person in charge of the
4 facility or his *or her* designee, the person evaluated requires
5 intensive treatment or recommendation for conservatorship, ~~such~~
6 *the* professional person or his *or her* designee shall proceed under
7 Article 4 (commencing with Section 5250) of Chapter 2, or under
8 Chapter 3 (commencing with Section 5350), of Part 1 of Division
9 5.

10 If it is determined from the evaluation that the person is gravely
11 disabled and a recommendation for conservatorship is made, and
12 if the petition for conservatorship for ~~such~~ *the* person is not filed
13 by June 30, 1972, the court commitment or detention under a local
14 health officer application for ~~such~~ *the* person shall terminate and
15 the patient shall be released unless he *or she* agrees to accept
16 treatment on a voluntary basis.

17 *SEC. 100. Section 5370.2 of the Welfare and Institutions Code*
18 *is amended to read:*

19 ~~5370.2. (a) Beginning January 1, 1996, the~~ *The State*
20 ~~Department of Mental Health~~ *State Hospitals and the State*
21 *Department of Health Care Services* shall contract with a single
22 nonprofit agency that meets the criteria specified in subdivision
23 (b) of Section 5510 to conduct the ~~following~~ *activities specified*
24 *in paragraphs (1) to (4), inclusive. These two state departments*
25 *shall enter into a memorandum of understanding to ensure the*
26 *effective management of the contract and the required activities*
27 *affecting county patients' rights programs:*

28 (1) Provide patients' rights advocacy services for, and conduct
29 investigations of alleged or suspected abuse and neglect of,
30 including deaths of, persons with mental disabilities residing in
31 state hospitals.

32 (2) Investigate and take action as appropriate and necessary to
33 resolve complaints from or concerning recipients of mental health
34 services residing in licensed health or community care facilities
35 regarding abuse, and unreasonable denial, or punitive withholding
36 of rights guaranteed under this division that cannot be resolved by
37 county patients' rights advocates.

38 (3) Provide consultation, technical assistance, and support to
39 county patients' rights advocates in accordance with their duties
40 under Section 5520.

1 (4) Conduct program review of patients' rights programs.

2 (b) The services shall be provided in coordination with the
3 appropriate mental health patients' rights advocates.

4 (c) (1) The contractor shall develop a plan to provide patients'
5 rights advocacy services for, and conduct investigations of alleged
6 or suspected abuse and neglect of, including the deaths of, persons
7 with mental disabilities residing in state hospitals.

8 (2) The contractor shall develop the plan in consultation with
9 the statewide organization of mental health patients' rights
10 advocates, the statewide organization of mental health clients, and
11 the statewide organization of family members of persons with
12 mental disabilities, and the statewide organization of county mental
13 health directors.

14 (3) In order to ensure that persons with mental disabilities have
15 access to high quality advocacy services, the contractor shall
16 establish a grievance procedure and shall advise persons receiving
17 services under the contract of the availability of other advocacy
18 services, including services provided by the protection and
19 advocacy agency specified in Section 4901 and the county patients'
20 rights advocates specified in Section 5520.

21 (d) Nothing contained in this section shall be construed to restrict
22 or limit the authority of the department to conduct the reviews and
23 investigations it deems necessary for personnel, criminal, and
24 litigation purposes.

25 (e) The State Department of ~~Mental Health~~ *State Hospitals and*
26 *the State Department of Health Care Services* shall jointly contract
27 on a multiyear basis for a contract term of up to five years.

28 *SEC. 101. Section 5400 of the Welfare and Institutions Code*
29 *is amended to read:*

30 5400. The Director of ~~Mental Health Care Services~~ shall
31 administer this part and shall adopt rules, regulations, and standards
32 as necessary. In developing rules, regulations, and standards, the
33 Director of ~~Mental Health Care Services~~ shall consult with the
34 California ~~Conference of Local Mental Health Directors~~
35 *Association*, the California ~~Council on Mental Health Planning~~
36 *Council*, and the office of the Attorney General. Adoption of ~~such~~
37 *these* standards, rules, and regulations shall require approval by
38 the California ~~Conference of Local Mental Health Directors~~
39 *Association* by majority vote of those present at an official session.

1 Wherever feasible and appropriate, rules, regulations, and
2 standards adopted under this part shall correspond to comparable
3 rules, regulations, and standards adopted under the ~~Short-Doyle~~
4 ~~Bronzan-McCorquodale Act.~~ ~~Such~~ These corresponding rules,
5 regulations, and standards shall include qualifications for
6 professional personnel.

7 Regulations adopted pursuant to this part may provide standards
8 for services for chronic alcoholics which differ from the standards
9 for services for the mentally disordered.

10 *SEC. 102. Section 5402 of the Welfare and Institutions Code*
11 *is amended to read:*

12 5402. (a) The State Department of ~~Mental Health Care~~
13 ~~Services~~ shall collect and publish annually quantitative information
14 concerning the operation of this division including the number of
15 persons admitted for 72-hour evaluation and treatment, 14-day
16 and 30-day periods of intensive treatment, and 180-day
17 postcertification intensive treatment, the number of persons
18 transferred to mental health facilities pursuant to Section 4011.6
19 of the Penal Code, the number of persons for whom temporary
20 conservatorships are established, and the number of persons for
21 whom conservatorships are established in each county.

22 (b) Each local mental health director, and each facility providing
23 services to persons pursuant to this division, shall provide the
24 department, upon its request, with any information, records, and
25 reports which the department deems necessary for the purposes of
26 this section. The department shall not have access to any patient
27 name identifiers.

28 (c) Information published pursuant to this section shall not
29 contain patient name identifiers and shall contain statistical data
30 only.

31 (d) The department shall make the reports available to medical,
32 legal, and other professional groups involved in the implementation
33 of this division.

34 *SEC. 103. Section 5404 of the Welfare and Institutions Code*
35 *is amended to read:*

36 5404. (a) Each county may designate facilities, which are not
37 hospitals or clinics, as 72-hour evaluation and treatment facilities
38 and as 14-day intensive treatment facilities if ~~such~~ *the* facilities
39 meet ~~such~~ *those* requirements as the Director of ~~Mental Health~~
40 ~~Social Services~~ shall establish by regulation. The Director of

1 ~~Mental Health~~ *Social Services* shall encourage the use by counties
2 of appropriate facilities, which are not hospitals or clinics, for the
3 evaluation and treatment of patients pursuant to this part.

4 *(b) All regulations relating to the approval of facilities*
5 *designated by the county for 72-hour treatment and evaluation*
6 *and 14-day intensive treatment facilities, heretofore adopted by*
7 *the State Department of Mental Health, shall remain in effect and*
8 *shall be fully enforceable by the State Department of Social*
9 *Services with respect to any facility or program required to be*
10 *approved as a facility for 72-hour treatment and evaluation and*
11 *14-day intensive treatment facilities, unless and until readopted,*
12 *amended, or repealed by the Director of Social Services. The State*
13 *Department of Social Services shall succeed to and be vested with*
14 *all duties, powers, purposes, functions, responsibilities, and*
15 *jurisdiction of the State Department of Mental Health as they relate*
16 *to approval of facilities for 72-hour treatment and evaluation and*
17 *14-day intensive treatment facilities.*

18 *SEC. 104. Section 5405 of the Welfare and Institutions Code*
19 *is amended to read:*

20 5405. (a) This section shall apply to each facility licensed by
21 the State ~~Department of Mental Health~~ *Department of Social*
22 *Services*, or its delegated agent, on or after January 1, 2003. For
23 purposes of this section, “facility” ~~includes~~ *means* psychiatric
24 health facilities, as defined in Section 1250.2 of the Health and
25 Safety Code, licensed pursuant to Chapter 9 (commencing with
26 Section 77001) of Division 5 of Title 22 of the California Code of
27 Regulations and mental health rehabilitation centers licensed
28 pursuant to Chapter 3.5 (commencing with Section 781.00) of
29 Division 1 of Title 9 of the California Code of Regulations.

30 (b) (1) (A) Prior to the initial licensure or first renewal of a
31 license on or after January 1, 2003, of any person to operate or
32 manage a facility specified in subdivision (a), the department shall
33 submit fingerprint images and related information pertaining to
34 the applicant or licensee to the Department of Justice for purposes
35 of a criminal record check, as specified in paragraph (2), at the
36 expense of the applicant or licensee. The Department of Justice
37 shall provide the results of the criminal record check to the
38 department. The department may take into consideration
39 information obtained from or provided by other government
40 agencies. The department shall determine whether the applicant

1 or licensee has ever been convicted of a crime specified in
2 subdivision (c). The department shall submit fingerprint images
3 and related information each time the position of administrator,
4 manager, program director, or fiscal officer of a facility is filled
5 and prior to actual employment for initial licensure or an individual
6 who is initially hired on or after January 1, 2003. For purposes of
7 this subdivision, “applicant” and “licensee” include the
8 administrator, manager, program director, or fiscal officer of a
9 facility.

10 (B) Commencing ~~January 1, 2003~~ *July 1, 2012*, upon the
11 employment of, or contract with or for, any direct care staff the
12 ~~department~~ *State Department of Social Services* shall submit
13 fingerprint images and related information pertaining to the direct
14 care staff person to the Department of Justice for purposes of a
15 criminal record check, as specified in paragraph (2), at the expense
16 of the direct care staff person or licensee. The Department of
17 Justice shall provide the results of the criminal record check to the
18 department. The department shall determine whether the direct
19 care staff person has ever been convicted of a crime specified in
20 subdivision (c). The department shall notify the licensee of these
21 results. No direct client contact by the trainee or newly hired staff,
22 or by any direct care contractor shall occur prior to clearance by
23 the department unless the trainee, newly hired employee,
24 contractor, or employee of the contractor is constantly supervised.

25 (C) Commencing ~~January 1, 2003~~ *July 1, 2012*, any contract
26 for services provided directly to patients or residents shall contain
27 provisions to ensure that the direct services contractor submits to
28 the ~~department~~ *State Department of Social Services* fingerprint
29 images and related information pertaining to the direct services
30 contractor for submission to the Department of Justice for purposes
31 of a criminal record check, as specified in paragraph (2), at the
32 expense of the direct services contractor or licensee. The
33 Department of Justice shall provide the results of the criminal
34 record check to the department. The department shall determine
35 whether the direct services contractor has ever been convicted of
36 a crime specified in subdivision (c). The department shall notify
37 the licensee of these results.

38 (2) If the applicant, licensee, direct care staff person, or direct
39 services contractor specified in paragraph (1) has resided in
40 California for at least the previous seven years, the ~~department~~

1 *State Department of Social Services* shall only require the
2 submission of one set of fingerprint images and related information.
3 The Department of Justice shall charge a fee sufficient to cover
4 the reasonable cost of processing the fingerprint submission.
5 Fingerprints and related information submitted pursuant to this
6 subdivision include fingerprint images captured and transmitted
7 electronically. When requested, the Department of Justice shall
8 forward one set of fingerprint images to the Federal Bureau of
9 Investigation for the purpose of obtaining any record of previous
10 convictions or arrests pending adjudication of the applicant,
11 licensee, direct care staff person, or direct services contractor. The
12 results of a criminal record check provided by the Department of
13 Justice shall contain every conviction rendered against an applicant,
14 licensee, direct care staff person, or direct services contractor, and
15 every offense for which the applicant, licensee, direct care staff
16 person, or direct services contractor is presently awaiting trial,
17 whether the person is incarcerated or has been released on bail or
18 on his or her own recognizance pending trial. The department shall
19 request subsequent arrest notification from the Department of
20 Justice pursuant to Section 11105.2 of the Penal Code.

21 (3) An applicant and any other person specified in this
22 subdivision, as part of the background clearance process, shall
23 provide information as to whether or not the person has any prior
24 criminal convictions, has had any arrests within the past 12-month
25 period, or has any active arrests, and shall certify that, to the best
26 of his or her knowledge, the information provided is true. This
27 requirement is not intended to duplicate existing requirements for
28 individuals who are required to submit fingerprint images as part
29 of a criminal background clearance process. Every applicant shall
30 provide information on any prior administrative action taken
31 against him or her by any federal, state, or local government agency
32 and shall certify that, to the best of his or her knowledge, the
33 information provided is true. An applicant or other person required
34 to provide information pursuant to this section that knowingly or
35 willfully makes false statements, representations, or omissions
36 may be subject to administrative action, including, but not limited
37 to, denial of his or her application or exemption or revocation of
38 any exemption previously granted.

39 (c) (1) ~~The department~~ *The State Department of Social Services*
40 shall deny any application for any license, suspend or revoke any

1 existing license, and disapprove or revoke any employment or
 2 contract for direct services, if the applicant, licensee, employee,
 3 or direct services contractor has been convicted of, or incarcerated
 4 for, a felony defined in subdivision (c) of Section 667.5 of, or
 5 subdivision (c) of Section 1192.7 of, the Penal Code, within the
 6 preceding 10 years.

7 (2) The application for licensure or renewal of any license shall
 8 be denied, and any employment or contract to provide direct
 9 services shall be disapproved or revoked, if the criminal record of
 10 the person includes a conviction in another jurisdiction for an
 11 offense that, if committed or attempted in this state, would have
 12 been punishable as one or more of the offenses referred to in
 13 paragraph (1).

14 (d) (1) ~~The department~~ *The State Department of Social Services*
 15 may approve an application for, or renewal of, a license, or
 16 continue any employment or contract for direct services, if the
 17 person has been convicted of a misdemeanor offense that is not a
 18 crime upon the person of another, the nature of which has no
 19 bearing upon the duties for which the person will perform as a
 20 licensee, direct care staff person, or direct services contractor. In
 21 determining whether to approve the application, employment, or
 22 contract for direct services, the department shall take into
 23 consideration the factors enumerated in paragraph (2).

24 (2) Notwithstanding subdivision (c), if the criminal record of a
 25 person indicates any conviction other than a minor traffic violation,
 26 ~~the department~~ *State Department of Social Services* may deny the
 27 application for license or renewal, and may disapprove or revoke
 28 any employment or contract for direct services. In determining
 29 whether or not to deny the application for licensure or renewal, or
 30 to disapprove or revoke any employment or contract for direct
 31 services, the department shall take into consideration the following
 32 factors:

33 (A) The nature and seriousness of the offense under
 34 consideration and its relationship to the person's employment,
 35 duties, and responsibilities.

36 (B) Activities since conviction, including employment or
 37 participation in therapy or education, that would indicate changed
 38 behavior.

39 (C) The time that has elapsed since the commission of the
 40 conduct or offense and the number of offenses.

1 (D) The extent to which the person has complied with any terms
2 of parole, probation, restitution, or any other sanction lawfully
3 imposed against the person.

4 (E) Any rehabilitation evidence, including character references,
5 submitted by the person.

6 (F) Employment history and current employer recommendations.

7 (G) Circumstances surrounding the commission of the offense
8 that would demonstrate the unlikelihood of repetition.

9 (H) The granting by the Governor of a full and unconditional
10 pardon.

11 (I) A certificate of rehabilitation from a superior court.

12 (e) Denial, suspension, or revocation of a license, or disapproval
13 or revocation of any employment or contract for direct services
14 specified in subdivision (c) and paragraph (2) of subdivision (d)
15 are not subject to appeal, except as provided in subdivision (f).

16 (f) After a review of the record, the director may grant an
17 exemption from denial, suspension, or revocation of any license,
18 or disapproval of any employment or contract for direct services,
19 if the crime for which the person was convicted was a property
20 crime that did not involve injury to any person and the director
21 has substantial and convincing evidence to support a reasonable
22 belief that the person is of such good character as to justify issuance
23 or renewal of the license or approval of the employment or contract.

24 (g) A plea or verdict of guilty, or a conviction following a plea
25 of nolo contendere shall be deemed a conviction within the
26 meaning of this section. ~~The department~~ *State Department of Social*
27 *Services* may deny any application, or deny, suspend, or revoke a
28 license, or disapprove or revoke any employment or contract for
29 direct services based on a conviction specified in subdivision (c)
30 when the judgment of conviction is entered or when an order
31 granting probation is made suspending the imposition of sentence.

32 (h) (1) For purposes of this section, “direct care staff” means
33 any person who is an employee, contractor, or volunteer who has
34 contact with other patients or residents in the provision of services.
35 Administrative and licensed personnel shall be considered direct
36 care staff when directly providing program services to participants.

37 (2) An additional background check shall not be required
38 pursuant to this section if the direct care staff or licensee has
39 received a prior criminal history background check while working
40 in a mental health rehabilitation center or psychiatric health facility

1 licensed by the ~~department~~ *State Department of Social Services*,
 2 and provided the department has maintained continuous subsequent
 3 arrest notification on the individual from the Department of Justice
 4 since the prior criminal background check was initiated.

5 (3) When an application is denied on the basis of a conviction
 6 pursuant to this section, the ~~department~~ *State Department of Social*
 7 *Services* shall provide the individual whose application was denied
 8 with notice, in writing, of the specific grounds for the proposed
 9 denial.

10 *SEC. 105. The heading of Article 2 (commencing with Section*
 11 *5510) of Chapter 6.2 of Part 1 of Division 5 of the Welfare and*
 12 *Institutions Code is amended to read:*

13
 14 *Article 2. Patients’ Rights-Office Program*

15
 16 *SEC. 106. Section 5510 of the Welfare and Institutions Code*
 17 *is amended to read:*

18 5510. (a) The Legislature finds and declares as follows:

19 (1) The State of California accepts its responsibility to ensure
 20 and uphold the right of persons with mental disabilities and an
 21 obligation, to be executed by the State Department of ~~Mental~~
 22 ~~Health~~ *State Hospitals and the State Department of Health Care*
 23 *Services*, to ensure that mental health laws, regulations and policies
 24 on the rights of recipients of mental health services are observed
 25 and protected in state hospitals and in licensed health and
 26 community care facilities.

27 (2) Persons with mental ~~disabilities~~ *illness* are vulnerable to
 28 abuse, neglect, and unreasonable and unlawful deprivations of
 29 their rights.

30 (3) Patients’ rights advocacy and investigative services
 31 concerning patient abuse and neglect ~~currently~~ *previously* provided
 32 by the *State Department of Mental Health, including the Office of*
 33 *Human Rights and investigator, and state hospitals’ patients’*
 34 *rights advocates and state hospital investigators and transferred*
 35 *to the State Department of Health Care Services and the State*
 36 *Department of Mental Health, including the department’s Office*
 37 *of Human Rights and investigator, and state hospital patients’*
 38 *rights advocates and state hospital investigators State Hospitals,*
 39 may have *had or have* conflicts of interest or the appearance of a
 40 conflict of interest.

1 (4) The services provided to patients and their families ~~is~~ *are*
2 of such a special and unique nature that they must be contracted
3 out pursuant to paragraph (3) of subdivision (b) of Section 19130
4 of the Government Code.

5 (b) Therefore, to avoid the potential for a conflict of interest or
6 the appearance of a conflict of interest, it is the intent of the
7 Legislature that the patients' rights advocacy and investigative
8 services described in this article be provided by a single contractor
9 specified in Section 5370.2 that meets both of the following
10 criteria:

11 (1) The contractor can demonstrate the capability to provide
12 statewide advocacy services for persons with mental disabilities.

13 (2) The contractor has no direct or indirect responsibility for
14 providing services to persons with mental disabilities, except
15 advocacy services.

16 (c) For the purposes of this article, the Legislature further finds
17 and declares, because of a potential conflict of interest or the
18 appearance of a conflict of interest, that the goals and purposes of
19 the state patients' rights advocacy and investigative services cannot
20 be accomplished through the utilization of persons selected
21 pursuant to the regular state civil service system. Accordingly, the
22 contracts into which the department enters pursuant to this section
23 are permitted and authorized by paragraphs (3) and (5) of
24 subdivision (b) of Section 19130 of the Government Code. ~~The~~

25 (d) ~~The State Department of Mental Health~~ *State Hospitals and*
26 *the State Department of Health Care Services* shall contract with
27 a single nonprofit entity to provide for the protection and advocacy
28 services to persons with mental disabilities, *as specified in Section*
29 *5370.2. The State Department of Health Care Services and the*
30 *State Department of State Hospitals shall enter into a memorandum*
31 *of understanding to ensure the effective management of the contract*
32 *and the required activities affecting county patients' rights*
33 *programs.* The entity shall be responsible for ensuring that mental
34 health laws, regulations, and policies on the rights of recipients of
35 mental health services are observed in state hospitals and in
36 licensed health and community care facilities.

37 (d)

38 (e) The findings and declarations of potential conflict of interest
39 provided in this section shall not apply to advocacy services
40 provided under Article 3 (commencing with Section 5520).

1 *SEC. 107. Section 5513 of the Welfare and Institutions Code*
2 *is amended to read:*

3 5513. ~~The Patients' Rights Office~~ *patients' rights program*
4 shall serve as a liaison between county patients' rights advocates
5 and the State Department of ~~Mental Health Care Services~~.

6 *SEC. 108. Section 5514 of the Welfare and Institutions Code*
7 *is amended to read:*

8 5514. There shall be a five-person Patients' Rights
9 ~~Subcommittee of the California Council on Mental Health~~
10 ~~Committee formed through the California Mental Health Planning~~
11 ~~Council. This subcommittee committee~~, supplemented by two ad
12 hoc members appointed by the chairperson of the ~~subcommittee~~
13 ~~committee~~, shall advise the Director of ~~Mental Health Care Services~~
14 ~~and the Director of State Hospitals~~ regarding department policies
15 and practices that affect patients' rights. The ~~subcommittee~~
16 ~~committee~~ shall also review the advocacy and patients' rights
17 components of each county ~~Short-Doyle mental health plan or~~
18 ~~performance contract~~ and advise the Director of ~~Mental Health~~
19 ~~Care Services and the Director of State Hospitals~~ concerning the
20 adequacy of each plan ~~or performance contract~~ in protecting
21 patients' rights. The ad hoc members of the ~~subcommittee~~
22 ~~committee~~ shall be persons with substantial experience in
23 establishing and providing independent advocacy services to
24 recipients of mental health services.

25 *SEC. 109. Section 5520 of the Welfare and Institutions Code*
26 *is amended to read:*

27 5520. Each local mental health director shall appoint, or
28 contract for the services of, one or more county patients' rights
29 advocates. The duties of these advocates shall include, but not be
30 limited to, the following:

31 (a) To receive and investigate complaints from or concerning
32 recipients of mental health services residing in licensed health or
33 community care facilities regarding abuse, unreasonable denial or
34 punitive withholding of rights guaranteed under the provisions of
35 Division 5 (commencing with Section 5000).

36 (b) To monitor mental health facilities, services and programs
37 for compliance with statutory and regulatory patients' rights
38 provisions.

39 (c) To provide training and education about mental health law
40 and patients' rights to mental health providers.

1 (d) To ensure that recipients of mental health services in all
2 licensed health and community care facilities are notified of their
3 rights.

4 (e) To exchange information and cooperate with the ~~Patients’~~
5 ~~Rights Office~~ *patients’ rights program*.

6 This section does not constitute a change in, but is declarative
7 of the existing law.

8 *SEC. 110. Section 5530 of the Welfare and Institutions Code*
9 *is amended to read:*

10 5530. (a) County patients’ rights advocates shall have access
11 to all clients and other recipients of mental health services in any
12 mental health facility, program, or service at all times as are
13 necessary to investigate or resolve specific complaints and in
14 accord with subdivision (b) of Section 5523. County patients’
15 rights advocates shall have access to mental health facilities,
16 programs, and services, and recipients of services therein during
17 normal working hours and visiting hours for other advocacy
18 purposes. Advocates may appeal any denial of access directly to
19 the head of any facility, the director of a county mental health
20 program, or the State Department of ~~Mental Health Care Services~~,
21 or may seek appropriate relief in the courts. If a petition to a court
22 sets forth prima facie evidence for relief, a hearing on the merits
23 of the petition shall be held within two judicial days of the filing
24 of the petition. The superior court for the county in which the
25 facility is located shall have jurisdiction to review petitions filed
26 pursuant to this chapter.

27 (b) County patients’ rights advocates shall have the right to
28 interview all persons providing the client with diagnostic or
29 treatment services.

30 (c) Upon request, all mental health facilities shall, when
31 available, provide reasonable space for county patients’ rights
32 advocates to interview clients in privacy and shall make appropriate
33 staff persons available for interview with the advocates in
34 connection with pending matters.

35 (d) Individual patients shall have a right to privacy which shall
36 include the right to terminate any visit by persons who have access
37 pursuant to this chapter and the right to refuse to see any patient
38 advocate.

39 (e) Notice of the availability of advocacy services and
40 information about patients’ rights may be provided by county

1 patients' rights advocates by means of distribution of educational
2 materials and discussions in groups and with individual patients.

3 *SEC. 111. Section 5585.21 of the Welfare and Institutions Code*
4 *is amended to read:*

5 5585.21. The Director of ~~Mental Health~~ *Social Services* may
6 promulgate regulations as necessary to implement and clarify the
7 provisions of this part as they relate to minors.

8 *SEC. 112. Section 5585.22 of the Welfare and Institutions Code*
9 *is amended to read:*

10 5585.22. The Director of ~~Mental Health~~ *Health Care Services*,
11 in consultation with the California ~~Conference of Local Mental~~
12 *Health Directors Association*, may develop the appropriate
13 educational materials and a training curriculum, and may provide
14 training as necessary to ~~assure~~ *ensure that* those persons providing
15 services pursuant to this part fully understand its purpose.

16 *SEC. 113. Section 5585.50 of the Welfare and Institutions Code*
17 *is amended to read:*

18 5585.50. When any minor, as a result of mental disorder, is a
19 danger to others, or to himself or herself, or gravely disabled and
20 authorization for voluntary treatment is not available, a peace
21 officer, member of the attending staff, as defined by regulation,
22 of an evaluation facility designated by the county, designated
23 members of a mobile crisis team provided by Section 5651.7, or
24 other professional person designated by the county may, upon
25 probable cause, take, or cause to be taken, the minor into custody
26 and place him or her in a facility designated by the county and
27 approved by the State Department of ~~Mental Health~~ *Social Services*
28 as a facility for ~~seventy-two hour~~ *72-hour* treatment and evaluation
29 of minors. The facility shall make every effort to notify the minor's
30 parent or legal guardian as soon as possible after the minor is
31 detained.

32 The facility shall require an application in writing stating the
33 circumstances under which the minor's condition was called to
34 the attention of the officer, member of the attending staff, or
35 professional person, and stating that the officer, member of the
36 attending staff, or professional person has probable cause to believe
37 that the minor is, as a result of mental disorder, a danger to others,
38 or to himself or herself, or gravely disabled and authorization for
39 voluntary treatment is not available. If the probable cause is based
40 on the statement of a person other than the officer, member of the

1 attending staff, or professional person, the person shall be liable
2 in a civil action for intentionally giving a statement which he or
3 she knows to be false.

4 *SEC. 114. Section 5585.55 of the Welfare and Institutions Code*
5 *is amended to read:*

6 5585.55. The minor committed for involuntary treatment under
7 this part shall be placed in a health facility designated by the county
8 and approved by the State Department of ~~Mental Health Social~~
9 ~~Services~~ as a facility for 72-hour evaluation and treatment. Except
10 as provided for in Section 5751.7, each county shall ~~assure~~ *ensure*
11 that minors under ~~the age of~~ 16 years *of age* are not held with
12 adults receiving psychiatric treatment under the provisions of the
13 Lanterman-Petris-Short Act (Part 1 (commencing with Section
14 5000)).

15 *SEC. 115. Section 5600.8 of the Welfare and Institutions Code*
16 *is repealed.*

17 5600.8. ~~(a) The department may allocate the funds appropriated~~
18 ~~in Schedule (2) of Item 4440-101-0001 of the annual Budget Act,~~
19 ~~to county mental health programs that meet programmatic goals~~
20 ~~and model adult system of care programs to the satisfaction of the~~
21 ~~department. The department shall audit and monitor the use of~~
22 ~~these funds to ensure they are used solely in support of Adult~~
23 ~~System of Care programming. If county programs receiving adult~~
24 ~~system of care funding do not comply with program and audit~~
25 ~~requirements determined by the department, funding shall be~~
26 ~~redistributed to other counties to implement, expand, or model~~
27 ~~adult systems of care.~~

28 ~~(b) The department may allocate the funds appropriated in~~
29 ~~Schedule (3) of Item 4440-101-0001 of the annual Budget Act, to~~
30 ~~county mental health programs for Children's System of Care~~
31 ~~programming. These funds shall be utilized by counties only in~~
32 ~~support of a mental health system serving seriously emotionally~~
33 ~~disturbed children, in accordance with the principles and program~~
34 ~~requirements associated with the system of care model, as set forth~~
35 ~~in Part 4 (commencing with Section 5850). The department shall~~
36 ~~audit and monitor the use of these funds to ensure they are used~~
37 ~~solely in support of the Children's System of Care program. If~~
38 ~~county programs receiving children's system of care funding do~~
39 ~~not comply with program and audit requirements determined by~~
40 ~~the department, funds shall be redistributed to other counties to~~

1 ~~implement, expand, or model children’s system of care~~
2 ~~programming.~~

3 *SEC. 116. Section 5601 of the Welfare and Institutions Code*
4 *is amended to read:*

5 5601. As used in this part:

6 (a) “Governing body” means the county board of supervisors
7 or boards of supervisors in the case of counties acting jointly; and
8 in the case of a city, the city council or city councils acting jointly.

9 (b) “Conference” means the ~~California Conference of Local~~
10 ~~Mental Health Directors Association~~ as established under *former*
11 *Section 5757.*

12 (c) Unless the context requires otherwise, “to the extent
13 resources are available” means to the extent that funds deposited
14 in the mental health account of the local health and welfare fund
15 are available to an entity qualified to use those funds.

16 (d) “Part 1” refers to the Lanterman-Petris-Short Act (Part 1
17 commencing with Section 5000)).

18 (e) “~~Director of Mental Health~~ *Health Care Services*” or
19 “director” means the Director of the State Department of ~~Mental~~
20 *Health Care Services.*

21 (f) “Institution” includes a general acute care hospital, a state
22 hospital, a psychiatric hospital, a psychiatric health facility, a
23 skilled nursing facility, including an institution for mental disease
24 as described in Chapter 1 (commencing with Section 5900) of Part
25 5, an intermediate care facility, a community care facility or other
26 residential treatment facility, or a juvenile or criminal justice
27 institution.

28 (g) “Mental health service” means any service directed toward
29 early intervention in, or alleviation or prevention of, mental
30 disorder, including, but not limited to, diagnosis, evaluation,
31 treatment, personal care, day care, respite care, special living
32 arrangements, community skill training, sheltered employment,
33 socialization, case management, transportation, information,
34 referral, consultation, and community services.

35 *SEC. 117. Section 5602 of the Welfare and Institutions Code*
36 *is amended to read:*

37 5602. The board of supervisors of every county, or the boards
38 of supervisors of counties acting under the joint powers provisions
39 of Article 1 (commencing with Section 6500) of Chapter 5 of
40 Division 7 of Title 1 of the Government Code shall establish a

1 community mental health service to cover the entire area of the
2 county or counties. Services of the State Department of ~~Mental~~
3 *Health Care Services* shall be provided to the county, or counties
4 acting jointly, or, if both parties agree, the state facilities may, in
5 whole or in part, be leased, rented or sold to the county or counties
6 for county operation, subject to terms and conditions approved by
7 the Director of General Services.

8 *SEC. 118. Section 5604 of the Welfare and Institutions Code*
9 *is amended to read:*

10 5604. (a) (1) Each community mental health service shall
11 have a mental health board consisting of 10 to 15 members,
12 depending on the preference of the county, appointed by the
13 governing body, except that boards in counties with a population
14 of less than 80,000 may have a minimum of five members. One
15 member of the board shall be a member of the local governing
16 body. Any county with more than five supervisors shall have at
17 least the same number of members as the size of its board of
18 supervisors. Nothing in this section shall be construed to limit the
19 ability of the governing body to increase the number of members
20 above 15. Local mental health boards may recommend appointees
21 to the county supervisors. Counties are encouraged to appoint
22 individuals who have experience and knowledge of the mental
23 health system. The board membership should reflect the ethnic
24 diversity of the client population in the county.

25 (2) Fifty percent of the board membership shall be consumers
26 or the parents, spouses, siblings, or adult children of consumers,
27 who are receiving or have received mental health services. At least
28 20 percent of the total membership shall be consumers, and at least
29 20 percent shall be families of consumers.

30 (3) (A) In counties under 80,000 population, at least one
31 member shall be a consumer, and at least one member shall be a
32 parent, spouse, sibling, or adult child of a consumer, who is
33 receiving, or has received, mental health services.

34 (B) Notwithstanding subparagraph (A), a board in a county with
35 a population under 80,000 that elects to have the board exceed the
36 five-member minimum permitted under paragraph (1) shall be
37 required to comply with paragraph (2).

38 (b) The term of each member of the board shall be for three
39 years. The governing body shall equitably stagger the appointments

1 so that approximately one-third of the appointments expire in each
2 year.

3 (c) If two or more local agencies jointly establish a community
4 mental health service under Article 1 (commencing with Section
5 6500) of Chapter 5 of Division 7 of Title 1 of the Government
6 Code, the mental health board for the community mental health
7 service shall consist of an additional two members for each
8 additional agency, one of whom shall be a consumer or a parent,
9 spouse, sibling, or adult child of a consumer who has received
10 mental health services.

11 (d) No member of the board or his or her spouse shall be a
12 full-time or part-time county employee of a county mental health
13 service, an employee of the State Department of ~~Mental Health~~
14 *Care Services*, or an employee of, or a paid member of the
15 governing body of, a mental health contract agency.

16 (e) Members of the board shall abstain from voting on any issue
17 in which the member has a financial interest as defined in Section
18 87103 of the Government Code.

19 (f) If it is not possible to secure membership as specified from
20 among persons who reside in the county, the governing body may
21 substitute representatives of the public interest in mental health
22 who are not full-time or part-time employees of the county mental
23 health service, the State Department of ~~Mental Health Care~~
24 *Services*, or on the staff of, or a paid member of the governing
25 body of, a mental health contract agency.

26 (g) The mental health board may be established as an advisory
27 board or a commission, depending on the preference of the county.

28 *SEC. 119. Section 5607 of the Welfare and Institutions Code*
29 *is amended to read:*

30 5607. The local mental health services shall be administered
31 by a local director of mental health services to be appointed by the
32 governing body. He *or she* shall meet such standards of training
33 and experience as the State Department of ~~Mental Health Care~~
34 *Services*, by regulation, shall require. Applicants for ~~such~~ *these*
35 positions need not be residents of the city, county, or state, and
36 may be employed on a full or part-time basis. If a county is unable
37 to secure the services of a person who meets the standards of the
38 State Department of ~~Mental Health Care Services~~, the county may
39 select an alternate administrator ~~subject to the approval of the~~
40 ~~Director of Mental Health~~.

1 *SEC. 120. Section 5610 of the Welfare and Institutions Code*
2 *is amended to read:*

3 5610. (a) Each county mental health system shall comply with
4 reporting requirements developed by the State Department of
5 Mental Health Care Services, in consultation with the California
6 Mental Health Planning Council and the Mental Health Services
7 Oversight and Accountability Commission, which shall be uniform
8 and simplified. The department shall review existing data
9 requirements to eliminate unnecessary requirements and
10 consolidate requirements which are necessary. These requirements
11 shall provide comparability between counties in reports.

12 (b) The department shall develop, in consultation with the
13 Performance Outcome Committee, the California Mental Health
14 Planning Council, and the Mental Health Services Oversight and
15 Accountability Commission, pursuant to Section 5611, and with
16 the California Health and ~~Welfare~~ Human Services Agency,
17 uniform definitions and formats for a statewide, nonduplicative
18 client-based information system that includes all information
19 necessary to meet federal mental health grant requirements and
20 state and federal ~~medicaid~~ Medicaid reporting requirements, as
21 well as any other state requirements established by law. The data
22 system, including performance outcome measures reported
23 pursuant to Section 5613, shall be developed by July 1, 1992.

24 (c) Unless determined necessary by the department to comply
25 with federal law and regulations, the data system developed
26 pursuant to subdivision (b) shall not be more costly than that in
27 place during the 1990–91 fiscal year.

28 (d) (1) The department shall develop unique client identifiers
29 that permit development of client-specific cost and outcome
30 measures and related research and analysis.

31 (2) The department's collection and use of client information,
32 and the development and use of client identifiers, shall be
33 consistent with clients' constitutional and statutory rights to privacy
34 and confidentiality.

35 (3) Data reported to the department may include name and other
36 personal identifiers. That information is confidential and subject
37 to Section 5328 and any other state and federal laws regarding
38 confidential client information.

1 (4) Personal client identifiers reported to the department shall
 2 be protected to ensure confidentiality during transmission and
 3 storage through encryption and other appropriate means.

4 (5) Information reported to the department may be shared with
 5 local public mental health agencies submitting records for the same
 6 person and that information is subject to Section 5328.

7 (e) All client information reported to the department pursuant
 8 to Chapter 2 (commencing with Section 4030) of Part 1 of Division
 9 4 and Sections 5328 to ~~5780~~ 5772.5, inclusive, *Chapter 8.9*
 10 (*commencing with Section 14700*), and any other state and federal
 11 laws regarding reporting requirements, consistent with Section
 12 5328, shall not be used for purposes other than those purposes
 13 expressly stated in the reporting requirements referred to in this
 14 subdivision.

15 (f) The department may adopt emergency regulations to
 16 implement this section in accordance with the Administrative
 17 Procedure Act, Chapter 3.5 (commencing with Section 11340) of
 18 Part 1 of Division 3 of Title 2 of the Government Code. The
 19 adoption of emergency regulations to implement this section that
 20 are filed with the Office of Administrative Law within one year
 21 of the date on which the act that added this subdivision took effect
 22 shall be deemed to be an emergency and necessary for the
 23 immediate preservation of the public peace, health and safety, or
 24 general welfare and shall remain in effect for no more than 180
 25 days.

26 *SEC. 121. Section 5650 of the Welfare and Institutions Code*
 27 *is amended to read:*

28 5650. (a) The board of supervisors of each county, or boards
 29 of supervisors of counties acting jointly, shall adopt, and submit
 30 to the Director of ~~Mental Health~~ *Health Care Services* in the form
 31 and according to the procedures specified by the director, a
 32 proposed annual county mental health services performance
 33 contract for mental health services in the county or counties.

34 (b) The State Department of ~~Mental Health~~ *Health Care Services*
 35 shall develop and implement the requirements, format, procedure,
 36 and submission dates for the preparation and submission of the
 37 proposed performance contract.

38 *SEC. 122. Section 5651 of the Welfare and Institutions Code*
 39 *is amended to read:*

1 5651. The proposed annual county mental health services
2 performance contract shall include all of the following:

3 (a) The following assurances:

4 (1) That the county is in compliance with the expenditure
5 requirements of Section 17608.05.

6 (2) That the county shall provide services to persons receiving
7 involuntary treatment as required by Part 1 (commencing with
8 Section 5000) and Part 1.5 (commencing with Section 5585).

9 (3) That the county shall comply with all requirements necessary
10 for Medi-Cal reimbursement for mental health treatment services
11 and case management programs provided to Medi-Cal eligible
12 individuals, including, but not limited to, the provisions set forth
13 in Chapter 3 (commencing with Section 5700), and that the county
14 shall submit cost reports and other data to the department in the
15 form and manner determined by the ~~department~~ *State Department*
16 *of Health Care Services*.

17 (4) That the local mental health advisory board has reviewed
18 and approved procedures ensuring citizen and professional
19 involvement at all stages of the planning process pursuant to
20 Section 5604.2.

21 (5) That the county shall comply with all provisions and
22 requirements in law pertaining to patient rights.

23 (6) That the county shall comply with all requirements in federal
24 law and regulation pertaining to federally funded mental health
25 programs.

26 (7) That the county shall provide all data and information set
27 forth in Sections 5610 and 5664.

28 (8) That the county, if it elects to provide the services described
29 in Chapter 2.5 (commencing with Section 5670), shall comply
30 with guidelines established for program initiatives outlined in that
31 chapter.

32 (9) Assurances that the county shall comply with all applicable
33 laws and regulations for all services delivered, *including all laws,*
34 *regulations, and guidelines of the Mental Health Services Act.*

35 ~~(b) The county's proposed agreement with the department for~~
36 ~~state hospital usage as required by Chapter 4 (commencing with~~
37 ~~Section 4330) of Part 2 of Division 4.~~

38 (e)

39 (b) Any contractual requirements needed for any program
40 initiatives utilized by the county contained within this part. In

1 addition, any county may choose to include contract provisions
2 for other state directed mental health managed programs within
3 this performance contract.

