AMENDED IN ASSEMBLY JUNE 25, 2012

SENATE BILL No. 1009

Introduced by Committee on Budget and Fiscal Review

February 6, 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

SB 1009, as amended, Committee on Budget and Fiscal Review. ~~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:

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

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

680. (a) Except as otherwise provided in this section, a health care practitioner shall disclose, while working, his or her name and practitioner's license status, as granted by this state, on a name tag in at least 18-point type. A health care practitioner in a practice or an office, whose license is prominently displayed, may opt to not wear a name tag. If a health care practitioner or a licensed clinical social worker is working in a psychiatric setting or in a setting that is not licensed by the state, the employing entity or agency shall have the discretion to make an exception from the name tag requirement for individual safety or therapeutic concerns. In the interest of public safety and consumer awareness, it shall be unlawful for any person to use the title "nurse" in reference to himself or herself and in any capacity, except for an individual

who is a registered nurse or a licensed vocational nurse, or as otherwise provided in Section 2800. Nothing in this section shall prohibit a certified nurse assistant from using his or her title.

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

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

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

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

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws

that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of the committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, chiropractic, optometric, acupuncture, psychotherapy, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, acupuncturists, veterinarians, marriage and family therapists, professional clinical counselors, or psychologists, which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, acupuncturists, veterinarians, marriage and family therapists, professional clinical counselors, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, chiropractic, optometric, acupuncture, psychotherapy, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, acupuncturists, veterinarians, marriage and family therapists, professional clinical counselors, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if the professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after the reasonable effort to obtain facts. “Professional society” includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, acupuncture, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, licensed marriage and family therapy, licensed clinical social work, licensed professional clinical counselor, and engineering organizations having as members at least 25 percent of the eligible persons or licentiates in the geographic area served by the particular society. However, if the society has fewer than 100 members, it shall have as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Legislature recognizes that, with access to structured outpatient services, as an alternative to 24-hour inpatient care, certain patients would be provided with effective intervention and

less restrictive levels of care. The Legislature further recognizes that, for certain patients, the less restrictive levels of care eliminate the need for inpatient care, enable earlier discharge from inpatient care by providing a continuum of care with effective aftercare services, or reduce or prevent the need for a subsequent readmission to inpatient care.

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

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

(1) The facility is a licensed facility.

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

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

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

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

1254. (a) Except as provided in subdivision (e), the state department shall inspect and license health facilities. The state department shall license health facilities to provide their respective basic services specified in Section 1250. Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital to provide special services as specified

in Section 1255. The state department shall develop and adopt regulations to implement the provisions contained in this section.

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

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

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

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

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

(5) All beds licensed to an acute care hospital which meet the criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and published by the California Health Facilities Commission, and all beds in hospitals

which have fewer than 76 licensed acute care beds and which are located in a census designation place of 15,000 or less population, are exempt from the requirements of subdivision (b), except where there is a free-standing skilled nursing facility or intermediate care facility which has experienced an occupancy rate of 95 percent or less during the past 12 months within a 25-mile radius or which may be reached within 30 minutes using a motor vehicle.

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

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

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

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

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

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

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

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

1266.1. (a) Each new or renewal application for a license for a psychiatric health facility shall be accompanied by a fee ~~equal~~

~~in amount to the fee for an acute psychiatric hospital as specified in subdivision (a) of Section 1266 or, as modified by subdivision (e)~~ *credited to the State Department of Social Services for its costs incurred in the review of psychiatric health facility programs, in connection with the licensing of these facilities. The amount of the fees shall be determined and collected by the State Department of Social Services, but the total amount of the fees collected shall not exceed the actual costs of licensure and review of psychiatric health facility programs, including, but not limited to, the costs of processing the application, inspection costs, and other related costs*.

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

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

~~(d)~~

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

~~(e)~~

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

~~(f)~~

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

(2) The application for a special permit, if any, shall be submitted with each new or renewal application for a license for a psychiatric health facility, and shall be accompanied by a reasonable fee, as determined by the State Department of ~~Mental Health~~ *Social Services*, not to exceed the actual costs of

administration related to the special permit. An application for a special permit submitted by a psychiatric health facility operated by a public entity shall be exempt from the fee required pursuant to this section for the issuance of the special permit.

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

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

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

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

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

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

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

1275.1. (a) Notwithstanding any rules or regulations governing other health facilities, the regulations developed by the State Department of ~~Mental Health~~ *Social Services* for psychiatric health facilities shall prevail. The regulations applying to psychiatric health facilities shall prescribe standards of adequacy, safety, and sanitation of the physical plant, of staffing with duly qualified licensed personnel, and of services based on the needs of the persons served thereby.

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

(1) Involuntary ambulatory psychiatric patients.

(2) Voluntary ambulatory psychiatric patients.

For purposes of this subdivision, “ambulatory patients” shall include, but not be limited to, deaf, blind, and physically handicapped persons. Disoriented persons who are not bedridden

or confined to a wheelchair shall also be considered as ambulatory patients.

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

(d) The regulations shall include provisions for an "open planning" architectural concept.

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

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

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

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

1275.5. (a) The regulations relating to the licensing of hospitals, heretofore adopted by the *State* Department of Public Health pursuant to Chapter 2 (commencing with Section 1400) of Division 2, and in effect immediately prior to July 1, 1973, shall remain in effect and shall be fully enforceable with respect to any hospital required to be licensed by this chapter, unless and until the regulations are readopted, amended, or repealed by the director.