4 (c) *The State Department of Health Care Services' ability to*
5 *monitor the county's three-year program and expenditure plan*
6 *and annual update pursuant to Section 5847.*

7 (d) Other information determined to be necessary by the director,
8 to the extent this requirement does not substantially increase county
9 costs.

10 *SEC. 123. Section 5652.7 of the Welfare and Institutions Code*
11 *is amended to read:*

12 5652.7. A county shall have only 60 days from the date of
13 submission of an application to review and certify or deny an
14 application to establish a new mental health care provider. If an
15 application requires review by the State Department of Health
16 Care Services, the department shall also have only 60 days from
17 the date of submission of the application to review and certify or
18 deny an application to establish a new mental health care provider.

19 *SEC. 124. Section 5653 of the Welfare and Institutions Code*
20 *is amended to read:*

21 5653. ~~In developing the county Short-Doyle plan, optimum~~
22 *Optimum* use shall be made of appropriate local public and private
23 organizations, community professional personnel, and state
24 agencies. Optimum use shall also be made of federal, state, county,
25 and private funds which may be available for mental health
26 planning.

27 In order that maximum utilization be made of federal and other
28 funds made available to the Department of Rehabilitation, the
29 Department of Rehabilitation may serve as a contractual provider
30 under the provisions of a county ~~Short-Doyle~~ plan of vocational
31 rehabilitation services for the mentally disordered.

32 *SEC. 125. Section 5653.1 of the Welfare and Institutions Code*
33 *is amended to read:*

34 5653.1. In conducting evaluation, planning, and research
35 activities ~~to develop and implement the county Short-Doyle plan,~~
36 ~~counties,~~ *counties* may contract with public or private agencies.

37 *SEC. 126. Section 5654 of the Welfare and Institutions Code*
38 *is amended to read:*

39 5654. In order to serve the increasing needs of children and
40 adolescents with mental and emotional problems, county mental

1 health programs may use funds ~~allocated under the Short-Doyle~~
2 ~~Act~~ for the purposes of consultation and training.

3 *SEC. 127. Section 5655 of the Welfare and Institutions Code*
4 *is amended to read:*

5 5655. All departments of state government and all local public
6 agencies shall cooperate with county officials to assist them in
7 mental health planning. The State Department of ~~Mental Health~~
8 *Care Services* shall, upon request and with available staff, provide
9 consultation services to the local mental health directors, local
10 governing bodies, and local mental health advisory boards.

11 If the Director of ~~Mental Health Care Services~~ considers any
12 county to be failing, in a substantial manner, to comply with any
13 provision of this code or any regulation, ~~or with the approved~~
14 ~~county Short-Doyle plan~~, the director shall order the county to
15 appear at a hearing, before the director or the director's designee,
16 to show cause why the department should not take action as set
17 forth in this section. The county shall be given at least 20 days'
18 notice of ~~such~~ *the* hearing. The director shall consider the case on
19 the record established at the hearing and make final findings and
20 decision.

21 If the director determines that there is or has been a failure, in a
22 substantial manner, on the part of the county to comply with any
23 provision of this code or any regulations ~~or the approved county~~
24 ~~Short-Doyle plan~~, and that administrative sanctions are necessary,
25 the department may invoke any, or any combination of, the
26 following sanctions:

27 (a) Withhold part or all of state mental health funds from ~~such~~
28 *the* county.

29 (b) Require the county to enter into negotiations for the purpose
30 of ~~assuring~~ *ensuring* county ~~Short-Doyle plan~~ compliance with
31 ~~such~~ *those* laws and regulations.

32 (c) Bring an action in mandamus or ~~such~~ *any* other action in
33 court as may be appropriate to compel compliance. Any ~~such~~
34 *filed in accordance with this section* shall be entitled to a preference
35 in setting a date for a hearing.

36 *SEC. 128. Section 5664 of the Welfare and Institutions Code*
37 *is amended to read:*

38 5664. ~~(a) County~~ *In consultation with the California Mental*
39 *Health Directors Association, the State Department of Health Care*
40 *Services, the Mental Health Services Oversight and Accountability*

1 *Commission, the California Mental Health Planning Council, and*
2 *the California Health and Human Services Agency, county mental*
3 *health systems shall provide reports and data to meet the*
4 *information needs of the state, as necessary.*

5 ~~(b) The department shall not implement this section in a manner~~
6 ~~requiring a higher level of service for state reporting needs than~~
7 ~~that which it was authorized to require prior to July 1, 1991.~~

8 *SEC. 129. Section 5664.5 of the Welfare and Institutions Code*
9 *is amended to read:*

10 5664.5. (a) County mental health systems shall continue to
11 provide data required by the State Department of ~~Mental Health~~
12 *Care Services* to establish uniform definitions and time increments
13 for reporting type and cost of services received by local mental
14 health program clients.

15 (b) This section shall remain in effect only until January 1, 1994,
16 and as of that date is repealed, unless a later enacted statute, which
17 becomes effective on or before January 1, 1994, deletes or extends
18 the dates on which it is repealed; or until the date upon which the
19 director informs the Legislature that the new data system is
20 established pursuant to Section 5610, whichever is later, unless
21 the provisions of the section are required by the federal government
22 ~~as a condition of funding for the Short-Doyle Medi-Cal program.~~

23 *SEC. 130. Section 5666 of the Welfare and Institutions Code*
24 *is amended to read:*

25 5666. (a) The Director of ~~Mental Health~~ *Health Care Services,*
26 *or his or her designee,* shall review each proposed county mental
27 health services performance contract to determine that it complies
28 with the requirements of this division.

29 (b) The director *or his or her designee* shall require
30 modifications in the proposed county mental health services
31 performance contract which he or she deems necessary to bring
32 the proposed contract into conformance with the requirements of
33 this division.

34 (c) Upon approval by both parties, the provisions of the
35 performance contract required by Section 5651 shall be deemed
36 to be a contractual arrangement between the state and county.

37 *SEC. 131. Section 5673 of the Welfare and Institutions Code*
38 *is repealed.*

39 ~~5673. (a) A five-year pilot program is hereby authorized in~~
40 ~~Napa County and Riverside County to establish a 15-bed locked~~

1 facility in each county, for the provision of community care and
2 treatment for mentally disordered persons who are placed in a state
3 hospital or another health facility because no community
4 placements are available to meet the needs of these patients. It is
5 the intent of the Legislature to carefully evaluate this specific
6 approach to determine its potential for replication in other limited
7 jurisdictions. Participation in this pilot program by the two counties
8 shall be on a voluntary basis. The pilot program shall be
9 implemented notwithstanding the following licensure requirements
10 enforced by the State Department of Social Services:

11 (1) Subdivision (a) of Section 1502 of the Health and Safety
12 Code, which defines a community care facility as providing
13 nonmedical care.

14 (2) Subdivision (a) of Section 1505 of the Health and Safety
15 Code, which exempts any health facility, as defined by Section
16 1250 of the Health and Safety Code, from licensure under the
17 California Community Care Facilities Act (Chapter 3 (commencing
18 with Section 1500) of Division 2 of the Health and Safety Code).

19 (3) Section 1507 of the Health and Safety Code, which limits
20 the provision of medical services in community care facilities to
21 incidental medical services.

22 (4) Paragraph (5) of subdivision (a) of Section 80001 of Title
23 22 of the California Code of Regulations, which states that an adult
24 residential facility provides nonmedical care.

25 (5) Paragraph (7) of subdivision (a) of Section 80072 of Title
26 22 of the California Code of Regulations, which relates to a client's
27 right not to be locked in any room, building, or facility premises.
28 However, for purposes of this section, a client shall not be locked
29 in any room.

30 (b) Clients provided care within these pilot facilities shall be
31 conservatees as defined by Section 5350 who, prior to the
32 establishment of this program, either received care at a state
33 hospital or were placed in facilities for the mentally disordered.

34 (e) Standards for services provided shall be developed by each
35 county mental health director, in consultation with, and approved
36 by, the State Department of Mental Health and monitored regularly
37 by the department for compliance with these standards. These
38 services shall be on a 24-hour basis in a therapeutic homelike
39 environment. The services shall cover the full range of the social

1 ~~rehabilitation model concept, including, but not limited to, the~~
2 ~~following:~~

- 3 ~~(1) Counseling.~~
- 4 ~~(2) Day treatment.~~
- 5 ~~(3) Crisis intervention.~~
- 6 ~~(4) Vocational training.~~
- 7 ~~(5) Medication evaluation and management by a licensed~~
8 ~~physician and other licensed professional and paraprofessional~~
9 ~~staff who possess a valid license or certificate to perform this~~
10 ~~function.~~

11 ~~(d) Administration of medication and monitoring of medication~~
12 ~~shall occur notwithstanding statutory and regulatory licensure~~
13 ~~requirements for community care facilities to the contrary.~~
14 ~~Standards for use of medications shall be developed and monitored~~
15 ~~by the State Department of Mental Health.~~

16 ~~(e) The facilities shall be licensed and monitored by the State~~
17 ~~Department of Social Services and shall comply with all licensing~~
18 ~~requirements except those specifically exempted by this section.~~
19 ~~In addition, no less than 75 square feet of outdoor space per client~~
20 ~~shall be made available for client use. The State Department of~~
21 ~~Social Services shall conduct inspections of the facilities pursuant~~
22 ~~to Section 1533 of the Health and Safety Code and shall be given~~
23 ~~immediate access to the facilities.~~

24 ~~(f) In staffing the pilot program, each county board of~~
25 ~~supervisors shall give full consideration to each potential means~~
26 ~~of implementation, including, but not limited to, the clinical,~~
27 ~~programmatic, and economic benefits and advantages of each~~
28 ~~alternative. The pilot program shall meet all of the staffing criteria~~
29 ~~of subdivision (b) of Section 5670.5. The staff shall use and~~
30 ~~document the actions of a multidisciplinary professional~~
31 ~~consultation staff to meet the specific diagnostic and treatment~~
32 ~~needs of clients. The staff shall include, but need not be limited~~
33 ~~to, a licensed psychiatrist, a psychologist, a social worker, and a~~
34 ~~psychiatric technician. The staff may also include a licensed~~
35 ~~vocational nurse. One or more of the following licensed~~
36 ~~professionals shall be present at the facility at all times:~~

- 37 ~~(1) A psychiatrist or psychologist.~~
- 38 ~~(2) A registered psychiatric nurse.~~
- 39 ~~(3) A psychiatric technician.~~
- 40 ~~(4) A licensed vocational nurse.~~

1 ~~(g) Protocols and training shall be established for licensed~~
2 ~~vocational nurses employed by these facilities.~~

3 ~~(h) The State Department of Mental Health shall certify the~~
4 ~~program content in each county and monitor the program's~~
5 ~~functions on a regular basis and the State Department of Social~~
6 ~~Services shall regularly evaluate the facilities in accord with its~~
7 ~~statutory and regulatory licensure functions, pursuant to~~
8 ~~subdivisions (d) and (e).~~

9 ~~(i) The pilot program shall be deemed successful if it~~
10 ~~demonstrates both of the following:~~

11 ~~(1) That costs of the program are no greater than public~~
12 ~~expenditures for providing alternative services to the clients served~~
13 ~~by the program.~~

14 ~~(2) That the benefit to the clients, as described in subdivision~~
15 ~~(h), is improved by the program.~~

16 ~~(j) Commencement of the pilot program in each county pursuant~~
17 ~~to this section shall be contingent upon the county and the~~
18 ~~department identifying funds for this purpose, as described in a~~
19 ~~financial plan that is approved in advance by the Department of~~
20 ~~Finance.~~

21 *SEC. 132. Section 5675 of the Welfare and Institutions Code*
22 *is amended to read:*

23 ~~5675. (a) Subject to Section 5768, Placer County and up to~~
24 ~~15 other counties may establish a pilot project for up to six years,~~
25 ~~to develop a shared mental health rehabilitation center for the~~
26 ~~provision of community care and treatment for persons with mental~~
27 ~~disorders who are placed in a state hospital or another health~~
28 ~~facility because no community placements are available to meet~~
29 ~~the needs of these patients. Participation in this pilot project by~~
30 ~~the counties shall be on a voluntary basis.~~

31 ~~(b) (1) The department shall establish, by emergency regulation,~~
32 ~~the standards for the pilot project, and monitor the compliance of~~
33 ~~the counties with those standards. Participating counties, in~~
34 ~~consultation with the department, shall be responsible for program~~
35 ~~monitoring.~~

36 ~~(2) The department, in conjunction with the county mental health~~
37 ~~directors, shall provide an interim report to the Legislature within~~
38 ~~three years of the commencement of operation of the facilities~~
39 ~~authorized pursuant to this section regarding the progress and cost~~
40 ~~effectiveness demonstrated by the pilot project. The department,~~

1 in conjunction with the county mental health directors, shall report
 2 to the Legislature within five years of the commencement of
 3 operation of the facilities authorized pursuant to this section
 4 regarding the progress and cost effectiveness demonstrated by the
 5 pilot project. The report shall evaluate whether the pilot project is
 6 effective based on clinical indicators, and is successful in
 7 preventing future placement of its clients in state hospitals or other
 8 long-term health facilities, and shall report whether the cost of
 9 care in the pilot facilities is less than the cost of care in state
 10 hospitals or in other long-term health facility options. The
 11 evaluation report shall include, but not be limited to, an evaluation
 12 of the selected method and the effectiveness of the pilot project
 13 staffing, and an analysis of the effectiveness of the pilot project at
 14 meeting all of the following objectives:

15 *5675. (a) Mental health rehabilitation centers shall only be*
 16 *licensed by the State Department of Social Services subsequent to*
 17 *application by counties, county contract providers, or other*
 18 *organizations. In the application for a mental health rehabilitation*
 19 *center, program evaluation measures shall include, but not be*
 20 *limited to:*

21 (A)

22 (1) That the clients placed in the facilities show improved global
 23 assessment scores, as measured by preadmission and postadmission
 24 tests.

25 (B)

26 (2) That the clients placed in the facilities demonstrate improved
 27 functional behavior as measured by preadmission and
 28 postadmission tests.

29 (C)

30 (3) That the clients placed in the facilities have reduced
 31 medication levels as determined by comparison of preadmission
 32 and postadmission records.

33 ~~(3) The pilot project shall be deemed successful if it~~
 34 ~~demonstrates both of the following:~~

35 ~~(A) The costs of the program are no greater than public~~
 36 ~~expenditures for providing alternative services to the clients served~~
 37 ~~by the project.~~

38 ~~(B) That the benefit to the clients, as described in this~~
 39 ~~subdivision, is improved by the project.~~

1 ~~(e) The project shall be subject to existing regulations of the~~
2 ~~State Department of Health Services applicable to health facilities~~
3 ~~that the State Department of Mental Health deems necessary for~~
4 ~~fire and life safety of persons with mental illness.~~

5 ~~(d) The department shall consider projects proposed by other~~
6 ~~counties under Section 5768.~~

7 ~~(e) (1) Clients served by the project shall have all of the~~
8 ~~protections and rights guaranteed to mental health patients pursuant~~
9 ~~to the following provisions of law:~~

10 ~~(A) Part 1 (commencing with Section 5000) and this part.~~

11 ~~(B) Article 5 (commencing with Section 835), Article 5.5~~
12 ~~(commencing with Section 850), and Article 6 (commencing with~~
13 ~~Section 860) of Chapter 4 of Title 9 of the California Code of~~
14 ~~Regulations.~~

15 ~~(2) Clients shall have access to the services of a county patients'~~
16 ~~rights advocates as provided in Chapter 6.2 (commencing with~~
17 ~~Section 5500) of Part 1.~~

18 ~~(b) The State Department of Social Services shall conduct~~
19 ~~annual licensing inspections of mental health rehabilitation centers.~~

20 ~~(c) All regulations relating to the licensing of mental health~~
21 ~~rehabilitation centers, heretofore adopted by the State Department~~
22 ~~of Mental Health, shall remain in effect and shall be fully~~
23 ~~enforceable by the State Department of Social Services with respect~~
24 ~~to any facility or program required to be licensed as a mental~~
25 ~~health rehabilitation center, unless and until readopted, amended,~~
26 ~~or repealed by the Director of Social Services. The State~~
27 ~~Department of Social Services shall succeed to and be vested with~~
28 ~~all duties, powers, purposes, functions, responsibilities, and~~
29 ~~jurisdiction of the State Department of Mental Health as they relate~~
30 ~~to licensing mental health rehabilitation centers.~~

31 ~~SEC. 133. Section 5675.1 of the Welfare and Institutions Code~~
32 ~~is amended to read:~~

33 ~~5675.1. (a) In accordance with subdivision (b), the department~~
34 ~~State Department of Social Services and the State Department of~~
35 ~~Health Care Services may establish a system for the imposition~~
36 ~~of prompt and effective civil sanctions for long-term care facilities~~
37 ~~licensed or certified by the department those departments, including~~
38 ~~facilities licensed under the provisions of Sections 5675 and 5768,~~
39 ~~and including facilities certified as providing a special treatment~~

1 program under Sections 72443 to 72474, inclusive, of Title 22 of
2 the California Code of Regulations.

3 (b) If the ~~department determines~~ *departments determine* that
4 there is or has been a failure, in a substantial manner, on the part
5 of any such facility to comply with the applicable laws and
6 regulations, the ~~director~~ *directors* may impose the following
7 sanctions:

8 (1) A plan of corrective action that addresses all failure identified
9 by the ~~department~~ *departments* and includes timelines for
10 correction.

11 (2) A facility that is issued a plan of corrective action, and that
12 fails to comply with the plan and repeats the deficiency, may be
13 subject to immediate suspension of its license or certification, until
14 the deficiency is corrected, when failure to comply with the plan
15 of correction may cause a health or safety risk to residents.

16 (c) The ~~department~~ *departments* may also establish procedures
17 for the appeal of an administrative action taken pursuant to this
18 section, including a plan of corrective action or a suspension of
19 license or certification.

20 *SEC. 134. Section 5675.2 of the Welfare and Institutions Code*
21 *is amended to read:*

22 5675.2. (a) There is hereby created in the State Treasury the
23 ~~Licensing and Certification Fund~~, *Mental Health Facility Licensing*
24 *Fund*, from which money, upon appropriation by the Legislature
25 in the Budget Act, shall be expended by the State Department of
26 ~~Mental Health~~ *of Social Services* to fund administrative and other
27 activities in support of the ~~department's Licensing and Certification~~
28 ~~Program~~. *mental health licensing and certification functions of the*
29 *State Department of Social Services. The Mental Health Facility*
30 *Licensing Fund is the successor to the Licensing and Certification*
31 *Fund, Mental Health, which fund is hereby abolished. All*
32 *references in any law to the Licensing and Certification Fund,*
33 *Mental Health shall be deemed to refer to the Mental Health*
34 *Facility Licensing Fund.*

35 (b) Commencing January 1, 2005, each new and renewal
36 application for a license to operate a mental health rehabilitation
37 center shall be accompanied by an application or renewal fee.

38 (c) The amount of the fees shall be determined and collected
39 by the State Department of ~~Mental Health~~ *Social Services*, but the
40 total amount of the fees collected shall not exceed the actual costs

1 of licensure and regulation of the centers, including, but not limited
2 to, the costs of processing the application, inspection costs, and
3 other related costs.

4 (d) Each license or renewal issued pursuant to this chapter shall
5 expire 12 months from the date of issuance. Application for
6 renewal of the license shall be accompanied by the necessary fee
7 and shall be filed with the department at least 30 days prior to the
8 expiration date. Failure to file a timely renewal may result in
9 expiration of the license.

10 (e) License and renewal fees collected pursuant to this section
11 shall be deposited into the ~~Licensing and Certification Fund~~, Mental
12 Health *Facility Licensing Fund*.

13 (f) Fees collected by the ~~department~~ *State Department of Social*
14 *Services* pursuant to this section shall be expended by the
15 ~~department~~ *State Department of Social Services* for the purpose
16 of ensuring the health and safety of all individuals providing care
17 and supervision by licensees and to support activities of the
18 ~~Licensing and Certification Program~~ *department*, including, but
19 not limited to, monitoring facilities for compliance with applicable
20 laws and regulations.

21 (g) The ~~department~~ *State Department of Social Services* may
22 make additional charges to the facilities if additional visits are
23 required to ensure that corrective action is taken by the licensee.

24 *SEC. 135. Section 5676 of the Welfare and Institutions Code*
25 *is amended to read:*

26 5676. (a) The ~~department~~ *State Department of Health Care*
27 *Services*, in conjunction with the State Department of *Public Health*
28 ~~*Services*~~, shall develop a state-level plan for a streamlined and
29 consolidated evaluation and monitoring program for the review
30 of skilled nursing facilities with special treatment programs. The
31 plan shall provide for consolidated reviews, reports, and penalties
32 for these facilities. The plan shall include the cost of, and a timeline
33 for implementing, the plan. The plan shall be developed in
34 consultation with stakeholders, including county mental health
35 programs, consumers, family members of persons residing in
36 long-term care facilities who have serious mental illness, and
37 long-term care providers. The plan shall review resident safety
38 and quality programming, ensure that long-term care facilities
39 engaged primarily in diagnosis, treatment, and care of persons
40 with mental diseases are available and appropriately evaluated,

1 and ensure that strong linkages are built to local communities and
2 other treatment resources for residents and their families. The plan
3 shall be submitted to the Legislature on or before March 1, 2001.

4 (b) The State Department of *Public Health Services* shall
5 forward to the State Department of ~~Mental Health Care Services~~
6 copies of citations issued to a skilled nursing facility that has a
7 special treatment program certified by the State Department of
8 ~~Mental Health Care Services~~.

9 *SEC. 136. Section 5688.6 of the Welfare and Institutions Code*
10 *is amended to read:*

11 5688.6. Any and all funds appropriated for the homeless
12 mentally disabled which have been determined to be unexpended
13 and unencumbered two years after the date the funds were
14 appropriated shall be transferred to the Department of Housing
15 and Community Development. The amount of transfer shall be
16 determined after the State Department of ~~Mental Health Care~~
17 *Services* settles county cost reports for the fiscal year the funds
18 were appropriated. The funds transferred to the Department of
19 Housing and Community Development shall be administered in
20 accordance with that department's Special Users Housing
21 Rehabilitation or Emergency Shelter programs to provide
22 low-income transitional and long-term housing for homeless
23 mentally disabled persons. Special priority shall be given to project
24 proposals for homeless mentally disabled persons in the same
25 county from which the funds for the support of the community
26 support system were originally allocated.

27 *SEC. 137. Article 2.5 (commencing with Section 5689) of*
28 *Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions*
29 *Code is repealed.*

30 *SEC. 138. Section 5692 of the Welfare and Institutions Code*
31 *is amended to read:*

32 5692. The State Department of ~~Mental Health Care Services~~
33 shall, to the extent resources are available, have responsibility for
34 the provision of technical assistance, maximizing federal revenue,
35 and ensuring coordination with other state agencies including
36 implementing and coordinating interagency agreements between
37 the Department of Rehabilitation and the State Department of
38 ~~Mental Health Care Services~~.

39 *SEC. 139. Section 5701 of the Welfare and Institutions Code*
40 *is amended to read:*

1 5701. (a) To achieve equity of funding, available funding for
2 local mental health programs beyond the funding provided pursuant
3 to Section 17601 shall be distributed to cities, counties, and cities
4 and counties pursuant to the procedures described in subdivision
5 (c) of Section 17606.05.

6 (b) Funding provided pursuant to Section 6 of Article XIII B of
7 the California Constitution, funding provided pursuant to
8 subdivision (c), and funding provided for future pilot projects shall
9 be exempt from the requirements of subdivision (a).

10 (c) Effective in the ~~1994-95~~ 2012-13 fiscal year and each year
11 thereafter:

12 (1) The State Department of ~~Mental Health~~ *Care Services* shall
13 annually identify from mental health block grant funds provided
14 by the federal government, the maximum amount that federal law
15 and regulation permit to be allocated to counties and cities and
16 counties pursuant to this subdivision. This section shall apply to
17 any federal mental health block grant funds in excess of the
18 following:

19 ~~(A) The amount allocated to counties and cities and counties~~
20 ~~from the alcohol, drug abuse, and mental health block grant in the~~
21 ~~1991-92 fiscal year.~~

22 ~~(B)~~

23 (A) Funds for departmental support.

24 ~~(C)~~

25 (B) Amounts awarded to counties and cities and counties for
26 children's systems of care programs pursuant to Part 4
27 (commencing with Section 5850).

28 ~~(D) Amounts allocated to small counties for the development~~
29 ~~of alternatives to state hospitalization in the 1993-94 fiscal year.~~

30 ~~(E)~~

31 (C) Amounts appropriated by the Legislature for the purposes
32 of this part.

33 (2) Notwithstanding subdivision (a), annually the State
34 Department of ~~Mental Health~~ *Care Services* shall allocate to
35 counties and cities and counties the funds identified in paragraph
36 (1), not to exceed forty million dollars (\$40,000,000) in any year.
37 The allocations shall be proportional to each county's and each
38 city and county's percentage of the forty million dollars
39 (\$40,000,000) in Cigarette and Tobacco Products Surtax funds

1 that were allocated to local mental health programs in the 1991–92
 2 fiscal year.

3 (3) Monthly, the Controller shall allocate funds from the Vehicle
 4 License Collection Account of the Local Revenue Fund to counties
 5 and cities and counties for mental health services. Allocations shall
 6 be made to each county or city and county in the same percentages
 7 as described in paragraph (2), until the total of the funds allocated
 8 to all counties in each year pursuant to paragraph (2) and this
 9 paragraph reaches forty million dollars (\$40,000,000).

10 (4) Funds allocated to counties and cities and counties pursuant
 11 to paragraphs (2) and (3) shall not be subject to Section 17606.05.

12 (5) Funds that are available for allocation in any year in excess
 13 of the forty million dollar (\$40,000,000) limits described in
 14 paragraph (2) or (3) shall be deposited into the Mental Health
 15 Subaccount of the Local Revenue Fund.

16 (6) Nothing in this section is intended to, nor shall it, change
 17 the base allocation of any city, county, or city and county as
 18 provided in Section 17601.

19 *SEC. 140. Section 5701.1 of the Welfare and Institutions Code*
 20 *is amended to read:*

21 5701.1. Notwithstanding Section 5701, the State Department
 22 of ~~Mental Health Care Services~~, in consultation with the California
 23 Mental Health Directors Association *and the California Mental*
 24 *Health Planning Council*, may utilize funding from the Substance
 25 Abuse and Mental Health Services Administration Block Grant,
 26 awarded to the State Department of ~~Mental Health Care Services~~,
 27 above the funding level provided in federal fiscal year 1998, for
 28 the development of innovative programs for identified target
 29 populations, upon appropriation by the Legislature.

30 *SEC. 141. Section 5705 of the Welfare and Institutions Code*
 31 *is amended to read:*

32 5705. (a) ~~It is the intent of the Legislature that the use of~~
 33 ~~negotiated net amounts, as provided in this section, be given~~
 34 ~~preference in contracts for services under this division.~~

35 (b)
 36 (a) Negotiated net amounts may be used as the cost of services
 37 ~~in contracts between the state and the county or contracts between~~
 38 ~~the county and a subprovider of services, or both.~~ A negotiated
 39 net amount shall be determined by calculating the total budget for
 40 services for a program or a component of a program, less the

1 amount of projected revenue. All participating government funding
2 sources, except for the Medi-Cal program (Chapter 7 (commencing
3 with Section 14000) of Part 3 of Division 9), shall be bound to
4 that amount as the cost of providing all or part of the total county
5 mental health program as described in the county performance
6 contract for each fiscal year, to the extent that the governmental
7 funding source participates in funding the county mental health
8 programs. Where the State Department of Health Care Services
9 promulgates regulations for determining reimbursement of
10 ~~Short-Doyle~~ mental health services allowable under the Medi-Cal
11 program, those regulations shall be controlling as to the rates for
12 reimbursement of ~~Short-Doyle~~ mental health services allowable
13 under the Medi-Cal program and rendered to Medi-Cal
14 beneficiaries. Providers under this subdivision shall report to the
15 State Department of ~~Mental Health Care Services~~ and local mental
16 health programs any information required by the State Department
17 of ~~Mental Health Care Services~~ in accordance with procedures
18 established by the Director of ~~Mental Health Care Services~~.

19 (e)

20 (b) Notwithstanding any other provision of this division or
21 Division 9 (commencing with Section 10000), absent a finding of
22 fraud, abuse, or failure to achieve contract objectives, no
23 restrictions, other than any contained in the contract, shall be placed
24 upon a provider's expenditure pursuant to this section.

25 *SEC. 142. Section 5707 of the Welfare and Institutions Code*
26 *is amended to read:*

27 5707. Funds appropriated to the ~~department~~ *State Department*
28 *of Health Care Services* which are designated for local mental
29 health services and funds which the ~~department~~ *State Department*
30 *of Health Care Services* is responsible for allocating or
31 administering, including, but not limited to, federal block grants
32 funds, shall be expended in accordance with this section and
33 ~~Sections 5708 Sections 5710 to 5717~~, inclusive, except when there
34 are conflicting federal requirements, in which case the federal
35 requirements shall be controlling.

36 *SEC. 143. Section 5708 of the Welfare and Institutions Code*
37 *is repealed.*

38 ~~5708. To maintain stability during the transition, counties that~~
39 ~~contracted with the department during the 1990-91 fiscal year on~~

1 a negotiated net amount basis may continue to use the same funding
2 mechanism.

3 SEC. 144. Section 5709 of the Welfare and Institutions Code
4 is amended to read:

5 5709. Regardless of the funding source involved, fees shall be
6 charged in accordance with the ability to pay for *specialty* mental
7 health services rendered but not in excess of actual costs in
8 accordance with Section ~~5720~~ 14708.

9 SEC. 145. Section 5710 of the Welfare and Institutions Code
10 is amended to read:

11 5710. (a) Charges for the care and treatment of each patient
12 receiving service from a county mental health program shall not
13 exceed the actual cost thereof as determined or approved by the
14 Director of ~~Mental Health Care Services~~ in accordance with
15 standard accounting practices. The director may include the amount
16 of expenditures for capital outlay or the interest thereon, or both,
17 in his or her determination of actual cost. The responsibility of a
18 patient, his or her estate, or his or her responsible relatives to pay
19 the charges and the powers of the director with respect thereto
20 shall be determined in accordance with Article 4 (commencing
21 with Section 7275) of Chapter 3 of Division 7.

22 (b) The Director of ~~Mental Health Care Services~~ may delegate
23 to each county all or part of the responsibility for determining the
24 financial liability of patients to whom services are rendered by a
25 county mental health program and all or part of the responsibility
26 for determining the ability of the responsible parties to pay for
27 services to minor children who are referred by a county for
28 treatment in a state hospital. Liability shall extend to the estates
29 of patients and to responsible relatives, including the spouse of an
30 adult patient and the parents of minor children. The Director of
31 ~~Mental Health Care Services~~ may also delegate all or part of the
32 responsibility for collecting the charges for patient fees. Counties
33 may decline this responsibility as it pertains to state hospitals, at
34 their discretion. If this responsibility is delegated by the director,
35 the director shall establish and maintain the policies and procedures
36 for making the determinations and collections. Each county to
37 which the responsibility is delegated shall comply with the policy
38 and procedures.

39 (c) The director shall prepare and adopt a uniform sliding scale
40 patient fee schedule to be used in all mental health agencies for

1 services rendered to each patient. In preparing the uniform patient
2 fee schedule, the director shall take into account the existing
3 charges for state hospital services and those for community mental
4 health program services. If the director determines that it is not
5 practicable to devise a single uniform patient fee schedule
6 applicable to both state hospital services and services of other
7 mental health agencies, the director may adopt a separate fee
8 schedule for the state hospital services which differs from the
9 uniform patient fee schedule applicable to other mental health
10 agencies.

11 *SEC. 146. Section 5711 of the Welfare and Institutions Code*
12 *is amended and renumbered to read:*

13 ~~5711.~~

14 *14707. (a) In the case of federal audit exceptions, the*
15 *department shall follow federal audit appeal processes—shall be*
16 *followed unless the State Department of Mental Health unless the*
17 *department, in consultation with the California—Conference of*
18 ~~*Local Mental Health Directors Association,*~~ *determines that those*
19 *appeals are not cost beneficial.*

20 (b) Whenever there is a final federal audit exception against the
21 state resulting from expenditure of federal funds by individual
22 counties, ~~the State Department of Mental Health or the State~~
23 ~~Department of Health Services~~ *department may offset federal*
24 *reimbursement and request the Controller's office to offset the*
25 ~~*county's allocation distribution of funds to the counties from the*~~
26 ~~*Mental Health Subaccount of the Sales Tax Account of the Local*~~
27 ~~*Revenue Fund the Mental Health Subaccount, the Mental Health*~~
28 ~~*Equity Subaccount, and the Vehicle License Collection Account*~~
29 ~~*of the Local Revenue Fund, funds from the Mental Health Account*~~
30 ~~*and the Behavioral Health Subaccount of the Local Revenue Fund*~~
31 ~~*2011, and any other mental health realignment funds from which*~~
32 ~~*the Controller makes distributions to the counties by the amount*~~
33 ~~*of the exception. The Controller shall be provided evidence*~~
34 ~~*department shall provide evidence to the Controller that the county*~~
35 ~~*has been notified of the amount of the audit exception no less than*~~
36 ~~*30 days before the offset is to occur. The State Department of*~~
37 ~~*Mental Health and the State Department of Health Services*~~
38 ~~*department shall involve the appropriate counties in developing*~~
39 ~~*responses to any draft federal audit reports which may that directly*~~
40 ~~*impact the counties county.*~~

1 *SEC. 147. Section 5712 of the Welfare and Institutions Code*
 2 *is repealed.*

3 ~~5712. The department shall contract with counties for the funds~~
 4 ~~appropriated to, and allocated by, the department pursuant to~~
 5 ~~paragraph (2) of subdivision (a) of Section 5700 in accordance~~
 6 ~~with the following:~~

7 ~~(a) The net cost of all services specified in the contract between~~
 8 ~~the counties and the department shall be financed on a basis of 90~~
 9 ~~percent state funds and 10 percent county funds except for services~~
 10 ~~to be financed from other public or private sources as indicated in~~
 11 ~~the contracts.~~

12 ~~(b) The cost requirement for local financial participation~~
 13 ~~pursuant to this section shall be waived for all counties with a~~
 14 ~~population of 125,000 or less based on the most recent available~~
 15 ~~estimates of population data as determined by the Population~~
 16 ~~Research Unit of the Department of Finance.~~

17 ~~(c) The cost requirements for local financial participation~~
 18 ~~pursuant to this section shall be waived for funds provided pursuant~~
 19 ~~to Part 2.5 (commencing with Section 5775).~~

20 *SEC. 148. Section 5714 of the Welfare and Institutions Code*
 21 *is amended to read:*

22 5714. To continue county expenditures for legal proceedings
 23 involving mentally disordered persons, the following costs incurred
 24 in carrying out Part 1 (commencing with Section 5000) of this
 25 division shall not be paid for from funds designated for mental
 26 health services.

27 (a) The costs involved in bringing a person in for 72-hour
 28 treatment and evaluation.

29 (b) The costs of court proceedings for court-ordered evaluation,
 30 including the service of the court order and the apprehension of
 31 the person ordered to evaluation when necessary.

32 (c) The costs of court proceedings in cases of appeal from
 33 14-day intensive treatment.

34 (d) The cost of legal proceedings in conservatorship other than
 35 the costs of conservatorship investigation as defined by regulations
 36 of the State Department of ~~Mental Health~~ *Care Services*.

37 (e) The court costs in postcertification proceedings.

38 (f) The cost of providing a public defender or other
 39 court-appointed attorneys in proceedings for those unable to pay.

1 *SEC. 149. Section 5715 of the Welfare and Institutions Code*
2 *is amended to read:*

3 5715. Subject to the approval of the ~~department~~ *State*
4 *Department of Health Care Services*, at the end of the fiscal year,
5 a county may retain unexpended funds allocated to it by the
6 department from funds appropriated to the department, with the
7 exception of block grant funds, exclusive of the amount required
8 to pay for the care of patients in state hospitals, for 12 months for
9 expenditure for mental health services in accordance with this part.

10 *SEC. 150. Section 5716 of the Welfare and Institutions Code*
11 *is amended and renumbered to read:*

12 ~~5716.~~

13 14705.7. ~~Counties~~ *Mental health plans* may contract with
14 providers on a negotiated net amount basis in the same manner as
15 set forth in Section 5705. *Negotiated net amounts or rates shall*
16 *not be in contracts between the state and mental health plans for*
17 *specialty mental health services. Reimbursement to mental health*
18 *plans that have certified public expenditures shall be consistent*
19 *with federal Medicaid requirements for calculating upper payment*
20 *limits, as specified in the approved Medicaid state plan and*
21 *waivers.*

22 *SEC. 151. Section 5717 of the Welfare and Institutions Code*
23 *is amended to read:*

24 5717. (a) Expenditures that may be funded from amounts
25 allocated to the county by the ~~department~~ *State Department of*
26 *Health Care Services* from funds appropriated to the department
27 shall include ~~negotiated rates and net amounts~~, salaries of
28 personnel, approved facilities and services provided through
29 contract, and operation, maintenance, and service costs, including
30 insurance costs or departmental charges for participation in a
31 county self-insurance program if the charges are not in excess of
32 comparable available commercial insurance premiums and on the
33 condition that any surplus reserves be used to reduce future year
34 contributions; depreciation of county facilities as established in
35 the state's uniform accounting manual, disregarding depreciation
36 on the facility to the extent it was financed by state funds under
37 this part; lease of facilities where there is no intention to, nor option
38 to, purchase; expenses incurred under this act by members of the
39 ~~California Conference of Local~~ *Mental Health Directors*
40 *Association* for attendance at regular meetings of these conferences;

1 expenses incurred by either the chairperson or elected
2 representative of the local mental health advisory boards for
3 attendance at regular meetings of the Organization of Mental Health
4 Advisory Boards; expenditures included in approved countywide
5 cost allocation plans submitted in accordance with the Controller's
6 guidelines, including, but not limited to, adjustments of prior year
7 estimated general county overhead to actual costs, but excluding
8 allowable costs otherwise compensated by state funding; net costs
9 of conservatorship investigation, approved by the Director of
10 ~~Mental Health Care Services~~. Except for expenditures made
11 pursuant to Article 6 (commencing with Section 129225) of
12 Chapter 1 of Part 6 of Division 107 of the Health and Safety Code,
13 it shall not include expenditures for initial capital improvements;
14 the purchaser or construction of buildings except for equipment
15 items and remodeling expense as may be provided for in
16 regulations of the State Department of ~~Mental Health Care~~
17 *Services*; compensation to members of a local mental health
18 advisory board, except actual and necessary expenses incurred in
19 the performance of official duties that may include travel, lodging,
20 and meals while on official business; or expenditures for a purpose
21 for which state reimbursement is claimed under any other provision
22 of law.

23 (b) ~~The director~~ *Director of Health Care Services* may make
24 investigations and audits of expenditures the director may deem
25 necessary.

26 (c) With respect to funds allocated to a county by the ~~department~~
27 *State Department of Health Care Services* from funds appropriated
28 to the department, the county shall repay to the state amounts found
29 not to have been expended in accordance with the requirements
30 set forth in this part. Repayment shall be within 30 days after it is
31 determined that an expenditure has been made that is not in
32 accordance with the requirements. In the event that repayment is
33 not made in a timely manner, the department shall offset any
34 amount improperly expended against the amount of any current
35 or future advance payment or cost report settlement from the state
36 for mental health services. Repayment provisions shall not apply
37 to Short-Doyle funds allocated by the department for fiscal years
38 up to and including the 1990-91 fiscal year.

1 *SEC. 152. Section 5718 of the Welfare and Institutions Code,*
2 *as added by Section 2 of Chapter 651 of the Statutes of 2011, is*
3 *amended and renumbered to read:*

4 5718.

5 14705. (a) (1) This section ~~and Sections 5719 to 5724,~~
6 ~~inclusive,~~ shall apply to *specialty* mental health services provided
7 by counties to Medi-Cal eligible individuals. Counties shall provide
8 services to Medi-Cal beneficiaries and seek the maximum federal
9 reimbursement possible for services rendered to ~~the mentally ill~~
10 *persons with mental illnesses.*

11 (2) To the extent permitted under federal law *and Section 5892,*
12 ~~funds deposited into the local health and welfare trust fund from~~
13 ~~the Sales Tax Account of the Local Revenue Fund distributed to~~
14 ~~the counties from the Mental Health Subaccount, the Mental Health~~
15 ~~Equity Subaccount, and the Vehicle License Collection Account~~
16 ~~of the Local Revenue Fund, funds from the Mental Health Account~~
17 ~~and the Behavioral Health Subaccount of the Local Revenue Fund~~
18 ~~2011, funds from the Mental Health Services Fund, and any other~~
19 ~~funds from which the Controller makes distributions to the counties~~
20 may be used to ~~match federal Medicaid funds~~ pay for services
21 provided by these funds that the counties can then certify as public
22 expenditures in order to achieve the maximum federal
23 reimbursement possible for services pursuant to this chapter.

24 (3) The standards and guidelines for the administration of
25 *specialty* mental health services to Medi-Cal eligible persons shall
26 be consistent with federal Medicaid requirements, as specified in
27 the approved Medicaid state plan and waivers to ensure full and
28 timely federal reimbursement to counties for services that are
29 rendered and claimed consistent with federal Medicaid
30 requirements.

31 (b) With regard to each person receiving *specialty* mental health
32 services from a ~~county mental health program~~ *mental health plan,*
33 ~~the county mental health plan shall determine~~ *verify* whether the
34 person is Medi-Cal eligible and, if determined to be Medi-Cal
35 eligible, the person shall be referred when appropriate to a facility,
36 clinic, or program ~~which~~ *that* is certified for Medi-Cal
37 reimbursement.

38 (c) With regard to county operated facilities, clinics, or programs
39 for which claims are submitted to the department for Medi-Cal
40 reimbursement for *specialty* mental health services to Medi-Cal

1 eligible individuals, the county shall ensure that all requirements
 2 necessary for Medi-Cal reimbursement for these services are
 3 complied with, including, but not limited to, utilization review and
 4 the submission of yearend cost reports by December 31 following
 5 the close of the fiscal year.

6 (d) Counties shall certify to the state that ~~required-certified they~~
 7 *have incurred* public expenditures ~~have been incurred~~ prior to
 8 *requesting* the reimbursement of federal funds.

9 (e) This section shall become operative on July 1, 2012.

10 *SEC. 153. Section 5719 of the Welfare and Institutions Code*
 11 *is amended and renumbered to read:*

12 ~~5719.~~

13 *14705.5.* Each public or private facility or agency providing
 14 local *specialty* mental health services pursuant to a county
 15 performance contract plan shall make a written certification within
 16 30 days after a patient is admitted to the facility as a patient or first
 17 given services by such a facility or agency, to the local mental
 18 health director of the county, stating whether or not each of these
 19 patients is presumed to be eligible for *specialty* mental health
 20 services under the ~~California Medical Assistance Program~~
 21 *Medi-Cal program.*

22 *SEC. 154. Section 5719.5 of the Welfare and Institutions Code*
 23 *is amended and renumbered to read:*

24 ~~5719.5.~~

25 *14705.6.* (a) Notwithstanding any other provision of state law,
 26 and to the extent permitted by federal law, the State Department
 27 of Mental Health may, in consultation with the State Department
 28 of Health *Care Services*, field test major components of a capitated,
 29 integrated service system of Medi-Cal mental health managed care
 30 in not less than two, and not more than five participating counties.

31 (b) County participation in the field test shall be at the counties'
 32 option.

33 (c) Counties eligible to participate in the field test described in
 34 subdivision (a) shall include either of the following:

35 (1) Any county with an existing county organized health system.

36 (2) Any county that has been designated for the development
 37 of a new county organized health system.

38 (d) The State Department of Mental Health, in consultation with
 39 the State Department of Health *Care Services*, the counties selected
 40 for field testing, and groups representing mental health clients,

1 their families and advocates, county mental health directors, and
2 public and private mental health professionals and providers, shall
3 develop, for the purpose of the field test, major components for
4 an integrated, capitated service system of Medi-Cal mental health
5 managed care, including, but not limited to, all of the following:

6 (1) (A) A definition of medical necessity.

7 (B) The preliminary definition developed pursuant to this
8 paragraph shall be submitted to the Legislature no later than
9 February 1, 1994.

10 (2) Protocols for facilitating access and coordination of mental
11 health, physical health, educational, vocational, and other
12 supportive services for persons receiving services through the field
13 test.

14 (3) Procedures for promoting quality assurance, performance
15 monitoring measures and outcome evaluation, including measures
16 of client satisfaction, and procedures for addressing beneficiary
17 grievances concerning service denials, changes, or terminations.

18 (e) Counties participating in the field test shall report to the
19 State Department of Mental Health as the department deems
20 necessary.

21 (f) Counties participating in the field test shall do both of the
22 following:

23 (1) (A) Explore, in consultation with the State Department of
24 Mental Health, the State Department of Health *Care* Services, and
25 the California Mental Health Directors Association, rates for
26 capitated, integrated Medi-Cal mental health managed care
27 systems, using an actuarially sound ratesetting methodology.

28 (B) These rates shall be evaluated by the State Department of
29 Mental Health and the State Department of Health *Care* Services
30 to determine their fiscal impact, and shall result in no increase in
31 cost to the General Fund, compared with the cost that would occur
32 under the existing organization of Medi-Cal funded mental health
33 services, except for caseload growth and price increases as included
34 in the Medi-Cal estimates prepared by the State Department of
35 Health *Care* Services and approved by the Department of Finance.
36 In evaluating the fiscal impact of these rates, the departments shall
37 take into account any shift in clients between Medi-Cal programs
38 in which the nonfederal match is funded by state funds and those
39 in which the match is funded by local funds.

1 (2) Demonstrate the appropriate fiscal relationship between
 2 county organized health systems for the federal medicaid program
 3 and integrated, capitated Medi-Cal mental health managed care
 4 programs.

5 (3) *This section shall become inoperative on July 1, 2012, and,*
 6 *as of January 1, 2013, is repealed, unless a later enacted statute*
 7 *that is enacted before January 1, 2013, deletes or extends the dates*
 8 *on which it becomes inoperative and is repealed.*

9 SEC. 155. Section 5720 of the Welfare and Institutions Code,
 10 as added by Section 4 of Chapter 651 of the Statutes of 2011, is
 11 amended and renumbered to read:

12 5720.

13 ~~14708.~~ (a) ~~Notwithstanding any other provision of law, the~~
 14 ~~director, in the 1993–94 fiscal year and fiscal years thereafter,~~
 15 ~~subject to the approval of the Director of Health Care Services,~~
 16 ~~shall establish the amount of reimbursement for services provided~~
 17 ~~by county mental health programs to Medi-Cal eligible individuals.~~
 18 For purposes of federal reimbursement to counties that have
 19 certified to the state that *they have incurred* certified public
 20 expenditures ~~have been incurred~~, the reimbursement amounts shall
 21 be consistent with federal Medicaid requirements for calculating
 22 federal upper payment limits, as specified in the approved Medicaid
 23 state plan and waivers.

24 (b) If the reimbursement methodology utilizes federal upper
 25 payment limits and the total cost of services exceeds the state
 26 maximum rates in effect for the 2011–12 fiscal year, a county may
 27 use certified public expenditures to claim the costs of services that
 28 exceed the state maximum rates, up to the federal upper payment
 29 limits. If a county chooses to claim costs that exceed the state
 30 maximum rates with certified public expenditures, the county shall
 31 use only local funds, and not state funds, to claim the portion of
 32 the costs over the state maximum rates. As a condition of receiving
 33 reimbursement up to the federal upper payment limits, a county
 34 shall enter into and maintain an agreement with the department
 35 implementing this subdivision.

36 (c) Notwithstanding this section, in the event that a health
 37 facility has entered into a negotiated rate agreement pursuant to
 38 Article 2.6 (commencing with Section 14081) of Chapter 7 of Part
 39 4 of Division 9, the facility’s rates shall be governed by that
 40 agreement.

1 (d) This section shall become operative on July 1, 2012.

2 *SEC. 156. Section 5721 of the Welfare and Institutions Code*
3 *is amended and renumbered to read:*

4 ~~5721.~~

5 *14710.* Except as otherwise provided in this section, in
6 determining the amounts which may be paid, fees paid by persons
7 receiving services or fees paid on behalf of persons receiving
8 services by the federal government, by the ~~California Medical~~
9 ~~Assistance Program~~ *Medi-Cal program* set forth in Chapter 7
10 (commencing with Section 14000) of Part 3 of Division 9, and by
11 other public or private sources, shall be deducted from the costs
12 of providing services. However, a ~~county~~ *mental health plan* may
13 negotiate a contract ~~which~~ *that* permits a *specialty* mental health
14 care provider to retain unanticipated funds above the budgeted
15 contract amount, provided that the unanticipated revenues are
16 utilized for the *specialty* mental health services specified in the
17 contract. If a provider is permitted by contract to retain
18 unanticipated revenues above the budgeted amount, the *specialty*
19 mental health provider shall specify the services funded by those
20 revenues in the ~~year-end~~ *yearend* cost report submitted to the
21 ~~county~~ *mental health plan*. A ~~county~~ *mental health plan* shall not
22 permit the retention of any fees paid by private resources on behalf
23 of Medi-Cal beneficiaries without having those fees deducted from
24 the costs of providing services. Whenever feasible, ~~mentally~~
25 ~~disordered~~ *persons with mental illness* who are eligible for *specialty*
26 mental health services under the ~~California Medical Assistance~~
27 ~~Program~~ *Medi-Cal program* shall be treated in a facility approved
28 for reimbursement in that program. General unrestricted or
29 undesignated private charitable donations and contributions made
30 to charitable or nonprofit organizations shall not be considered as
31 “fees paid by persons” or “fees paid on behalf of persons receiving
32 services” under this section and the contributions shall not be
33 applied in determining the amounts to be paid. These unrestricted
34 contributions shall not be used in part or in whole to defray the
35 costs or the allocated costs of the ~~California Medical Assistance~~
36 ~~Program~~ *Medi-Cal program*.

37 *SEC. 157. Section 5722 of the Welfare and Institutions Code*
38 *is amended and renumbered to read:*

1 ~~5722.~~

2 ~~14706.~~ (a) The department shall have responsibility, ~~as~~
 3 ~~delegated by the State Department of Health Services,~~ for
 4 conducting investigations and audits of claims and reimbursements
 5 for expenditures for *specialty* mental health services provided by
 6 ~~county mental health programs~~ *plans* to Medi-Cal eligible
 7 individuals.

8 (b) The amount of the payment or repayment of federal funds
 9 in accordance with audit findings pertaining to ~~Short-Doyle~~
 10 Medi-Cal *specialty* mental health services shall be determined by
 11 ~~the State Director of Health Services~~ *department* pursuant to the
 12 existing administrative appeals process of the ~~State Department~~
 13 ~~of Health Services~~ *department*.

14 *SEC. 158. Section 5723 of the Welfare and Institutions Code*
 15 *is amended and renumbered to read:*

16 ~~5723.~~

17 ~~14709.~~ The provisions of subdivision (a) of Section 14000
 18 shall not be construed to prevent providers of *specialty* mental
 19 health services pursuant to this ~~part~~ *chapter* from also being
 20 providers of medical assistance mental health services for the
 21 purposes of Chapter 7 (commencing with Section 14000) ~~of Part~~
 22 ~~3 of Division 9.~~ Clinics providing *Medi-Cal specialty* mental health
 23 services pursuant to this ~~part~~ *chapter* shall ~~not~~ be required to be
 24 ~~licensed~~ *certified* as a condition to reimbursement for providing
 25 ~~such~~ *those* medical assistance mental health services.

26 *SEC. 159. Section 5723.5 of the Welfare and Institutions Code*
 27 *is repealed.*

28 ~~5723.5.~~ Notwithstanding any other provision of state law, and
 29 to the extent permitted by federal law and consistent with federal
 30 ~~regulations governing these claims, the state may seek federal~~
 31 ~~reimbursement for back claims under the Short-Doyle Medi-Cal~~
 32 ~~program.~~

33 *SEC. 160. Section 5724 of the Welfare and Institutions Code,*
 34 *as added by Section 6 of Chapter 651 of the Statutes of 2011, is*
 35 *amended and renumbered to read:*

36 ~~5724.~~

37 ~~14711.~~ (a) The department and the ~~State Department of Health~~
 38 ~~Care Services~~ shall ~~jointly~~ develop, in consultation with the
 39 California Mental Health Directors Association, a reimbursement
 40 methodology for use in the ~~Short-Doyle~~ Medi-Cal *claims*

1 *processing and interim payment* system that maximizes federal
2 funding and utilizes, as much as practicable, federal Medicaid and
3 Medicare reimbursement principles. ~~The departments~~ *department*
4 shall work with the federal Centers for Medicare and Medicaid
5 Services in the development of the methodology required by this
6 section.

7 (b) Reimbursement amounts developed through the methodology
8 required by this section shall be consistent with federal Medicaid
9 requirements and the approved Medicaid state plan and waivers.

10 (c) Administrative costs shall be claimed separately in a manner
11 consistent with federal Medicaid requirements and the approved
12 Medicaid state plan and waivers and shall be limited to 15 percent
13 of the total actual cost of direct client services.

14 (d) The cost of performing quality assurance and utilization
15 review activities shall be reimbursed separately and shall not be
16 included in administrative cost.

17 (e) The reimbursement methodology established pursuant to
18 this section shall be based upon certified public expenditures,
19 which encourage economy and efficiency in service delivery.

20 (f) The reimbursement amounts established for direct client
21 services pursuant to this section shall be based on increments of
22 time for all noninpatient services.

23 (g) The reimbursement methodology shall not be implemented
24 until it has received any necessary federal approvals.

25 (h) This section shall become operative on July 1, 2012.

26 *SEC. 161. Section 5750 of the Welfare and Institutions Code*
27 *is amended to read:*

28 5750. ~~(a)~~ ~~The State Department of~~ ~~Mental Health Care~~
29 ~~Services~~ shall administer this part and shall adopt standards for
30 ~~the approval of mental health services, and rules and regulations~~
31 ~~necessary thereto. However, these standards, rules, and regulations~~
32 ~~shall be adopted only after consultation with the California Council~~
33 ~~on Mental Health and the California Conference of Local Mental~~
34 ~~Health Directors Association and the California Mental Health~~
35 ~~Planning Council. Adoption of these standards, rules, and~~
36 ~~regulations shall require approval by the California Conference of~~
37 ~~Local Mental Health Directors by majority vote of those present~~
38 ~~at an official session except for regulations pertaining to psychiatric~~
39 ~~health facilities. For regulations pertaining to psychiatric health~~

1 facilities, the vote by the conference, following consultation, shall
2 be only advisory to the State Department of Mental Health.

3 (b) ~~If the conference refuses or fails to approve standards, rules,
4 or regulations submitted to it by the State Department of Mental
5 Health for its approval, the State Department of Mental Health
6 may submit these standards, rules, or regulations to the conference
7 at its next meeting, and if the conference again refuses to approve
8 them, the matter shall be referred for decision to a committee
9 composed of the Secretary of the Health and Welfare Agency, the
10 Director of Mental Health, the President of the California
11 Conference of Local Mental Health Directors, the Chairman of
12 the California Council on Mental Health, and a member designated
13 by the State Advisory Health Council.~~

14 (c) (1) ~~From July 1, 1991, to June 30, 1993, inclusive, the
15 conference shall not approve regulations of the State Department
16 of Mental Health. The impact on this subdivision of regulatory
17 timing shall be included in the department's report to the
18 Legislature on September 30, 1992.~~

19 (2) ~~The department shall continue during that period to involve
20 the conference in the development of all regulations which affect
21 local mental health programs, prior to the promulgation of those
22 regulations pursuant to the Administrative Procedure Act.~~

23 *SEC. 162. Section 5750.1 of the Welfare and Institutions Code*
24 *is repealed.*

25 ~~5750.1. Notwithstanding Section 5750, a standard, rule, or
26 policy, not directly the result of a statutory or administrative law
27 change, adopted by the department or county during the term of
28 an existing county performance contract shall not apply to the
29 negotiated net amount terms of that contract under Sections 5705
30 and 5716, but shall only apply to contracts established after
31 adoption of the standard, rule, or policy.~~

32 *SEC. 163. Section 5751 of the Welfare and Institutions Code*
33 *is amended to read:*

34 5751. (a) Regulations pertaining to the qualifications of
35 directors of local mental health services shall be administered in
36 accordance with Section 5607. These standards may include the
37 maintenance of records of service which shall be reported to the
38 State Department of Mental Health *Care Services* in a manner and
39 at times as it may specify.

1 (b) Regulations pertaining to the position of director of local
2 mental health services, where the local director is other than the
3 local health officer or medical administrator of the county hospitals,
4 shall require that the director be a psychiatrist, psychologist,
5 clinical social worker, marriage and family therapist, professional
6 clinical counselor, registered nurse, or hospital administrator, who
7 meets standards of education and experience established by the
8 Director of ~~Mental Health Care Services~~. Where the director is
9 not a psychiatrist, the program shall have a psychiatrist licensed
10 to practice medicine in this state and who shall provide to patients
11 medical care and services as authorized by Section 2051 of the
12 Business and Professions Code.

13 (c) The regulations shall be adopted in accordance with the
14 Administrative Procedure Act (Chapter 3.5 (commencing with
15 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
16 Code).

17 *SEC. 164. Section 5751.1 of the Welfare and Institutions Code*
18 *is amended to read:*

19 5751.1. Regulations pertaining to the position of director of
20 local mental health services, where the local director is other than
21 the local health officer or medical administrator of the county
22 hospitals, shall require that the director meet the standards of
23 education and experience established by the Director of ~~Mental~~
24 ~~Health Care Services~~ and that the appointment be open on the
25 basis of competence to all eligible disciplines pursuant to Section
26 5751. Regulations pertaining to the qualifications of directors of
27 local mental health services shall be administered in accordance
28 with Section 5607.

29 Where the director of local mental health services is not a
30 psychiatrist, the program shall have a psychiatrist licensed to
31 practice medicine in this state and who shall provide to patients
32 medical care and services as authorized by Section 2137 of the
33 Business and Professions Code.

34 *SEC. 165. Section 5751.2 of the Welfare and Institutions Code*
35 *is amended to read:*

36 5751.2. (a) Except as provided in this section, persons
37 employed or under contract to provide mental health services
38 pursuant to this part shall be subject to all applicable requirements
39 of law regarding professional licensure, and no person shall be
40 employed in local mental health programs pursuant to this part to

1 provide services for which a license is required, unless the person
2 possesses a valid license.

3 (b) Persons employed as psychologists and clinical social
4 workers, while continuing in their employment in the same class
5 as of January 1, 1979, in the same program or facility, including
6 those persons on authorized leave, but not including intermittent
7 personnel, shall be exempt from the requirements of subdivision
8 (a).

9 (c) While registered with the licensing board of jurisdiction for
10 the purpose of acquiring the experience required for licensure,
11 persons employed or under contract to provide mental health
12 services pursuant to this part as clinical social workers, marriage
13 and family therapists, or professional clinical counselors shall be
14 exempt from subdivision (a). Registration shall be subject to
15 regulations adopted by the appropriate licensing board.

16 (d) The requirements of subdivision (a) shall be waived by the
17 ~~department~~ *State Department of Health Care Services* for persons
18 employed or under contract to provide mental health services
19 pursuant to this part as psychologists who are gaining the
20 experience required for licensure. A waiver granted under this
21 subdivision may not exceed five years from the date of employment
22 by, or contract with, a local mental health program for persons in
23 the profession of psychology.

24 (e) The requirements of subdivision (a) shall be waived by the
25 ~~department~~ *State Department of Health Care Services* for persons
26 who have been recruited for employment from outside this state
27 as psychologists, clinical social workers, marriage and family
28 therapists, or professional clinical counselors and whose experience
29 is sufficient to gain admission to a licensing examination. A waiver
30 granted under this subdivision may not exceed three years from
31 the date of employment by, or contract with, a local mental health
32 program for persons in these four professions who are recruited
33 from outside this state.

34 *SEC. 166. Section 5751.7 of the Welfare and Institutions Code*
35 *is amended to read:*

36 5751.7. For the purposes of this part and the
37 Lanterman-Petris-Short Act (Part 1 (commencing with Section
38 5000)), the ~~department~~ *State Department of Social Services and*
39 *the State Department of State Hospitals* shall ensure that, whenever
40 feasible, minors shall not be admitted into psychiatric treatment

1 with adults if the health facility has no specific separate housing
2 arrangements, treatment staff, and treatment programs designed
3 to serve children or adolescents. The ~~director~~ *Director of Social*
4 *Services* shall provide waivers to counties, upon their request, if
5 this policy creates undue hardship in any county due to inadequate
6 or unavailable alternative resources. In granting the waivers, the
7 ~~director~~ *Director of Social Services* shall require the county to
8 establish specific treatment protocols and administrative procedures
9 for identifying and providing appropriate treatment to minors
10 admitted with adults.

11 However, notwithstanding any other provision of law, no minor
12 may be admitted for psychiatric treatment into the same treatment
13 ward as any adult receiving treatment who is in the custody of any
14 jailor for a violent crime, is a known registered sex offender, or
15 has a known history of, or exhibits inappropriate, sexual, or other
16 violent behavior which would present a threat to the physical safety
17 of minors.

18 *SEC. 167. Section 5768 of the Welfare and Institutions Code*
19 *is amended to read:*

20 5768. (a) Notwithstanding any other provision of law, except
21 as to requirements relating to fire and life safety of persons with
22 mental illness, the ~~department~~ *State Department of Social Services*,
23 in its discretion, may permit new programs to be developed and
24 implemented without complying with licensure requirements
25 established pursuant to existing state law.

26 (b) Any program developed and implemented pursuant to
27 subdivision (a) shall be reviewed at least once each six months,
28 as determined by the ~~department~~ *State Department of Social*
29 *Services*.

30 (c) The ~~department~~ *State Department of Social Services* may
31 establish appropriate licensing requirements for these new
32 programs upon a determination that the programs should be
33 continued.

34 (d) Within six years, any program shall require a licensure
35 category if it is to be continued. However, in the event that any
36 agency other than the ~~department~~ *State Department of Social*
37 *Services* is responsible for developing a licensure category and
38 fails to do so within the six years, the program may continue to be
39 developed and implemented pursuant to subdivisions (a) and (b)
40 until such time that the licensure category is established.

1 (e) (1) A nongovernmental entity proposing a program shall
2 submit a program application and plan to the local mental health
3 director that describes at least the following components: clinical
4 treatment programs, activity programs, administrative policies and
5 procedures, admissions, discharge planning, health records content,
6 health records service, interdisciplinary treatment teams, client
7 empowerment, patient rights, pharmaceutical services, program
8 space requirements, psychiatric and psychological services,
9 rehabilitation services, restraint and seclusion, space, supplies,
10 equipment, and staffing standards. If the local mental health
11 director determines that the application and plan are consistent
12 with local needs and satisfactorily address the above components,
13 he or she may approve the application and plan and forward them
14 to the department.

15 (2) Upon the ~~department's~~ *State Department of Social Services'*
16 approval, the local mental health director shall implement the
17 program and shall be responsible for regular program oversight
18 and monitoring. The department shall be notified in writing of the
19 outcome of each review of the program by the local mental health
20 director, or his or her designee, for compliance with program
21 requirements. The department shall retain ultimate responsibility
22 for approving the method for review of each program, and the
23 authority for determining the appropriateness of the local program's
24 oversight and monitoring activities.

25 (f) Governmental entities proposing a program shall submit a
26 program application and plan to the ~~department~~ *State Department*
27 *of Social Services* that describes at least the components described
28 in subdivision (e). Upon approval, the department shall be
29 responsible for program oversight and monitoring.

30 (g) Implementation of a program shall be contingent upon the
31 ~~department's~~ *State Department of Social Services'* approval, and
32 the department may reject applications or require modifications
33 as it deems necessary. The department shall respond to each
34 proposal within 90 days of receipt.

35 ~~(h) The State Department of Health Services shall allow an~~
36 ~~applicant approved by the department with a current health facility~~
37 ~~license to place its license in suspense for a period of six years. At~~
38 ~~that time the department, in consultation with the State Department~~
39 ~~of Health Services shall determine the most appropriate licensure~~
40 ~~for the program, pursuant to subdivisions (c) and (d).~~

1 (i)

2 (h) ~~The department~~ *The State Department of Social Services*
3 shall submit an evaluation to the Legislature of all pilot projects
4 authorized pursuant to this section within five years of the
5 commencement of operation of the pilot project, determining the
6 effectiveness of that program or facility, or both, based on, but not
7 limited to, changes in clinical indicators with respect to client
8 functions.

9 *SEC. 168. Section 5770 of the Welfare and Institutions Code*
10 *is amended to read:*

11 5770. Notwithstanding any other provision of law, the
12 ~~department~~ *State Department of Health Care Services* may directly,
13 or by contract, with any public or private agency, provide any of
14 the services under this division when the ~~director~~ *state* determines
15 that the services are necessary to protect the public health, safety,
16 or welfare.

17 *SEC. 169. Section 5770.5 of the Welfare and Institutions Code*
18 *is amended to read:*

19 5770.5. ~~The department~~ *The State Department of Health Care*
20 *Services* shall encourage county mental health programs to develop
21 and support local programs designed to provide technical assistance
22 to self-help groups for the purposes of maintaining existing groups,
23 as well as to stimulate development of new self-help groups from
24 locally defined needs.

25 *SEC. 170. Section 5771 of the Welfare and Institutions Code*
26 *is amended to read:*

27 5771. (a) Pursuant to Public Law 102-321, there is the
28 California Mental Health Planning Council. The purpose of the
29 planning council shall be to fulfill those mental health planning
30 requirements mandated by federal law.

31 (b) (1) The planning council shall have 40 members, to be
32 comprised of members appointed from both the local and state
33 levels in order to ensure a balance of state and local concerns
34 relative to planning.

35 (2) As required by federal law, eight members of the planning
36 council shall represent various state departments.

37 (3) Members of the planning council shall be appointed in a
38 manner that will ensure that at least one-half are persons with
39 mental disabilities, family members of persons with mental
40 disabilities, and representatives of organizations advocating on

1 behalf of persons with mental disabilities. Persons with mental
2 disabilities and family members shall be represented in equal
3 numbers.

4 (4) The Director of ~~Mental Health Care Services~~ shall make
5 appointments from among nominees from various mental health
6 constituency organizations, which shall include representatives of
7 consumer-related advocacy organizations, representatives of mental
8 health professional and provider organizations, and representatives
9 who are direct service providers from both the public and private
10 sectors. The director shall also appoint one representative of the
11 California Coalition on Mental Health.

12 (c) Members should be balanced according to demography,
13 geography, gender, and ethnicity. Members should include
14 representatives with interest in all target populations, including,
15 but not limited to, children and youth, adults, and older adults.

16 (d) The planning council shall annually elect a chairperson and
17 a chair-elect.

18 (e) The term of each member shall be three years, to be
19 staggered so that approximately one-third of the appointments
20 expire in each year.

21 (f) In the event of changes in the federal requirements regarding
22 the structure and function of the planning council, or the
23 discontinuation of federal funding, the State Department of ~~Mental~~
24 ~~Health Care Services~~ shall, *with input from state-level advocacy*
25 *groups, consumers, family members and providers, and other*
26 *stakeholders*, propose to the Legislature modifications in the
27 structure of the planning council that the department deems
28 appropriate.

29 *SEC. 171. Section 5771.3 of the Welfare and Institutions Code*
30 *is amended to read:*

31 5771.3. The California Mental Health Planning Council may
32 utilize staff of the State Department of ~~Mental Health Care~~
33 ~~Services~~, to the extent they are available, and the staff of any other
34 public or private agencies that have an interest in the mental health
35 of the public and that are able and willing to provide those services.

36 *SEC. 172. Section 5772 of the Welfare and Institutions Code*
37 *is amended to read:*

38 5772. The California Mental Health Planning Council shall
39 have the powers and authority necessary to carry out the duties

1 imposed upon it by this chapter, including, but not limited to, the
2 following:

3 (a) To advocate for effective, quality mental health programs.

4 (b) To review, assess, and make recommendations regarding
5 all components of California's mental health system, and to report
6 as necessary to the Legislature, the State Department of ~~Mental~~
7 *Health Care Services*, local boards, and local programs.

8 (c) To review program performance in delivering mental health
9 services by annually reviewing performance outcome data as
10 follows:

11 (1) To review and approve the performance outcome measures.

12 (2) To review the performance of mental health programs based
13 on performance outcome data and other reports from the State
14 Department of ~~Mental~~ *Health Care Services* and other sources.

15 (3) To report findings and recommendations on programs'
16 performance annually to the Legislature, the State Department of
17 ~~Mental~~ *Health Care Services*, and the local boards.

18 (4) To identify successful programs for recommendation and
19 for consideration of replication in other areas. As data and
20 technology are available, identify programs experiencing
21 difficulties.

22 (d) When appropriate, make a finding pursuant to Section 5655
23 that a county's performance is failing in a substantive manner. The
24 State Department of ~~Mental~~ *Health Care Services* shall investigate
25 and review the finding, and report the action taken to the
26 Legislature.

27 (e) To advise the Legislature, the State Department of ~~Mental~~
28 *Health Care Services*, and county boards on mental health issues
29 and the policies and priorities that this state should be pursuing in
30 developing its mental health system.

31 (f) To periodically review the state's data systems and
32 paperwork requirements to ensure that they are reasonable and in
33 compliance with state and federal law.

34 (g) To make recommendations to the State Department of
35 ~~Mental~~ *Health Care Services* on the award of grants to county
36 programs to reward and stimulate innovation in providing mental
37 health services.

38 (h) To conduct public hearings on the state mental health plan,
39 the Substance Abuse and Mental Health Services Administration
40 block grant, and other topics, as needed.

- 1 (i) ~~To participate in the recruitment of candidates for the position~~
2 ~~of Director of Mental Health and provide advice on the final~~
3 ~~selection.~~
- 4 (~~j~~)
- 5 (i) In conjunction with other statewide and local mental health
6 organizations, assist in the coordination of training and information
7 to local mental health boards as needed to ensure that they can
8 effectively carry out their duties.
- 9 (~~k~~)
- 10 (j) To advise the Director of ~~Mental Health Care Services~~ on
11 the development of the state mental health plan and the system of
12 priorities contained in that plan.
- 13 (~~l~~)
- 14 (k) To assess periodically the effect of realignment of mental
15 health services and any other important changes in the state's
16 mental health system, and to report its findings to the Legislature,
17 the State Department of ~~Mental Health Care Services~~, local
18 programs, and local boards, as appropriate.
- 19 (~~m~~)
- 20 (l) To suggest rules, regulations, and standards for the
21 administration of this division.
- 22 (~~n~~)
- 23 (m) When requested, to mediate disputes between counties and
24 the state arising under this part.
- 25 (~~o~~)
- 26 (n) To employ administrative, technical, and other personnel
27 necessary for the performance of its powers and duties, subject to
28 the approval of the Department of Finance.
- 29 (~~p~~)
- 30 (o) To accept any federal fund granted, by act of Congress or
31 by executive order, for purposes within the purview of the
32 California Mental Health Planning Council, subject to the approval
33 of the Department of Finance.
- 34 (~~q~~)
- 35 (p) To accept any gift, donation, bequest, or grants of funds
36 from private and public agencies for all or any of the purposes
37 within the purview of the California Mental Health Planning
38 Council, subject to the approval of the Department of Finance.
- 39 *SEC. 173. Section 5775 of the Welfare and Institutions Code*
40 *is amended and renumbered to read:*

1 5775.

2 14712. (a) Notwithstanding any other provision of state law,
3 the State Department of Mental Health ~~department~~ shall implement
4 managed mental health care for Medi-Cal beneficiaries through
5 fee-for-service or capitated rate contracts with mental health plans;
6 including. *Mental health plans may include individual counties,*
7 *counties acting jointly, any qualified individual or organization,*
8 *or a or an organization or nongovernmental entity determined by*
9 *the department to meet mental health plan standards.* A contract
10 may be exclusive and may be awarded on a geographic basis.

11 (b) Two or more counties acting jointly may agree to deliver or
12 subcontract for the delivery of *specialty* mental health services
13 *subject to the approval by the department.* The agreement may
14 encompass all or any portion of the *specialty* mental health services
15 provided pursuant to this ~~part~~ *chapter.* This agreement shall not
16 relieve the individual counties of ~~financial~~ *fiscal* responsibility for
17 providing these services. Any agreement between counties shall
18 delineate each county's responsibilities and fiscal liability *for*
19 *overpayments.*

20 (c) (1) The department shall ~~offer to contract with each a~~
21 *county or counties acting jointly* for the delivery of *specialty* mental
22 health services ~~to that each county's eligible Medi-Cal beneficiary~~
23 ~~population prior to offering to contract with any other entity, upon~~
24 ~~terms at least as favorable as any offered to a nonecounty contract~~
25 ~~provider. If population. If a county elects decides~~ not to contract
26 with the department, does not renew its contract, or ~~does not is~~
27 *unable to* meet the ~~minimum~~ standards set by the department, the
28 department may elect to contract with any other governmental or
29 nongovernmental entity for the delivery of mental health services
30 ~~in that county and may administer the delivery of mental health~~
31 ~~services until a contract for a mental health plan is implemented.~~
32 The county may not subsequently contract to provide mental health
33 services under this part unless the department elects to contract
34 ~~with the county. county shall inform the department of this decision~~
35 *in writing.*

36 (B)

37 (2) If the county is unwilling to contract for the delivery of
38 specialty mental health services, the department shall ensure that
39 specialty mental health services are provided to Medi-Cal
40 beneficiaries.

1 (3) *If the department or county determines that the county is*
2 *unable to adequately provide specialty mental health services, or*
3 *that the county does not meet the standards of a mental health*
4 *plan, the department shall ensure that specialty mental health*
5 *services are provided to Medi-Cal beneficiaries.*

6 (4) *The department may contract with qualifying individual*
7 *counties, counties acting jointly, or other qualified entities*
8 *approved by the department for the delivery of specialty mental*
9 *health services in any county that is unable or unwilling to contract*
10 *with the department. The county may not subsequently contract to*
11 *provide specialty mental health services under this chapter unless*
12 *the department elects to contract with the county.*

13 (d) *If a county does not contract with the department or other*
14 *department-approved entity to provide specialty mental health*
15 *services, the county shall transfer the responsibility*
16 *for community Medi-Cal reimbursable mental health services and*
17 *the anticipated county matching funds needed for community*
18 *Medi-Cal mental health services in that county to the department.*
19 *The amount of the anticipated county matching funds shall be*
20 *determined by the department in consultation with the county, and*
21 *shall be adjusted annually. The amount transferred shall be based*
22 *on historical cost, adjusted for changes in the number of Medi-Cal*
23 *beneficiaries and other relevant factors. The anticipated county*
24 *matching funds shall be used by the department to contract with*
25 *another entity for mental health services, and shall not be expended*
26 *for any other purpose but the provision of those services and related*
27 *administrative costs. The county shall continue to deliver*
28 *non-Medi-Cal reimbursable mental health services in accordance*
29 *with this division, and subject to subdivision (i) of Section 5777*
30 *work with the Department of Finance and the Controller to*
31 *sequester funds from the county that is unable or unwilling to*
32 *contract in accordance with Section 30027.10 of the Government*
33 *Code.*

34 (e) *Whenever the department determines that a mental health*
35 *plan has failed to comply with this part chapter or any regulations,*
36 *contractual requirements, state plan, or waivers adopted pursuant*
37 *to this part that implement this part chapter, the department shall*
38 *notify the mental health plan in writing within 30 days of its*
39 *determination and may impose sanctions, including, but not limited*
40 *to, fines, penalties, the withholding of payments, special*

1 requirements, probationary or corrective actions, or any other
2 actions deemed necessary to ~~prompt and~~ *promptly* ensure contract
3 and performance compliance. If ~~fin~~es are imposed by the
4 department, they may be withheld from the state matching funds
5 provided to a mental health plan for Medi-Cal mental health
6 ~~services~~. *the department imposes fines or penalties, to the extent*
7 *permitted by federal law and state law or contract, it may offset*
8 *the fines from either of the following:*

9 (1) *Funds from the Mental Health Subaccount, the Mental*
10 *Health Equity Subaccount, and the Vehicle License Collection*
11 *Account of the Local Revenue Fund and funds from the Mental*
12 *Health Account and the Behavioral Health Subaccount of the Local*
13 *Revenue Fund 2011.*

14 (2) *Any other mental health realignment funds from which the*
15 *Controller is authorized to make distributions to the counties, if*
16 *the funds described in paragraph (1) are insufficient for the*
17 *purposes described in this subdivision.*

18 (f) ~~Notwithstanding any other provision of law, emergency~~
19 ~~regulations adopted pursuant to Section 14680 to implement the~~
20 ~~second phase of mental health managed care as provided in this~~
21 ~~part shall remain in effect until permanent regulations are adopted,~~
22 ~~or June 30, 2006, whichever occurs first.~~

23 (g) ~~The department shall convene at least two public hearings~~
24 ~~to clarify new federal regulations recently enacted by the federal~~
25 ~~Centers for Medicare and Medicaid Services that affect the state's~~
26 ~~second phase of mental health managed care and shall report to~~
27 ~~the Legislature on the results of these hearings through the 2005-06~~
28 ~~budget deliberations.~~

29 (h) ~~The department may adopt emergency regulations necessary~~
30 ~~to implement Part 438 (commencing with Section 438.1) of Subpart~~
31 ~~A of Subchapter C of Chapter IV of Title 42 of the Code of Federal~~
32 ~~Regulations, in accordance with Chapter 3.5 (commencing with~~
33 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
34 ~~Code. The adoption of emergency regulations to implement this~~
35 ~~part, that are filed with the Office of Administrative Law within~~
36 ~~one year of the date on which the act that amended this subdivision~~
37 ~~in 2003 took effect, shall be deemed to be an emergency and~~
38 ~~necessary for the immediate preservation of the public peace,~~
39 ~~health, and safety, or general welfare, and shall remain in effect~~
40 ~~for no more than 180 days.~~

1 (f) *The due process and appeals process specified in paragraph*
 2 *(4) of subdivision (b) of Section 14718 shall be made available to*
 3 *the mental health plan under the circumstances described in*
 4 *subdivision (e).*

5 SEC. 174. *Section 5776 of the Welfare and Institutions Code*
 6 *is amended and renumbered to read:*

7 ~~5776.~~

8 14713. (a) ~~The department and its mental health plan~~
 9 ~~contractors plans~~ shall comply with all applicable federal laws,
 10 regulations, and *the guidelines, standards, and requirements*
 11 *specified in the state plan, waiver, and mental health plan contract,*
 12 and, except as provided in this ~~part~~ *chapter*, all applicable state
 13 statutes and regulations.

14 (b) If federal requirements that affect the provisions of this ~~part~~
 15 *chapter* are changed, it is the intent of the Legislature that state
 16 requirements be revised to comply with those changes.

17 SEC. 175. *Section 5777 of the Welfare and Institutions Code*
 18 *is amended and renumbered to read:*

19 ~~5777.~~

20 14714. (a) (1) Except as otherwise specified in this ~~part~~
 21 *chapter*, a contract entered into pursuant to this ~~part~~ *chapter* shall
 22 include a provision that the mental health plan contractor shall
 23 bear the financial risk for the cost of providing medically necessary
 24 *specialty* mental health services to Medi-Cal beneficiaries
 25 ~~irrespective of whether the cost of those services exceeds the~~
 26 ~~payment set forth in the contract. If the expenditures for services~~
 27 ~~do not exceed the payment set forth in the contract, the mental~~
 28 ~~health plan contractor shall report the unexpended amount to the~~
 29 ~~department, but shall not be required to return the excess to the~~
 30 ~~department.~~

31 (2) If the mental health plan is not ~~the county's~~ *administered*
 32 *by a county*, the mental health plan ~~may~~ *shall* not transfer the
 33 obligation for any *specialty* mental health services to Medi-Cal
 34 beneficiaries to the county. The mental health plan may purchase
 35 services from the county. The mental health plan shall establish
 36 mutually agreed-upon protocols with the county that clearly
 37 establish conditions under which beneficiaries may obtain
 38 non-Medi-Cal reimbursable services from the county. Additionally,
 39 the plan shall establish mutually agreed-upon protocols with the
 40 county for the conditions of transfer of beneficiaries who have lost

1 Medi-Cal eligibility to the county for care under Part 2
2 (commencing with Section 5600), Part 3 (commencing with Section
3 5800), and Part 4 (commencing with Section 5850) of *Division 5*.