(b) The regulations relating to private institutions receiving or caring for any mentally disordered persons, mentally retarded persons, and other incompetent persons, heretofore adopted by the Department of Mental Hygiene pursuant to Chapter 1 (commencing with Section 7000) of Division 7 of the Welfare and Institutions Code, and in effect immediately prior to July 1, 1973, shall remain in effect and shall be fully enforceable with respect to any facility,

establishment, or institution for the reception and care of mentally disordered persons, mentally retarded persons and other incompetent persons, required to be licensed by the provisions of this chapter unless and until said regulations are readopted, amended, or repealed by the director.

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

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

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

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

(a) (1) "Continuing care retirement community" means a provider of a continuum of services, including independent living services, assisted living services as defined in paragraph (5) of subdivision (a) of Section 1771, and skilled nursing care, on a single campus, that is subject to Section 1791, or a provider of such a continuum of services on a single campus that has not received a Letter of Exemption pursuant to subdivision (d) of Section 1771.3.

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

(b) "Department," unless otherwise specified, means the State Department of Health Care Services.

(c) (1) "Exempt facility" means a skilled nursing facility that is part of a continuing care retirement community, a skilled nursing

facility operated by the state or another public entity, a unit that provides pediatric subacute services in a skilled nursing facility, a skilled nursing facility that is certified by the ~~State Department of Mental Health~~ *department* for a special treatment program and is an institution for mental disease as defined in Section 1396d(i) of Title 42 of the United States Code, or a skilled nursing facility that is a distinct part of a facility that is licensed as a general acute care hospital.

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

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

(4) (A) Notwithstanding paragraph (1), beginning with the 2011–12 rate year, and every rate year thereafter, a unit that provides freestanding pediatric subacute care services in a skilled nursing facility, as described in paragraph (1) of subdivision (c), shall not be exempt from the quality assurance fee requirements pursuant to this article.

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

(d) (1) "Net revenue" means gross resident revenue for routine nursing services and ancillary services provided to all residents by a skilled nursing facility, less Medicare revenue for routine and ancillary services, including Medicare revenue for services provided to residents covered under a Medicare managed care

plan, less payer discounts and applicable contractual allowances as permitted under federal law and regulation.

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

(3) "Net revenue" does not mean charitable contributions and bad debt.

(e) "Payer discounts and contractual allowances" means the difference between the facility's resident charges for routine or ancillary services and the actual amount paid.

(f) "Skilled nursing facility" means a licensed facility as defined in subdivision (c) of Section 1250.

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

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

(b) The director may by the adoption of rules or the issuance of orders deemed necessary and appropriate, either unconditionally or upon specified terms and conditions or for specified periods, exempt from this chapter any class of persons or plan contracts if the director finds the action to be in the public interest and not detrimental to the protection of subscribers, enrollees, or persons regulated under this chapter, and that the regulation of the persons or plan contracts is not essential to the purposes of this chapter.

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

exemptions may be subject to conditions the Director of Health Care Services deems appropriate.

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

(e) This chapter shall not apply to:

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

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

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

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

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

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

(4) The Major Risk Medical Insurance Board when engaging in activities under Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code, and Part 6.5 (commencing with Section 12700) of Division 2 of the Insurance Code.

(5) The California Small Group Reinsurance Fund.

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

1373. (a) A plan contract may not provide an exception for other coverage if the other coverage is entitlement to Medi-Cal

benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, or Medicaid benefits under Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

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

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

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

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

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

(c) Every plan contract that provides coverage to the spouse or dependents of the subscriber or spouse shall grant immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant of any subscriber or spouse covered and to each minor child placed for adoption from and after the date on which the adoptive child's birth parent or other appropriate legal authority signs a written document, including, but not limited to, a health facility minor release report, a medical authorization form, or a relinquishment form, granting the subscriber or spouse the right to control health care for the adoptive child or, absent this written document, on the date there exists evidence of the subscriber's or spouse's right to control the health care of the child placed for adoption. No plan may be entered into or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn infants of, or

children placed for adoption with, a subscriber or spouse covered as required by this subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) A group contract shall not discriminate against handicapped persons or against groups containing handicapped persons. Nothing in this subdivision shall preclude reasonable provisions in a plan contract against liability for services or reimbursement of the handicap condition or conditions relating thereto, as may be allowed by rules of the director.

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

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

(2) No plan shall prohibit the member from selecting any psychologist who is licensed pursuant to the Psychology Licensing Law (Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code), any optometrist who is the holder of a certificate issued pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code or, upon referral by a physician and surgeon licensed pursuant to the Medical Practice Act (Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code), (A) any marriage and family therapist who is the holder of a license under Section 4980.50 of the Business and Professions Code, (B) any licensed clinical social worker who is the holder of a license under Section 4996 of the Business and Professions Code, (C) any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, who possesses a master's degree in psychiatric-mental health nursing and is listed as a psychiatric-mental health nurse by the Board of Registered Nursing, (D) any advanced practice registered nurse certified as a clinical nurse specialist pursuant to Article 9 (commencing with Section 2838) of Chapter 6 of Division 2 of the Business and Professions Code who participates in expert clinical practice in the specialty of psychiatric-mental health nursing, to perform the particular services covered under the terms of the plan, and the certificate holder is expressly authorized by law to perform these services, or (E) any professional clinical counselor who is the holder of a license under Chapter 16

(commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

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

(4) For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1502. As used in this chapter:

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

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

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

(3) "Therapeutic day services facility" means any facility that provides nonmedical care, counseling, educational or vocational

support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

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

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

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

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

(8) "Community treatment facility" means any residential facility that provides mental health treatment services to children

in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of ~~Mental~~ Health *Care Services* pursuant to Section 4094 of the Welfare and Institutions Code.

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

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

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

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

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

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

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

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide

intercountry adoption services, a noncustodial adoption agency shall be accredited and in good standing according to Part 96 of Title 22 of the Code of Federal Regulations, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

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

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

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

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

1502.4. (a) (1) A community care facility licensed as a group home for children pursuant to this chapter may accept for placement, and provide care and supervision to, a child assessed as seriously emotionally disturbed as long as the child does not need inpatient care in a licensed health facility.

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

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

(B) "Seriously emotionally disturbed" means the same as paragraph (2) of subdivision (a) of Section 5600.3 of the Welfare and Institutions Code.

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

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

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

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

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

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

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

1507. (a) Notwithstanding any other provision of law, incidental medical services may be provided in a community care facility. If the medical services constitute a substantial component of the services provided by the community care facility as defined by the director in regulations, the medical services component shall be approved as set forth in Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

(b) Notwithstanding any other provision of law, if the requirements of subdivision (c) are met, the department shall permit incidental medical services to be provided in community care

facilities for adults by facility staff who are not licensed health care professionals but who are trained by a licensed health care professional and supervised according to the client's individualized health care plan prepared pursuant to subdivision (c). Incidental medical services provided by trained facility staff for the following conditions shall be limited as follows:

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

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

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

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

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

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

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

(C) The client's regional center, primary care physician or nurse practitioner, or other health care professional designated by the physician or nurse practitioner shall identify the health care professional who shall be responsible for training facility staff in the provision of incidental medical services.

(D) Facility staff shall be trained by the identified health care professional practicing within his or her scope of practice who shall monitor, according to the individualized health care plan, the staff's ability to provide incidental medical services and who shall

review, correct, or update facility staff training as the health care professional deems necessary.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The State Department of Social Services shall maintain a centralized system for the monitoring and tracking of final administrative actions, to be used by the California Department of Aging, State Department of Public Health, State Department of Alcohol and Drug Programs, State Department of ~~Mental~~ Health *Care Services*, State Department of Social Services, and the Emergency Medical Services Authority as a part of the background check process. The State Department of Social Services may charge a fee to departments under the jurisdiction of the California Health and Human Services Agency sufficient to cover the cost of providing those departments with the final administrative action specified in subdivision (a). To the extent that additional funds are needed for this purpose, implementation of this subdivision shall be contingent upon a specific appropriation provided for this purpose in the annual Budget Act.

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

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

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

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

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

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

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

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

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

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

(B) Business operations.

(C) Management and supervision of staff.

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

(E) Community and support services.

(F) Physical needs for facility residents.

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

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

(I) Nonviolent emergency intervention and reporting requirements.

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

(2) The department shall adopt separate program requirements for initial certification for persons who are employed as group home administrators on the effective date of this section. A person employed as an administrator of a group home facility on the effective date of this section shall obtain a certificate by completing the training and testing requirements imposed by the department within 12 months of the effective date of the regulations implementing this section. After the effective date of this section, these administrators shall meet the requirements imposed by the department on all other group home administrators for certificate renewal.

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

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

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

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

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

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

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

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

(f) (1) Certificates issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 hours of continuing education related to the core of knowledge specified in subdivision (c). No more than one-half of the required 40 hours of continuing education necessary to renew the certificate may be satisfied through online courses. All other continuing education hours shall be completed in a classroom setting. For purposes of this section, an individual who is a group home facility administrator and who is required to complete the continuing education hours required by the regulations of the State Department of Developmental Services, and approved by the regional center, may have up to 24 of the required continuing education course

hours credited toward the 40-hour continuing education requirement of this section. Community college course hours approved by the regional centers shall be accepted by the department for certification.

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

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

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

(5) A suspended or revoked certificate shall be subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall submit proof of compliance with paragraphs (1) and (2) of subdivision (f), and shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension. Delinquency fees, if any, accrued subsequent to the time of its revocation or suspension and prior to an order for reinstatement, shall be waived for a period of 12 months to allow the individual sufficient time to complete the required continuing education units and to submit the required documentation.

Individuals whose certificates will expire within 90 days after the order for reinstatement may be granted a three-month extension to renew their certificates during which time the delinquency fees shall not accrue.

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

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

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

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

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

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

(h) (1) The department, in consultation and collaboration with county placement officials, provider organizations, the State Department of ~~Mental~~ Health *Care Services*, and the State Department of Developmental Services, shall establish, by regulation, the program content, the testing instrument, the process for approving certification training programs, and criteria to be used in authorizing individuals, organizations, or educational institutions to conduct certification training programs and continuing education courses. The department may also grant continuing education hours for continuing courses offered by accredited educational institutions that are consistent with the requirements in this section. The department may deny vendor approval to any agency or person in any of the following circumstances:

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

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

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

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

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

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

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

(6) The department may charge a reasonable fee, not to exceed one hundred fifty dollars ($150) every two years, to certification program vendors for review and approval of the initial 40-hour training program pursuant to subdivision (c). The department may also charge the vendor a fee, not to exceed one hundred dollars ($100) every two years, for the review and approval of the continuing education courses needed for recertification pursuant to this subdivision.