4 (3) The mental health plan shall be financially responsible for
5 ensuring access and a minimum required scope of benefits *and*
6 *services*, consistent with state and federal requirements, to ~~the~~
7 ~~services to the~~ Medi-Cal beneficiaries *who are residents* of that
8 county regardless of where the beneficiary resides. The department
9 shall require that the *same* definition of medical necessity *be* used,
10 and the minimum scope of benefits offered; by each mental health
11 ~~contractor plan~~ *be* the same, except to the extent that ~~any variations~~
12 ~~receive prior federal approval is received and are~~ *is* consistent with
13 state and federal ~~statutes and regulations~~ *laws*.

14 (b) (1) Any contract entered into pursuant to this ~~part~~ *chapter*
15 may be renewed if the *mental health* plan continues to meet the
16 requirements of this ~~part~~ *chapter*, regulations promulgated pursuant
17 thereto, and the terms and conditions of the contract. Failure to
18 meet these requirements shall be cause for nonrenewal of the
19 contract. The department may base the decision to renew on timely
20 completion of a mutually agreed-upon plan of correction of any
21 deficiencies, submissions of required information in a timely
22 manner, or other conditions of the contract. ~~At the discretion of~~
23 ~~the department, each contract may be renewed for a period not to~~
24 ~~exceed three years.~~

25 (2) *In the event the contract is not renewed based on the reasons*
26 *specified in paragraph (1), the department shall notify the*
27 *Department of Finance, the fiscal and policy committees of the*
28 *Legislature, and the Controller of the amounts to be sequestered*
29 *from the Mental Health Subaccount, the Mental Health Equity*
30 *Account, and the Vehicle License Fee Collection Account of the*
31 *Local Revenue Fund and the Mental Health Account and the*
32 *Behavioral Health Subaccount of the Local Revenue Fund 2011,*
33 *and the Controller shall sequester those funds in the Behavioral*
34 *Health Subaccount pursuant to Section 30027.10 of the*
35 *Government Code. Upon this sequestration, the department shall*
36 *use the funds in accordance with the provisions of Section 30027.10*
37 *of the Government Code.*

38 (c) (1) The obligations of the mental health plan shall be
39 changed only by contract or contract amendment.

1 (2) *Notwithstanding paragraph (1), the mental health plan shall*
2 *comply with federal and state requirements, including the*
3 *applicable sections of the state plan and waiver.*

4 (2)

5 (3) A change may be made during a contract term or at the time
6 of contract renewal, ~~where~~ *when* there is a change in obligations
7 required by federal or state law or when required by a change in
8 the interpretation or implementation of any law or regulation. ~~To~~
9 ~~the extent permitted by federal law and except as provided under~~
10 ~~paragraph (10) of subdivision (c) of Section 5778, if any change~~
11 ~~in obligations occurs that affects the cost to the mental health plan~~
12 ~~of performing under the terms of its contract, the department may~~
13 ~~reopen contracts to negotiate the state General Fund allocation to~~
14 ~~the mental health plan under Section 5778, if the mental health~~
15 ~~plan is reimbursed through a fee-for-service payment system, or~~
16 ~~the capitation rate to the mental health plan under Section 5779,~~
17 ~~if the mental health plan is reimbursed through a capitated rate~~
18 ~~payment system. During the time period required to redetermine~~
19 ~~the allocation or rate, payment to the mental health plan of the~~
20 ~~allocation or rate in effect at the time the change occurred shall be~~
21 ~~considered interim payments and shall be subject to increase or~~
22 ~~decrease, as the case may be, effective as of the date on which the~~
23 ~~change is effective.~~

24 (3)

25 (4) To the extent permitted by federal law, either the department
26 or the mental health plan may request that contract negotiations
27 be reopened during the course of a contract due to substantial
28 changes in the cost of covered benefits that result from an
29 unanticipated event.

30 (d) The department shall immediately terminate a contract when
31 the director finds that there is an immediate threat to the health
32 and safety of Medi-Cal beneficiaries. Termination of the contract
33 for other reasons shall be subject to reasonable notice of the
34 department's intent to take that action and notification ~~of~~ *to* affected
35 beneficiaries. The plan may request a ~~public~~ hearing by the Office
36 of Administrative Hearings *and Appeals*.

37 (e) A *mental health* plan may terminate its contract in
38 accordance with the provisions in the contract. The *mental health*
39 plan shall provide written notice to the department at least 180
40 days prior to the termination or nonrenewal of the contract.

1 (f) Upon the request of the ~~Director of Mental Health~~ *director*,
2 the Director of *the Department of Managed Health Care* may
3 exempt a mental health plan ~~contractor or a capitated rate contract~~
4 from the Knox-Keene Health Care Service Plan Act of 1975
5 (Chapter 2.2 (commencing with Section 1340) of Division 2 of
6 the Health and Safety Code). These exemptions may be subject to
7 conditions the director deems appropriate. Nothing in this ~~part~~
8 *chapter* shall be construed to impair or diminish the authority of
9 the Director of *the Department of Managed Health Care* under the
10 Knox-Keene Health Care Service Plan Act of 1975, nor shall
11 anything in this ~~part~~ *chapter* be construed to reduce or otherwise
12 limit the obligation of a mental health plan contractor licensed as
13 a health care service plan to comply with the requirements of the
14 Knox-Keene Health Care Service Plan Act of 1975, and the rules
15 of the Director of *the Department of Managed Health Care*
16 promulgated thereunder. The ~~Director of Mental Health~~ *director*,
17 in consultation with the Director of *the Department of Managed*
18 *Health Care*, shall analyze the appropriateness of licensure or
19 application of applicable standards of the Knox-Keene Health Care
20 Service Plan Act of 1975.

21 (g) ~~(1) The department, pursuant to an agreement with the State~~
22 ~~Department of Health Care Services, shall provide oversight to~~
23 ~~the mental health plans to ensure quality, access, and cost~~
24 ~~efficiency, and compliance with data and reporting requirements.~~
25 At a minimum, the department shall, through a method independent
26 of any agency of the mental health plan contractor, monitor the
27 level and quality of services provided, expenditures pursuant to
28 the contract, and conformity with federal and state law.

29 ~~(2) (A) Commencing July 1, 2008, county mental health plans,~~
30 ~~in collaboration with the department, the federally required external~~
31 ~~review organization, providers, and other stakeholders, shall~~
32 ~~establish an advisory statewide performance improvement project~~
33 ~~(PIP) to increase the coordination, quality, effectiveness, and~~
34 ~~efficiency of service delivery to children who are either receiving~~
35 ~~at least three thousand dollars (\$3,000) per month in the Early and~~
36 ~~Periodic Screening, Diagnosis, and Treatment (EPSDT) Program~~
37 ~~services or children identified in the top 5 percent of the county~~
38 ~~EPSDT cost, whichever is lowest. The statewide PIP shall replace~~
39 ~~one of the two required PIPs that mental health plans must perform~~

1 under federal regulations outlined in the mental health plan
 2 contract.

3 (B) The federally required external quality review organization
 4 shall provide independent oversight and reviews with
 5 recommendations and findings or summaries of findings, as
 6 appropriate, from a statewide perspective. This information shall
 7 be accessible to county mental health plans, the department, county
 8 welfare directors, providers, and other interested stakeholders in
 9 a manner that both facilitates, and allows for, a comprehensive
 10 quality improvement process for the EPSDT Program.

11 (C) Each July, the department, in consultation with the federally
 12 required external quality review organization and the county mental
 13 health plans, shall determine the average monthly cost threshold
 14 for counties to use to identify children to be reviewed who are
 15 currently receiving EPSDT services. The department shall consult
 16 with representatives of county mental health directors, county
 17 welfare directors, providers, and the federally required external
 18 quality review organization in setting the annual average monthly
 19 cost threshold and in implementing the statewide PIP. The
 20 department shall provide an annual update to the Legislature on
 21 the results of this statewide PIP by October 1 of each year for the
 22 prior fiscal year.

23 (D) It is the intent of the Legislature for the EPSDT PIP to
 24 increase the coordination, quality, effectiveness, and efficiency of
 25 service delivery to children receiving EPSDT services and to
 26 facilitate evidence-based practices within the program, and other
 27 high-quality practices consistent with the values of the public
 28 mental health system within the program to ensure that children
 29 are receiving appropriate mental health services for their mental
 30 health wellness.

31 (E) This paragraph shall become inoperative on September 1,
 32 2011.

33 (h) County employees implementing or administering a mental
 34 health plan act in a discretionary capacity when they determine
 35 whether or not to admit a person for care or to provide any level
 36 of care pursuant to this ~~part~~ *chapter*.

37 (i) If a county chooses to ~~discontinue~~ *discontinues* operations
 38 as the local mental health plan, the *department shall approve any*
 39 *new mental health plan. The new mental health plan shall give*
 40 reasonable consideration to affiliation with nonprofit community

1 mental health agencies that were under contract with the county
2 and that meet the mental health plan’s quality and cost efficiency
3 standards.

4 (j) Nothing in this ~~part~~ *chapter* shall be construed to modify,
5 alter, or increase the obligations of counties as otherwise limited
6 and defined in Chapter 3 (commencing with Section 5700) of Part
7 2 of *Division 5*. The county’s maximum obligation for services to
8 persons not eligible for Medi-Cal shall be no more than the amount
9 of funds remaining in the mental health subaccount pursuant to
10 Sections 17600, 17601, 17604, 17605, ~~17606~~, and 17609 after
11 fulfilling the Medi-Cal contract obligations.

12 *SEC. 176. Section 5777.5 of the Welfare and Institutions Code*
13 *is amended and renumbered to read:*

14 ~~5777.5:~~

15 *14715.* (a) (1) The department shall require any mental health
16 plan that provides Medi-Cal *specialty mental health* services to
17 enter into a memorandum of understanding with any Medi-Cal
18 managed care plan that provides Medi-Cal health services to some
19 of the same Medi-Cal recipients served by the mental health plan.
20 The memorandum of understanding shall comply with applicable
21 regulations.

22 (2) For purposes of this section, a “Medi-Cal managed care
23 plan” means any prepaid health plan or Medi-Cal managed care
24 plan contracting with the ~~State Department of Health Services~~
25 *department* to provide services to enrolled Medi-Cal beneficiaries
26 under Chapter 7 (commencing with Section 14000) or Chapter 8
27 (commencing with Section 14200) ~~of Part 3 of Division 9~~, or Part
28 4 (commencing with Section 101525) of Division 101 of the Health
29 and Safety Code.

30 (b) The department shall require the memorandum of
31 understanding to include all of the following:

32 (1) A process or entity to be designated by the local mental
33 health plan to receive notice of actions, denials, or deferrals from
34 the Medi-Cal managed care plan, and to provide any additional
35 information requested in the deferral notice as necessary for a
36 medical necessity determination.

37 (2) A requirement that the local mental health plan respond by
38 the close of the business day following the day the deferral notice
39 is received.

1 (c) The department may sanction a mental health plan pursuant
2 to ~~paragraph (1) of~~ subdivision (e) of Section ~~5775~~ 14712 for
3 failure to comply with this section.

4 (d) This section shall apply to any contracts entered into,
5 amended, modified, extended, or renewed on or after January 1,
6 2001.

7 *SEC. 177. Section 5777.6 of the Welfare and Institutions Code*
8 *is amended and renumbered to read:*

9 ~~5777.6.~~

10 14716. (a) Each local mental health plan shall establish a
11 procedure to ensure access to outpatient *specialty* mental health
12 services, as required by the Early Periodic Screening and
13 Diagnostic Treatment program standards, for any child in foster
14 care who has been placed outside his or her county of adjudication.

15 (b) The procedure required by subdivision (a) may be established
16 through one or more of the following:

17 (1) The establishment of, and federal approval, if required, of,
18 a statewide system or procedure.

19 (2) An arrangement between local mental health plans for
20 reimbursement for services provided by a mental health plan other
21 than the mental health plan in the county of adjudication and
22 designation of an entity to provide additional information needed
23 for approval or reimbursement. This arrangement shall not require
24 providers who are already credentialed or certified by the mental
25 health plan in the beneficiary's county of residence to be
26 credentialed or certified by, or to contract with, the mental health
27 plan in the county of adjudication.

28 (3) Arrangements between the mental health plan in the county
29 of adjudication and mental health providers in the beneficiary's
30 county of residence for authorization of, and reimbursement for,
31 services. This arrangement shall not require providers credentialed
32 or certified by, and in good standing with, the mental health plan
33 in the beneficiary's county of residence to be credentialed or
34 certified by the mental health plan in the county of adjudication.

35 (c) The department shall collect and keep statistics that will
36 enable the department to compare access to outpatient specialty
37 mental health services by foster children placed in their county of
38 adjudication with access to outpatient specialty mental health
39 services by foster children placed outside of their county of
40 adjudication.

1 *SEC. 178. Section 5777.7 of the Welfare and Institutions Code*
2 *is amended and renumbered to read:*

3 ~~5777.7.~~

4 14717. (a) In order to facilitate the receipt of medically
5 necessary specialty mental health services by a foster child who
6 is placed outside his or her county of original jurisdiction, the ~~State~~
7 ~~Department of Mental Health~~ *department* shall take all of the
8 following actions:

9 (1) On or before July 1, 2008, create all of the following items,
10 in consultation with stakeholders, including, but not limited to,
11 the California Institute for Mental Health, the Child and Family
12 Policy Institute, the California Mental Health Directors
13 Association, and the California Alliance of Child and Family
14 Services:

15 (A) A standardized contract for the purchase of medically
16 necessary specialty mental health services from organizational
17 providers, when a contract is required.

18 (B) A standardized specialty mental health service authorization
19 procedure.

20 (C) A standardized set of documentation standards and forms,
21 including, but not limited to, forms for treatment plans, annual
22 treatment plan updates, day treatment intensive and day treatment
23 rehabilitative progress notes, and treatment authorization requests.

24 (2) On or before January 1, 2009, use the standardized items as
25 described in paragraph (1) to provide medically necessary specialty
26 mental health services to a foster child who is placed outside his
27 or her county of original jurisdiction, so that organizational
28 providers who are already certified by a mental health plan are not
29 required to be additionally certified by the mental health plan in
30 the county of original jurisdiction.

31 (3) (A) On or before January 1, 2009, use the standardized
32 items described in paragraph (1) to provide medically necessary
33 specialty mental health services to a foster child placed outside
34 his or her county of original jurisdiction to constitute a complete
35 contract, authorization procedure, and set of documentation
36 standards and forms, so that no additional documents are required.

37 (B) Authorize a county mental health plan to be exempt from
38 subparagraph (A) and have an addendum to a contract,
39 authorization procedure, or set of documentation standards and
40 forms, if the county mental health plan has an externally placed

1 requirement, such as a requirement from a federal integrity
2 agreement, that would affect one of these documents.

3 (4) Following consultation with stakeholders, including, but not
4 limited to, the California Institute for Mental Health, the Child and
5 Family Policy Institute, the California Mental Health Directors
6 Association, the California State Association of Counties, and the
7 California Alliance of Child and Family Services, require the use
8 of the standardized contracts, authorization procedures, and
9 documentation standards and forms as specified in paragraph (1)
10 in the 2008–09 state-county mental health plan contract and each
11 state-county mental health plan contract thereafter.

12 (5) The mental health plan shall complete a standardized
13 contract, as provided in paragraph (1), if a contract is required, or
14 another mechanism of payment if a contract is not required, with
15 a provider or providers of the county’s choice, to deliver approved
16 specialty mental health services for a specified foster child, within
17 30 days of an approved treatment authorization request.

18 (b) The California Health and Human Services Agency shall
19 coordinate the efforts of the ~~State Department of Mental Health~~
20 *department* and the State Department of Social Services to do all
21 of the following:

22 (1) Participate with the stakeholders in the activities described
23 in this section.

24 (2) During budget hearings in 2008 and 2009, report to the
25 Legislature regarding the implementation of this section and
26 subdivision (c) of Section ~~5777.6~~ 14716.

27 (3) On or before July 1, 2008, establish the following, in
28 consultation with stakeholders, including, but not limited to, the
29 California Mental Health Directors Association, the California
30 Alliance of Child and Family Services, and the County Welfare
31 Directors Association of California:

32 (A) Informational materials that explain to foster care providers
33 how to arrange for *specialty* mental health services on behalf of
34 the beneficiary in their care.

35 (B) Informational materials that county child welfare agencies
36 can access relevant to the provision of services to children in their
37 care from the out-of-county local mental health plan that is
38 responsible for providing those services, including, but not limited
39 to, receiving a copy of the child’s treatment plan within 60 days
40 after requesting services.

1 (C) It is the intent of the Legislature to ensure that foster children
2 who are adopted or placed permanently with relative guardians,
3 and who move to a county outside their original county of
4 residence, can access *specialty* mental health services in a timely
5 manner. It is the intent of the Legislature to enact this section as
6 a temporary means of ensuring access to these services, while the
7 appropriate stakeholders pursue a long-term solution in the form
8 of a change to the Medi-Cal Eligibility Data System that will allow
9 these children to receive *specialty* mental health services through
10 their new county of residence.

11 *SEC. 179. Section 5778 of the Welfare and Institutions Code,*
12 *as added by Section 8 of Chapter 651 of the Statutes of 2011, is*
13 *amended and renumbered to read:*

14 *5778:*

15 *14718. (a) This section shall be limited to specialty mental*
16 *health services reimbursed through a fee-for-service payment*
17 *system to a mental health plan that certifies public expenditures*
18 *subject to cost settlement or specialty mental health services*
19 *reimbursed through the department's fiscal intermediary.*

20 (b) The following provisions shall apply to matters related to
21 specialty mental health services provided under the *approved*
22 ~~Medi-Cal specialty mental health services waiver state plan and~~
23 ~~the Specialty Mental Health Services Waiver~~, including, but not
24 limited to, reimbursement and claiming procedures, reviews and
25 oversight, and appeal processes for mental health plans (MHPs)
26 and MHP subcontractors.

27 (1) ~~During the initial phases of the implementation of this part,~~
28 ~~as determined by the department, the MHP contractor and~~
29 ~~subcontractors shall submit claims under the Medi-Cal program~~
30 ~~for eligible services on a fee-for-service basis shall submit claims~~
31 ~~for reimbursement to the Medi-Cal program for eligible services.~~

32 (2) ~~A qualifying county may elect, with the approval of the~~
33 ~~department, to operate under the requirements of a capitated,~~
34 ~~integrated service system field test, pursuant to Section 5719.5~~
35 ~~rather than this part, in the event the requirements of the two~~
36 ~~programs conflict. A county that elects to operate under that section~~
37 ~~shall comply with all other provisions of this part that do not~~
38 ~~conflict with that section.~~

39 (3) (A) ~~No sooner than October 1, 1994, state matching funds~~
40 ~~for Medi-Cal fee-for-service acute psychiatric inpatient services,~~

1 and associated administrative days, shall be transferred to the
2 department. No later than July 1, 1997, upon agreement between
3 the department and the State Department of Health Care Services,
4 state matching funds for the remaining Medi-Cal fee-for-service
5 mental health services and the state matching funds associated
6 with field test counties under Section 5719.5 shall be transferred
7 to the department.

8 (B) The department, in consultation with the State Department
9 of Health Care Services, a statewide organization representing
10 counties, and a statewide organization representing health
11 maintenance organizations shall develop a timeline for the transfer
12 of funding and responsibility for fee-for-service mental health
13 services from Medi-Cal managed care plans to MHPs. In
14 developing the timeline, the department shall develop screening,
15 referral, and coordination guidelines to be used by Medi-Cal
16 managed care plans and MHPs.

17 (4) (A) (i) A MHP subcontractor providing specialty mental
18 health services shall be financially responsible for federal audit
19 exceptions or disallowances to the extent that these exceptions or
20 disallowances are based on the MHP subcontractor's conduct or
21 determinations.

22 (ii) The state shall be financially responsible for federal audit
23 exceptions or disallowances to the extent that these exceptions or
24 disallowances are based on the state's conduct or determinations.
25 The state shall not withhold payment from a MHP for exceptions
26 or disallowances that the state is financially responsible for
27 pursuant to this clause.

28 (iii) A MHP shall be financially responsible for state audit
29 exceptions or disallowances to the extent that these exceptions or
30 disallowances are based on the MHP's conduct or determinations.
31 A MHP shall not withhold payment from a MHP subcontractor
32 for exceptions or disallowances for which the MHP is financially
33 responsible pursuant to this clause.

34 (B) For purposes of subparagraph (A), a "determination" shall
35 be shown by a written document expressly stating the
36 determination, while "conduct" shall be shown by any credible,
37 legally admissible evidence.

38 (C)

39 (2) The department and the State Department of Health Care
40 Services shall work jointly with MHPs in initiating any necessary

1 ~~appeals. The department may invoice or~~ *may* offset the amount of
2 any federal disallowance ~~or, audit exception, or overpayment~~
3 against subsequent claims from the MHP ~~or MHP subcontractor.~~
4 *The department may offset the amount of any state disallowance,*
5 *or audit exception or overpayment against subsequent claims from*
6 *the mental health plan, through the 2010–11 fiscal year. This offset*
7 *may be done at any time, after the department has invoiced or*
8 *otherwise notified the mental health plan about the audit exception*
9 ~~or, disallowance has been withheld from the federal financial~~
10 ~~participation claim made by the State Department of Health Care~~
11 ~~Services, or overpayment. The maximum department shall~~
12 ~~determine the amount that may be withheld from each payment to~~
13 ~~the mental health plan. The maximum withheld amount shall be~~
14 ~~25 percent of each payment to the plan or subcontractor as long~~
15 ~~as the department is able to comply with the federal requirements~~
16 ~~for repayment of federal financial participation pursuant to Section~~
17 ~~1903(d)(2) of the federal Social Security Act (42 U.S.C. Sec.~~
18 ~~1396b(d)(2)). The department may increase the maximum amount~~
19 ~~when necessary for compliance with federal laws and regulations.~~

20 (5)

21 (3) (A) Oversight by the department of the MHPs ~~and MHP~~
22 ~~subcontractors~~ may include client record reviews of Early Periodic
23 Screening Diagnosis and Treatment (EPSDT) specialty mental
24 health services *rendered by MHPs and MHP subcontractors* under
25 the Medi-Cal specialty mental health services waiver in addition
26 to other audits or reviews that are conducted.

27 (B) The department may contract with an independent,
28 nongovernmental entity to conduct client record reviews. The
29 contract awarded in connection with this section shall be on a
30 competitive bid basis, pursuant to the Department of General
31 Services contracting requirements, and shall meet both of the
32 following additional requirements:

33 (i) Require the entity awarded the contract to comply with all
34 federal and state privacy laws, including, but not limited to, the
35 federal Health Insurance Portability and Accountability Act
36 (HIPAA; 42 U.S.C. Sec. 1320d et seq.) and its implementing
37 regulations, the Confidentiality of Medical Information Act (Part
38 2.6 (commencing with Section 56) of Division 1 of the Civil Code),
39 and Section 1798.81.5 of the Civil Code. The entity shall be subject
40 to existing penalties for violation of these laws.

1 (ii) Prohibit the entity awarded the contract from using, ~~selling,~~
2 or disclosing client records *or client information* for a purpose
3 other than the one for which the record was given.

4 (iii) *Prohibit the entity awarded the contract from selling client*
5 *records or client information.*

6 (C) For purposes of this paragraph, the following terms shall
7 have the following meanings:

8 (i) “Client record” means a medical record, chart, or similar
9 file, as well as other documents containing information regarding
10 an individual recipient of services, including, but not limited to,
11 clinical information, dates and times of services, and other
12 information relevant to the individual and services provided and
13 that evidences compliance with legal requirements for Medi-Cal
14 reimbursement.

15 (ii) “Client record review” means examination of the client
16 record for a selected individual recipient for the purpose of
17 confirming the existence of documents that verify compliance with
18 legal requirements for claims submitted for Medi-Cal
19 reimbursement.

20 (D) The department shall recover overpayments of federal
21 financial participation from MHPs within the timeframes required
22 by federal law and regulation ~~and return those funds to the State~~
23 ~~Department of Health Care Services for repayment to the federal~~
24 ~~Centers for Medicare and Medicaid Services. The department shall~~
25 ~~recover overpayments of General Fund moneys utilizing the~~
26 ~~recoupment methods and timeframes required by the State~~
27 ~~Administrative Manual.~~

28 (6)

29 (4) (A) The department, in consultation with mental health
30 stakeholders, the California Mental Health Directors Association,
31 and MHP subcontractor representatives, shall provide an appeals
32 process that specifies a progressive process for resolution of
33 disputes about claims or recoupments relating to specialty mental
34 health services under the Medi-Cal specialty mental health services
35 waiver.

36 (B) The department shall provide MHPs and MHP
37 subcontractors the opportunity to directly appeal findings in
38 accordance with procedures that are similar to those described in
39 Article 1.5 (commencing with Section 51016) of Chapter 3 of
40 Subdivision 1 of Division 3 of Title 22 of the California Code of

1 Regulations, until new regulations for a progressive appeals process
2 are promulgated. When an MHP subcontractor initiates an appeal,
3 it shall give notice to the MHP. The department shall propose a
4 rulemaking package *consistent with the department's appeals*
5 *process that is in effect on July 1, 2012* by no later than the end of
6 ~~the 2008-09 2013-14~~ fiscal year ~~to amend the existing appeals~~
7 ~~process~~. The reference in this subparagraph to the procedures
8 described in Article 1.5 (commencing with Section 51016) of
9 Chapter 3 of Subdivision 1 of Division 3 of Title 22 of the
10 California Code of Regulations, shall only apply to those appeals
11 addressed in this subparagraph.

12 (C) The department shall develop regulations as necessary to
13 implement this paragraph.

14 ~~(7)~~

15 (5) The department shall ~~assume the applicable program~~
16 ~~oversight authority formerly provided by the State Department of~~
17 ~~Health Care Services, including, but not limited to, the conduct~~
18 ~~oversight of utilization controls as specified in Section 14133. The~~
19 ~~MHP shall include a requirement in any subcontracts that all~~
20 ~~inpatient subcontractors maintain necessary licensing and~~
21 ~~certification. MHPs shall require that services delivered by licensed~~
22 ~~staff are within their scope of practice. Nothing in this part chapter~~
23 ~~shall prohibit the MHPs from establishing standards that are in~~
24 ~~addition to the minimum federal and state requirements, provided~~
25 ~~that these standards do not violate federal and state Medi-Cal~~
26 ~~requirements and guidelines.~~

27 ~~(8)~~

28 (6) (A) Subject to federal approval and consistent with state
29 requirements, the MHP may negotiate rates with providers of
30 *specialty* mental health services.

31 ~~(9) Under the fee-for-service payment system, any~~

32 (B) ~~Any excess in the payment set forth in the contract~~
33 ~~distribution of funds over the expenditures for services by the~~
34 ~~mental health plan shall be spent for the provision of specialty~~
35 ~~mental health services under the Medi-Cal specialty mental health~~
36 ~~service waiver and related administrative costs.~~

37 ~~(10)~~

38 (7) Nothing in this ~~part chapter~~ shall limit the MHP from being
39 reimbursed ~~the full and~~ appropriate federal financial participation
40 for any qualified services ~~even if the total expenditures for service~~

1 exceeds the contract amount with the department. Matching
 2 nonfederal public funds shall be provided by the plan for the federal
 3 financial participation matching requirement. *To receive federal*
 4 *financial participation, the mental health plan shall certify its*
 5 *public expenditures for specialty mental health services to the*
 6 *department.*

7 ~~(11)~~

8 (8) Notwithstanding Section 14115, claims for *federal*
 9 reimbursement for service pursuant to this ~~part~~ *chapter* shall be
 10 submitted by MHPs within the timeframes required by federal
 11 Medicaid requirements and the approved Medicaid state plan and
 12 waivers.

13 ~~(e) This subdivision shall apply to managed mental health care~~
 14 ~~funding allocations and risk-sharing determinations and~~
 15 ~~arrangements.~~

16 (1) ~~The department shall allocate and distribute annually the~~
 17 ~~full appropriated amount to each MHP for the managed mental~~
 18 ~~health care program, exclusive of the EPSDT specialty mental~~
 19 ~~health services program, provided under the mental health services~~
 20 ~~waiver. The allocated funds shall be considered to be funds of the~~
 21 ~~plan to be used as specified in this part.~~

22 (2) ~~Each fiscal year the state matching funds for Medi-Cal~~
 23 ~~specialty mental health services shall be included in the annual~~
 24 ~~budget for the department. The amount included shall be based on~~
 25 ~~historical cost, adjusted for changes in the number of Medi-Cal~~
 26 ~~beneficiaries and other relevant factors. The appropriation for~~
 27 ~~funding the state share of the costs for EPSDT specialty mental~~
 28 ~~health services provided under the Medi-Cal specialty mental~~
 29 ~~health services waiver shall only be used for reimbursement~~
 30 ~~payments of claims for those services.~~

31 ~~(3) Initially, the~~

32 (9) *The MHP shall use the fiscal intermediary of the Medi-Cal*
 33 *program of the State Department of Health Care Services for the*
 34 *processing of claims for inpatient psychiatric hospital services*
 35 *rendered in fee-for-service Medi-Cal hospitals. The department*
 36 *shall request the Controller to offset the distribution of funds to*
 37 *the counties from the Mental Health Subaccount, the Mental Health*
 38 *Equity Subaccount, or the Vehicle License Collection Account of*
 39 *the Local Revenue Fund, or funds from the Mental Health Account*
 40 *or the Behavioral Health Subaccount of the Local Revenue Fund*

1 2011 for the nonfederal financial participation share for these
2 claims.

3 (c) Counties may set aside funds for self-insurance, audit
4 settlement, and statewide program risk pools. The counties shall
5 assume all responsibility and liability for appropriate
6 administration of the funds. Special consideration may be given
7 to small counties with a population of less than 200,000. Nothing
8 in the paragraph shall in any way make the state or department
9 liable for mismanagement or loss of funds by the entity designated
10 by counties under this subdivision.

11 (d) ~~The department shall consult with the State Department of~~
12 ~~Health Care Services and the California Mental Health Directors~~
13 ~~Association in February and September of each year to review the~~
14 ~~methodology used to forecast future trends obtain data and~~
15 ~~methodology necessary to forecast future fiscal trends in the~~
16 ~~provision of EPSDT specialty mental health services provided~~
17 ~~under the Medi-Cal specialty mental health services waiver, to~~
18 ~~estimate these yearly EPSDT yearly specialty mental health~~
19 ~~services related costs, and to estimate the annual amount of funding~~
20 ~~required for reimbursements for EPSDT specialty mental health~~
21 ~~services to ensure relevant factors are incorporated in the~~
22 ~~methodology. The estimates of costs and reimbursements shall~~
23 ~~include both federal financial participation amounts and any state~~
24 ~~General Fund amounts for EPSDT specialty mental health services~~
25 ~~provided under the State Medi-Cal specialty mental health services~~
26 ~~waiver. The department shall provide the State Department of~~
27 ~~Health Care Services the estimate adjusted to a cash basis federal~~
28 ~~funding participation to reimburse costs of specialty mental health~~
29 ~~services provided under the Medi-Cal specialty mental health~~
30 ~~services waiver. This shall include a separate presentation of the~~
31 ~~data and methodology necessary to forecast future fiscal trends~~
32 ~~in the provision of Early Periodic Screening, Diagnosis, and~~
33 ~~Treatment specialty mental health services provided under the~~
34 ~~Medi-Cal specialty mental health services waiver, to estimate~~
35 ~~annual EPSDT specialty mental health services related costs, and~~
36 ~~to estimate the annual amount of EPSDT specialty mental health~~
37 ~~services provided under the state Medi-Cal specialty mental health~~
38 ~~services waiver, including federal funding participation to~~
39 ~~reimburse costs of EPSDT.~~

1 ~~(B) The estimate of annual funding described in subparagraph~~
2 ~~(A) shall include, but not be limited to, the following factors:~~

3 ~~(i) The impacts of interactions among caseload, type of services,~~
4 ~~amount or number of services provided, and billing unit cost of~~
5 ~~services provided.~~

6 ~~(ii) A systematic review of federal and state policies, trends~~
7 ~~over time, and other causes of change.~~

8 ~~(C) The forecasting and estimates performed under this~~
9 ~~paragraph are primarily for the purpose of providing the Legislature~~
10 ~~and the Department of Finance with projections that are as accurate~~
11 ~~as possible for the state budget process, but will also be informative~~
12 ~~and useful for other purposes. Therefore, it is the intent of the~~
13 ~~Legislature that the information produced under this paragraph~~
14 ~~shall be taken into consideration under paragraph (10) of~~
15 ~~subdivision (e).~~

16 *(e) When seeking federal approval for any federal Medicaid*
17 *state plan amendment or waiver associated with Medi-Cal specialty*
18 *mental health services, the department shall consult with staff of*
19 *the Legislature, counties, providers, and other stakeholders in the*
20 *development of the state plan amendment or waiver.*

21 ~~(e)~~
22 *(f) This section shall become operative on July 1, 2012.*

23 *SEC. 180. Section 5778.3 of the Welfare and Institutions Code*
24 *is amended and renumbered to read:*
25 *5778.3.*

26 *14718.5. Notwithstanding any other law, including subdivision*
27 *(b) of Section 16310 of the Government Code, the Controller may*
28 *use the moneys in the Mental Health Managed Care Deposit Fund*
29 *for loans to the General Fund as provided in Sections 16310 and*
30 *16381 of the Government Code. Interest shall be paid on all*
31 *moneys loaned to the General Fund from the Mental Health*
32 *Managed Care Deposit Fund. Interest payable shall be computed*
33 *at a rate determined by the Pooled Money Investment Board to be*
34 *the current earning rate of the fund from which loaned. This*
35 *subdivision does not authorize any transfer that will interfere with*
36 *the carrying out of the object for which the Mental Health Managed*
37 *Care Deposit Fund was created.*

38 *SEC. 181. Section 5779 of the Welfare and Institutions Code*
39 *is amended to read:*

1 5779. (a) This section shall be limited to mental health services
2 reimbursed through a capitated rate payment system.

3 (b) Upon mutual agreement, the department and the State
4 Department of Health Care Services may combine the funds
5 transferred under this part, other funds available pursuant to
6 Chapter ~~5~~ 6 (commencing with Section 17600) of Part 5 of Division
7 9, and federal financial participation funds to establish a contract
8 for the delivery of mental health services to Medi-Cal beneficiaries
9 under a capitated rate payment system. The combining of funds
10 shall be done in consultation with a statewide organization
11 representing counties. The combined funding shall be the budget
12 responsibility of the department.

13 (c) The department, in consultation with a statewide organization
14 representing counties, shall establish a methodology for a capitated
15 rate payment system that is consistent with federal requirements.

16 (d) Capitated rate payments shall be made on a schedule
17 specified in the contract with the mental health plan.

18 (e) The department may levy any necessary fines and audit
19 disallowances to mental health plans relative to operations under
20 this part. The mental health plans shall be liable for all federal
21 audit exceptions or disallowances based on the plan's conduct or
22 determinations. The mental health plan shall not be liable for
23 federal audit exceptions or disallowances based on the state's
24 conduct or determinations. The department shall work jointly with
25 the mental health plan in initiating any necessary appeals. The
26 department may offset the amount of any federal disallowance or
27 audit exception against subsequent payment to the mental health
28 plan at any time. The maximum amount that may be withheld shall
29 be 25 percent of each payment to the mental health plan.

30 (f) *This section shall become inoperative on July 1, 2012, and,*
31 *as of January 1, 2013, is repealed, unless a later enacted statute*
32 *that is enacted before January 1, 2013, deletes or extends the dates*
33 *on which it becomes inoperative and is repealed.*

34 SEC. 182. *Section 5780 of the Welfare and Institutions Code*
35 *is amended and renumbered to read:*

36 ~~5780.~~

37 14721. (a) This ~~part~~ chapter shall only be implemented to the
38 extent that the necessary federal waivers are obtained. The director
39 shall execute a declaration, to be retained by the director, that a

1 waiver necessary to implement any provision of this ~~part~~ *chapter*
2 has been obtained.

3 (b) This ~~part~~ *chapter* shall become inoperative on the date that,
4 and only if, the director executes a declaration, to be retained by
5 the director, that more than 10 percent of all counties fail to become
6 mental health plan contractors, and ~~no~~ acceptable alternative
7 contractors are *not* available, or if more than 10 percent of all funds
8 allocated for Medi-Cal mental health services must be administered
9 by the department because ~~no~~ *an* acceptable plan is *not* available.

10 *SEC. 183. Section 5781 of the Welfare and Institutions Code*
11 *is amended and renumbered to read:*

12 ~~5781.~~

13 *14722.* (a) Notwithstanding any other ~~provision~~ of law, a
14 mental health plan may enter into a contract for the provision of
15 *specialty* mental health services for Medi-Cal beneficiaries with
16 a hospital that provides for a per diem reimbursement rate for
17 services that include room and board, routine hospital services,
18 and all hospital-based ancillary services and that provides
19 separately for the attending mental health professional’s daily visit
20 fee. The payment of these negotiated reimbursement rates to the
21 hospital by the mental health plan shall be considered payment in
22 full for each day of inpatient psychiatric and hospital care rendered
23 to a Medi-Cal beneficiary, subject to third-party liability and patient
24 share of costs, if any.

25 (b) This section shall not be construed to allow a hospital to
26 interfere with, control, or otherwise direct the professional
27 judgment of a physician and surgeon in a manner prohibited by
28 Section 2400 of the Business and Professions Code or any other
29 provision of law.

30 (c) For purposes of this section, “hospital” means a hospital that
31 submits reimbursement claims for Medi-Cal psychiatric inpatient
32 hospital services through the Medi-Cal fiscal intermediary ~~as~~
33 ~~permitted by subdivision (g) of Section 5778.~~

34 *SEC. 184. Section 5782 of the Welfare and Institutions Code*
35 *is amended to read:*

36 *5782.* (a) The provisions of this part are subject to and shall
37 be read as incorporating the authority and oversight responsibilities
38 of the State Department of Health Care Services in its role as the
39 single state agency for the Medicaid program in California. The

1 provisions of this part shall be implemented only to the extent that
2 federal financial participation is available.

3 *(b) This section shall become inoperative on July 1, 2012, and,*
4 *as of January 1, 2013, is repealed, unless a later enacted statute*
5 *that is enacted before January 1, 2013, deletes or extends the dates*
6 *on which it becomes inoperative and is repealed.*

7 *SEC. 185. Section 5783 of the Welfare and Institutions Code*
8 *is amended and renumbered to read:*

9 ~~5783.~~

10 14723. (a) Each eligible public agency, as described in
11 subdivision (b), may, in addition to reimbursement or other
12 payments that the agency would otherwise receive for Medi-Cal
13 specialty mental health services, receive supplemental Medi-Cal
14 reimbursement to the extent provided for in this section.

15 (b) A public agency shall be eligible for supplemental
16 reimbursement only if it is a county, city, *or* city and county, ~~or~~
17 ~~the University of California~~ and if, consistent with Section 5778,
18 ~~it meets either or both of the following characteristics continuously~~
19 ~~during a state fiscal year:~~ 14718 *it provides as a mental health*
20 *plan, or subcontracts for, specialty mental health services to*
21 *Medi-Cal beneficiaries pursuant to the Medi-Cal Specialty Mental*
22 *Health Consolidation Waiver (Number CA.17), as approved by*
23 *the federal Centers for Medicare and Medicaid Services.*

24 ~~(1) Provides, pursuant to the Medi-Cal Specialty Mental Health~~
25 ~~Services Consolidation Waiver (Number CA.17), as approved by~~
26 ~~the federal Centers for Medicare and Medicaid Services, specialty~~
27 ~~mental health services to Medi-Cal beneficiaries in one or more~~
28 ~~of its publically owned and operated facilities.~~

29 ~~(2) Provides or subcontracts for specialty mental health services~~
30 ~~to Medi-Cal beneficiaries as a mental health plan (MHP) pursuant~~
31 ~~to this part.~~

32 (c) (1) Subject to paragraph (2), an eligible public agency's
33 supplemental reimbursement pursuant to this section shall be equal
34 to the amount of federal financial participation received as a result
35 of the claims submitted pursuant to paragraph (2) of subdivision
36 (f).