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

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

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

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

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

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

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

(k) Notwithstanding any provision of law to the contrary, vendors approved by the department who exclusively provide either initial or continuing education courses for certification of administrators of a group home facility as defined by regulations of the department, an adult residential facility as defined by regulations of the department, or a residential care facility for the elderly as defined in subdivision (k) of Section 1569.2, shall be regulated solely by the department pursuant to this chapter. No other state or local governmental entity shall be responsible for regulating the activity of those vendors.

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

1522.42. (a) The department, in consultation and collaboration with county placement officials, provider organizations, the State Department of ~~Mental~~ Health *Care Services*, and the State

Department of Developmental Services, shall adopt regulations that establish standardized training and continuing education curricula for facility managers and direct child care workers in group homes.

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

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

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

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

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

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

1562.3. (a) The Director of Social Services, in consultation with the Director of ~~Mental~~ Health *Care Services* and the Director of Developmental Services, shall establish a training program to ensure that licensees, operators, and staffs of adult residential facilities, as defined in paragraph (1) of subdivision (a) of Section 1502, have appropriate training to provide the care and services for which a license or certificate is issued. The training program shall be developed in consultation with provider organizations.

(b) (1) An administrator of an adult residential care facility, as defined in paragraph (1) of subdivision (a) of Section 1502, shall

successfully complete a department-approved certification program pursuant to subdivision (c) prior to employment.

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

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

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

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

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

(B) Business operations.

(C) Management and supervision of staff.

(D) Psychosocial needs of the facility residents.

(E) Community and support services.

(F) Physical needs for facility residents.

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

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

(I) Nonviolent crisis intervention for administrators.

(2) The requirement for 35 hours of classroom instruction pursuant to this subdivision shall not apply to persons who were employed as administrators prior to July 1, 1996. A person holding the position of administrator of an adult residential facility on June 30, 1996, shall file a completed application for certification with the department on or before April 1, 1998. In order to be exempt from the 35-hour training program and the test component, the application shall include documentation showing proof of continuous employment as the administrator of an adult residential facility between, at a minimum, June 30, 1994, and June 30, 1996. An administrator of an adult residential facility who became certified as a result of passing the department-administered challenge test, that was offered between October 1, 1996, and December 23, 1996, shall be deemed to have fulfilled the requirements of this paragraph.

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

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

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

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

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

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

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

(f) (1) Certificates issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 hours of continuing education related to the core of knowledge specified in subdivision (c). No more than one-half of the required 40 hours of continuing education necessary to renew the certificate may be satisfied through online courses. All other continuing education hours shall be completed in a classroom setting. For purposes of this section, an individual who is an adult residential facility administrator and who is required to complete the continuing education hours required by the regulations of the State Department of Developmental Services, and approved by the regional center, shall be permitted to have up to 24 of the required continuing education course hours credited toward the 40-hour continuing education requirement of this section. Community college course hours approved by the regional centers shall be accepted by the department for certification.

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

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

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

(5) A suspended or revoked certificate is subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall submit proof of compliance with paragraphs (1) and (2) of subdivision (f) and shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension. Delinquency fees, if any, accrued subsequent to the time of its revocation or suspension and prior to an order for reinstatement, shall be waived for one year to allow the individual sufficient time to complete the required continuing education units and to submit the required documentation. Individuals whose certificates will expire within 90 days after the order for reinstatement may be granted a three-month extension to renew their certificates during which time the delinquency fees shall not accrue.

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

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

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

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

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

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

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

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

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

(C) The applicant public or private agency has a conflict of interest in that the agency is mandated to place clients in adult residential facilities and to pay directly for the services. The department may deny vendorization to this type of agency only as

long as there are other vendor programs available to conduct the certification training programs and conduct education courses.

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

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

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

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

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

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

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

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

(iii) A final screen displaying a printable statement, to be signed by the participant, certifying that the identified participant completed the course. The vendor shall obtain a copy of the final screen statement with the original signature of the participant prior to the issuance of a certificate of completion. The signed statement of completion shall be maintained by the vendor for a period of

three years and be available to the department upon demand. Any person who certifies as true any material matter pursuant to this clause that he or she knows to be false is guilty of a misdemeanor.

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

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

~~(j)~~

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

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

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

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

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

~~(2) Representatives from the California Association of Children's Homes, California Association of Private Specialized Education and Services, the California Association of Services for Children, the California Probation Parole and Correctional Officers Association, the County Mental Health Directors Association, and the County Welfare Directors Association.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A city or county jail.

(c) A state prison.

(d) A facility designated by a county and approved by the State Department of ~~Mental Health~~ *Social Services* pursuant to Division 5 (commencing with Section 5000) of the Welfare and Institutions Code.

(e) A state hospital.

(f) A county hospital.

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

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

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

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

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

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

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

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

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

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

(2) Basic training on how to recognize, and understand what to do about, drug and alcohol abuse has been provided to

administrators and all teachers of kindergarten and grades 1 to 12, inclusive.

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

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

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

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

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

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

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

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

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

(12) Drug and alcohol abuse training has been imposed as a condition for teacher credentialing and license renewal, and knowledge on the issue is measured on the California Basic Education Skills Test.

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

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

(15) Every school district has instituted policies that address the special needs of children who have been rehabilitated for drug or alcohol abuse problems and who are reentering school. These

policies shall consider the loss of schooltime, the loss of academic credits, and the sociological problems associated with drug and alcohol abuse, its rehabilitation, and the educational delay it causes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Every county has a five-year master plan to eliminate drug and alcohol abuse developed jointly by the county-designated alcohol and drug program administrators, reviewed jointly by the advisory boards set forth in paragraph (2), and approved by the board of supervisors. For those counties in which the alcohol and drug programs are jointly administered, the administrator shall develop the five-year master plan. To the degree possible, all existing local plans relating to drug or alcohol abuse shall be incorporated into the master plan.

(2) Every county has an advisory board on alcohol problems and an advisory board on drug programs. The membership of these advisory boards is representative of the county's population and is geographically balanced. To the maximum extent possible, the

county advisory board on alcohol problems and the county advisory board on drug programs will have representatives of the following:

(A) Law enforcement.

(B) Education.

(C) The treatment and recovery community, including a representative with expertise in AIDS treatment services.

(D) Judiciary.

(E) Students.

(F) Parents.

(G) Private industry.

(H) Other community organizations involved in drug and alcohol services.

(I) A representative of organized labor responsible for the provision of Employee Assistance Program services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) The Department of Corrections and the Department of the Youth Authority have provided drug and alcohol abuse education and prevention services for all inmates, wards, and parolees. Both departments have provided drug and alcohol abuse treatment services for any inmate, ward, or parolee determined to be in need of these services, or who personally requests these services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Each county has a drug and alcohol abuse enforcement team, designated by the board of supervisors. This team includes all components of the criminal justice system. This team shall be responsible to the board of supervisors, shall coordinate with the drug and alcohol abuse advisory board and the county on all

criminal justice matters relating to drug and alcohol abuse, and shall coordinate, and actively participate, with the county alcohol and drug program administrators throughout the development and implementation of the five-year master plan.

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

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

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

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

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

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

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

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

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

(12) The courts, when sentencing offenders convicted of selling drugs, consider "street value" of the drugs involved in the underlying crime.

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

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

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

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

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

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

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

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

(b) A determination of the statewide need for housing development for the year the plan is revised and projected four additional years ahead. The determination of statewide need shall be established as the minimum number of units necessary to be built or rehabilitated in order to provide sufficient housing to house

all residents of the state in standard, uncrowded units in suitable locations.

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

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

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

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

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

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

(2) Consult with various state departments, including the California Department of Aging, the State Department of Social Services, the State Department of Health *Care* Services, ~~the State Department of Mental Health,~~ the Employment Development

Department, the State Department of Developmental Services, and other state departments or agencies to obtain information deemed relevant to the housing needs of populations addressed in the housing strategy. This paragraph shall not be construed to require activity beyond the customary scope of the department's planning process.

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) In order to receive housing assistance payments for any specific structure pursuant to the provisions of this section, the

local agency or nonprofit corporation shall not contract for rental of more than 12 units, or for rental of space for more than 24 persons, in the structure. No individual shall remain in a payment assisted unit for more than 18 months.

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

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

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

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

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

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

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

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

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

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

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

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

(b) The provision of technical assistance to facilitate and encourage the establishment, retention, and expansion of school

health centers in public schools. For purposes of this subdivision, "technical assistance" may include the provision of information to local educational agencies and other entities regarding the utilization of facilities, liability insurance, cooperative agreements with community-based providers, and other issues pertinent to school health centers.

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

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

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

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

(2) "Mental health professional shortage area" means an area designated as such by the Health Resources and Services Administration (HRSA) of the United States Department of Health and Human Services.

(c) Commencing January 1, 2005, any licensed mental health service provider, including a mental health service provider who is employed at a publicly funded mental health facility or a public or nonprofit private mental health facility that contracts with a county mental health entity or facility to provide mental health services, who provides direct patient care in a publicly funded facility or a mental health professional shortage area may apply for grants under the program to reimburse his or her educational loans related to a career as a licensed mental health service provider.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The ~~State Department of Mental Health or the~~ local mental health program may provide all application fees, inspection fees, premiums and other administrative payments required by this chapter, except with respect to any loan to a proprietary corporation that is insured pursuant to subdivision (d) of this section.

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

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

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

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

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

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

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

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

Nothing in this subdivision prohibits an insurer which negotiates and enters into a contract with a professional or institutional provider for alternative rates of payment pursuant to Sections 10133 and 11512 of this code from restricting or modifying the choice of providers.

(b) Every insurer shall communicate to prospective group policyholders as to the availability of outpatient coverage for the treatment of mental or nervous disorders. Every insurer shall communicate the availability of that coverage to all group policyholders and to all prospective group policyholders with whom they are negotiating. This coverage may include community residential treatment services, as described in Section 5458 of the

Welfare and Institutions Code, which are alternatives to institutional care.