37 (2) Notwithstanding paragraph (1), in computing an eligible
38 public agency's reimbursement, in no instance shall the
39 expenditures certified pursuant to paragraph (1) of subdivision (e),
40 when combined with the amount received from other sources of

1 payment and with reimbursement from the Medi-Cal program,
2 including expenditures otherwise certified for purposes of claiming
3 federal financial participation, exceed 100 percent of actual,
4 allowable costs, as determined pursuant to California's Medicaid
5 State Plan, for the specialty mental health services to which the
6 expenditure relates. Supplemental payment may be made on an
7 interim basis until the time when actual, allowable costs are finally
8 determined.

9 (3) The supplemental Medi-Cal reimbursement provided by this
10 section shall be distributed under a payment methodology based
11 on specialty mental health services provided to Medi-Cal patients
12 by each eligible public agency, on a per-visit basis, a per-procedure
13 basis, a time basis, in one or more lump sums, or on any other
14 federally permissible basis. ~~The State Department of Health Care~~
15 ~~Services~~ department shall seek approval from the federal Centers
16 for Medicare and Medicaid Services for the payment methodology
17 to be utilized, and shall not make any payment pursuant to this
18 section prior to obtaining that federal approval.

19 (d) (1) It is the intent of the Legislature in enacting this section
20 to provide the supplemental reimbursement described in this section
21 without any expenditure from the General Fund. The department
22 ~~or the State Department of Health Care Services~~ may require an
23 eligible public agency, as a condition of receiving supplemental
24 reimbursement pursuant to this section, to enter into, and maintain,
25 an agreement with the department for the purposes of implementing
26 this section and reimbursing the department ~~and the State~~
27 ~~Department of Health Care Services~~ for the costs of administering
28 this section.

29 (2) Expenditures submitted to the department ~~and to the State~~
30 ~~Department of Health Care Services~~ for purposes of claiming
31 federal financial participation under this section shall have been
32 paid only with funds from the public agencies described in
33 subdivision (b) and certified to the state as provided in subdivision
34 (e).

35 (e) An eligible public agency shall do all of the following:

36 (1) Certify, in conformity with the requirements of Section
37 433.51 of Title 42 of the Code of Federal Regulations, that the
38 claimed expenditures for the specialty mental health services are
39 eligible for federal financial participation.

1 (2) Provide evidence supporting the certification as specified
2 by the department ~~or by the State Department of Health Care~~
3 ~~Services~~.

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

7 (4) Keep, maintain, and have readily retrievable, any records
8 specified by the department ~~or by the State Department of Health~~
9 ~~Care Services~~ to fully disclose reimbursement amounts to which
10 the eligible public agency is entitled, and any other records required
11 by the federal Centers for Medicare and Medicaid Services.

12 (f) (1) ~~The State Department of Health Care Services~~
13 ~~department~~ shall promptly seek any necessary federal approvals
14 for the implementation of this section. If necessary to obtain federal
15 approval, the program shall be limited to those costs that the federal
16 Centers for Medicare and Medicaid Services determines to be
17 allowable expenditures under Title XIX of the federal Social
18 Security Act (Subchapter 19 (commencing with Section 1396) of
19 Chapter 7 of Title 42 of the United States Code). If federal approval
20 is not obtained for implementation of this section, this section shall
21 not be implemented.

22 (2) ~~The State Department of Health Care Services~~ *department*
23 shall submit claims for federal financial participation for the
24 expenditures described in subdivision (e) related to specialty mental
25 health services that are allowable expenditures under federal law.

26 (3) ~~The State Department of Health Care Services~~ *department*
27 shall, on an annual basis, submit any necessary materials to the
28 federal Centers for Medicare and Medicaid Services to provide
29 assurances that claims for federal financial participation will
30 include only those expenditures that are allowable under federal
31 law.

32 (4) ~~The department shall collaborate with the State Department~~
33 ~~of Health Care Services to ensure that the department's policies,~~
34 ~~procedures, data, and other relevant materials are available to the~~
35 ~~State Department of Health Care Services as may be required for~~
36 ~~the implementation and administration of this section and for the~~
37 ~~claiming of federal financial participation.~~

38 (g) (1) The director may adopt regulations as are necessary to
39 implement this section. The adoption, amendment, repeal, or
40 readoption of a regulation authorized by this subdivision shall be

1 deemed to be necessary for the immediate preservation of the
2 public peace, health and safety, or general welfare, for purposes
3 of Sections 11346.1 and 11349.6 of the Government Code, and
4 the department is hereby exempted from the requirement that it
5 describe specific facts showing the need for immediate action.

6 (2) As an alternative to the adoption of regulations pursuant to
7 paragraph (1), and notwithstanding Chapter 3.5 (commencing with
8 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
9 Code, the director may implement and administer this article, in
10 whole or in part, by means of provider bulletins or similar
11 instructions, without taking regulatory action, provided that no
12 bulletin or similar instruction shall remain in effect after June 30,
13 2011. It is the intent that regulations adopted pursuant to paragraph
14 (1) shall be in place on or before June 30, 2011.

15 *SEC. 186. Section 5803 of the Welfare and Institutions Code*
16 *is amended to read:*

17 5803. (a) The State Department of ~~Mental Health Care~~
18 *Services* shall issue a request for proposals to develop system of
19 care programs no later than October 1 in any year in which the
20 state budget provides new funds to expand the system of care
21 provided for in this chapter. The request for proposals shall include
22 the following:

23 (1) Proposals may be submitted as a regional system of care by
24 counties acting jointly, independent countywide proposals, and
25 proposals to serve discrete geographic areas within counties or for
26 a specific integrated services agency team. Nothing in the request
27 for proposal shall be construed to restrict a county from contracting
28 for part or all services included in the demonstration project
29 proposal.

30 (2) The department shall establish reporting requirements for
31 direct and indirect costs, and these requirements may be included
32 in the request for proposals.

33 (3) The department shall require that proposals identify resources
34 necessary to measure client and cost outcome and interagency
35 collaboration. Proposal guidelines shall clearly require
36 identification of procedures to document outcomes.

37 (4) Proposals must be approved by the board of supervisors and
38 the local mental health board or commission.

39 (b) The director shall prepare a method for rating proposals to
40 assure objectivity and selection of the best qualified applications.

1 New proposals shall be selected with consideration of regional
2 balance across the state.

3 (c) The State Department of ~~Mental~~ *Mental Health Care Services* shall
4 fund counties with integrated service agencies or countywide
5 systems of care funded under Chapter 982 of the Statutes of 1988,
6 operating at the time of passage of this part. Those programs shall
7 be funded under the provisions paragraph (2) of subdivision (a)
8 of Section 5700 and shall be subject to all of the requirements and
9 sanctions of this part.

10 *SEC. 187. Section 5804 of the Welfare and Institutions Code*
11 *is repealed.*

12 ~~5804. (a) The State Department of Mental Health shall include~~
13 ~~funding under this part in the county's performance contracts~~
14 ~~required under Section 5650 for existing and new counties selected~~
15 ~~under this part to develop an integrated service agency component~~
16 ~~or a countywide or regional system of care. The contracts required~~
17 ~~pursuant to this part shall be exempt from the requirements of the~~
18 ~~Public Contract Code and the State Administrative Manual and~~
19 ~~shall be exempt from approval by the Department of General~~
20 ~~Services.~~

21 ~~(b) Projects funded under this part, or continued under the~~
22 ~~provisions of subdivision (b) of Section 5802, shall be considered~~
23 ~~an ongoing program of service delivery as long as the county and~~
24 ~~any of its contractors meet client and cost outcomes as required~~
25 ~~in the annual performance contract established by the department.~~

26 ~~(c) The department may terminate contracts funded under this~~
27 ~~part when the department determines that the county has failed to~~
28 ~~meet client and cost outcomes as required in the performance~~
29 ~~contract or are no longer able to operate programs under the~~
30 ~~provisions of this part.~~

31 ~~(d) Counties and their contractors shall provide the department~~
32 ~~with all information needed to evaluate the financial and program~~
33 ~~performance of participating projects.~~

34 *SEC. 188. Section 5805 of the Welfare and Institutions Code*
35 *is amended to read:*

36 5805. The State Department of ~~Mental~~ *Mental Health Care Services*
37 shall require counties to use available state and matching funds
38 for the client target population as defined in Section 5600.3 to
39 develop a comprehensive array of services as defined in Sections
40 5600.6 and 5600.7.

1 *SEC. 189. Section 5806 of the Welfare and Institutions Code*
 2 *is amended to read:*

3 5806. The State Department of ~~Mental Health Care Services~~
 4 shall establish service standards that ensure that members of the
 5 target population are identified, and services provided to assist
 6 them to live independently, work, and reach their potential as
 7 productive citizens. The department shall provide annual oversight
 8 of grants issued pursuant to this part for compliance with these
 9 standards. These standards shall include, but are not limited to, all
 10 of the following:

11 (a) A service planning and delivery process that is target
 12 population based and includes the following:

13 (1) Determination of the numbers of clients to be served and
 14 the programs and services that will be provided to meet their needs.
 15 The local director of mental health shall consult with the sheriff,
 16 the police chief, the probation officer, the mental health board,
 17 contract agencies, and family, client, ethnic, and citizen
 18 constituency groups as determined by the director.

19 (2) Plans for services, including outreach to families whose
 20 severely mentally ill adult is living with them, design of mental
 21 health services, coordination and access to medications, psychiatric
 22 and psychological services, substance abuse services, supportive
 23 housing or other housing assistance, vocational rehabilitation, and
 24 veterans' services. Plans also shall contain evaluation strategies,
 25 that shall consider cultural, linguistic, gender, age, and special
 26 needs of minorities in the target populations. Provision shall be
 27 made for staff with the cultural background and linguistic skills
 28 necessary to remove barriers to mental health services due to
 29 limited-English-speaking ability and cultural differences.
 30 Recipients of outreach services may include families, the public,
 31 primary care physicians, and others who are likely to come into
 32 contact with individuals who may be suffering from an untreated
 33 severe mental illness who would be likely to become homeless if
 34 the illness continued to be untreated for a substantial period of
 35 time. Outreach to adults may include adults voluntarily or
 36 involuntarily hospitalized as a result of a severe mental illness.

37 (3) Provision for services to meet the needs of target population
 38 clients who are physically disabled.

39 (4) Provision for services to meet the special needs of older
 40 adults.

1 (5) Provision for family support and consultation services,
2 parenting support and consultation services, and peer support or
3 self-help group support, where appropriate for the individual.

4 (6) Provision for services to be client-directed and that employ
5 psychosocial rehabilitation and recovery principles.

6 (7) Provision for psychiatric and psychological services that are
7 integrated with other services and for psychiatric and psychological
8 collaboration in overall service planning.

9 (8) Provision for services specifically directed to seriously
10 mentally ill young adults 25 years of age or younger who are
11 homeless or at significant risk of becoming homeless. These
12 provisions may include continuation of services that still would
13 be received through other funds had eligibility not been terminated
14 due to age.

15 (9) Services reflecting special needs of women from diverse
16 cultural backgrounds, including supportive housing that accepts
17 children, personal services coordinator therapeutic treatment, and
18 substance treatment programs that address gender-specific trauma
19 and abuse in the lives of persons with mental illness, and vocational
20 rehabilitation programs that offer job training programs free of
21 gender bias and sensitive to the needs of women.

22 (10) Provision for housing for clients that is immediate,
23 transitional, permanent, or all of these.

24 (11) Provision for clients who have been suffering from an
25 untreated severe mental illness for less than one year, and who do
26 not require the full range of services but are at risk of becoming
27 homeless unless a comprehensive individual and family support
28 services plan is implemented. These clients shall be served in a
29 manner that is designed to meet their needs.

30 (12) Provision for services for veterans.

31 (b) A client shall have a clearly designated mental health
32 personal services coordinator who may be part of a
33 multidisciplinary treatment team who is responsible for providing
34 or assuring needed services. Responsibilities include complete
35 assessment of the client's needs, development of the client's
36 personal services plan, linkage with all appropriate community
37 services, monitoring of the quality and followthrough of services,
38 and necessary advocacy to ensure that the client receives those
39 services that are agreed to in the personal services plan. A client
40 shall participate in the development of his or her personal services

1 plan, and responsible staff shall consult with the designated
2 conservator, if one has been appointed, and, with the consent of
3 the client, consult with the family and other significant persons as
4 appropriate.

5 (c) The individual personal services plan shall ensure that
6 members of the target population involved in the system of care
7 receive age-appropriate, gender-appropriate, and culturally
8 appropriate services or appropriate services based on any
9 characteristic listed or defined in Section 11135 of the Government
10 Code, to the extent feasible, that are designed to enable recipients
11 to:

12 (1) Live in the most independent, least restrictive housing
13 feasible in the local community, and for clients with children, to
14 live in a supportive housing environment that strives for
15 reunification with their children or assists clients in maintaining
16 custody of their children as is appropriate.

17 (2) Engage in the highest level of work or productive activity
18 appropriate to their abilities and experience.

19 (3) Create and maintain a support system consisting of friends,
20 family, and participation in community activities.

21 (4) Access an appropriate level of academic education or
22 vocational training.

23 (5) Obtain an adequate income.

24 (6) Self-manage their illness and exert as much control as
25 possible over both the day-to-day and long-term decisions that
26 affect their lives.

27 (7) Access necessary physical health care and maintain the best
28 possible physical health.

29 (8) Reduce or eliminate serious antisocial or criminal behavior
30 and thereby reduce or eliminate their contact with the criminal
31 justice system.

32 (9) Reduce or eliminate the distress caused by the symptoms of
33 mental illness.

34 (10) Have freedom from dangerous addictive substances.

35 (d) The individual personal services plan shall describe the
36 service array that meets the requirements of subdivision (c), and
37 to the extent applicable to the individual, the requirements of
38 subdivision (a).

39 *SEC. 190. Section 5807 of the Welfare and Institutions Code*
40 *is amended to read:*

1 5807. (a) The State Department of ~~Mental Health~~ *Health Care*
2 *Services* shall require counties which receive funding to develop
3 interagency collaboration with shared responsibilities for services
4 under this part and achievement of the client and cost outcome
5 goals and interagency collaboration goals specified.

6 (b) Collaborative activities shall include:

7 (1) Identification of those agencies that have a significant joint
8 responsibility for the target population and ensuring collaboration
9 on planning for services to that population.

10 (2) Identification of gaps in services to members of the target
11 population, development of policies to assure service effectiveness
12 and continuity, and setting priorities for interagency services.

13 (3) Implementation of public and private collaborative programs
14 whenever possible to better serve the target population.

15 (4) Provision of interagency case management services to
16 coordinate resources to target population members who are using
17 the services of more than one agency.

18 (5) Coordination with federal agencies responsible for providing
19 veterans' services, as well as national, state, and local nonprofit
20 organizations that provide veterans' services, to maximize the
21 integration of services and to eliminate duplicative efforts.

22 *SEC. 191. Section 5809 of the Welfare and Institutions Code*
23 *is amended to read:*

24 5809. The State Department of ~~Mental Health~~ *Health Care*
25 *Services* shall continue to work with participating counties and
26 other interested parties to refine and establish client and cost
27 outcome and interagency collaboration goals including the expected
28 level of attainment with participating system of care counties.
29 These outcome measures should include specific objectives
30 addressing the following goals:

31 (a) Client benefit outcomes.

32 (b) Client and family member satisfaction.

33 (c) System of care access.

34 (d) Cost savings, cost avoidance, and cost-effectiveness
35 outcomes that measure short-term or long-term cost savings and
36 cost avoidance achieved in public sector expenditures to the target
37 population.

38 *SEC. 192. Article 3 (commencing with Section 5810) of Part*
39 *3 of Division 5 of the Welfare and Institutions Code is repealed.*

1 *SEC. 193. Section 5813.6 of the Welfare and Institutions Code*
2 *is amended to read:*

3 5813.6. (a) At the time of the release of the January 10 budget
4 plan and the May Revision, the Director of ~~Mental Health Care~~
5 *Services* shall submit to the Legislature information regarding the
6 projected expenditure of Proposition 63 funding for each state
7 department, and for each major program category specified in the
8 measure, for local assistance. This shall include actual past-year
9 expenditures, estimated current-year expenditures, and projected
10 budget-year expenditures of local assistance funding. In addition,
11 it shall include a complete listing of state support expenditures for
12 the current year and for the budget year by the State Department
13 of ~~Mental Health Care Services~~, including the number of state
14 positions and any contract funds. A description of these state
15 expenditures shall accompany the fiscal information the director
16 is required to submit to the Legislature pursuant to this section.

17 (b) During each fiscal year, the Director of ~~Mental Health Care~~
18 *Services* shall submit to the fiscal committees of the Legislature,
19 30 days in advance, written notice of the intention to expend
20 Proposition 63 local assistance funding in excess of the amounts
21 presented in its May Revision projection for that fiscal year. The
22 written notice shall include information regarding the amount of
23 the additional spending and its purpose.

24 *SEC. 194. Section 5814 of the Welfare and Institutions Code*
25 *is amended to read:*

26 5814. (a) (1) This part shall be implemented only to the extent
27 that funds are appropriated for purposes of this part. To the extent
28 that funds are made available, the first priority shall go to maintain
29 funding for the existing programs that meet adult system of care
30 contract goals. The next priority for funding shall be given to
31 counties with a high incidence of persons who are severely
32 mentally ill and homeless or at risk of homelessness, and meet the
33 criteria developed pursuant to paragraphs (3) and (4).

34 (2) ~~The director~~ *The Director of Health Care Services* shall
35 establish a methodology for awarding grants under this part
36 consistent with the legislative intent expressed in Section 5802,
37 and in consultation with the advisory committee established in this
38 subdivision.

39 (3) (A) ~~The director~~ *The Director of Health Care Services* shall
40 establish an advisory committee for the purpose of providing advice

1 regarding the development of criteria for the award of grants, and
2 the identification of specific performance measures for evaluating
3 the effectiveness of grants. The committee shall review evaluation
4 reports and make findings on evidence-based best practices and
5 recommendations for grant conditions. At not less than one meeting
6 annually, the advisory committee shall provide to the director
7 written comments on the performance of each of the county
8 programs. Upon request by the department, each participating
9 county that is the subject of a comment shall provide a written
10 response to the comment. The department shall comment on each
11 of these responses at a subsequent meeting.

12 (B) The committee shall include, but not be limited to,
13 representatives from state, county, and community veterans'
14 services and disabled veterans outreach programs, supportive
15 housing and other housing assistance programs, law enforcement,
16 county mental health and private providers of local mental health
17 services and mental health outreach services, the ~~Board~~ *Department*
18 *of Corrections and Rehabilitation*, the State Department of Alcohol
19 and Drug Programs, local substance abuse services providers, the
20 Department of Rehabilitation, providers of local employment
21 services, the State Department of Social Services, the Department
22 of Housing and Community Development, a service provider to
23 transition youth, the United Advocates for Children of California,
24 the California Mental Health Advocates for Children and Youth,
25 the Mental Health Association of California, the California Alliance
26 for the Mentally Ill, the California Network of Mental Health
27 Clients, the *California* Mental Health Planning Council, *the Mental*
28 *Health Services Oversight and Accountability Commission*, and
29 other appropriate entities.

30 (4) The criteria for the award of grants shall include, but not be
31 limited to, all of the following:

32 (A) A description of a comprehensive strategic plan for
33 providing outreach, prevention, intervention, and evaluation in a
34 cost appropriate manner corresponding to the criteria specified in
35 subdivision (c).

36 (B) A description of the local population to be served, ability
37 to administer an effective service program, and the degree to which
38 local agencies and advocates will support and collaborate with
39 program efforts.

1 (C) A description of efforts to maximize the use of other state,
2 federal, and local funds or services that can support and enhance
3 the effectiveness of these programs.

4 (5) In order to reduce the cost of providing supportive housing
5 for clients, counties that receive a grant pursuant to this part after
6 January 1, 2004, shall enter into contracts with sponsors of
7 supportive housing projects to the greatest extent possible.
8 Participating counties are encouraged to commit a portion of their
9 grants to rental assistance for a specified number of housing units
10 in exchange for the counties' clients having the right of first refusal
11 to rent the assisted units.

12 (b) In each year in which additional funding is provided by the
13 annual Budget Act the ~~department~~ *State Department of Health*
14 *Care Services* shall establish programs that offer individual
15 counties sufficient funds to comprehensively serve severely
16 mentally ill adults who are homeless, recently released from a
17 county jail or the state prison, or others who are untreated, unstable,
18 and at significant risk of incarceration or homelessness unless
19 treatment is provided to them and who are severely mentally ill
20 adults. For purposes of this subdivision, "severely mentally ill
21 adults" are those individuals described in subdivision (b) of Section
22 5600.3. In consultation with the advisory committee established
23 pursuant to paragraph (3) of subdivision (a), the department shall
24 report to the Legislature on or before May 1 of each year in which
25 additional funding is provided, and shall evaluate, at a minimum,
26 the effectiveness of the strategies in providing successful outreach
27 and reducing homelessness, involvement with local law
28 enforcement, and other measures identified by the department.
29 The evaluation shall include for each program funded in the current
30 fiscal year as much of the following as available information
31 permits:

32 (1) The number of persons served, and of those, the number
33 who receive extensive community mental health services.

34 (2) The number of persons who are able to maintain housing,
35 including the type of housing and whether it is emergency,
36 transitional, or permanent housing, as defined by the department.

37 (3) (A) The amount of grant funding spent on each type of
38 housing.

39 (B) Other local, state, or federal funds or programs used to house
40 clients.

1 (4) The number of persons with contacts with local law
2 enforcement and the extent to which local and state incarceration
3 has been reduced or avoided.

4 (5) The number of persons participating in employment service
5 programs including competitive employment.

6 (6) The number of persons contacted in outreach efforts who
7 appear to be severely mentally ill, as described in Section 5600.3,
8 who have refused treatment after completion of all applicable
9 outreach measures.

10 (7) The amount of hospitalization that has been reduced or
11 avoided.

12 (8) The extent to which veterans identified through these
13 programs' outreach are receiving federally funded veterans'
14 services for which they are eligible.

15 (9) The extent to which programs funded for three or more years
16 are making a measurable and significant difference on the street,
17 in hospitals, and in jails, as compared to other counties or as
18 compared to those counties in previous years.

19 (10) For those who have been enrolled in this program for at
20 least two years and who were enrolled in Medi-Cal prior to, and
21 at the time they were enrolled in, this program, a comparison of
22 their Medi-Cal hospitalizations and other Medi-Cal costs for the
23 two years prior to enrollment and the two years after enrollment
24 in this program.

25 (11) The number of persons served who were and were not
26 receiving Medi-Cal benefits in the 12-month period prior to
27 enrollment and, to the extent possible, the number of emergency
28 room visits and other medical costs for those not enrolled in
29 Medi-Cal in the prior 12-month period.

30 (c) To the extent that state savings associated with providing
31 integrated services for the mentally ill are quantified, it is the intent
32 of the Legislature to capture those savings in order to provide
33 integrated services to additional adults.

34 (d) Each project shall include outreach and service grants in
35 accordance with a contract between the state and approved counties
36 that reflects the number of anticipated contacts with people who
37 are homeless or at risk of homelessness, and the number of those
38 who are severely mentally ill and who are likely to be successfully
39 referred for treatment and will remain in treatment as necessary.

1 (e) All counties that receive funding shall be subject to specific
 2 terms and conditions of oversight and training which shall be
 3 developed by the department, in consultation with the advisory
 4 committee.

5 (f) (1) As used in this part, “receiving extensive mental health
 6 services” means having a personal services coordinator, as
 7 described in subdivision (b) of Section 5806, and having an
 8 individual personal service plan, as described in subdivision (c)
 9 of Section 5806.

10 (2) The funding provided pursuant to this part shall be sufficient
 11 to provide mental health services, medically necessary medications
 12 to treat severe mental illnesses, alcohol and drug services,
 13 transportation, supportive housing and other housing assistance,
 14 vocational rehabilitation and supported employment services,
 15 money management assistance for accessing other health care and
 16 obtaining federal income and housing support, accessing veterans’
 17 services, stipends, and other incentives to attract and retain
 18 sufficient numbers of qualified professionals as necessary to
 19 provide the necessary levels of these services. These grants shall,
 20 however, pay for only that portion of the costs of those services
 21 not otherwise provided by federal funds or other state funds.

22 (3) Methods used by counties to contract for services pursuant
 23 to paragraph (2) shall promote prompt and flexible use of funds,
 24 consistent with the scope of services for which the county has
 25 contracted with each provider.

26 (g) Contracts awarded pursuant to this part shall be exempt from
 27 the Public Contract Code and the state administrative manual and
 28 shall not be subject to the approval of the Department of General
 29 Services.

30 (h) Notwithstanding any other provision of law, funds awarded
 31 to counties pursuant to this part and Part 4 (commencing with
 32 Section 5850) shall not require a local match in funds.

33 *SEC. 195. Section 5815 of the Welfare and Institutions Code*
 34 *is amended to read:*

35 5815. The State Department of Health Care Services, ~~in~~
 36 ~~conjunction with the State Department of Mental Health,~~ shall
 37 seek all available federal funding for mental health services for
 38 veterans.

39 *SEC. 196. Section 5851.5 of the Welfare and Institutions Code*
 40 *is amended to read:*

1 5851.5. For the purposes of this part, a “system of care county”
2 means a county which has been approved by the State Department
3 of ~~Mental Health~~ *Care Services* as having the capability to provide
4 child- and family-centered services in a collaborative manner,
5 resulting in quantitative outcome measures.

6 *SEC. 197. Section 5852 of the Welfare and Institutions Code*
7 *is amended to read:*

8 5852. There is hereby established an interagency system of
9 care for children with serious emotional and behavioral
10 disturbances that provides comprehensive, coordinated care based
11 on the demonstration project under former Chapter 7 (commencing
12 with Section 5575), as added by Chapter 160 of the Statutes of
13 1987, and the *former* 1983 State Department of Mental Health
14 planning model for children’s services. Each participating county
15 shall adapt the model to local needs and priorities.

16 *SEC. 198. Section 5852.5 of the Welfare and Institutions Code*
17 *is amended to read:*

18 5852.5. ~~The department~~ *State Department of Health Care*
19 *Services, in consultation with the Mental Health Services Oversight*
20 *and Accountability Commission* shall review those counties that
21 have been awarded funds to implement a comprehensive system
22 for the delivery of mental health services to children with serious
23 emotional disturbance and to their families or foster families to
24 determine compliance with either of the following:

25 (a) The total estimated cost avoidance in all of the following
26 categories shall equal or exceed the applications for funding award
27 moneys:

28 (1) Group home costs paid by Aid to Families with Dependent
29 Children-Foster Care (AFDC-FC) program.

30 (2) Children and adolescent state hospital and acute inpatient
31 programs.

32 (3) Nonpublic school residential placement costs.

33 (4) Juvenile justice incarcerations.

34 (5) Other short- and long-term savings in public funds resulting
35 from the applications for funding award moneys.

36 (b) If the department determines that the total cost avoidance
37 listed in subdivision (a) does not equal or exceed applications for
38 funding award amounts, the department shall determine that the
39 county that has been awarded funding shall achieve substantial
40 compliance with all of the following goals:

1 (1) Total cost avoidance in the categories listed in subdivision
 2 (a) to exceed 50 percent of the applications for funding award
 3 moneys.

4 (2) A 20-percent reduction in out-of-county ordered placements
 5 of juvenile justice wards and social service dependents.

6 (3) A statistically significant reduction in the rate of recidivism
 7 by juvenile offenders.

8 (4) A 25-percent reduction in the rate of state hospitalization of
 9 minors from placements of special education pupils.

10 (5) A 10-percent reduction in out-of-county nonpublic school
 11 residential placements of special education pupils.

12 (6) Allow at least 50 percent of children at risk of imminent
 13 placement served by the intensive in-home crisis treatment
 14 programs, which are wholly or partially funded by applications
 15 for funding award moneys, to remain at home at least six months.

16 (7) Statistically significant improvement in school attendance
 17 and academic performance of seriously emotionally disturbed
 18 special education pupils treated in day treatment programs which
 19 are wholly or partially funded by applications for funding award
 20 moneys.

21 (8) Statistically significant increases in services provided in
 22 nonclinic settings among agencies.

23 (9) Increase in ethnic minority and gender access to services
 24 proportionate to the percentage of these groups in the county's
 25 school-age population.

26 *SEC. 199. Section 5854 of the Welfare and Institutions Code*
 27 *is amended to read:*

28 5854. The State Department of ~~Mental~~ *Mental Health Care Services*
 29 may contract with counties whose programs have been approved
 30 by the department and selected pursuant to Article 4 (commencing
 31 with Section 5857). A county may request to participate under this
 32 part each year according to the terms set forth in Section 5705 for
 33 the purpose of establishing a three-year program proposal for
 34 developing and implementing a children's comprehensive mental
 35 health services system. The contract shall be negotiated on a yearly
 36 basis, based on the scope of work plan for each implementation
 37 phase.

38 *SEC. 200. Section 5855 of the Welfare and Institutions Code*
 39 *is amended to read:*

1 5855. The ~~department~~ *State Department of Health Care*
2 *Services* shall adopt as part of its overall mission the development
3 of community-based, comprehensive, interagency systems of care
4 that target seriously emotionally and behaviorally disturbed
5 children separated from their families or at risk of separation from
6 their families, as defined in Section 5856. These comprehensive,
7 interagency systems of care shall seek to provide the highest benefit
8 to children, their families, and the community at the lowest cost
9 to the public sector. Essential values shall be as follows:

10 (a) Family preservation. Children shall be maintained in their
11 homes with their families whenever possible.

12 (b) Least restrictive setting. Children shall be placed in the least
13 restrictive and least costly setting appropriate to their needs when
14 out-of-home placement is necessary.

15 (c) Natural setting. Children benefit most from mental health
16 services in their natural environments, where they live and learn,
17 such as home, school, foster home, or a juvenile detention center.

18 (d) Interagency collaboration and a coordinated service delivery
19 system. The primary child-serving agencies, such as social services,
20 probation, education, health, and mental health agencies, shall
21 collaborate at the policy, management, and service levels to provide
22 a coordinated, goal-directed system of care for seriously
23 emotionally disturbed children and their families.

24 (e) Family involvement. Family participation is an integral part
25 of assessment, intervention, and evaluation.

26 (f) Cultural competence. Service effectiveness is dependent
27 upon both culturally relevant and competent service delivery.

28 *SEC. 201. Section 5855.5 of the Welfare and Institutions Code*
29 *is amended to read:*

30 5855.5. (a) Projects funded pursuant to Part 4 (commencing
31 with Section 5850) of Division 5, as added by Chapter 89 of the
32 Statutes of 1991, shall continue under the terms of this part.

33 (b) ~~The department~~ *State Department of Health Care Services*
34 shall negotiate with each participating county to establish
35 appropriate evaluation measures for the county's children's system
36 of care program after the initial three-year implementation funding
37 period as established in Section 5854. The department shall, on
38 an annual basis, negotiate a performance contract with each county
39 electing to continue its children's system of care program. The
40 annual performance contract shall be consistent county to county,

1 and shall include, but not be limited to, a scope of work plan
2 consistent with the provisions of this part and shall contain a budget
3 that has sufficient detail to meet the requirements of the
4 department.

5 *SEC. 202. Section 5863 of the Welfare and Institutions Code*
6 *is amended to read:*

7 5863. In addition to the requirements of Section 5862, each
8 county program proposal shall contain all of the following:

9 (a) Methods and protocols for the county mental health
10 department to identify and screen the eligible target population
11 children. These protocols shall be developed with collaborative
12 partners and shall ensure that eligible children can be referred from
13 all collaborating agencies.

14 (b) Measurable system performance goals for client outcome
15 and cost avoidance. Outcomes shall be made available to
16 collaborating partners and used for program improvement.

17 (c) Methods to achieve interagency collaboration by all publicly
18 funded agencies serving children experiencing emotional
19 disturbances.

20 (d) Appropriate written interagency protocols and agreements
21 with all other programs in the county that serve similar populations
22 of children. Agreements shall exist with wrap-around programs
23 (Chapter 4 (commencing with Section 18250) of Part 6 of Division
24 9), Family Preservation programs (Part 4.4 (commencing with
25 Section 16600) of Division 9), Juvenile Crime Enforcement and
26 Accountability Challenge Grant programs (Article 18.7
27 (commencing with Section 749.2) of Chapter 2 of Part 1 of
28 Division 1), programs serving children with a dual diagnosis
29 including substance abuse or whose emotional disturbance is
30 related to family substance abuse, and programs serving families
31 enrolled in CalWORKs (Chapter 2 (commencing with Section
32 11200.5) of Part 3 of Division 9).

33 (e) A description of case management services for the target
34 population. Each county program proposal shall include protocols
35 developed in the county for case management designed to provide
36 assessment, linkage, case planning, monitoring, and client advocacy
37 to facilitate the provision of appropriate services for the child and
38 family in the least restrictive environment as close to home as
39 possible.

1 (f) Mental health services that enable a child to remain in his
2 or her usual family setting and that offer an appropriate alternative
3 to out-of-home placement.

4 (g) Methods to conduct joint interagency placement screening
5 of target population children prior to out-of-home placement.

6 (h) Identification of the number and level of county evaluation
7 staff and the resources necessary to meet requirements established
8 by the State Department of ~~Mental Health~~ *Health Care Services*
9 to measure client and cost outcome and other system performance
10 measures.

11 (i) A budget specifying all new and currently funded mental
12 health expenditures provided as part of the proposed system of
13 care. The department shall establish reporting requirements for
14 direct and indirect administrative overhead, to be included in the
15 request for proposals. Weight shall be given to counties with lower
16 administrative overhead costs. In no case shall administrative costs
17 exceed those of existing county mental health programs and
18 services. Expenditures for evaluation staff and resources shall not
19 be considered administrative costs for this purpose.

20 (j) Any requirements for interagency collaboration, agreements,
21 or protocols contained in this section shall not diminish
22 requirements for the confidentiality of medical information or
23 information maintained by a county agency or department.

24 *SEC. 203. Section 5867.5 of the Welfare and Institutions Code*
25 *is amended to read:*

26 5867.5. ~~(a)~~ Beginning in the 1998–99 fiscal year, county
27 mental health departments that receive full system of care funding,
28 as determined by the State Department of ~~Mental Health~~ *Care*
29 *Services* in consultation with counties, shall provide to children
30 served by county social services and probation departments mental
31 health screening, assessment, participation in multidisciplinary
32 placement teams and specialty mental health treatment services
33 for children placed out of home in group care, for those children
34 who meet the definition of medical necessity, to the extent
35 resources are available. These counties shall give first priority to
36 children currently receiving psychoactive medication.

37 ~~(b) The State Department of Mental Health shall develop, by~~
38 ~~June 1, 1999, an estimate of the extent to which mental health~~
39 ~~assessment and treatment resources are available to meet all of the~~
40 ~~following needs:~~

1 ~~(1) Children placed in group care by county departments of~~
2 ~~social services and probation.~~

3 ~~(2) Children placed in out-of-home care by county departments~~
4 ~~of social services.~~

5 ~~(3) Children at risk of placement out of home who are receiving~~
6 ~~services from county departments of social services or probation.~~

7 ~~(e) The estimate required by subdivision (b) shall include~~
8 ~~identification of specific resource gaps, including human resource~~
9 ~~gaps, in the delivery of specialty mental health services to children~~
10 ~~identified by county social services and probation.~~

11 ~~(d) The State Department of Mental Health shall develop, with~~
12 ~~the assistance of the State Department of Social Services and the~~
13 ~~Judicial Council, with participation by county mental health~~
14 ~~departments, county health departments, and county social services~~
15 ~~departments, and in consultation with group home providers and~~
16 ~~representatives of current or former foster youth and representatives~~
17 ~~of pediatricians and child and adolescent psychiatrists, by July 1,~~
18 ~~1999, a procedure for review of treatment plans for children~~
19 ~~receiving prescribed psychoactive medication and who are placed~~
20 ~~in out-of-home care.~~

21 *SEC. 204. Section 5868 of the Welfare and Institutions Code*
22 *is amended to read:*

23 5868. (a) ~~The department~~ *State Department of Health Care*
24 *Services* shall establish service standards that ensure that children
25 in the target population are identified and receive needed and
26 appropriate services from qualified staff in the least restrictive
27 environment.

28 (b) The standards shall include, but not be limited to:

29 (1) Providing a comprehensive assessment and treatment plan
30 for each target population client to be served, and developing
31 programs and services that will meet their needs and facilitate
32 client outcome goals.

33 (2) Providing for full participation of the family in all aspects
34 of assessment, case planning, and treatment.

35 (3) Providing methods of assessment and services to meet the
36 cultural, linguistic, and special needs of minorities in the target
37 population.

38 (4) Providing for staff with the cultural background and
39 linguistic skills necessary to remove barriers to mental health

1 services resulting from a limited ability to speak English or from
2 cultural differences.

3 (5) Providing mental health case management for all target
4 population clients in, or being considered for, out-of-home
5 placement.

6 (6) Providing mental health services in the natural environment
7 of the child to the extent feasible and appropriate.

8 (c) The responsibility of the case managers shall be to ensure
9 that each child receives the following services:

- 10 (1) A comprehensive mental health assessment.
11 (2) Case planning with all appropriate interagency participation.
12 (3) Linkage with all appropriate mental health services.
13 (4) Service plan monitoring.
14 (5) Client advocacy to ensure the provision of needed services.

15 *SEC. 205. Section 5869 of the Welfare and Institutions Code*
16 *is amended to read:*

17 5869. The ~~department~~ *State Department of Health Care*
18 *Services* shall provide participating counties with all of the
19 following:

20 (a) Applications for funding guidelines and format, and
21 coordination and oversight of the selection process as described
22 in Article 4 (commencing with Section 5857).

23 (b) Contracts with each state funded county specifying the
24 approved budget, performance outcomes, and a scope of work plan
25 for each year of participation in the children's system of care
26 program.

27 (c) Technical assistance related to system evaluation.

28 *SEC. 206. Section 5872 of the Welfare and Institutions Code*
29 *is amended to read:*

30 5872. In order to offset the cost of services, participating
31 counties shall collect reimbursement for services from the
32 following sources:

33 (a) Fees paid by families, which shall be the same as patient
34 fees established pursuant to ~~Section 5718~~ *14705*.

35 (b) Fees paid by private or public third-party payers.

36 (c) Categorical funds from sources established in state or federal
37 law, for which persons with mental ~~disorders~~ *illness* are eligible.

38 *SEC. 207. Section 5878 of the Welfare and Institutions Code*
39 *is amended to read:*

1 5878. (a) (1) The Secretary of the ~~Health and Welfare Agency~~
2 *California Health and Human Services*, the Superintendent of
3 Public Instruction, or the Secretary of the ~~Youth and Corrections~~
4 ~~Agency~~ *Department of Corrections and Rehabilitation* may waive
5 any state regulatory obstacles to the integration of public
6 responsibilities and resources required for counties which have
7 been approved as system of care counties.

8 (2) The waiver shall remain in effect as long as the local program
9 continues to meet standards as specified in the scope of work plan
10 approved by the State Department of ~~Mental Health Care Services~~.

11 (b) The Secretary of ~~Health and Welfare~~ *California Health and*
12 *Human Services*, the Superintendent of Public Instruction, and the
13 Secretary of the ~~Youth and Corrections Agency~~ *Department of*
14 *Corrections and Rehabilitation*, and those departments designated
15 as single state agencies administering federal programs, shall make
16 every effort to secure federal waivers and any other changes in
17 federal policy or law necessary to support interagency collaboration
18 and coordination in a system of care service delivery system.

19 *SEC. 208. Section 5880 of the Welfare and Institutions Code*
20 *is amended to read:*

21 5880. For each selected county the ~~department~~ *State*
22 *Department of Health Care Services* shall define and establish
23 client and cost outcome and other system performance goals, and
24 negotiate the expected levels of attainment for each year of
25 participation. Expected levels of attainment shall include a
26 breakdown by ethnic origin and shall be identified by a county in
27 its proposal. These goals shall include, but not be limited to, both
28 of the following:

29 (a) Client improvement and cost avoidance outcome measures,
30 as follows:

31 (1) To reduce the number of child months in group homes,
32 residential placements pursuant to Chapter 26.5 (commencing with
33 Section 7570) of Division 7 of Title 1 of the Government Code,
34 and state hospital placements.

35 (2) To reduce the cost of AFDC-FC group home care, residential
36 placements as described in paragraph (1), and state hospital
37 utilization, by an amount which equals at least 50 percent of the
38 third year project cost. Cost avoidance shall be based on data
39 comparisons of statewide average expenditure and population.