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

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

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

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

(a) Participating plans, to the extent feasible, including plans receiving purchasing credits shall develop memoranda of understanding, consistent with criteria established by the board in consultation with the State Department of ~~Mental Health~~ *Health Care Services*, for referral of subscribers who are seriously emotionally disturbed to a county mental health department. This referral does not relieve a participating plan from providing the mental health coverage specified in its contract, including assessment of, and development of, a treatment plan for serious emotional disturbance. Plans may contract with county mental

health departments to provide for all, or a portion of, the services provided under the program's mental health benefit.

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

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

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

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

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

Whenever any reference is made to the "State Department of Benefit Payments" or "Department of Benefit Payments" with respect to mental disorders, it means the State Department of ~~Mental~~ Health *Care Services*. Whenever reference is made to the "State Department of Benefit Payments" or "Department of Benefit Payments" with respect to developmental disabilities, it means the State Department of Developmental Services.

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

Whenever any reference is made to the "State Department of Health" or the "Department of Health" with respect to mental disorders, it means the State Department of ~~Mental~~ Health *Care*

Services. Whenever any reference is made to the "State Department of Health" or "Department of Health" in respect to developmental disabilities, it means the State Department of Developmental Services.

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

Whenever any reference is made to the "Director of Benefit Payments" with respect to mental disorders, it means the Director of ~~Mental~~ Health *Care Services*. Whenever any reference is made to the "Director of Benefit Payments" with respect to developmental disabilities, it means the Director of Developmental Services.

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

Whenever any reference is made to the "State Director of Health" or "Director of Health" with respect to mental disorders, it means *the* Director of ~~Mental~~ Health *Care Services*. Whenever any reference is made to the "State Director of Health" or "Director of Health" with reference to developmental disabilities, it means the Director of Developmental Services.

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

359. Whenever a minor who appears to be a danger to himself or others as a result of the use of narcotics (as defined in Section 11001 of the Health and Safety Code), or a restricted dangerous drug (as defined in Section 11901 of the Health and Safety Code), is brought before any judge of the juvenile court, the judge may continue the hearing and proceed pursuant to this section. The court may order the minor taken to a facility designated by the county and approved by the State Department of ~~Mental Health~~ *Social Services* as a facility for 72-hour treatment and evaluation. Thereupon the provisions of Section 11922 of the Health and Safety Code shall apply, except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the minor.

If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor

is not a danger to himself or others as a result of the use of narcotics or restricted dangerous drugs or that the minor does not require 14-day intensive treatment, or if the minor has been certified for not more than 14 days of intensive treatment and the certification is terminated, the minor shall be released if the juvenile court proceedings have been dismissed; referred for further care and treatment on a voluntary basis, subject to the disposition of the juvenile court proceedings; or returned to the juvenile court, in which event the court shall proceed with the case pursuant to this chapter.

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

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

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

If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not a danger to himself or herself or others as a result of the use of controlled substances or that the minor does not require 14-day intensive treatment, or if the minor has been certified for not more than 14 days of intensive treatment and the certification is terminated, the minor shall be released if the juvenile court proceedings have been dismissed; referred for further care and treatment on a voluntary basis, subject to the disposition of the juvenile court proceedings; or returned to the juvenile court, in

which event the court shall proceed with the case pursuant to this chapter.

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

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

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

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

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

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

4005.7. All regulations heretofore adopted by the State Department of Mental Health pursuant to authority vested in the State Department of Social Services by Section 4005.1 and in effect immediately preceding the operative date of the act that added this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the Director of Social Services.

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

4011. ~~Unless otherwise indicated in this code, the~~ *The* State Department of ~~Mental~~ Health *Care Services* has jurisdiction over the execution of the laws relating to the care, custody, and treatment of mentally disordered persons~~, as~~ *only to the extent and in the manner* provided in this code. *The State Department of State Hospitals shall have jurisdiction over the execution of the laws*

relating to care and treatment of the mentally ill individuals under the custody of the State Department of State Hospitals.

As used in this division, "establishment" and "institution" include every hospital, sanitarium, boarding home, or other place receiving or caring for mentally disordered persons.

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

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

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

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

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

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

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

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

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

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

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

4033. (a) The State Department of ~~Mental~~ Health *Care Services* shall, to the extent resources are available, comply with *the Substance Abuse and Mental Health Services Administration* federal planning requirements. The department shall update and issue a state plan, which may also be any federally required state

service plan, so that citizens may be informed regarding the implementation of, and long-range goals for, programs to serve mentally ill persons in the state. The department shall gather information from counties necessary to comply with this section.

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

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

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

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

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

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

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

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

(a) Self-help programs.

(b) Housing development.

(c) Disaster preparation.

(d) Vocational services.

(e) Regional programs.

(f) Multiple diagnosis programs.

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

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

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

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

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

4061. (a) ~~The department~~ *The State Department of Health Care Services* shall utilize a joint state-county decisionmaking process to determine the appropriate use of state and local training, technical assistance, and regulatory resources to meet the mission and goals of the state's mental health system. The department shall use the decisionmaking collaborative process required by this section in all of the following areas:

(1) Providing technical assistance to *personnel of* the State Department of ~~Mental~~ Health *Care Services* and local mental health departments through direction of existing state and local mental health staff and other resources.

(2) Analyzing mental health programs, policies, and procedures.

(3) Providing forums on specific topics as they relate to the following:

(A) Identifying current level of services.

(B) Evaluating existing needs and gaps in current services.

(C) Developing strategies for achieving statewide goals and objectives in the provision of services for the specific area.