1 (3) To increase school attendance for pupils in targeted
2 programs.

3 (4) To increase the grade level equivalent of pupils in targeted
4 programs from admission to discharge.

5 (5) To reduce the rate of recidivism incurred for wards in
6 targeted juvenile justice programs.

7 (6) To show measurable improvement in individual and family
8 functional status for a representative sample of children enrolled
9 in the system of care.

10 (7) To achieve statistically significant increases in services
11 provided in nonclinic settings among agencies.

12 (8) To increase ethnic minority and gender access to services
13 proportionate to the percentage of these groups in the county's
14 school-age population.

15 (b) System development and operation measures, as follows:

16 (1) To provide an integrated system of care that includes
17 multiagency programs and joint case planning, to children who
18 are seriously emotionally and behaviorally disturbed as defined in
19 Section 5856.

20 (2) To identify and assess children who comprise the target
21 population in the county evidenced by a roster which contains all
22 children receiving mental health case management and treatment
23 services. This roster shall include necessary standardized and
24 uniform identifying information and demographics about the
25 children served.

26 (3) To develop and maintain individualized service plans that
27 will facilitate interagency service delivery in the least restrictive
28 environment.

29 (4) To develop or provide access to a range of intensive services
30 that will meet individualized service plan needs. These services
31 shall include, but not be limited to, case management, expanded
32 treatment services at schoolsites, local juvenile corrections
33 facilities, and local foster homes, and flexible services.

34 (5) To ensure the development and operation of the interagency
35 policy council and the interagency case management council.

36 (6) To provide culturally competent programs that recognize
37 and address the unique needs of ethnic populations in relation to
38 equal access, program design and operation, and program
39 evaluation.

1 (7) To develop parent education and support groups, and
2 linkages with parents to ensure their involvement in the planning
3 process and the delivery of services.

4 (8) To provide a system of evaluation that develops outcome
5 criteria and which will measure performance, including client
6 outcome and cost avoidance.

7 (9) To gather, manage, and report data in accordance with the
8 requirements of the state funded outcome evaluation.

9 *SEC. 209. Section 5881 of the Welfare and Institutions Code*
10 *is amended to read:*

11 5881. (a) Evaluation shall be conducted by ~~both~~ participating
12 county evaluation staff and, subject to the availability of funds, by
13 ~~the department~~ *State Department of Health Care Services and the*
14 *Mental Health Services Oversight and Accountability Commission.*

15 (b) Evaluation at both levels shall do all of the following:

16 (1) Ensure that county level systems of care are serving the
17 targeted population.

18 (2) Ensure that the timely performance data related to client
19 outcome and cost avoidance is collected, analyzed, and reported.

20 (3) Ensure that system of care components are implemented as
21 intended.

22 (4) Provide information documenting needs for future planning.

23 *SEC. 210. Section 5901 of the Welfare and Institutions Code*
24 *is amended to read:*

25 5901. (a) The Legislature finds that the following issues
26 relating to program operation must be resolved prior to the full
27 assumption of responsibility for institutions for mental disease
28 program monitoring and reimbursement procedures by the counties:

29 (1) The information regarding the program is inadequate to
30 accurately allocate funding to the counties without significant
31 disruption of patient care.

32 (2) There is currently no administrative mechanism whereby
33 all counties can immediately assume these responsibilities without
34 endangering the health and safety of the persons being served.

35 (b) (1) During the 1991–92 fiscal year, the sum of eighty-seven
36 million seven hundred twenty-seven thousand dollars (\$87,727,000)
37 shall be made available from the Mental Health Subaccount of the
38 Sales Tax Account of the Local Revenue Fund to the department
39 for support of institutions for mental disease.

1 (2) For the 1991–92 fiscal year, the department shall issue a
2 preliminary allocation of at least fifty-seven million four hundred
3 fifty thousand dollars (\$57,450,000) of the amount identified in
4 paragraph (1). In developing a preliminary allocation, the
5 department shall utilize a methodology that will minimize
6 disruption of services to persons being served and that will continue
7 access at the 1990–91 fiscal year level.

8 (3) During the 1991–92 fiscal year, the department shall
9 administer institution for mental disease resources remaining from
10 the amount identified in paragraph (1) after the allocation described
11 in (2) has been made, as a risk pool on behalf of all the counties.
12 Effective July 1, 1991, the department shall enter into contracts
13 with institutions for mental disease providers at the 1990–91 fiscal
14 year contract bed level. These resources shall be made available
15 to all counties.

16 (4) The department shall establish a method for the identification
17 of persons, by county, residing in institutions for mental disease,
18 and notification of counties of their program and fiscal
19 responsibilities.

20 (c) The Department of Finance may authorize a loan of up to
21 twenty million dollars (\$20,000,000) from the General Fund for
22 deposit into the Institutions for Mental Disease Account of the
23 Mental Health Facilities Fund established pursuant to Section
24 17602.05, for use by the ~~State Department of Mental Health~~
25 *department* in implementing this part.

26 *SEC. 211. Section 5909 of the Welfare and Institutions Code*
27 *is amended to read:*

28 5909. The Director of ~~Mental Health Care Services~~ shall retain
29 the authority and responsibility to monitor and approve special
30 treatment programs in skilled nursing facilities in accordance with
31 Sections 72443 to 72474, inclusive, of Title 22 of the California
32 Code of Regulations.

33 *SEC. 212. Section 6002.15 of the Welfare and Institutions Code*
34 *is amended to read:*

35 6002.15. (a) Prior to accepting the written authorization for
36 treatment, the facility shall assure that a representative of the
37 facility has given a full explanation of the treatment philosophy
38 of the facility, including, where applicable, the use of seclusion
39 and restraint, the use of medication, and the degree of involvement
40 of family members in the minor’s treatment to the parent, guardian

1 or other person entitled to the minor's custody. This explanation
2 shall be given orally and in writing, and shall be documented in
3 the minor's treatment record upon completion.

4 (b) As part of the admission process, the professional person
5 responsible for the minor's admission shall affirm in writing that
6 the minor meets the admission criteria as specified above.

7 (c) Upon admission, a facility specified in Section 6002.10 shall
8 do all of the following:

9 (1) Inform the minor in writing of the availability of an
10 independent clinical review of his or her further inpatient treatment.
11 The notice shall be witnessed and signed by an appropriate
12 representative of the facility.

13 (2) Within one working day, notify the patients' rights advocate,
14 as defined in Article 2 (commencing with Section 5540) of Chapter
15 5.2, regarding the admission of the minor.

16 (3) Provide all minors with a booklet promulgated by the State
17 Department of ~~Mental Health~~ *Care Services* outlining the specific
18 rights of minors in mental health facilities. The booklet shall
19 include the phone number of the local advocate and the hours that
20 he or she may be reached.

21 *SEC. 213. Section 6002.40 of the Welfare and Institutions Code*
22 *is amended to read:*

23 6002.40. (a) For any insurance contracts entered into after
24 January 1, 1990, where any private insurer, certified medical plan,
25 or private health service plan is liable to pay or reimburse a
26 professional provider or institutional provider for the costs of
27 medically necessary mental health services provided to the patient,
28 the costs of the clinical review required by Sections 6002.10 to
29 6002.40, inclusive, including, but not limited to, the costs of the
30 interpreter, if any, and the costs of the patients' rights advocate,
31 shall be borne by the insurer, certified medical plan, or the health
32 service plan. Payments to providers for the costs of the independent
33 clinical review shall be made promptly.

34 For Medi-Cal eligible patients placed in these private facilities,
35 the costs of the clinical review required by Sections 6002.10 to
36 6002.40, inclusive, including the costs of the patients rights
37 advocate, shall be borne by the county.

38 (b) The Legislature intends that Sections 6002.10 to 6002.40,
39 inclusive, affect only the rights of minors confined in private
40 mental health facilities on the consent of their parents or guardians,

1 where the costs of treatment are paid or reimbursed by a private
2 insurer or private health service plan.

3 (c) Mental health facilities shall summarize on an annual basis,
4 information including, but not limited to, the number of minors
5 admitted by diagnosis, length of stay, and source of payment, the
6 number of requests for an independent clinical review by diagnosis,
7 source of payment, and outcome of the independent clinical review
8 and submit this information to the State Department of ~~Mental~~
9 ~~Health Care Services~~. ~~This annual summary shall be made available~~
10 ~~by the facility to the~~ The State Department of *Public Health*
11 ~~Services~~ which shall monitor compliance of this section during an
12 inspection of the facility pursuant to Sections 1278 and 1279 of
13 the Health and Safety Code.

14 (d) ~~The State Department of Mental Health, in consultation with~~
15 ~~appropriate organizations, shall develop nonmandatory guidelines~~
16 ~~for treatment of mental disorders to be utilized pursuant to this act~~
17 ~~by January 1, 1991.~~

18 *SEC. 214. Section 6007 of the Welfare and Institutions Code*
19 *is amended to read:*

20 6007. Any person detained as of June 30, 1969, in a private
21 institution, pursuant to former Sections 6030 to 6033, inclusive,
22 as they read immediately preceding July 1, 1969, on the
23 certification of one physician, may be detained after July 1, 1969,
24 for a period no longer than 90 days.

25 Any person detained as of June 30, 1969, in a private institution,
26 pursuant to such sections, on the certification of two physicians,
27 may be detained after July 1, 1969, for a period no longer than 180
28 days.

29 Any person detained pursuant to this section after July 1, 1969,
30 shall be evaluated by the facility designated by the county and
31 approved by the State Department of ~~Mental Health~~ *Social Services*
32 pursuant to Section 5150 as a facility for 72-hour treatment and
33 evaluation. ~~Such~~ *The* evaluation shall be made at the request of
34 the person in charge of the private institution in which the person
35 is detained or by one of the physicians who signed the certificate.
36 If in the opinion of the professional person in charge of the
37 evaluation and treatment facility or his *or her* designee, the
38 evaluation of the person can be made by ~~such~~ *the* professional
39 person or his *or her* designee at the private institution in which the
40 person is detained, the person shall not be required to be evaluated

1 at the evaluation and treatment facility, but shall be evaluated at
2 the private institution to determine if the person is a danger to
3 others, himself *or herself*, or gravely disabled as a result of mental
4 disorder.

5 Any person evaluated under this section shall be released from
6 the private institution immediately upon completion of the
7 evaluation if in the opinion of the professional person in charge
8 of the evaluation and treatment facility, or his *or her* designee, the
9 person evaluated is not a danger to others, or to himself *or herself*,
10 or gravely disabled as a result of mental disorder, unless the person
11 agrees voluntarily to remain in the private institution.

12 If in the opinion of the professional person in charge of the
13 facility or his *or her* designee, the person evaluated requires
14 intensive treatment or recommendation for conservatorship, ~~such~~
15 *the* professional person or his *or her* designee shall proceed under
16 Article 4 (commencing with Section 5250) of Chapter 2, or under
17 Chapter 3 (commencing with Section 5350), of Part 1 of Division
18 5.

19 *SEC. 215. Section 6551 of the Welfare and Institutions Code*
20 *is amended to read:*

21 6551. If the court is in doubt as to whether the person is
22 mentally disordered or mentally retarded, the court shall order the
23 person to be taken to a facility designated by the county and
24 approved by the State Department of ~~Mental Health~~ *Social Services*
25 as a facility for 72-hour treatment and evaluation. Thereupon,
26 Article 1 (commencing with Section 5150) of Chapter 2 of Part 1
27 of Division 5 applies, except that the professional person in charge
28 of the facility shall make a written report to the court concerning
29 the results of the evaluation of the person's mental condition. If
30 the professional person in charge of the facility finds the person
31 is, as a result of mental disorder, in need of intensive treatment,
32 the person may be certified for not more than 14 days of
33 involuntary intensive treatment if the conditions set forth in
34 subdivision (c) of Section 5250 and subdivision (b) of Section
35 5260 are complied with. Thereupon, Article 4 (commencing with
36 Section 5250) of Chapter 2 of Part 1 of Division 5 shall apply to
37 the person. The person may be detained pursuant to Article 4.5
38 (commencing with Section 5260), or Article 4.7 (commencing
39 with Section 5270.10), or Article 6 (commencing with Section
40 5300) of Part 1 of Division 5 if that article applies.

1 If the professional person in charge of the facility finds that the
2 person is mentally retarded, the juvenile court may direct the filing
3 in any other court of a petition for the commitment of a minor as
4 a mentally retarded person to the State Department of
5 Developmental Services for placement in a state hospital. In such
6 case, the juvenile court shall transmit to the court in which the
7 petition is filed a copy of the report of the professional person in
8 charge of the facility in which the minor was placed for
9 observation. The court in which the petition for commitment is
10 filed may accept the report of the professional person in lieu of
11 the appointment, or subpoenaing, and testimony of other expert
12 witnesses appointed by the court, if the laws applicable to such
13 commitment proceedings provide for the appointment by court of
14 medical or other expert witnesses or may consider the report as
15 evidence in addition to the testimony of medical or other expert
16 witnesses.

17 If the professional person in charge of the facility for 72-hour
18 evaluation and treatment reports to the juvenile court that the minor
19 is not affected with any mental disorder requiring intensive
20 treatment or mental retardation, the professional person in charge
21 of the facility shall return the minor to the juvenile court on or
22 before the expiration of the 72-hour period and the court shall
23 proceed with the case in accordance with the Juvenile Court Law.

24 Any expenditure for the evaluation or intensive treatment of a
25 minor under this section shall be considered an expenditure made
26 under Part 2 (commencing with Section 5600) of Division 5 and
27 shall be reimbursed by the state as are other local expenditures
28 pursuant to that part.

29 The jurisdiction of the juvenile court over the minor shall be
30 suspended during ~~such~~ *the time* ~~as~~ *that* the minor is subject to the
31 jurisdiction of the court in which the petition for postcertification
32 treatment of an imminently dangerous person or the petition for
33 commitment of a mentally retarded person is filed or under remand
34 for 90 days for intensive treatment or commitment ordered by ~~such~~
35 *the court*.

36 *SEC. 216. Section 7100 of the Welfare and Institutions Code*
37 *is amended to read:*

38 7100. The board of supervisors of each county may maintain
39 in the county hospital or in any other hospital situated within or
40 without the county or in any other psychiatric health facility

1 situated within or without the county, suitable facilities and
2 nonhospital or hospital service for the detention, supervision, care,
3 and treatment of persons who are mentally disordered; *or*
4 developmentally disabled, or who are alleged to be such.

5 The county may contract with public or private hospitals for
6 ~~such~~ *those* facilities and hospital service when they are not suitably
7 available in any institution, psychiatric facility, or establishment
8 maintained or operated by the county.

9 The facilities and services for the mentally disordered and
10 allegedly mentally disordered shall be subject to the approval of
11 the State Department of ~~Mental Health~~ *Social Services*, and the
12 facilities and services for the developmentally disabled and
13 allegedly developmentally disabled shall be subject to the approval
14 of the State Department of Developmental Services. The
15 professional person having charge and control of ~~any such~~ *the*
16 hospital or psychiatric health facility shall allow the department
17 whose approval is required to make ~~such~~ investigations thereof as
18 it deems necessary at any time.

19 Nothing in this chapter means that mentally disordered or
20 developmentally disabled persons may not be detained, supervised,
21 cared for, or treated, subject to the right of inquiry or investigation
22 by the department, in their own homes, or the homes of their
23 relatives or friends, or in a licensed establishment.

24 *SEC. 217. Section 9101 of the Welfare and Institutions Code*
25 *is amended to read:*

26 9101. (a) The department shall consist of a director, and any
27 staff as may be necessary for proper administration.

28 (b) The department shall maintain its main office in Sacramento.

29 (c) The Governor, with the consent of the Senate, shall appoint
30 the director. The Governor shall consider, but not be limited to,
31 recommendations from the commission.

32 (d) The director shall have the powers of a head of a department
33 pursuant to Chapter 2 (commencing with Section 11150) of Part
34 1 of Division 3 of Title 2 of the Government Code, and shall
35 receive the salary provided for by Chapter 6 (commencing with
36 Section 11550) of Part 1 of Division 3 of Title 2 of the Government
37 Code.

38 (e) The director shall do all of the following:

39 (1) Be responsible for the management of the department and
40 achievement of its statewide goals.

1 (2) Assist the commission in carrying out its mandated duties
2 and responsibilities in accordance with Section 9202.

3 (f) The Secretary of ~~the Health and Welfare Agency~~ *California*
4 *Health and Human Services* shall ensure effective coordination
5 among departments of the agency in carrying out the mandates of
6 this division. For this purpose, the secretary shall regularly convene
7 meetings concerning services to older individuals that shall include,
8 but not be limited to, the State Department of Health *Care Services*,
9 the State Department of Social Services, the State Department of
10 ~~Mental~~ *Public Health*, and the department.

11 (g) The Secretary of ~~the Health and Welfare Agency~~ *California*
12 *Health and Human Services* shall also encourage other state
13 departments that have other programs for older individuals to
14 actively participate in periodic joint meetings for the joint purpose
15 of coordinating service activities. These departments shall include,
16 but are not limited to, the Department of Housing and Community
17 Development and the Department of Transportation in the
18 Business, Transportation and Housing Agency, the Department of
19 Parks and Recreation in the *Natural Resources Agency*, the
20 California Arts Council, and the Department of Veterans Affairs.

21 *SEC. 218. Section 11325.7 of the Welfare and Institutions Code*
22 *is amended to read:*

23 11325.7. (a) It is the intent of the Legislature in enacting this
24 section to create a funding stream and program that assists certain
25 recipients of aid under this chapter to receive necessary mental
26 health services, including case management and treatment, thereby
27 enabling them to make the transition from welfare to work. This
28 funding stream shall be used specifically to serve recipients in
29 need of mental health services, and shall be accounted for and
30 expended by each county in a manner that ensures that recipients
31 in need of mental health services are receiving appropriate services.

32 (b) The county plan required by Section 10531 shall include a
33 plan for the development of mental health employment assistance
34 services, developed jointly by the county welfare department and
35 the county department of mental health. The plan shall have as its
36 goal the treatment of mental or emotional disabilities that may
37 limit or impair the ability of a recipient to make the transition from
38 welfare-to-work, or that may limit or impair the ability to retain
39 employment over a long-term period. The plan shall be developed
40 in a manner consistent with both the county's welfare-to-work

1 program and the county's consolidated mental health Medi-Cal
2 services plan. The county may use community based providers,
3 as necessary, that have experience in addressing the needs of the
4 CalWORKs population. The county, whenever possible, shall
5 ensure that the services provided qualify for federal reimbursement
6 of the nonstate share of Medi-Cal costs.

7 (c) Subject to specific expenditure authority, mental health
8 services available under this section shall include all of the
9 following elements:

10 (1) Assessment for the purpose of identifying the level of the
11 participant's mental health needs and the appropriate level of
12 treatment and rehabilitation for the participant.

13 (2) Case management, as appropriate, as determined by the
14 county.

15 (3) Treatment and rehabilitation services, that shall include
16 counseling, as necessary to overcome mental health barriers to
17 employment and mental health barriers to retaining employment,
18 in coordination with an individual's welfare-to-work plan.

19 (4) In cases where a secondary diagnosis of substance abuse is
20 made in a person referred for mental or emotional disorders, the
21 welfare-to-work plan shall also address the substance abuse
22 treatment needs of the participant.

23 (5) A process by which the county can identify those with severe
24 mental disabilities that may qualify them for aid under Chapter 3
25 (commencing with Section 12000).

26 (d) Any funds appropriated by the Legislature to cover the
27 nonfederal costs of the mental health employment assistance
28 services required by this section shall be allocated consistent with
29 the formula used to distribute each county's CalWORKs program
30 allocation. Each county shall report annually to the state the number
31 of CalWORKs program recipients who received mental health
32 services and the extent to which the allocation is sufficient to meet
33 the need for these services as determined by the county. The State
34 Department of ~~Mental Health Care Services~~ shall develop a
35 uniform methodology for ensuring that this allocation supplements
36 and does not supplant current expenditure levels for mental health
37 services for this population.

38 *SEC. 219. Section 11462.01 of the Welfare and Institutions*
39 *Code is amended to read:*

1 11462.01. (a) Commencing July 1, 1994, a group home
2 program shall be classified at RCL 13 or RCL 14 if the program
3 meets all of the following requirements:

4 (1) The group home program is providing, or has proposed to
5 provide, the level of care and services necessary to generate
6 sufficient points in the ratesetting process to be classified at RCL
7 13 if the rate application is for RCL 13 or to be classified at RCL
8 14 if the rate application is for RCL 14.

9 (2) (A) (i) The group home provider shall agree not to accept
10 for placement into a group home program AFDC-FC funded
11 children, including voluntary placements and seriously emotionally
12 disturbed children placed out-of-home pursuant to an individualized
13 education program developed under Section 7572.5 of the
14 Government Code, who have not been approved for placement by
15 an interagency placement committee, as described by Section 4096.
16 The approval shall be in writing and shall indicate that the
17 interagency placement committee has determined the child is
18 seriously emotionally disturbed, as defined by Section 5600.3 and
19 subject to Section 1502.4 of the Health and Safety Code, and that
20 the child needs the level of care provided by the group home.

21 (ii) For purposes of clause (i), group home providers who accept
22 seriously emotionally disturbed children who are assessed and
23 placed out-of-home pursuant to an individualized education
24 program developed under Section 7572.5 of the Government Code
25 shall be deemed to have met the interagency placement committee
26 approval for placement requirements of clause (i) if the
27 individualized education program assessment indicates that the
28 child has been determined to be seriously emotionally disturbed,
29 as defined in Section 5600.3 and subject to Section 1502.4 of the
30 Health and Safety Code, and needs the level of care described in
31 clause (i).

32 (B) (i) Nothing in this subdivision shall prevent the emergency
33 placement of a child into a group home program prior to the
34 determination by the interagency placement committee pursuant
35 to subclause (i) of subparagraph (A) if a licensed mental health
36 professional, as defined in the department's AFDC-FC ratesetting
37 regulations, has evaluated, in writing, the child within 72 hours of
38 placement, and determined the child to be seriously emotionally
39 disturbed and in need of the care and services provided by the
40 group home program.

1 (ii) The interagency placement committee shall, within 30 days
2 of placement pursuant to clause (i), make the determination
3 required by clause (i) of subparagraph (A).

4 (iii) If, pursuant to clause (ii), the placement is determined to
5 be appropriate, the committee shall transmit the approval, in
6 writing, to the county placing agency and the group home provider.

7 (iv) If, pursuant to clause (ii) the placement is determined not
8 to be appropriate, the child shall be removed from the group home
9 and referred to a more appropriate placement, as specified in
10 subdivision (f).

11 (C) Commencing December 15, 1992, with respect to AFDC-FC
12 funded children, only those children who are approved for
13 placement by an interagency placement committee may be accepted
14 by a group home under this subdivision.

15 (3) The group home program is certified by the State Department
16 of ~~Mental Health~~ *Care Services* pursuant to Section 4096.5.

17 (b) The department shall not establish a rate for a group home
18 requesting a program change to RCL 13 or RCL 14 unless the
19 group home provider submits a recommendation from the host
20 county or the primary placing county that the program is needed
21 and that the provider is willing and capable of operating the
22 program at the level sought. For purposes of this subdivision, “host
23 county,” “primary placing county,” and “program change” mean
24 the same as defined in the department’s AFDC-FC ratesetting
25 regulations.

26 (c) The effective date of rates set at RCL 13 or RCL 14 shall
27 be the date that all the requirements are met, but not prior to July
28 1 of that fiscal year. Nothing in this section shall affect RCL 13
29 or RCL 14 ratesetting determinations in prior years.

30 (d) Any group home program that has been classified at RCL
31 13 or RCL 14 pursuant to the requirements of subdivision (a) shall
32 be reclassified at the appropriate lower RCL with a commensurate
33 reduction in rate if either of the following occurs:

34 (1) The group home program fails to maintain the level of care
35 and services necessary to generate the necessary number of points
36 for RCL 13 or RCL 14, as required by paragraph (1) of subdivision
37 (a). The determination of points shall be made consistent with the
38 department’s AFDC-FC ratesetting regulations for other rate
39 classification levels.

1 (2) The group home program fails to maintain a certified mental
2 health treatment program as required by paragraph (3) of
3 subdivision (a).

4 (3) In the event of a determination under paragraph (1), the
5 group home may appeal the finding or submit a corrective action
6 plan. The appeal process specified in Section 11466.6 shall be
7 available to RCL 13 and RCL 14 group home providers. During
8 any appeal, the group home shall maintain the appropriate level
9 of care.

10 (e) The interagency placement committee shall periodically
11 review, but no less often than that required by current law, the
12 placement of the child. If the committee determines that the child
13 no longer needs, or is not benefiting from, placement in a RCL 13
14 or RCL 14 group home, the committee shall require the removal
15 of the child and a new disposition.

16 (f) (1) (A) If, at any time subsequent to placement in an RCL
17 13 or RCL 14 group home program, the interagency placement
18 committee determines either that the child is not seriously
19 emotionally disturbed or is not in need of the care and services
20 provided by the group home program, it shall notify, in writing,
21 both the county placing agency and the group home provider within
22 10 days of the determination.

23 (B) The county placing agency shall notify the group home
24 provider, in writing, within five days from the date of the notice
25 from the committee, of the county's plan for removal of the child.

26 (C) The county placing agency shall remove the child from the
27 group home program within 30 days from the date of the notice
28 from the interagency placement committee.

29 (2) (A) If a county placing agency does not remove a child
30 within 30 days from the date of the notice from the interagency
31 placement committee, the group home provider shall notify the
32 interagency placement committee and the department, in writing,
33 of the county's failure to remove the child from the group home
34 program.

35 (B) The group home provider shall make the notification
36 required by subparagraph (A) within five days of the expiration
37 of the 30-day removal period. If notification is made, a group home
38 provider shall not be subject to an overpayment determination due
39 to failure of the county placing agency to remove the child.

1 (3) Any county placing agency that fails to remove a child from
2 a group home program under this paragraph within 30 days from
3 the date of the notice from the interagency placement committee
4 shall be assessed a penalty in the amount of the state and federal
5 financial participation in the AFDC-FC rate paid on behalf of the
6 child commencing on the 31st day and continuing until the child
7 is removed.

8 (g) (1) If any RCL 13 or RCL 14 group home provider discovers
9 that it does not have written approval for placement of any
10 AFDC-FC funded child placed on or after December 15, 1992,
11 from the interagency placement committee, it shall notify the
12 county placing agency, in writing, and shall request the county to
13 obtain approval from the interagency placement committee or
14 remove the child from the group home program. A group home
15 provider shall have 30 days from the child's first day of placement
16 to discover the placement error and to notify the county placing
17 agency.

18 (2) Any county placing agency that receives notification
19 pursuant to paragraph (2) of subdivision (f) shall obtain approval
20 for placement from the interagency placement committee or remove
21 the child from the group home program within 30 days from the
22 date of the notice from the group home provider. The program
23 shall not be reclassified to a lower RCL for a violation of the
24 provisions referred to in this paragraph.

25 (3) (A) If a county placing agency does not have the placement
26 of a child approved by the interagency placement committee or
27 removed from the group home within 30 days from the date of the
28 notice from the group home provider, the group home provider
29 shall notify the county placing agency and the department, in
30 writing, of the county's failure to have the placement of the child
31 approved or remove the child from the group home program.

32 (B) The group home provider shall make the notification
33 required by subparagraph (A) within five days after the expiration
34 of the 30-day approval or removal period. If notification is made,
35 a group home provider shall not be subject to an overpayment
36 determination due to failure of the county placing agency to remove
37 the child.

38 (C) Any group home provider that fails to notify the county
39 placing agency pursuant to subparagraph (A) shall be assessed a
40 penalty in the amount of the AFDC-FC rate paid to the group home

1 provider on behalf of the child commencing on the 31st day of
2 placement and continuing until the county placing agency is
3 notified.

4 (4) Any county placing agency that fails to have the placement
5 of a child approved or to have the child removed from the group
6 home program within 30 days shall be assessed a penalty in the
7 amount of the state and federal financial participation in the
8 AFDC-FC rate paid on behalf of the child commencing on the 31st
9 day of placement and continuing until the child is removed.

10 (h) The department shall develop regulations to obtain payment
11 of assessed penalties as provided in this section. For audit purposes
12 and the application of penalties for RCL 13 and RCL 14 programs,
13 the department shall apply statutory provisions that were in effect
14 during the period for which the audit was conducted.

15 (i) (1) Nothing in this subparagraph shall prohibit a group home
16 classified at RCL 13 or RCL 14 for purposes of the AFDC-FC
17 program, from accepting private placements of children.

18 (2) In cases where a referral is not from a public agency and no
19 public funding is involved, there shall be no requirement for public
20 agency review or determination of need.

21 (3) Children subject to paragraphs (1) and (2) shall have been
22 assessed as seriously emotionally disturbed, as defined in Section
23 5600.3 and subject to Section 1502.4 of the Health and Safety
24 Code, by a licensed mental health professional, as defined in
25 Sections 629 to 633, inclusive, of Title 9 of the California Code
26 of Regulations.

27 (j) A child shall not be placed in a group home program
28 classified at an RCL 13 or RCL 14 if the placement is paid for
29 with county-only funds unless the child is assessed as seriously
30 emotionally disturbed, as defined in Section 5600.3, subject to
31 Section 1502.4 of the Health and Safety Code, by a licensed mental
32 health professional, as defined in Sections 629 to 633, inclusive,
33 of Title 9 of the California Code of Regulations.

34 *SEC. 220. Section 11495.1 of the Welfare and Institutions Code*
35 *is amended to read:*

36 11495.1. (a) The department shall convene a task force
37 including, but not limited to, district attorney domestic violence
38 units, county departments of social services, the County Welfare
39 Directors Association of California, the California State
40 Association of Counties, statewide domestic violence prevention

1 groups, local domestic violence prevention advocates, and service
2 providers, the State Department of Health *Care Services*, the State
3 Department of ~~Mental~~ *Public Health*, and the ~~Office of Criminal~~
4 ~~Justice Planning~~ *California Emergency Management Agency*. The
5 department shall develop, in consultation with the task force,
6 protocols on handling cases in which recipients are past or present
7 victims of abuse. The protocols shall define domestic abuse, and
8 shall address training standards and curricula, individual case
9 assessments, confidentiality procedures, notice procedures and
10 counseling or other appropriate participation requirements as part
11 of an overall plan to transition from welfare-to-work. The protocol
12 shall specify how counties shall do the following:

13 (1) Identify applicants and recipients of assistance under this
14 chapter who have been or are victims of abuse, including those
15 who self-identify, while protecting confidentiality.

16 (2) Refer these individuals to supportive services.

17 (3) Waive, on a case-by-case basis, for so long as necessary,
18 pursuant to a determination of good cause under paragraph (2) of
19 subdivision (f) of Section 11320.3, any program requirements that
20 would make it more difficult for these individuals or their children
21 to escape abuse, and that would be detrimental or unfairly penalize
22 past or present victims of abuse. Requirements that may be waived
23 include, but are not limited to, time limits on receipt of assistance,
24 work requirements, educational requirements, paternity
25 establishment and child support cooperation requirements.

26 (b) The department shall issue regulations describing the
27 protocol identified in subdivision (a) no later than January 1, 1999.

28 (c) Waivers of time limits granted pursuant to this section shall
29 not be implemented if federal statutes or regulations clarify that
30 abuse victims are included in the 20 percent hardship exemptions
31 and that no good cause waivers of the 20 percent limit will be
32 granted to the state for victims of abuse, thereby incurring a penalty
33 to the state.

34 (d) Waivers of the work requirements granted pursuant to this
35 section shall not be implemented if federal statutes or regulations
36 clarify that the state will be penalized for failing to meet work
37 participation requirements due to granting waivers to abuse victims.

38 *SEC. 221. Section 14021.3 of the Welfare and Institutions*
39 *Code, as added by Section 2 of Chapter 1384 of the Statutes of*
40 *1987, is amended to read:*

1 14021.3. (a) The department shall amend the state plan for
2 medical assistance under Medicaid pursuant to Section 1915(g)
3 of Title 19 of the *federal* Social Security Act, as amended by Public
4 Law 99-272 (42 U.S.C. Sec. 1396n(g)), to add case management
5 services as a covered benefit under the ~~Short-Doyle/Medi-Cal~~
6 *specialty mental health services Medi-Cal* program, and shall
7 submit the plan for federal approval by December 31, 1988, or, if
8 the plan has not been submitted by that date, shall submit a letter
9 to the Legislature by that date explaining the circumstances
10 delaying the plan's submission.

11 Upon federal approval for federal financial assistance, the
12 department, ~~in consultation with the State Department of Mental~~
13 ~~Health~~, shall define case management services, shall establish the
14 standards under which case management services qualify as a
15 ~~Short-Doyle/Medi-Cal~~ *specialty mental health* reimbursable
16 service, and shall develop an appropriate rate of reimbursement,
17 subject to utilization controls.

18 It is the intent of the Legislature that at least 50 percent of the
19 total state dollars that are offset as a result of the federal funds
20 received for case management services be redirected to services
21 for those persons identified in Section 14132.44 and that the
22 remainder of these funds be redirected to services under the
23 jurisdiction of the *California Health and Welfare Human Services*
24 Agency for persons other than those persons identified in Section
25 14132.44.

26 (b) *This section shall become inoperative on July 1, 2012, and,*
27 *as of January 1, 2013, is repealed, unless a later enacted statute,*
28 *that becomes operative on or before January 1, 2013, deletes or*
29 *extends the dates on which it becomes inoperative and is repealed.*

30 SEC. 222. *Section 14021.3 of the Welfare and Institutions*
31 *Code, as added by Section 1 of Chapter 1385 of the Statutes of*
32 *1987, is amended to read:*

33 14021.3. ~~The department shall amend the state plan for medical~~
34 ~~assistance under Medicaid pursuant to Section 1915(g) of Title 19~~
35 ~~of the *federal* Social Security Act, as amended by Public Law~~
36 ~~99-272 (42 U.S.C. Section 1396n(g)), ~~to add shall include targeted~~~~
37 ~~case management services as a benefit under the ~~Short-Doyle~~~~
38 ~~*specialty mental health services Medi-Cal* program for persons~~
39 ~~served by the State Department of Mental Health and Short-Doyle~~
40 ~~mental health programs.~~

1 SEC. 223. Section 14021.4 of the Welfare and Institutions Code
 2 is amended to read:

3 14021.4. (a) ~~The State Department of Mental Health shall~~
 4 ~~prepare by January 15, 1991, amendments to California's plan for~~
 5 federal Medi-Cal grants for medical assistance programs, pursuant
 6 to Subchapter XIX (commencing with Section 1396) of Title 42
 7 of the United States Code, ~~to~~ shall accomplish the following
 8 objectives:

9 (1) Expansion of the location and type of therapeutic services
 10 offered to ~~the mentally ill persons with mental illnesses~~ under
 11 Medi-Cal by the category of "other diagnostic, screening,
 12 preventative, and rehabilitative services" which is available to
 13 states under the federal Social Security Act and its implementing
 14 regulations (42 U.S.C. Sec. 1396d(a)(13); 42 C.F.R. 440.130).

15 (2) Expansion of federal financial participation in the costs of
 16 ~~community specialty~~ mental health services provided by local
 17 ~~Short-Doyle community mental health programs~~ mental health
 18 plans or under contract to local ~~Short-Doyle community mental~~
 19 health programs with the mental health plans.

20 (3) Expansion of the location where reimbursable ~~Short-Doyle~~
 21 Medi-Cal specialty mental health services can be provided,
 22 including home, school, and community based sites.

23 (4) Expansion of federal financial participation for services
 24 which meet the rehabilitation needs of ~~severely mentally ill~~
 25 consumers persons with mental illnesses, including, but not limited
 26 to, medication management, functional rehabilitation assessments
 27 of clients, and rehabilitative services which include remedial
 28 services directed at restoration to the highest possible functional
 29 level for persons with ~~psychiatric disabilities~~ mental illnesses and
 30 maximum reduction of symptoms of mental illness.

31 (5) Improvement of fiscal systems and accountability structures
 32 for ~~Short-Doyle Medi-Cal and Short-Doyle costs~~ specialty mental
 33 health services, costs, and rates, with the goal of achieving federal
 34 fiscal requirements.

35 (b) ~~This Short-Doyle Medi-Cal~~ The department's state plan
 36 revision shall be completed with review and comments by the
 37 California ~~Conference of Local~~ Mental Health Directors
 38 Association and other appropriate groups. ~~The addition of~~

1 (c) *Services under the rehabilitative option shall be limited to*
2 ~~Short-Doyle providers specialty mental health plans certified to~~
3 ~~provide Medi-Cal under this option.~~

4 ~~(e) The State Department of Health Services shall review the~~
5 ~~state plan revision for medicaid services as recommended by the~~
6 ~~State Department of Mental Health. If the state plan amendment~~
7 ~~satisfies published federal requirements for these amendments and~~
8 ~~if the State Department of Health Services has approved and~~
9 ~~submitted to the Health Care Financing Administration a plan of~~
10 ~~correction for audit issues identified for the Short-Doyle Medi-Cal~~
11 ~~program, then the department shall promptly pursue federal~~
12 ~~adoption of the state plan revision. If the State Department of~~
13 ~~Health Services does not recommend adoption of the revision, it~~
14 ~~shall report on the financial and programmatic implications of the~~
15 ~~proposal and the reasons for the rejection to the Joint Legislative~~
16 ~~Budget Committee by July 1, 1991.~~

17 ~~(d) The state and local funds required to match federal financial~~
18 ~~participation shall include, but not be limited to, Short-Doyle and~~
19 ~~county matching funds. Additional General Fund moneys for this~~
20 ~~purpose shall be subject to appropriation in the annual Budget Act.~~

21 ~~(e)~~
22 (d) It is the intent of the Legislature that the rehabilitation option
23 of the state ~~medicaid~~ *Medicaid* plan be implemented to expand
24 and provide flexibility to treatment services and to increase the
25 federal participation without increasing the costs to the General
26 Fund.

27 ~~(f) It is the intent of the Legislature that addition of the~~
28 ~~rehabilitation option as a Short-Doyle Medi-Cal benefit shall~~
29 ~~become operative only after the Health Care Financing~~
30 ~~Administration has reviewed and approved the state plan revision~~
31 ~~submitted by the State Department of Health Services, a plan of~~
32 ~~correction approved by the department for audit issues identified~~
33 ~~for the Short-Doyle Medi-Cal program has been submitted, and~~
34 ~~the requirements of this section have been fully satisfied.~~

35 ~~(g) If the Medi-Cal state plan revision required by this section~~
36 ~~is approved by the State Department of Health Services, and~~
37 ~~submitted for federal approval, the State Department of Mental~~
38 ~~Health~~

39 (e) *The department shall review and revise the quality assurance*
40 *standards and guidelines required by Article 5 (commencing with*

1 ~~Section 4070) of Chapter 2 of Division 4 to meet the necessary~~
 2 ~~standards Section 14725 to assure ensure~~ that quality services are
 3 delivered to the eligible population. ~~This review~~ Any reviews shall
 4 include, but not be limited to, appropriate use of mental health
 5 professionals, including psychiatrists, in the treatment and
 6 rehabilitation of clients under this model. The existing quality
 7 assurance standards and guidelines shall remain in effect until the
 8 adoption of the new quality assurance standards and guidelines.

9 ~~(h)~~

10 (f) Consistent with services offered to persons ~~who are mentally~~
 11 ~~ill with mental illnesses~~ under the Medi-Cal program, as required
 12 by this section, it is the intent of the Legislature for the ~~State~~
 13 ~~Department of Mental Health, working collaboratively with the~~
 14 ~~department, department~~ to include care and treatment of persons
 15 with mental ~~disorders~~ illnesses who are eligible for the Medi-Cal
 16 program in facilities with a bed capacity of 16 beds or less.

17 SEC. 224. *Section 14021.5 of the Welfare and Institutions Code*
 18 *is amended to read:*

19 14021.5. (a) Notwithstanding any other provision of law, rates
 20 for reimbursing ~~Short-Doyle specialty~~ mental health and ~~drug~~
 21 ~~substance use disorder~~ services allowable under the Medi-Cal
 22 program and rendered to Medi-Cal beneficiaries ~~under the~~
 23 ~~Short-Doyle program~~ shall continue to be based on the upper limits
 24 allowable under federal law and regulations for services provided
 25 prior to July 1, 1980, on the lower of reasonable cost and customary
 26 charges for services provided July 1, 1980, through June 30, 1982,
 27 and on the lowest of reasonable cost, customary charges, and rates
 28 paid by the ~~Short-Doyle Medi-Cal~~ program for services provided
 29 July 1, 1982, through June 30, 1984.