(D) Developing plans to accomplish the identified goals and objectives.

(4) Providing forums on policy development and direction with respect to mental health program operations and clinical issues.

(5) Identifying and funding a statewide training and technical assistance entity jointly governed by local mental health directors and mental health constituency representation, which can do all of the following:

(A) Coordinate state and local resources to support training and technical assistance to promote quality mental health programs.

(B) Coordinate training and technical assistance to ensure efficient and effective program development.

(C) Provide essential training and technical assistance, as determined by the state-county decisionmaking process.

(b) Local mental health board members shall be included in discussions pursuant to Section 4060 when the following areas are discussed:

(1) Training and education program recommendations.

(2) Establishment of statewide forums for all organizations and individuals involved in mental health matters to meet and discuss program and policy issues.

(3) Distribution of information between the state, local programs, local mental health boards, and other organizations as appropriate.

(c) The State Department of ~~Mental~~ Health *Care Services* and local mental health departments may provide staff or other resources, including travel reimbursement, for consultant and advisory services; for the training of personnel, board members, or consumers and families in state and local programs and in educational institutions and field training centers approved by the department; and for the establishment and maintenance of field training centers.

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

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

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

~~4070.~~

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

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

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

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

~~4071.~~

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

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

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

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

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

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

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

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

(d) Every psychiatric health facility and program for which a license has been issued shall be periodically inspected by a multidisciplinary team appointed or designated by the State Department of ~~Mental Health~~ *Social Services*. The inspection shall be conducted no less than once every two years and as often as necessary to ensure the quality of care provided. During the

inspections the review team shall offer such advice and assistance to the psychiatric health facility as it deems appropriate.

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

(A) Activities programs.

(B) Administrative policies and procedures.

(C) Admissions, including provisions for a mental evaluation.

(D) Discharge planning.

(E) Health records content.

(F) Health records services.

(G) Interdisciplinary treatment teams.

(H) Nursing services.

(I) Patient rights.

(J) Pharmaceutical services.

(K) Program space requirements.

(L) Psychiatrist and clinical psychological services.

(M) Rehabilitation services.

(N) Restraint and seclusion.

(O) Social work services.

(P) Space, supplies, and equipment.

(Q) Staffing standards.

(R) Unusual occurrences.

(S) Use of outside resources, including agreements with general acute care hospitals.

(T) Linguistic access and cultural competence.

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

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

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

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

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

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

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

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

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

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

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

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

(B) When a private facility serves county patients, the ~~department~~ *State Department of Social Services* shall review and

may approve the program aspects only if the facility is federally certified by the ~~Health Care Financing Administration~~ *federal Centers for Medicare and Medicaid Services* and serves a population mix that includes a proportion of Medi-Cal patients sufficient to project an overall cost savings to the county, and the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

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

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

(B) This section does not impose any obligation on any private facility to contract with a county for the provision of services to Medi-Cal beneficiaries, and any contract for that purpose is subject to the agreement of the participating facility.

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

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

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

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

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

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

(A) Cease and desist orders.

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

(2) ~~The department~~ *The State Department of Social Services* shall adopt regulations necessary to implement this subdivision and paragraph (5) of subdivision (f) in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). ~~No later than January 1, 1998, the department shall adopt emergency regulations necessary to implement this subdivision and paragraph (5) of subdivision (f) in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). This initial adoption of emergency regulations shall be~~

~~deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These emergency regulations shall remain in effect for no more than 180 days. The certificate of compliance, as provided for in subdivision (e) of Section 11346.1 of the Government Code, for the emergency regulations adopted pursuant to this paragraph shall be submitted to the Office of Administrative Law no later than July 1, 1998.~~

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

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

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

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

(b) In establishing the standards required by this section, the department shall not establish standards which in themselves impose any new or increased costs on the programs or facilities affected by the standards.

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

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

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

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

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

~~(b)~~

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

~~(c)~~

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

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

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

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

(4) Provisions for the community care licensing staff of the State Department of Social Services to report to the State Department of ~~Mental~~ Health *Care Services* when there is

reasonable cause to believe that a community treatment facility is not in compliance with program standards established pursuant to this section.

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

~~(d)~~

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

~~(e)~~

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

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

(i) The facility does not use mechanical restraint.

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

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

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

(2) The State Department of ~~Mental~~ Health *Care Services* may adopt emergency regulations as necessary to implement this

subdivision. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, and general welfare. The regulations shall be exempt from review by the Office of Administrative Law and shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 180 days unless the adopting agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, as required by subdivision (e) of Section 11346.1 of the Government Code.

~~(f)~~

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

~~(g)~~

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

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

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

~~(h)~~

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

~~(i)~~

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

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

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

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

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

~~(1) Notwithstanding existing regulations, the State Department of Social Services shall issue alternative training and education requirements for community treatment facility managers and staff, which shall be developed in consultation with the State Department of Mental Health, patients' rights advocates, local mental health departments, county welfare offices, and providers.~~

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

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

~~(4) A community treatment facility shall be exempt from reporting any occurrence of the use of restraint to the State~~

~~Department of Social Services, unless physical injury is sustained or unconsciousness or other medical conditions arise from the restraint. All other reporting requirements shall apply.~~

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

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

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

(c) A foster care rate shall be established for each community treatment facility program by the State Department of Social Services. These rates shall be established using the existing foster care ratesetting system for group homes, with modifications designed as necessary. It is anticipated that all community treatment facility programs will offer the level of care and services required to receive the highest foster care rate provided for under the current group home ratesetting system.