30 (b) The Legislature hereby states and declares that this section
 31 does not constitute a change in, but is declaratory of, existing law
 32 and that rates for reimbursing ~~Short-Doyle specialty~~ mental health
 33 and ~~drug~~ ~~substance use disorder~~ services to Medi-Cal beneficiaries
 34 under the ~~Short-Doyle Medi-Cal~~ program in previous fiscal years
 35 were based upon the lower of reasonable costs or customary
 36 charges.

37 (c) ~~The State Department of Health Services, after consulting~~
 38 ~~with the State Department of Mental Health and the State~~
 39 ~~Department of Alcohol and Drug Programs, in regard to their~~
 40 ~~respective programs, department~~ shall promulgate emergency

1 regulations relating to claims submission and establishing rates
2 and a ratesetting methodology for determining reimbursement of
3 ~~Short-Doyle specialty~~ mental health and ~~drug substance use~~
4 ~~disorder~~ services allowable under the Medi-Cal program and
5 rendered to Medi-Cal beneficiaries ~~under the State Department of~~
6 ~~Mental Health and the State Department of Alcohol and Drug~~
7 ~~Programs' programs~~ respectively. The methodology and rates shall
8 reflect the most recently completed cost reports and shall be
9 effective commencing July 1, 1984.

10 (d) Notwithstanding any other ~~provision of~~ law, rates for
11 reimbursing ~~Short-Doyle specialty~~ mental health services allowable
12 under the Medi-Cal program and rendered to Medi-Cal
13 beneficiaries ~~under the programs administered by the State~~
14 ~~Department of Mental Health~~ shall be effective from July 1 through
15 June 30 of the fiscal year in which these rates are established.

16 (e) Notwithstanding any other ~~provision of~~ law, rates for
17 reimbursing ~~drug substance use disorder~~ services allowable under
18 the Medi-Cal program and rendered to Medi-Cal beneficiaries
19 ~~under the programs administered by the State Department of~~
20 ~~Alcohol and Drug Programs~~ shall be effective from July 1 through
21 June 30 of the fiscal year in which these rates are established.

22 *SEC. 225. Section 14053.3 of the Welfare and Institutions Code*
23 *is amended to read:*

24 14053.3. ~~As~~ (a) *Except as provided under federal law, federal*
25 *financial participation reimbursement is not allowed for ancillary*
26 *services provided to persons residing in facilities that have been*
27 *found to be institutions for mental disease (IMD), and since,*
28 *consistent with Part 2 (commencing with Section 5600) of Division*
29 *5 and Chapter 6 (commencing with Section 17600) of Part 5,*
30 *counties are financially responsible for specialty mental health*
31 *services and related ancillary services provided to persons through*
32 *county mental health programs when Medi-Cal reimbursement is*
33 *not available, when it is determined that Medi-Cal reimbursement*
34 *has been paid for ancillary services for residents of IMDs, both*
35 *the federal financial participation reimbursement and any state*
36 *funds paid for the ancillary services provided to residents of IMDs*
37 *shall be recovered from counties by the State Department of Mental*
38 *Health department in accordance with applicable state and federal*
39 *statutes and regulations.*

1 (b) *Mental health plans shall report to the department admission*
2 *and discharge dates for Medi-Cal beneficiaries in institutions for*
3 *mental diseases on a quarterly basis in a format provided by the*
4 *department.*

5 *SEC. 226. Section 14108.1 of the Welfare and Institutions Code*
6 *is amended to read:*

7 14108.1. Any recipient receiving care in a nursing facility
8 under this chapter, as part of a certified special treatment program
9 for ~~mentally disordered~~ persons *with mental illnesses*, or as a part
10 of a mental health therapeutic and rehabilitative program approved
11 and certified by a local mental health director, is entitled to be
12 temporarily absent from those facilities. ~~The State Department of~~
13 ~~Health Services shall, with consultation from the State Department~~
14 ~~of Mental Health, department may develop regulations within 60~~
15 ~~days of the effective date of this act establishing the periods of~~
16 time and conditions under which temporary absences shall be
17 permitted. These regulations shall require that absences be in
18 accordance with an individual patient care plan and also provide
19 for absences due to hospitalization for an acute condition. The
20 limits on temporary leaves of absence established by the ~~State~~
21 ~~Department of Health Services department~~ by regulation shall not
22 be less than 30 days per year.

23 During these temporary absences, ~~the State Department of Health~~
24 ~~Services department~~ shall reimburse the facility for the cost of
25 maintaining the vacant accommodations at a rate to be determined
26 by the department which shall be less than the normal
27 reimbursement rate.

28 *SEC. 227. Section 14110.15 of the Welfare and Institutions*
29 *Code is amended to read:*

30 14110.15. (a) The department shall develop, collect, and
31 maintain, in an electronic format, all data elements in the minimum
32 data set specified by the federal government. The data base shall
33 incorporate the data required for preadmission screening and annual
34 resident reviews, and Medi-Cal treatment authorization requests.
35 The department shall make the format of this new data base
36 available to the public.

37 (b) All skilled nursing facilities and nursing facilities required
38 by federal law to complete the minimum data set form shall provide
39 the data to the department in a manner and form prescribed by the

1 director. The director may require that the submission of that data
2 shall be in an electronic format.

3 (c) The department shall design the minimum data set data base
4 in a manner that maintains resident confidentiality and that allows
5 the use of the data by other authorized state agencies, including,
6 but not limited to, the Office of Statewide Health Planning and
7 Development and the Department of Mental Health. To the extent
8 possible, those other state agencies shall obtain the minimum data
9 set and preadmission screening and annual resident review data
10 from the department's ~~data base~~ *database* established and
11 maintained pursuant to this section.

12 (d) To the fullest extent possible, the department shall use the
13 minimum data set ~~data base~~ *database* to meet the requirements of
14 the current treatment authorization request review process and
15 shall automate use of the minimum data set information for that
16 purpose.

17 (e) This section shall not be construed to prohibit the department
18 or any other state agency from requiring additional information
19 that is not available from the minimum data set ~~data base~~ *database*
20 in order to meet other data needs.

21 (f) The department shall implement this section no later than
22 the date specified by the federal government for facility completion
23 of automation of the minimum data set data. The department shall,
24 within a reasonable time, make necessary system changes to begin
25 the use of the automated minimum data set data to meet its
26 treatment authorization and preadmission screening and annual
27 resident review data requirements. To the fullest extent possible,
28 these system changes shall be anticipated and commenced in
29 advance of the federal government's final implementation date.

30 (g) The system shall be developed and implemented in
31 consultation with representatives of the long-term care industry
32 and other interested parties, such as physicians and other health
33 care professionals.

34 (h) The department shall implement the development of the
35 minimum data set ~~data base~~ *database* only if federal funds are
36 available for that purpose. Development of the data system
37 applications for use of the automated minimum data set ~~data base~~
38 *database* by the department are subject to federal approval and
39 federal financial participation for the affected systems.

1 *SEC. 228. Section 14131.07 of the Welfare and Institutions*
2 *Code is amended to read:*

3 14131.07. (a) Notwithstanding any other provision of this
4 chapter or Chapter 8 (commencing with Section 14200), the total
5 number of physician office and clinic visits for physician services
6 provided by a physician, or under the direction of a physician, that
7 are a covered benefit under the Medi-Cal program shall be limited
8 to seven visits per beneficiary per fiscal year, excepting visits that
9 meet the conditions set forth in subdivision (b). For purposes of
10 this limit, a visit shall include physician services provided at any
11 federally qualified health center, rural health clinic, community
12 clinic, outpatient clinic, and hospital outpatient department. The
13 department may seek input from consumer organizations and the
14 provider community, as applicable, prior to implementation.

15 (b) (1) Visits exceeding seven per beneficiary per fiscal year
16 shall be required to be certified by the physician, or other medical
17 professional under the supervision of a physician, attesting that
18 one or more of the following circumstances is applicable:

19 (A) The services will prevent deterioration in a beneficiary's
20 condition that would otherwise foreseeably result in admission to
21 the emergency department.

22 (B) The services will prevent deterioration in the beneficiary's
23 condition that would otherwise result in inpatient admission.

24 (C) The services will prevent disruption in ongoing medical
25 therapy or surgical therapy, or both, including, but not limited to,
26 medications, radiation, or wound management.

27 (D) The services constitute diagnostic workup in progress that
28 would otherwise foreseeably result in inpatient or emergency
29 department admission.

30 (E) The services are for the purpose of assessment and form
31 completion for Medi-Cal recipients seeking or receiving in-home
32 supportive services.

33 (2) The certification shall consist of a written declaration by the
34 physician, or other medical professional under the supervision of
35 the physician, that the visit meets the requirements of any one or
36 more of the circumstances set forth in paragraph (1), and shall
37 include a description of the services provided.

38 (3) The certification shall be maintained onsite at the physician's
39 office or clinic location at which the medical records for the

1 beneficiary are maintained and shall be subject to audit and
2 inspection by the department.

3 (4) This subdivision does not authorize or direct a beneficiary
4 to obtain services at a physician office or clinic visit for an
5 emergency medical condition or that should properly be provided
6 in the emergency department or as hospital inpatient services.

7 (c) Specialty mental health services furnished or arranged for
8 the provision of mental health services to Medi-Cal beneficiaries
9 pursuant to ~~Part 2.5 (commencing with Section 5775) of Division~~
10 ~~5 Chapter 8.9 (commencing with Section 14700)~~, shall not be
11 subject to the limit provided in subdivision (a).

12 (d) Any pregnancy-related visit, or any visit for the treatment
13 of any other condition that might complicate a pregnancy, shall
14 not be subject to the limit provided in subdivision (a).

15 (e) The limit on physician office and clinic visits provided in
16 subdivision (a) shall not apply to any of the following:

17 (1) A beneficiary under the Early and Periodic Screening,
18 Diagnosis, and Treatment (EPSDT) Program.

19 (2) A beneficiary receiving long-term care in a nursing facility
20 that is both of the following:

21 (A) A skilled nursing facility or intermediate care facility as
22 defined in subdivisions (c), (d), (e), (g), and (h), respectively, of
23 Section 1250 of the Health and Safety Code, and facilities
24 providing continuous skilled nursing care to persons with
25 developmental disabilities under the pilot project established
26 pursuant to Section 14132.20.

27 (B) Licensed pursuant to subdivision (k) of Section 1250 of the
28 Health and Safety Code.

29 (f) For managed health care plans that contract with the
30 department pursuant to this chapter or Chapter 8 (commencing
31 with Section 14200), except for *the* Senior Care Action Network
32 or AIDS Healthcare Foundation, payments shall be reduced by the
33 actuarial equivalent amount of the benefit reductions resulting
34 from the implementation of the benefit cap amounts specified in
35 this section pursuant to contract amendments or change orders
36 effective on July 1, 2011, or thereafter.

37 (g) This section shall be implemented only to the extent
38 permitted by federal law.

39 (h) Notwithstanding Chapter 3.5 (commencing with Section
40 11340) of Part 1 of Division 3 of Title 2 of the Government Code,

1 the department may implement this section by means of all-county
 2 letters, provider bulletins, or similar instructions, without taking
 3 regulatory action.

4 (i) This section shall be implemented on the first day of the first
 5 calendar month following 180 days after the effective date of the
 6 act that added this section, or on the first day of the calendar month
 7 following 60 days after the date the department secures all
 8 necessary federal approvals to implement this section, whichever
 9 is later. If the implementation date occurs after July 1, 2011, then
 10 the benefit caps described in subdivision (a) for the first year of
 11 implementation shall be applied from the implementation date to
 12 June 30 of the state fiscal year in which implementation begins.
 13 Thereafter, the benefit caps shall apply on a state fiscal year basis.

14 *SEC. 229. Section 14132.73 of the Welfare and Institutions*
 15 *Code is amended to read:*

16 14132.73. The State Department of Health Care Services shall
 17 allow psychiatrists to receive fee-for-service Medi-Cal
 18 reimbursement for services provided through telemedicine ~~until~~
 19 ~~June 30, 2004, or until the State Department of Mental Health~~
 20 ~~department and mental health plans, in collaboration with~~
 21 ~~stakeholders, develop a method for reimbursing psychiatric services~~
 22 ~~provided through telemedicine that is administratively feasible for~~
 23 ~~the mental health plans, primary care providers, and psychiatrists~~
 24 ~~providing the services, whichever occurs later in accordance with~~
 25 ~~the Medicaid state plan.~~

26 *SEC. 230. Section 14167.1 of the Welfare and Institutions Code*
 27 *is amended to read:*

28 14167.1. For purposes of this article, the following definitions
 29 shall apply:

30 (a) “Acute psychiatric days” means the total number of
 31 ~~Short-Doyle Medi-Cal specialty mental health service~~
 32 ~~administrative days, Short-Doyle Medi-Cal specialty mental health~~
 33 ~~service acute care days, acute psychiatric administrative days, and~~
 34 acute psychiatric acute days identified in the Final Medi-Cal
 35 Utilization Statistics for the 2008–09 state fiscal year as calculated
 36 by the department on September 15, 2008.

37 (b) “Converted hospital” means a private hospital that becomes
 38 a designated public hospital or a nondesignated public hospital
 39 after the implementation date, a nondesignated public hospital that
 40 becomes a private hospital or a designated public hospital after

1 the implementation date, or a designated public hospital that
2 becomes a private hospital or a nondesignated public hospital after
3 the implementation date.

4 (c) “Current Section 1115 Waiver” means California’s Medi-Cal
5 Hospital/Uninsured Care Section 1115 Waiver Demonstration in
6 effect on the effective date of the article.

7 (d) “Designated public hospital” shall have the meaning given
8 in subdivision (d) of Section 14166.1 as that section may be
9 amended from time to time.

10 (e) “General acute care days” means the total number of
11 Medi-Cal general acute care days paid by the department to a
12 hospital in the 2008 calendar year, as reflected in the state paid
13 claims files on July 10, 2009.

14 (f) “High acuity days” means Medi-Cal coronary care unit days,
15 pediatric intensive care unit days, intensive care unit days, neonatal
16 intensive care unit days, and burn unit days paid by the department
17 during the 2008 calendar year, as reflected in the state paid claims
18 files on July 10, 2009.

19 (g) “Hospital inpatient services” means all services covered
20 under Medi-Cal and furnished by hospitals to patients who are
21 admitted as hospital inpatients and reimbursed on a fee-for-service
22 basis by the department directly or through its fiscal intermediary.
23 Hospital inpatient services include outpatient services furnished
24 by a hospital to a patient who is admitted to that hospital within
25 24 hours of the provision of the outpatient services that are related
26 to the condition for which the patient is admitted. Hospital inpatient
27 services do not include services for which a managed health care
28 plan is financially responsible.

29 (h) “Hospital outpatient services” means all services covered
30 under Medi-Cal furnished by hospitals to patients who are
31 registered as hospital outpatients and reimbursed by the department
32 on a fee-for-service basis directly or through its fiscal intermediary.
33 Hospital outpatient services do not include services for which a
34 managed health care plan is financially responsible, or services
35 rendered by a hospital-based federally qualified health center for
36 which reimbursement is received pursuant to Section 14132.100.

37 (i) (1) “Implementation date” means the latest effective date
38 of all federal approvals or waivers necessary for the implementation
39 of this article and Article 5.22 (commencing with Section
40 14167.31), including, but not limited to, any approvals on

1 amendments to contracts between the department and managed
 2 health care plans or mental health plans necessary for the
 3 implementation of this article. The effective date of a federal
 4 approval or waiver shall be the earlier of the stated effective date
 5 or the first day of the first quarter to which the computation of the
 6 payments or fee under the federal approval or waiver is applicable,
 7 which may be prior to the date that the federal approval or waiver
 8 is granted or the applicable contract is amended.

9 (2) If federal approval is sought initially for only the 2008–09
 10 federal fiscal year and separately secured for subsequent federal
 11 fiscal years, the implementation date for the 2008–09 federal fiscal
 12 year shall occur when all necessary federal approvals have been
 13 secured for that federal fiscal year.

14 (j) “Individual hospital acute psychiatric supplemental payment”
 15 means the total amount of acute psychiatric hospital supplemental
 16 payments to a subject hospital for a quarter for which the
 17 supplemental payments are made. The “individual hospital acute
 18 psychiatric supplemental payment” shall be calculated for subject
 19 hospitals by multiplying the number of acute psychiatric days for
 20 the individual hospital for which a mental health plan was
 21 financially responsible by four hundred eighty-five dollars (\$485)
 22 and dividing the result by 4.

23 (k) (1) “Managed health care plan” means a health care delivery
 24 system that manages the provision of health care and receives
 25 prepaid capitated payments from the state in return for providing
 26 services to Medi-Cal beneficiaries.

27 (2) (A) Managed health care plans include county organized
 28 health systems and entities contracting with the department to
 29 provide services pursuant to two-plan models and geographic
 30 managed care. Entities providing these services contract with the
 31 department pursuant to any of the following:

- 32 (i) Article 2.7 (commencing with Section 14087.3).
- 33 (ii) Article 2.8 (commencing with Section 14087.5).
- 34 (iii) Article 2.81 (commencing with Section 14087.96).
- 35 (iv) Article 2.91 (commencing with Section 14089).

36 (B) Managed health care plans do not include any of the
 37 following:

- 38 (i) Mental health plan contracting to provide mental health care
 39 for Medi-Cal beneficiaries pursuant to ~~Part 2.5 (commencing with~~

1 ~~Section 5775) of Division 5 Chapter 8.9 (commencing with Section~~
2 ~~14700).~~

3 (ii) Health plan not covering inpatient services such as primary
4 care case management plans operating pursuant to Section
5 14088.85.

6 (iii) Program of All-Inclusive Care for the Elderly *organizations*
7 operating pursuant to Chapter 8.75 (commencing with Section
8 14591).

9 (l) “Medi-Cal managed care days” means the total number of
10 general acute care days, including well baby days, listed for the
11 county organized health system and prepaid health plans identified
12 in the Final Medi-Cal Utilization Statistics for the 2008–09 state
13 fiscal year, as calculated by the department on September 15, 2008,
14 except that the general acute care days, including well baby days,
15 for the Santa Barbara Health Care Initiative shall be derived from
16 the Final Medi-Cal Utilization Statistics for the 2007–08 state
17 fiscal year.

18 (m) “Medicaid inpatient utilization rate” means Medicaid
19 inpatient utilization rate as defined in Section 1396r-4 of Title 42
20 of the United States Code and as set forth in the final
21 disproportionate share hospital eligibility list for the 2008–09 state
22 fiscal year released by the department on October 22, 2008.

23 (n) “Mental health plan” means a mental health plan that
24 contracts with the ~~State Department of Mental Health~~ *the*
25 *department* to furnish or arrange for the provision of mental health
26 services to Medi-Cal beneficiaries pursuant to ~~Part 2.5~~
27 ~~(commencing with Section 5775) of Division 5 Chapter 8.9~~
28 ~~(commencing with Section 14700).~~

29 (o) “New hospital” means a hospital that was not in operation
30 under current or prior ownership as a private hospital, a
31 nondesignated public hospital, or a designated public hospital for
32 any portion of the 2008–09 state fiscal year.

33 (p) “Nondesignated public hospital” means either of the
34 following:

35 (1) A public hospital that is licensed under subdivision (a) of
36 Section 1250 of the Health and Safety Code, is not designated as
37 a specialty hospital in the hospital’s annual financial disclosure
38 report for the hospital’s latest fiscal year ending in 2007, and
39 satisfies the definition in paragraph (25) of subdivision (a) of
40 Section 14105.98, excluding designated public hospitals.

1 (2) A tax-exempt nonprofit hospital that is licensed under
2 subdivision (a) of Section 1250 of the Health and Safety Code, is
3 not designated as a specialty hospital in the hospital's annual
4 financial disclosure report for the hospital's latest fiscal year ending
5 in 2007, is operating a hospital owned by a local health care district,
6 and is affiliated with the health care district hospital owner by
7 means of the district's status as the nonprofit corporation's sole
8 corporate member.

9 (q) "Outpatient base amount" means the total amount of
10 payments for hospital outpatient services made to a hospital in the
11 2007 calendar year, as reflected in state paid claims files on January
12 26, 2008.

13 (r) "Private hospital" means a hospital that meets all of the
14 following conditions:

15 (1) Is licensed pursuant to subdivision (a) of Section 1250 of
16 the Health and Safety Code.

17 (2) Is in the Charitable Research Hospital peer group, as set
18 forth in the 1991 Hospital Peer Grouping Report published by the
19 department, or is not designated as a specialty hospital in the
20 hospital's Office of Statewide Health Planning and Development
21 Annual Financial Disclosure Report for the hospital's latest fiscal
22 year ending in 2007.

23 (3) Does not satisfy the Medicare criteria to be classified as a
24 long-term care hospital.

25 (4) Is a nonpublic hospital, nonpublic converted hospital, or
26 converted hospital as those terms are defined in paragraphs (26)
27 to (28), inclusive, respectively, of subdivision (a) of Section
28 14105.98.

29 (s) "Subject federal fiscal year" means a federal fiscal year that
30 ends after the implementation date and begins before December
31 31, 2010.

32 (t) "Subject fiscal quarter" means a fiscal quarter beginning on
33 or after the implementation date and ending before January 1,
34 2011.

35 (u) "Subject fiscal year" means a state fiscal year that ends after
36 the implementation date and begins before December 31, 2010.

37 (v) "Subject hospital" shall mean a hospital that meets all of the
38 following conditions:

39 (1) Is licensed pursuant to subdivision (a) of Section 1250 of
40 the Health and Safety Code.

1 (2) Is in the Charitable Research Hospital peer group, as set
2 forth in the 1991 Hospital Peer Grouping Report published by the
3 department, or is not designated as a specialty hospital in the
4 hospital's Office of Statewide Health Planning and Development
5 Annual Financial Disclosure Report for the hospital's latest fiscal
6 year ending in 2007.

7 (3) Does not satisfy the Medicare criteria to be classified as a
8 long-term care hospital.

9 (w) "Subject month" means a calendar month beginning on or
10 after the implementation date and ending before January 1, 2011.

11 (x) "Upper payment limit" means a federal upper payment limit
12 on the amount of the Medicaid payment for which federal financial
13 participation is available for a class of service and a class of health
14 care providers, as specified in Part 447 of Title 42 of the Code of
15 Federal Regulations.

16 *SEC. 231. Section 14167.11 of the Welfare and Institutions*
17 *Code is amended to read:*

18 14167.11. (a) The department shall increase payments to
19 mental health plans for the subject fiscal years as set forth in this
20 section. The aggregate amount of the increased payments for a
21 subject fiscal quarter shall be the total of the individual hospital
22 acute psychiatric supplemental payment amounts for all hospitals
23 for which federal financial participation is available.

24 (b) For each subject fiscal quarter, the state shall make increased
25 payments to each mental health plan. The department shall consider
26 the composition of Medi-Cal enrollees in the mental health plan,
27 the anticipated utilization of hospital services by the mental health
28 plan's Medi-Cal enrollees, and other factors that the department
29 determines are reasonable and appropriate to ensure access to
30 high-quality hospital services by the mental health plan's enrollees.

31 (c) The state shall make increased payments to mental health
32 plans exclusively for the purpose of making payments to hospitals,
33 in order to support the availability of hospital *specialty* mental
34 health services and ensure access for Medi-Cal beneficiaries to
35 hospital *specialty* mental health services. The increased payments
36 to mental health plans shall be made as follows:

37 (1) The increased payments shall commence on or before the
38 later of the last day of the second month of the quarter in which
39 federal approval is granted or the 45th day following the day on
40 which federal approval is granted. Subsequent increased payments

1 shall be made on the last day of the second month of each quarter.
2 The last increased payments made pursuant to this section shall
3 be made during November 2010.

4 (2) The increased payments made for the first quarter for which
5 increased payments are made under this section shall include the
6 sum of increased payments for all prior quarters for which
7 payments are due under subdivision (b).

8 (3) The increased payments made during November 2010 shall
9 include payments computed under subdivision (b) for all quarters
10 in the 2010–11 subject fiscal year to the extent that federal financial
11 participation is available for the payments.

12 (4) If all necessary federal approvals are not received on or
13 before September 1, 2010, the department shall make semimonthly
14 payments starting within one month of receipt of all necessary
15 federal approvals until December 31, 2010.

16 (d) Each mental health plan shall expend, in the form of
17 additional payments to hospitals, the increased payments it receives
18 under this section, pursuant to Section 14167.12.

19 (e) In the event federal financial participation for a subject fiscal
20 year is not available for all of the increased acute psychiatric
21 payments determined for a quarter pursuant to this section for any
22 reason, the increased payments mandated by this section for that
23 quarter shall be reduced proportionately to the amount for which
24 federal financial participation is available.

25 (f) Payments to mental health plans that would be paid in the
26 absence of the payments made pursuant to this section shall not
27 be reduced as a consequence of the payments under this section.

28 (g) Notwithstanding any other provision of this article or Article
29 5.22 (commencing with Section 14167.31), individual hospital
30 acute psychiatric supplemental payments under this section and
31 Section 14167.12 may be made directly by the department to
32 hospitals in accordance with Section 14167.9 when federal law
33 does not require that the payments be transmitted to the hospitals
34 via mental health plans.

35 (h) The department may, as necessary, allocate money
36 appropriated to it from the Hospital Quality Assurance Revenue
37 ~~Fund to the State Department of Mental Health~~ for the purposes
38 of making increased payments to mental health plans pursuant to
39 this article.

1 (i) The amount, if any, by which the aggregate individual
2 hospital acute psychiatric supplemental payment amounts for a
3 subject fiscal quarter, including any carryover amount under this
4 subdivision, exceeds the amount for which federal financial
5 participation is available for that quarter due to the application of
6 a federal upper payment limit shall be added to the aggregate
7 individual hospital acute psychiatric supplemental payment
8 amounts for the succeeding subject fiscal quarter. In the event
9 there is a carryover amount for the subject fiscal quarter ending
10 December 31, 2010, the amount shall be payable under this section
11 for the quarter ending March 31, 2011, and, if necessary due to
12 the application of a federal upper payment limit, the quarter ending
13 June 30, 2011.

14 *SEC. 232. Section 14168.1 of the Welfare and Institutions Code*
15 *is amended to read:*

16 14168.1. For the purposes of this article, the following
17 definitions shall apply:

18 (a) "Acute psychiatric days" means the total number of
19 ~~Short-Doyle Medi-Cal specialty mental health service~~
20 administrative days, ~~Short-Doyle Medi-Cal specialty mental health~~
21 *service* acute care days, acute psychiatric administrative days, and
22 acute psychiatric acute days identified in the Final Medi-Cal
23 Utilization Statistics for the 2008–09 state fiscal year as calculated
24 by the department on September 15, 2008.

25 (b) "Converted hospital" means a private hospital that becomes
26 a designated public hospital or a nondesignated public hospital on
27 or after January 1, 2011, a nondesignated public hospital that
28 becomes a private hospital or a designated public hospital on or
29 after January 1, 2011, or a designated public hospital that becomes
30 a private hospital or a nondesignated public hospital on or after
31 January 1, 2011.

32 (c) "Days data source" means the following:

33 (1) For a hospital that did not submit an Annual Financial
34 Disclosure Report to the Office of Statewide Health Planning and
35 Development for a fiscal year ending during 2007, but submitted
36 that report for a fiscal period ending in 2008 that includes at least
37 10 months of 2007, the Annual Financial Disclosure Report
38 submitted by the hospital to the Office of Statewide Health
39 Planning and Development for the fiscal period in 2008 that
40 includes at least 10 months of 2007.

1 (2) For a hospital owned by Kaiser Foundation Hospitals that
2 submitted corrections to reported patient days to the Office of
3 Statewide Health Planning and Development for its fiscal year
4 ending in 2007 before July 31, 2009, the corrected data.

5 (3) For all other hospitals, the hospital's Annual Financial
6 Disclosure Report in the Office of Statewide Health Planning and
7 Development files as of October 31, 2008, for its fiscal year ending
8 during 2007.

9 (d) "Designated public hospital" shall have the meaning given
10 in subdivision (d) of Section 14166.1 as of January 1, 2011.

11 (e) "General acute care days" means the total number of
12 Medi-Cal general acute care days paid by the department to a
13 hospital in the 2008 calendar year, as reflected in the state paid
14 claims files on July 10, 2009.

15 (f) "High acuity days" means Medi-Cal coronary care unit days,
16 pediatric intensive care unit days, intensive care unit days, neonatal
17 intensive care unit days, and burn unit days paid by the department
18 during the 2008 calendar year, as reflected in the state paid claims
19 files on July 10, 2009.

20 (g) "Hospital inpatient services" means all services covered
21 under Medi-Cal and furnished by hospitals to patients who are
22 admitted as hospital inpatients and reimbursed on a fee-for-service
23 basis by the department directly or through its fiscal intermediary.
24 Hospital inpatient services include outpatient services furnished
25 by a hospital to a patient who is admitted to that hospital within
26 24 hours of the provision of the outpatient services that are related
27 to the condition for which the patient is admitted. Hospital inpatient
28 services do not include services for which a managed health care
29 plan is financially responsible.

30 (h) "Hospital outpatient services" means all services covered
31 under Medi-Cal furnished by hospitals to patients who are
32 registered as hospital outpatients and reimbursed by the department
33 on a fee-for-service basis directly or through its fiscal intermediary.
34 Hospital outpatient services do not include services for which a
35 managed health care plan is financially responsible, or services
36 rendered by a hospital-based federally qualified health center for
37 which reimbursement is received pursuant to Section 14132.100.

38 (i) "Individual hospital acute psychiatric supplemental payment"
39 means the total amount of acute psychiatric hospital supplemental
40 payments to a subject hospital for a quarter for which the

1 supplemental payments are made. The “individual hospital acute
2 psychiatric supplemental payment” shall be calculated for subject
3 hospitals by multiplying the number of acute psychiatric days for
4 the individual hospital for which a mental health plan was
5 financially responsible by four hundred eighty-five dollars (\$485)
6 and dividing the result by four.

7 (j) (1) “Managed health care plan” means a health care delivery
8 system that manages the provision of health care and receives
9 prepaid capitated payments from the state in return for providing
10 services to Medi-Cal beneficiaries.

11 (2) (A) Managed health care plans include county organized
12 health systems and entities contracting with the department to
13 provide services pursuant to two-plan models and geographic
14 managed care. Entities providing these services contract with the
15 department pursuant to any of the following:

16 (i) Article 2.7 (commencing with Section 14087.3).

17 (ii) Article 2.8 (commencing with Section 14087.5).

18 (iii) Article 2.81 (commencing with Section 14087.96).

19 (iv) Article 2.91 (commencing with Section 14089).

20 (B) Managed health care plans do not include any of the
21 following:

22 (i) Mental health ~~plan plans~~ contracting to provide mental health
23 care for Medi-Cal beneficiaries pursuant to ~~Part 2.5 (commencing~~
24 ~~with Section 5775) of Division 5 Chapter 8.9 (commencing with~~
25 ~~Section 14700).~~

26 (ii) Health ~~plan plans~~ not covering inpatient services such as
27 primary care case management plans operating pursuant to Section
28 14088.85.

29 (iii) Program of All-Inclusive Care for the Elderly *organizations*
30 operating pursuant to Chapter 8.75 (commencing with Section
31 14591).

32 (k) “Medi-Cal managed care days” means the total number of
33 general acute care days, including well baby days, listed for the
34 county organized health system and prepaid health plans identified
35 in the Final Medi-Cal Utilization Statistics for the 2008–09 fiscal
36 year, as calculated by the department on September 15, 2008,
37 except that the general acute care days, including well baby days,
38 for the Santa Barbara Health Care Initiative shall be derived from
39 the Final Medi-Cal Utilization Statistics for the 2007–08 fiscal
40 year.

1 (l) “Medicaid inpatient utilization rate” means Medicaid
 2 inpatient utilization rate as defined in Section 1396r-4 of Title 42
 3 of the United States Code and as set forth in the final
 4 disproportionate share hospital eligibility list for the 2008–09 fiscal
 5 year released by the department on October 22, 2008.

6 (m) “Mental health plan” means a mental health plan that
 7 contracts with the ~~State Department of Mental Health~~ *department*
 8 to furnish or arrange for the provision of mental health services to
 9 Medi-Cal beneficiaries pursuant to ~~Part 2.5 (commencing with~~
 10 ~~Section 5775) of Division 5 Chapter 8.9 (commencing with Section~~
 11 ~~14700).~~

12 (n) “New hospital” means a hospital operation, business, or
 13 facility functioning under current or prior ownership as a private
 14 hospital that does not have a days data source or a hospital that
 15 has a days data source in whole, or in part, from a previous operator
 16 where there is an outstanding monetary liability owed to the state
 17 in connection with the Medi-Cal program and the new operator
 18 did not assume liability for the outstanding monetary obligation.

19 (o) “New noncontract hospital” means a private hospital that
 20 was a contract hospital on March 1, 2011, and elects to become a
 21 noncontract hospital at any time between March 1, 2011, and the
 22 end of the program period.

23 (p) “Nondesignated public hospital” means either of the
 24 following:

25 (1) A public hospital that is licensed under subdivision (a) of
 26 Section 1250 of the Health and Safety Code, is not designated as
 27 a specialty hospital in the hospital’s annual financial disclosure
 28 report for the hospital’s latest fiscal year ending in 2007, and
 29 satisfies the definition in paragraph (25) of subdivision (a) of
 30 Section 14105.98, excluding designated public hospitals.

31 (2) A tax-exempt nonprofit hospital that is licensed under
 32 subdivision (a) of Section 1250 of the Health and Safety Code, is
 33 not designated as a specialty hospital in the hospital’s annual
 34 financial disclosure report for the hospital’s latest fiscal year ending
 35 in 2007, is operating a hospital owned by a local health care district,
 36 and is affiliated with the health care district hospital owner by
 37 means of the district’s status as the nonprofit corporation’s sole
 38 corporate member.

39 (q) “Outpatient base amount” means the total amount of
 40 payments for hospital outpatient services made to a hospital in the

1 2007 calendar year, as reflected in *the* state paid claims files on
2 January 26, 2008.

3 (r) “Private hospital” means a hospital that meets all of the
4 following conditions:

5 (1) Is licensed pursuant to subdivision (a) of Section 1250 of
6 the Health and Safety Code.

7 (2) Is in the Charitable Research Hospital peer group, as set
8 forth in the 1991 Hospital Peer Grouping Report published by the
9 department, or is not designated as a specialty hospital in the
10 hospital’s Office of Statewide Health Planning and Development
11 Annual Financial Disclosure Report for the hospital’s latest fiscal
12 year ending in 2007.

13 (3) Does not satisfy the Medicare criteria to be classified as a
14 long-term care hospital.

15 (4) Is a nonpublic hospital, nonpublic converted hospital, or
16 converted hospital as those terms are defined in paragraphs (26)
17 to (28), inclusive, respectively, of subdivision (a) of Section
18 14105.98.

19 (s) “Program period” means the period from January 1, 2011,
20 to June 30, 2011, inclusive.

21 (t) “Subject fiscal quarter” means a state fiscal quarter beginning
22 on or after January 1, 2011, and ending before July 1, 2011.

23 (u) “Subject hospital” ~~shall mean~~ *means* a hospital that meets
24 all of the following conditions:

25 (1) Is licensed pursuant to subdivision (a) of Section 1250 of
26 the Health and Safety Code.

27 (2) Is in the Charitable Research Hospital peer group, as set
28 forth in the 1991 Hospital Peer Grouping Report published by the
29 department, or is not designated as a specialty hospital in the
30 hospital’s Office of Statewide Health Planning and Development
31 Annual Financial Disclosure Report for the hospital’s latest fiscal
32 year ending in 2007.

33 (3) Does not satisfy the Medicare criteria to be classified as a
34 long-term care hospital.

35 (v) “Subject month” means a calendar month beginning on or
36 after January 1, 2011, and ending before July 1, 2011.

37 (w) “Upper payment limit” means a federal upper payment limit
38 on the amount of the Medicaid payment for which federal financial
39 participation is available for a class of service and a class of health

1 care providers, as specified in Part 447 of Title 42 of the Code of
2 Federal Regulations.

3 *SEC. 233. Section 14169.1 of the Welfare and Institutions Code*
4 *is amended to read:*

5 14169.1. For the purposes of this article, the following
6 definitions shall apply:

7 (a) “Acute psychiatric days” means the total number of
8 ~~Short-Doyle Medi-Cal specialty mental health service~~
9 administrative days, ~~Short-Doyle Medi-Cal specialty mental health~~
10 service acute care days, acute psychiatric administrative days, and
11 acute psychiatric acute days identified in the Tentative Medi-Cal
12 Utilization Statistics for the 2011–12 state fiscal year as calculated
13 by the department as of July 21, 2011.

14 (b) “Converted hospital” means a private hospital that becomes
15 a designated public hospital or a nondesignated public hospital on
16 or after July 1, 2011.

17 (c) “Days data source” means the hospital’s Annual Financial
18 Disclosure Report filed with the Office of Statewide Health
19 Planning and Development as of May 5, 2011, for its fiscal year
20 ending during 2009.

21 (d) “Designated public hospital” shall have the meaning given
22 in subdivision (d) of Section 14166.1 as of July 1, 2011.

23 (e) “General acute care days” means the total number of
24 Medi-Cal general acute care days paid by the department to a
25 hospital for services in the 2009 calendar year, as reflected in the
26 state paid claims file on July 15, 2011.

27 (f) “High acuity days” means Medi-Cal coronary care unit days,
28 pediatric intensive care unit days, intensive care unit days, neonatal
29 intensive care unit days, and burn unit days paid by the department
30 during the 2009 calendar year, as reflected in the state paid claims
31 file prepared by the department on July 15, 2011.

32 (g) “Hospital inpatient services” means all services covered
33 under Medi-Cal and furnished by hospitals to patients who are
34 admitted as hospital inpatients and reimbursed on a fee-for-service
35 basis by the department directly or through its fiscal intermediary.
36 Hospital inpatient services include outpatient services furnished
37 by a hospital to a patient who is admitted to that hospital within
38 24 hours of the provision of the outpatient services that are related
39 to the condition for which the patient is admitted. Hospital inpatient

1 services do not include services for which a managed health care
2 plan is financially responsible.

3 (h) “Hospital outpatient services” means all services covered
4 under Medi-Cal furnished by hospitals to patients who are
5 registered as hospital outpatients and reimbursed by the department
6 on a fee-for-service basis directly or through its fiscal intermediary.
7 Hospital outpatient services do not include services for which a
8 managed health care plan is financially responsible, or services
9 rendered by a hospital-based federally qualified health center for
10 which reimbursement is received pursuant to Section 14132.100.

11 (i) “Individual hospital acute psychiatric supplemental payment”
12 means the total amount of acute psychiatric hospital supplemental
13 payments to a subject hospital for a quarter for which the
14 supplemental payments are made. The “individual hospital acute
15 psychiatric supplemental payment” shall be calculated for subject
16 hospitals by multiplying the number of acute psychiatric days for
17 the individual hospital for which a mental health plan was
18 financially responsible by the amount calculated in accordance
19 with paragraph (2) of subdivision (b) of Section 14169.3 and
20 dividing the result by four.

21 (j) (1) “Managed health care plan” means a health care delivery
22 system that manages the provision of health care and receives
23 prepaid capitated payments from the state in return for providing
24 services to Medi-Cal beneficiaries.

25 (2) (A) Managed health care plans include county organized
26 health systems and entities contracting with the department to
27 provide services pursuant to two-plan models and geographic
28 managed care. Entities providing these services contract with the
29 department pursuant to any of the following:

- 30 (i) Article 2.7 (commencing with Section 14087.3).
- 31 (ii) Article 2.8 (commencing with Section 14087.5).
- 32 (iii) Article 2.81 (commencing with Section 14087.96).
- 33 (iv) Article 2.91 (commencing with Section 14089).

34 (B) Managed health care plans do not include any of the
35 following:

- 36 (i) Mental health plans contracting to provide mental health care
37 for Medi-Cal beneficiaries pursuant to ~~Part 2.5 (commencing with~~
38 ~~Section 5775) of Division 5 Chapter 8.9 (commencing with Section~~
39 ~~14700).~~

1 (ii) Health plans not covering inpatient services such as primary
2 care case management plans operating pursuant to Section
3 14088.85.

4 ~~(iii) Long-Term Care Demonstration Projects Program for~~
5 All-Inclusive Care for the Elderly *organizations* operating pursuant
6 to Chapter 8.75 (commencing with Section ~~14590~~ 14591).

7 (k) “Medi-Cal managed care days” means the total number of
8 general acute care days, including well baby days, listed for the
9 county organized health system and prepaid health plans identified
10 in the Tentative Medi-Cal Utilization Statistics for the 2011–12
11 fiscal year, as calculated by the department as of July 21, 2011.

12 (l) “Medicaid inpatient utilization rate” means Medicaid
13 inpatient utilization rate as defined in Section 1396r-4 of Title 42
14 of the United States Code and as set forth in the final
15 disproportionate share hospital eligibility list for the 2010–11 fiscal
16 year released by the department as of May 1, 2011.

17 (m) “Mental health plan” means a mental health plan that
18 contracts with the state to furnish or arrange for the provision of
19 mental health services to Medi-Cal beneficiaries pursuant to ~~Part~~
20 ~~2.5 (commencing with Section 5775) of Division 5 Chapter 8.9~~
21 *(commencing with Section 14700)*.

22 (n) “New hospital” means a hospital operation, business, or
23 facility functioning under current or prior ownership as a private
24 hospital that does not have a days data source or a hospital that
25 has a days data source in whole, or in part, from a previous operator
26 where there is an outstanding monetary liability owed to the state
27 in connection with the Medi-Cal program and the new operator
28 did not assume liability for the outstanding monetary obligation.

29 (o) “New noncontract hospital” means a private hospital that
30 was a contract hospital on March 1, 2011, and elects to become a
31 noncontract hospital at any time between March 1, 2011, and the
32 end of the program period.

33 (p) “Nondesignated public hospital” means either of the
34 following:

35 (1) A public hospital that is licensed under subdivision (a) of
36 Section 1250 of the Health and Safety Code, is not designated as
37 a specialty hospital in the hospital’s Annual Financial Disclosure
38 Report for the hospital’s latest fiscal year ending in 2009, and
39 satisfies the definition in paragraph (25) of subdivision (a) of
40 Section 14105.98, excluding designated public hospitals.

1 (2) A tax-exempt nonprofit hospital that is licensed under
2 subdivision (a) of Section 1250 of the Health and Safety Code, is
3 not designated as a specialty hospital in the hospital’s Annual
4 Financial Disclosure Report for the hospital’s latest fiscal year
5 ending in 2009, is operating a hospital owned by a local health
6 care district, and is affiliated with the health care district hospital
7 owner by means of the district’s status as the nonprofit
8 corporation’s sole corporate member.

9 (q) “Outpatient base amount” means the total amount of
10 payments for hospital outpatient services made to a hospital in the
11 2009 calendar year, as reflected in the state paid claims files
12 prepared by the department on June 2, 2011.

13 (r) “Private hospital” means a hospital that meets all of the
14 following conditions:

15 (1) Is licensed pursuant to subdivision (a) of Section 1250 of
16 the Health and Safety Code.

17 (2) Is in the Charitable Research Hospital peer group, as set
18 forth in the 1991 Hospital Peer Grouping Report published by the
19 department, or is not designated as a specialty hospital in the
20 hospital’s Office of Statewide Health Planning and Development
21 Annual Financial Disclosure Report for the hospital’s latest fiscal
22 year ending in 2009.

23 (3) Does not satisfy the Medicare criteria to be classified as a
24 long-term care hospital.

25 (4) Is a nonpublic hospital, nonpublic converted hospital, or
26 converted hospital as those terms are defined in paragraphs (26)
27 to (28), inclusive, respectively, of subdivision (a) of Section
28 14105.98.

29 (s) “Program period” means the period from July 1, 2011, to
30 December 31, 2013, inclusive.

31 (t) “Subject fiscal quarter” means a state fiscal quarter beginning
32 on or after July 1, 2011, and ending before January 1, 2014.

33 (u) “Subject fiscal year” means a state fiscal year that ends after
34 July 1, 2011, and begins before January 1, 2014.

35 (v) “Subject hospital” means a hospital that meets all of the
36 following conditions:

37 (1) Is licensed pursuant to subdivision (a) of Section 1250 of
38 the Health and Safety Code.

39 (2) Is in the Charitable Research Hospital peer group, as set
40 forth in the 1991 Hospital Peer Grouping Report published by the

1 department, or is not designated as a specialty hospital in the
2 hospital's Office of Statewide Health Planning and Development
3 Annual Financial Disclosure Report for the hospital's latest fiscal
4 year ending in 2009.

5 (3) Does not satisfy the Medicare criteria to be classified as a
6 long-term care hospital.

7 (w) "Subject month" means a calendar month beginning on or
8 after July 1, 2011, and ending before January 1, 2014.

9 (x) "Upper payment limit" means a federal upper payment limit
10 on the amount of the Medicaid payment for which federal financial
11 participation is available for a class of service and a class of health
12 care providers, as specified in Part 447 of Title 42 of the Code of
13 Federal Regulations. The applicable upper payment limit shall be
14 separately calculated for inpatient and outpatient hospital services.

15 *SEC. 234. Section 14456.5 of the Welfare and Institutions Code*
16 *is amended to read:*

17 14456.5. (a) For purposes of this section, Medi-Cal managed
18 care plan means any prepaid health plan or Medi-Cal managed
19 care plan contracting with the department to provide services to
20 enrolled Medi-Cal beneficiaries under Chapter 7 (commencing
21 with Section 14000) or this chapter, or Part 4 (commencing with
22 Section 101525) of Division 101 of the Health and Safety Code.

23 (b) The department shall ensure that coverage is provided for
24 medically necessary prescription medications and related medically
25 necessary medical services that are prescribed by a local mental
26 health plan provider, and are within the Medi-Cal scope of benefits,
27 but are excluded from coverage under ~~Part 2.5 (commencing with~~
28 ~~Section 5775) of Division 5 Chapter 8.9 (commencing with Section~~
29 ~~14700)~~, by doing, at least, all of the following:

30 (1) Requiring Medi-Cal managed care plans to comply with the
31 following standards:

32 (A) The decision regarding responsibility and coverage for a
33 prescription drug shall be made by the Medi-Cal managed care
34 plan within 24 hours, or one business day, from the date the request
35 for a decision is received by telephone or other telecommunication
36 device.

37 (B) The decision regarding responsibility and coverage for
38 services, such as laboratory tests, that are medically necessary
39 because of medications prescribed by a mental health provider,
40 shall be made by the Medi-Cal managed care plan within seven

1 days following the date the request for a decision is received by
2 telephone or other telecommunication device.

3 (C) If the decision of the Medi-Cal managed care plan on the
4 request is a deferral because of a determination that the Medi-Cal
5 managed care plan needs more information, the Medi-Cal managed
6 care plan shall transmit notice of the deferral, by facsimile or by
7 other telecommunication system, to the pharmacist or other service
8 provider, to the prescribing mental health provider, and to a
9 designated mental health plan representative. The notice shall set
10 out with specificity what additional information is needed to make
11 a medical necessity determination.

12 (D) Any denial of authorization or payment for a prescription
13 medication or for any services such as laboratory tests that may
14 be medically necessary because of medications ordered by a mental
15 health plan provider shall set forth the reasons for the denial with
16 specificity. The denial notice shall be transmitted by facsimile or
17 other telecommunication system to the pharmacist or other service
18 provider, to the prescribing mental health provider, to a designated
19 mental health plan representative, and by mail to the Medi-Cal
20 beneficiary.

21 (E) For purposes of subsequent requests for a medication, the
22 local mental health plan provider prescribing the prescription
23 medication shall be treated as a plan provider under subdivision
24 (a) of Section 1367.22 of the Health and Safety Code.

25 (F) If the decision cannot be made within five working days
26 because of a request for additional information, any Medi-Cal
27 managed care plan licensed pursuant to Division 2 (commencing
28 with Section 1340) of the Health and Safety Code shall inform the
29 enrollee as required by paragraph (5) of subdivision (h) of Section
30 1367.01 of the Health and Safety Code. In regard to any Medi-Cal
31 managed care plan contract as described pursuant to subdivision
32 (a) that is issued, amended, or renewed on or after January 1, 2001,
33 with a plan not licensed pursuant to Division 2 (commencing with
34 Section 1340) of the Health and Safety Code, if the decision cannot
35 be made within five working days because of a request for
36 additional information as specified in subparagraph (C), the plan
37 shall notify the enrollee, in writing, that the plan cannot make a
38 decision to approve, modify, or deny the request for authorization.
39 All managed care plans shall, upon receipt of all information
40 reasonably necessary for making the decision and that was

1 requested by the plan, approve, modify, or deny the request for
 2 authorization within the timeframes specified in subparagraph (A)
 3 or (B), whichever applies.

4 (2) In consultation with the Medi-Cal managed care plans, ~~the~~
 5 ~~State Department of Mental Health~~, and local mental health plans,
 6 establishing a process to recognize credentialing of local mental
 7 health plan providers, for the purpose of expediting approval of
 8 medications prescribed by a local mental health plan provider who
 9 is not contracting with the Medi-Cal managed care plan. In
 10 implementing this requirement, the Medi-Cal managed care plan
 11 shall not be required to violate licensure, accreditation, or
 12 certification requirements of other entities.

13 (3) Requiring any Medi-Cal managed care plan to enter into a
 14 memorandum of understanding with the local mental health plan.
 15 The memorandum of understanding shall comply with applicable
 16 regulations.

17 (c) The department may sanction a Medi-Cal managed care plan
 18 for violations of this section pursuant to Section 14088.23 or 14304.

19 (d) Every Medi-Cal managed care plan that provides prescription
 20 drug benefits and that maintains one or more drug formularies
 21 shall provide to members of the public, upon request, a copy of
 22 the most current list of prescription drugs on the formulary of the
 23 Medi-Cal managed care plan, by therapeutic category, with an
 24 indication of whether any drugs on the list are preferred over other
 25 listed drugs. If the Medi-Cal managed care plan maintains more
 26 than one formulary, the plan shall notify the requester that a choice
 27 of formulary lists is available.

28 (e) This section shall apply to any contracts entered into,
 29 amended, modified, or extended on or after January 1, 2001.

30 *SEC. 235. Section 14640 of the Welfare and Institutions Code*
 31 *is repealed.*

32 ~~14640. (a) The State Department of Mental Health shall~~
 33 ~~allocate funds for the provision of mental health services to~~
 34 ~~Medi-Cal eligible persons over 20 years of age to counties of over~~
 35 ~~one million population that own and operate an acute psychiatric~~
 36 ~~health facility, and in which the number of general acute care~~
 37 ~~hospital psychiatric beds is 50 or less. Counties receiving~~
 38 ~~allocations pursuant to this subdivision may contract with privately~~
 39 ~~operated psychiatric health facilities, or with freestanding~~

1 psychiatric hospitals which have been certified to provide care to
2 Medi-Cal eligible persons:

3 ~~(b) Payments made from the allocation established under~~
4 ~~subdivision (a) shall be made according to state established~~
5 ~~reimbursement formulas for mental health services, and shall be~~
6 ~~funded through moneys initially transferred from the State~~
7 ~~Department of Health Services and subsequently appropriated to~~
8 ~~the State Department of Mental Health under Item 4440-101-001~~
9 ~~of the annual Budget Act.~~

10 ~~(c) Allocations made pursuant to subdivision (a) shall not~~
11 ~~exceed the General Fund share of expenditures made under the~~
12 ~~Medi-Cal program for acute psychiatric inpatient care units in~~
13 ~~general acute care hospitals in the subject county during the~~
14 ~~1989-90 state fiscal year. Payments shall be made only to the~~
15 ~~extent that those inpatient units have ceased operation in~~
16 ~~subsequent years and the capacity has not been replaced by capacity~~
17 ~~in other general acute care hospitals.~~

18 *SEC. 236. Section 14680 of the Welfare and Institutions Code,*
19 *as added by Section 10 of Chapter 651 of the Statutes of 2011, is*
20 *amended to read:*

21 14680. (a) The Legislature finds and declares that there is a
22 need to establish a standard set of guidelines that governs the
23 provision of managed Medi-Cal *specialty* mental health services
24 at the local level, consistent with federal law.

25 (b) Therefore, in order to ensure quality and continuity, and to
26 efficiently utilize mental health services under the Medi-Cal
27 program, there shall be developed mental health plans for the
28 provision of those services that are consistent with guidelines
29 established by the ~~State Department of Mental Health~~ *department*.
30 The guidelines shall be consistent with federal Medicaid
31 requirements and the approved Medicaid state plan and waivers
32 to ensure full and timely federal reimbursement to mental health
33 plans for services that are rendered and reimbursed consistent with
34 federal Medicaid requirements.

35 (c) It is the intent of the Legislature that mental health plans be
36 developed and implemented regardless of whether other systems
37 of Medi-Cal managed care are implemented.

38 (d) It is further the intent of the Legislature that Sections 14681
39 to 14685, inclusive, shall not be construed to mandate the

1 participation of counties in Medi-Cal managed mental health care
 2 plans.

3 (e) This section shall become operative on July 1, 2012.

4 *SEC. 237. Section 14681 of the Welfare and Institutions Code*
 5 *is amended to read:*

6 14681. ~~The State Department of Health Services, in~~
 7 ~~consultation with the State Department of Mental Health,~~
 8 *department* shall ensure that all contracts for Medi-Cal managed
 9 care include a process for screening, referral, and coordination
 10 with any mental health plan established pursuant to Section 14682,
 11 of medically necessary *specialty* mental health care services.

12 *SEC. 238. Section 14682 of the Welfare and Institutions Code*
 13 *is amended to read:*

14 14682. (a) Notwithstanding any other provision of state law,
 15 and to the extent permitted by federal law, the State Department
 16 of Mental Health shall be designated as the state agency responsible
 17 for development, consistent with the requirements of Section 4060,
 18 and implementation of mental health plans for Medi-Cal
 19 beneficiaries.

20 (b) The department shall convene a steering committee for the
 21 purpose of providing advice and recommendations on the
 22 development of Medi-Cal mental health managed care systems
 23 pursuant to subdivision (a). The committee shall include work
 24 groups to advise the department of major issues to be addressed
 25 in the managed mental health care plan. Representatives of
 26 concerned groups, including, but not limited to, beneficiaries, their
 27 families, providers, mental health professionals, statewide
 28 representatives of health care service plans, the California Mental
 29 Health Planning Council, public and private organizations, and
 30 county mental health directors, shall be invited to participate in
 31 the steering committee process.

32 (c) *This section shall become inoperative on July 1, 2012, and,*
 33 *as of January 1, 2013, is repealed, unless a later enacted statute,*
 34 *that becomes operative on or before January 1, 2013, deletes or*
 35 *extends the dates on which it becomes inoperative and is repealed.*

36 *SEC. 239. Section 14682.1 is added to the Welfare and*
 37 *Institutions Code, to read:*

38 14682.1. (a) *The State Department of Health Care Services*
 39 *shall be designated as the state agency responsible for*
 40 *development, consistent with the requirements of Section 4060,*

1 and implementation of, mental health plans for Medi-Cal
2 beneficiaries.

3 (b) The department shall convene a steering committee for the
4 purpose of providing advice and recommendations on the transition
5 and continuing development of the Medi-Cal mental health
6 managed care systems pursuant to subdivision (a). The committee
7 shall include work groups to advise the department of major issues
8 to be addressed in the managed mental health care plan, as well
9 as system transition and transformation issues pertaining to the
10 delivery of mental health care services to Medi-Cal beneficiaries,
11 including services to children provided through the Early and
12 Periodic Screening, Diagnosis and Treatment Program.

13 (c) The committee shall consist of diverse representatives of
14 concerned and involved communities, including, but not limited
15 to, beneficiaries, their families, providers, mental health
16 professionals, substance use disorder treatment professionals,
17 statewide representatives of health care service plans,
18 representatives of the California Mental Health Planning Council,
19 public and private organizations, county mental health directors,
20 and others as determined by the department. The department has
21 the authority to structure this steering committee process in a
22 manner that is conducive for addressing issues effectively, and for
23 providing a transparent, collaborative, meaningful process to
24 ensure a more diverse and representative approach to
25 problem-solving and dissemination of information.

26 SEC. 240. Section 14683 of the Welfare and Institutions Code
27 is amended to read:

28 14683. ~~The State Department of Mental Health~~ department
29 shall ensure all of the following ~~in the development of mental~~
30 ~~health plans~~:

31 (a) That mental health plans include a process for screening,
32 referral, and coordination with other necessary services, including,
33 but not limited to, health, housing, and vocational rehabilitation
34 services. For Medi-Cal eligible children, the mental health plans
35 shall also provide coordination with education programs and any
36 necessary medical or rehabilitative services, including, but not
37 limited to, those provided under the California Children's Services
38 Program (Article 5 (commencing with Section 123800) of Chapter
39 3 of Part 2 of Division 106 of the Health and Safety Code) and the
40 Child Health and Disability Prevention Program (Article 6

1 (commencing with Section 124025) of Chapter 3 of Part 2 of
2 Division 106 of the Health and Safety Code), and those provided
3 by a fee-for-service provider or a Medi-Cal managed care plan.
4 This subdivision shall not be construed to establish any higher
5 level of service from a county than is required under existing law.
6 ~~The county mental health department and the mental health plan;~~
7 ~~if it is not the county department,~~ shall not be liable for the failure
8 of other agencies responsible for the provision of nonmental health
9 services to provide those services or to participate in coordination
10 efforts.

11 (b) That mental health plans include a system of outreach to
12 enable *Medi-Cal* beneficiaries and providers to participate in and
13 access *Medi-Cal specialty* mental health services under the plans,
14 consistent with existing law.

15 (c) That standards for quality and access developed by the
16 department; in consultation with the steering committee established
17 pursuant to Section ~~14682~~, *14682.1* are included in mental health
18 plans *servicing Medi-Cal beneficiaries*.

19 *SEC. 241. Section 14684 of the Welfare and Institutions Code,*
20 *as added by Section 12 of Chapter 651 of the Statutes of 2011, is*
21 *amended to read:*

22 14684. (a) Notwithstanding any other provision of state law,
23 and to the extent permitted by federal law, mental health plans,
24 whether administered by public or private entities, shall be
25 governed by the following guidelines:

26 (1) State and federal Medi-Cal funds identified for the diagnosis
27 and treatment of mental ~~disorders~~ *illness* shall be used solely for
28 those purposes. Administrative costs incurred by counties for
29 activities necessary for the administration of the mental health plan
30 shall be clearly identified and shall be reimbursed in a manner
31 consistent with federal Medicaid requirements and the approved
32 Medicaid state plan and waivers. Administrative requirements
33 shall be based on and limited to federal Medicaid requirements
34 and the approved Medicaid state plan and waivers, and shall not
35 impose costs exceeding funds available for that purpose.

36 (2) The development of the mental health plan shall include a
37 public planning process that includes a significant role for
38 Medi-Cal beneficiaries, family members, mental health advocates,
39 providers, and public and private contract agencies.

1 (3) The mental health plan shall include appropriate standards
2 relating to quality, access, and coordination of services within a
3 managed system of care, and costs established under the plan, and
4 shall provide opportunities for existing Medi-Cal providers to
5 continue to provide services under the mental health plan, as long
6 as the providers meet those standards.

7 (4) Continuity of care for current recipients of services shall be
8 ensured in the transition to managed mental health care.

9 (5) Medi-Cal covered *specialty* mental health services shall be
10 provided in the beneficiary's home community, or as close as
11 possible to the beneficiary's home community. Pursuant to the
12 objectives of the rehabilitation option described in subdivision (a)
13 of Section 14021.4, mental health services may be provided in a
14 facility, a home, or other community-based site.

15 (6) Medi-Cal beneficiaries whose mental or emotional condition
16 results or has resulted in functional impairment, as defined by the
17 department, shall be eligible for covered *specialty* mental health
18 services. Emphasis shall be placed on adults with serious and
19 persistent mental illness and children with serious emotional
20 disturbances, as defined by the department.

21 (7) *Mental health plans shall provide specialty mental health*
22 *services to eligible Medi-Cal beneficiaries, including both adults*
23 *and children. Specialty mental health services include Early and*
24 *Periodic Screening, Diagnosis, and Treatment Services to eligible*
25 *Medi-Cal beneficiaries under the age of 21 pursuant to 42 U.S.C.*
26 *Section 1396d(a)(4)(B) of Title 42 of the United States Code.*

27 (7)

28 (8) Each mental health plan shall include a mechanism for
29 monitoring the effectiveness of, and evaluating accessibility and
30 quality of, services available. The plan shall utilize and be based
31 upon state-adopted performance outcome measures and shall
32 include review of individual service plan procedures and practices,
33 a beneficiary satisfaction component, and a grievance system for
34 beneficiaries and providers.

35 (8)

36 (9) Each mental health plan shall provide for culturally
37 competent and age-appropriate services, to the extent feasible. The
38 mental health plan shall assess the cultural competency needs of
39 the program. The mental health plan shall include, as part of the
40 quality assurance program required by Section ~~4070~~ 14725, a

1 process to accommodate the significant needs with reasonable
2 timeliness. The department shall provide demographic data and
3 technical assistance. Performance outcome measures shall include
4 a reliable method of measuring and reporting the extent to which
5 services are culturally competent and age-appropriate.

6 (b) This section shall become operative on July 1, 2012.

7 *SEC. 242. Section 14684.1 of the Welfare and Institutions Code*
8 *is amended to read:*

9 14684.1. (a) ~~The State Department of Mental Health~~
10 *department* shall establish a process for second level treatment
11 authorization request appeals to review and resolve disputes
12 between mental health plans and hospitals.

13 (b) When the department establishes an appeals process, the
14 department shall comply with all of the following:

15 (1) The department shall review appeals initiated by hospitals
16 and render decisions on appeals based on findings that are the
17 result of a review of supporting documents submitted by mental
18 health plans and hospitals.

19 (2) If the department upholds a mental health plan denial of
20 payment of a hospital claim, a review fee shall be assessed on the
21 provider.

22 (3) ~~If the State Department of Mental Health~~ *department*
23 reverses a mental health plan denial of payment of a hospital claim,
24 a review fee shall be assessed on the mental health plan.

25 (4) If the department decision regarding a mental health plan
26 denial of payment upholds the claim in part and reverses the claim
27 in part, the department shall prorate the review fee between the
28 parties accordingly.

29 (c) The amount of the review fees shall be calculated and
30 adjusted annually. The methodology and calculation used to
31 determine the fee amounts shall result in an aggregate fee amount
32 that, in conjunction with any other outside source of funding for
33 this function, may not exceed the aggregate annual costs of
34 providing second level treatment authorization request reviews.

35 (d) Fees collected by the department shall be retained by the
36 department and used to offset administrative and personnel services
37 costs associated with the appeals process.

38 (e) The department may use the fees collected, in conjunction
39 with other available appropriate funding for this function, to
40 contract for the performance of the appeals process function.

1 *SEC. 243. Section 14685 of the Welfare and Institutions Code*
2 *is amended to read:*

3 14685. Counties shall have the right of first refusal to serve as
4 a mental health plan. If a county elects not to serve as a mental
5 health plan, the ~~State Department of Mental Health~~ *department*
6 shall ensure that these services are provided.

7 *SEC. 244. Section 14685.1 is added to the Welfare and*
8 *Institutions Code, to read:*

9 14685.1. *Section 14685 is hereby repealed on November 7,*
10 *2012, if Section 36 has been added to Article XIII of the California*
11 *Constitution as of that date.*

12 *SEC. 245. Section 14702 is added to the Welfare and*
13 *Institutions Code, to read:*

14 14702. *For purposes of this chapter, the following definitions*
15 *shall apply:*

16 (a) *“Department” means the State Department of Health Care*
17 *Services.*

18 (b) *“Director” means the Director of Health Care Services.*

19 *SEC. 246. Section 14703 is added to the Welfare and*
20 *Institutions Code, to read:*

21 14703. *Contracts entered into pursuant to this chapter shall*
22 *be exempt from the requirements of Chapter 1 (commencing with*
23 *Section 10100) and Chapter 2 (commencing with section 10290)*
24 *of Part 2 of Division 2 of the Public Contract Code.*

25 *SEC. 247. Section 14704 is added to the Welfare and*
26 *Institutions Code, to read:*

27 14704. *A regulation or order concerning Medi-Cal specialty*
28 *mental health services adopted by the State Department of Mental*
29 *Health pursuant to Division 5 (commencing with Section 5000),*
30 *as in effect preceding the effective date of this section, shall remain*
31 *in effect and shall be fully enforceable, unless and until the*
32 *readoption, amendment, or repeal of the regulation or order by*
33 *the department, or until it expires by its own terms.*

34 *SEC. 248. Section 14707.5 is added to the Welfare and*
35 *Institutions Code, to read:*

36 14707.5. (a) *It is the intent of the Legislature to develop a*
37 *performance outcome system for Early and Periodic Screening,*
38 *Diagnosis, and Treatment (EPSDT) mental health services that*
39 *will improve outcomes at the individual and system levels and will*
40 *inform fiscal decision making related to the purchase of services.*

1 (b) The State Department of Health Care Services, in
2 collaboration with the California Health and Human Services
3 Agency, and in consultation with the Mental Health Services
4 Oversight and Accountability Commission, shall create a plan for
5 a performance outcome system for EPSDT mental health services
6 provided to eligible Medi-Cal beneficiaries under the age of 21
7 pursuant to 42 U.S.C. Section 1396d(a)(4)(B).

8 (1) Commencing no later than September 1, 2012, the
9 department shall convene a stakeholder advisory committee
10 comprised of representatives of child and youth clients, family
11 members, providers, counties, and the Legislature. This
12 consultation shall inform the creation of a plan for a performance
13 outcome system for EPSDT mental health services.

14 (2) In developing a plan for a performance outcomes system
15 for EPSDT mental health services, the department shall consider
16 the following objectives, among others:

17 (A) High quality and accessible EPSDT mental health services
18 for eligible children and youth, consistent with federal law.

19 (B) Information that improves practice at the individual,
20 program, and system levels.

21 (C) Minimization of costs by building upon existing resources
22 to the fullest extent possible.

23 (D) Reliable data that are collected and analyzed in a timely
24 fashion.

25 (3) At a minimum, the plan for a performance outcome system
26 for EPSDT mental health services shall consider evidence-based
27 models for performance outcome systems, such as the Child and
28 Adolescent Needs and Strengths (CANS), federal requirements,
29 including the review by the External Quality Review Organization
30 (EQRO), and, timelines for implementation at the provider, county,
31 and state levels.

32 (c) The State Department of Health Care Services shall provide
33 the performance outcomes system plan, including milestones and
34 timelines, for EPSDT mental health services described in
35 subdivision (a) to all fiscal committees and appropriate policy
36 committees of the Legislature no later than October 1, 2013.

37 (d) The State Department of Health Care Services shall propose
38 how to implement the performance outcomes system plan for
39 EPSDT mental health services described in subdivision (a) no
40 later than January 10, 2014.

1 *SEC. 249. Section 18358.15 of the Welfare and Institutions*
2 *Code is amended to read:*

3 18358.15. (a) Each foster family agency participating in the
4 program shall develop the child’s needs and services plan, and
5 have it agreed to by the county interagency review team, or county
6 placing agency, and certified foster parents. Each foster family
7 agency participating in the program shall provide the services and
8 supports identified in the needs and services plan which are
9 allowable under California’s foster care program in accordance
10 with Sections 11460 and 11463, and their implementing
11 regulations. Each foster family agency shall also arrange for the
12 services needed by each child and for which the child meets
13 eligibility criteria under applicable publicly funded programs,
14 including, but not limited to, mental health, education, and health
15 services. The foster family agency shall arrange for these services
16 funded by those publicly funded programs to be delivered either
17 by the private nonprofit organization that also operates the foster
18 family agency or by another qualified provider. Children in the
19 ITFC program who meet the public mental health system criteria
20 for mental health services and supports shall have those services
21 and supports funded by the Early Periodic Screening, Diagnosis,
22 and Treatment (EPSDT) program pursuant to ~~Section 5778~~ 14718
23 and other appropriate mental health system sources. This
24 subdivision shall not be construed to change the eligibility criteria
25 for EPSDT benefits or services pursuant to federal law. The
26 services that the foster family agency shall provide or arrange for
27 include, but are not limited to, the following:

28 (1) Individualized needs and services plans that ensure continuity
29 and stability in the placement of participating children in certified
30 family homes that meet the needs of eligible children, including
31 children making the transition from institutional placement to
32 noninstitutional placement. The needs and services plan for each
33 child in placement shall describe the specific needs of the child
34 and the appropriate level of services provided to the child pursuant
35 to Section 18358.30.

36 (2) Education and mental health services for children.

37 (3) In-home and support services necessary to implement the
38 case plan.

39 (4) Other necessary services for children in placement, including
40 medical and dental services.

1 (b) No more than one emotionally disturbed child or child who
2 has a serious behavioral problem shall be placed in a certified ITFC
3 family home unless the participating foster family agency provides
4 the placing or participating county welfare department with a
5 written assessment of the risk and compatibility of placing together
6 two children who are emotionally disturbed or have a serious
7 behavioral problem. More than two children who are emotionally
8 disturbed or have serious behavioral problems who are siblings
9 may be placed together in the same certified family home if the
10 placement is approved by the county interagency review team or
11 the county placing agency of the participating county. However,
12 there shall be no more than a total of five children living in a
13 certified family home with two adults, and there shall be no more
14 than a total of three children living in a certified family home with
15 one adult, except in cases where children living in the home other
16 than those placed pursuant to this chapter are 15 years of age or
17 older.

18 (c) Any use of physical contact to manage the behavior of a
19 child that is reported to the foster family agency pursuant to Section
20 18538.25 shall in turn be reported by the foster family agency to
21 the Community Care Licensing Division of the department as a
22 special incident pursuant to Section 80061 of Title 22 of the
23 California Code of Regulations.

24 *SEC. 250. Section 18986.40 of the Welfare and Institutions*
25 *Code is amended to read:*

26 18986.40. (a) For the purposes of this chapter, “program” or
27 “integrated children’s services programs” means a coordinated
28 children’s service system, operating as a program that is part of a
29 department or State Department of ~~Mental Health~~ *Care Services*
30 initiative, that offers a full range of integrated behavioral social,
31 health, and mental health services, including applicable educational
32 services, to seriously emotionally disturbed and special needs
33 children, or programs established by county governments, local
34 education agencies, or consortia of public and private agencies, to
35 jointly provide two or more of the following services to children
36 or their families, or both:

37 (1) Educational services for children at risk of dropping out, or
38 who need additional educational services to be successful
39 academically.

40 (2) Health care.

- 1 (3) All mental health diagnostic and treatment services,
2 including medication.
- 3 (4) Substance abuse prevention and treatment.
- 4 (5) Child abuse prevention, identification, and treatment.
- 5 (6) Nutrition services.
- 6 (7) Child care and development services.
- 7 (8) Juvenile justice services.
- 8 (9) Child welfare services.
- 9 (10) Early intervention and prevention services.
- 10 (11) Crisis intervention services, as defined in subdivision (c).
- 11 (12) Any other service which will enhance the health,
12 development, and well-being of children and their families.

13 (b) For the purposes of this chapter, “children’s multidisciplinary
14 services team” means a team of two or more persons trained and
15 qualified to provide one or more of the services listed in
16 subdivision (a), who are responsible in the program for identifying
17 the educational, health, or social service needs of a child and his
18 or her family, and for developing a plan to address those needs. A
19 family member, or the designee of a family member, shall be
20 invited to participate in team meetings and decisions, unless the
21 team determines that, in its professional judgment, this participation
22 would present a reasonable risk of a significant adverse or
23 detrimental effect on the minor’s psychological or physical safety.
24 Members of the team shall be trained in the confidentiality and
25 information sharing provisions of this chapter.

26 (c) “Crisis intervention services” means early support and
27 psychological assistance, to be continued as necessary, to children
28 who have been victims of, or whose lives have been affected by,
29 a violent crime or a cataclysmic incident, such as a natural disaster,
30 or who have been involved in school, neighborhood, or family
31 based critical incidents likely to cause profound psychological
32 effects if not addressed immediately and thoroughly.

33 *SEC. 251. Section 18987.7 of the Welfare and Institutions Code*
34 *is amended to read:*

35 18987.7. (a) The State Department of Social Services shall
36 convene a workgroup of public and private nonprofit stakeholders
37 that shall develop a plan for transforming the current system of
38 group care for foster children or youth, and for children with
39 serious emotional disorders (SED), into a system of residentially
40 based services. The stakeholders may include, but not be limited

1 to, representatives of the department and of the State Department
2 of Mental Health, the State Department of Education, *the State*
3 *Department of Health Care Services*, the State Department of
4 Alcohol and Drug Programs, and the Department of Corrections
5 and Rehabilitation; county child welfare, probation, mental health,
6 and alcohol and drug programs; local education authorities; current
7 and former foster youth, parents of foster children or youth, and
8 children or youth with SED; private nonprofit agencies operating
9 group homes; children’s advocates; and other interested parties.

10 (b) The plan developed pursuant to this chapter shall utilize the
11 reports delivered to the Legislature pursuant to Section 75 of
12 Chapter 311 of the Statutes of 1998 by the Steering Committee
13 for the Reexamination of the Role of Group Care in a Family-Based
14 System of Care in June 2001 and August 2002, and the
15 “Framework for a New System for Residentially-Based Services
16 in California” published in March 2006.

17 (c) In the development, implementation, and subsequent
18 revisions of the plan developed pursuant to subdivision (a), the
19 knowledge and experience gained by counties and private nonprofit
20 agencies through the operation of their residentially based services
21 programs created under voluntary agreements made pursuant to
22 Section 18987.72, including, but not limited to, the results of
23 evaluations prepared pursuant to paragraph (3) of subdivision (c)
24 of Section 18987.72 shall be utilized.

25 (d) By July 1, 2014, the department shall provide a copy of the
26 plan developed by the workgroup pursuant to subdivision (a) to
27 the Legislature. The plan shall include, in addition to other
28 requirements set forth in this chapter, any statutory revisions
29 necessary for its implementation.

30 *SEC. 252. Section 18994.9 of the Welfare and Institutions Code*
31 *is amended to read:*

32 18994.9. (a) There is hereby established the California Families
33 and Children Home Visit Program Task Force, which shall be
34 convened by the Office of Child Abuse Prevention.

35 (b) The membership of the task force shall include, but need
36 not be limited to, all of the following:

37 (1) The head of the Office of Child Abuse Prevention or his or
38 her designee.

39 (2) The directors, or designees, of all of the following:

40 (A) The State Department of Social Services.

- 1 (B) The State Department of *Public Health Services*.
2 ~~(C) The State Department of Mental Health.~~
3 ~~(D)~~
4 (C) The Department of ~~the Youth Authority~~ *Corrections and*
5 *Rehabilitation, Division of Juvenile Justice*.
6 ~~(E)~~
7 (D) The State Department of Education.
8 ~~(F) The Office of Criminal Justice Planning.~~
9 (E) *The California Emergency Management Agency*.
10 (3) At least two county administrators from counties
11 participating in this program, to be appointed by the director, with
12 the consent of the county.
13 (4) The manager of this program from the Office of Child Abuse
14 Prevention.
15 (5) Two legislative representatives, who shall be members of
16 policy committees with jurisdiction over social services issues
17 pertaining to children, with at least one each to be appointed by
18 the Speaker of the Assembly and the Senate Committee on Rules.
19 (c) The task force shall do both of the following:
20 (1) Identify permanent funding sources from federal and state
21 programs. Sources from which funding may be integrated for
22 purposes of this chapter may include, but are not limited to,
23 Medi-Cal Targeted Case Management and Administrative Program
24 funds, provided for pursuant to Sections 14132.44 and 14132.47,
25 family preservation funds, private health care providers, including
26 health maintenance organizations and nonprofit hospitals, the
27 California Special Supplemental Food Program for Women, Infants
28 and Children, federal Individuals with Disabilities Education Act
29 funds, and Healthy Families Program funds.
30 (2) Develop recommendations for permanent funding for this
31 chapter, in order that eligible families who choose to participate
32 have access to the program.
33 (d) Each member of the task force shall serve without
34 compensation, but shall be reimbursed, by his or her employing
35 agency, for actual and necessary expenses incurred in the
36 performance of his or her duties.
37 (e) The task force shall be supported by a reasonable amount
38 of staff time, which shall be provided by the agencies represented
39 on the task force, to the extent feasible within an agency's existing

1 resources. The task force may request data from, and may utilize
2 the technical expertise of, other state agencies.

3 (f) The task force, under the guidance of the Office of Child
4 Abuse Prevention, shall submit its report to the Legislature not
5 later than November 1, 1999.

6 *SEC. 253. Section 25002 of the Welfare and Institutions Code*
7 *is repealed.*

8 ~~25002. To develop the options for achieving universal health~~
9 ~~care coverage described in Section 25001, the secretary shall~~
10 ~~establish a process by which these options are developed. The~~
11 ~~process shall at a minimum include the following:~~

12 ~~(a) The examination and utilization of research results from the~~
13 ~~study performed by the University of California with regard to~~
14 ~~methods of financing, delivering and defining universal health~~
15 ~~care coverage, done pursuant to the criteria in Senate Concurrent~~
16 ~~Resolution 100 of the 1997-1998 Regular Session of the~~
17 ~~Legislature.~~

18 ~~(b) The examination and utilization of other data and~~
19 ~~information, as requested by the secretary or provided to the~~
20 ~~secretary, with regard to methods of financing, delivering, or~~
21 ~~defining universal health care coverage.~~

22 ~~(c) Developing a process by which representatives of health~~
23 ~~care consumers, providers, insurers, health care workers, advocates,~~
24 ~~counties, and all other interested parties are engaged in discussion~~
25 ~~and debate of the issues faced by the state in providing universal~~
26 ~~health coverage. The secretary shall develop the methods by which~~
27 ~~this discussion occurs, provided that it is broadly inclusive of all~~
28 ~~groups with an interest in universal health care coverage.~~

29 ~~(d) Interagency participation including, but not limited to, the~~
30 ~~State Department of Health Services, the State Department of~~
31 ~~Mental Health, the Department of Finance, the Managed Risk~~
32 ~~Medical Insurance Board, the Department of Consumer Affairs,~~
33 ~~the Public Employees' Retirement System, the State Department~~
34 ~~of Social Services, the Department of Managed Health Care, the~~
35 ~~Department of Insurance, and any other appropriate agencies which~~
36 ~~the secretary determines can contribute to the effort to provide~~
37 ~~universal health care coverage.~~

38 ~~(e) Obtaining information from the United States Health Care~~
39 ~~Financing Administration regarding federal waivers or other forms~~
40 ~~of federal participation, if necessary.~~

1 *SEC. 254. (a) The amendments made by this act to Section*
2 *43.7 of the Civil Code, to Section 1343 of the Health and Safety*
3 *Code, and to Sections 4070, 4071, 5328, 5718, 5719, 5719.5, 5720,*
4 *5721, 5722, 5723, 5724, 5776, 5775, 5777, 5777.5, 5777.6, 5777.7,*
5 *5778, 5779, 5780, 5781, 5782, 5783, 14021.3, 14021.4, 14021.5,*
6 *14053.3, 14108.1, 14110.15, 14131.07, 14167.1, 14167.11,*
7 *14168.1, 14169.1, 14456.5, 14640, 14680, 14681, 14682, 14683,*
8 *14684, 14684.1, 14685, and 18358.15 of the Welfare and*
9 *Institutions Code shall be operative July 1, 2012.*

10 *(b) The provisions of this act repealing Section 5723.5 of, and*
11 *the heading of Article 4 (commencing with Section 4070) of*
12 *Chapter 2 of Part 1 of Division 4 of the Welfare and Institutions*
13 *Code shall be operative on July 1, 2012.*

14 *SEC. 255. The sum of \$1,000 is hereby appropriated from the*
15 *General Fund to the State Department of Health Care Services*
16 *for administration.*

17 *SEC. 256. This act is a bill providing for appropriations related*
18 *to the Budget Bill within the meaning of subdivision (e) of Section*
19 *12 of Article IV of the California Constitution, has been identified*
20 *as related to the budget in the Budget Bill, and shall take effect*
21 *immediately.*

22 *SEC. 257. This act shall become operative only if Assembly*
23 *Bill 1480 or Senate Bill 1020 of the 2011–12 Regular Session of*
24 *the Legislature is enacted and takes effect.*

25 ~~*SECTION 1. It is the intent of the Legislature to enact statutory*~~
26 ~~*changes relating to the Budget Act of 2012.*~~