(d) For the 2001–02 fiscal year, the 2002–03 fiscal year, the 2003–04 fiscal year, and the 2004–05 fiscal year, community treatment facility programs shall also be paid a community treatment facility supplemental rate of up to two thousand five hundred dollars ($2,500) per child per month on behalf of children eligible under the foster care program and children placed out of home pursuant to an individualized education program developed

under Section 7572.5 of the Government Code. Subject to the availability of funds, the supplemental rate shall be shared by the state and the counties. Counties shall be responsible for paying a county share of cost equal to 60 percent of the community treatment rate for children placed by counties in community treatment facilities and the state shall be responsible for 40 percent of the community treatment facility supplemental rate. The community treatment facility supplemental rate is intended to supplement, and not to supplant, the payments for which children placed in community treatment facilities are eligible to receive under the foster care program and the existing programs for mental health services.

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

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

(g) In order to facilitate the study of the costs of community treatment facilities, licensed community treatment facilities shall provide all documents regarding facility operations, treatment, and placements requested by the department.

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

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

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

4094.7. (a) A community treatment facility may have both secure and nonsecure beds. However, the State Department of ~~Mental~~ Health *Care Services* shall limit the total number of beds in community treatment facilities to not more than 400 statewide. The State Department of ~~Mental~~ Health *Care Services* shall certify community treatment facilities in such a manner as to ensure an adequate dispersal of these facilities within the state. The State Department of ~~Mental~~ Health *Care Services* shall ensure that there is at least one facility in each of the State Department of Social Services' four regional licensing divisions.

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

the approval of both the State Department of Social Services and the State Department of ~~Mental~~ Health *Care Services*.

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

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

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

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

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

(b) Therefore, using the Children's Mental Health Services Act (Part 4 (commencing with Section 5850) of Division 5) as a guideline, the State Department of ~~Mental~~ Health *Care Services*, in consultation with the California ~~Conference of Local~~ Mental Health Directors *Association*, the State Department of Social Services, the County Welfare Directors Association, the Chief Probation ~~Officer's Association~~ *Officers of California*, county alcohol and drug program administrators, and foster care providers, shall do all of the following:

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

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

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

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

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

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

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

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

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

(d) (1) ~~The department~~ *The State Department of Health Care Services* shall make information available to the Legislature, on request, on the service populations provided mental health treatment services pursuant to this section, the types and costs of services provided, and the number of children identified in need of treatment services who did not receive the services.

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

(A) Family preservation pilot programs.

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

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

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

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

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

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

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

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

(d) ~~The department~~ *The State Department of Health Care Services* or delegated county shall notify the State Department of Social Services Community Care Licensing Division immediately upon the termination of any certification issued in accordance with subdivision (a).

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

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

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

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

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

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

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

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

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

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

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

4369.4. All state agencies, including, but not limited to, the California Horse Racing Board, the California Gambling Control Commission, the Department of Justice, and any other agency that regulates casino gambling or cardrooms within the state, and the Department of Corrections *and Rehabilitation,* ~~the California Youth Authority~~ *the Department of Corrections and Rehabilitation, Division of Juvenile Justice,* the State ~~Departments~~ *Department*

of Health *Care* Services, *State Department of* Alcohol and Drug Programs, ~~and Mental Health,~~ and the California State Lottery, shall coordinate with the office to ensure that state programs take into account, as much as practicable, problem and pathological gamblers. The office shall also coordinate and work with other entities involved in gambling and the treatment of problem and pathological gamblers.

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

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

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

(a) Rates established for all facilities shall include an adequate amount to care for "basic living needs" of a person with developmental disabilities. "Basic living needs" are defined to include housing (shelter, utilities, and furnishings), food, and personal care. The amount required for basic living needs shall be calculated each year as the average cost of an additional normal child, of the ages of 12 to 17, inclusive, living at home. The amount for basic living needs shall be adjusted depending on the size of the out-of-home facility. These amounts shall be adjusted annually to reflect cost-of-living changes. A redetermination of basic living costs shall be undertaken every three years by the State Department of Developmental Services, using the best available estimating methods.

(b) Rates established for all facilities that provide direct supervision for persons with developmental disabilities shall include an amount for "direct supervision." The cost of "direct supervision" shall reflect the ability of the persons in the facility to function with minimal, moderate, or intensive supervision.

Minimal supervision means that a developmentally disabled person needs the assistance of other persons with certain daily activities. Moderate supervision means that a developmentally disabled person needs the assistance of other persons with daily activities most of the time. Intensive supervision means that all the personal and physical needs of a developmentally disabled person are provided by other persons. The individual program plan developed pursuant to Section 4646 shall determine the amount of "direct supervision" required for each individual. The cost of "direct supervision" is calculated as the wage costs of care-giving staff depending on the needs of the person with developmental disabilities. These rates shall be adjusted annually to reflect wage changes and shall comply with all federal regulations for hospitals and residential-care establishments under provisions of the federal Fair Labor Standards Act.

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

(d) To the extent applicable, rates established for facilities shall include a reasonable amount for "unallocated services." Such costs shall be determined using generally accepted accounting principles. "Unallocated services" means the indirect costs of managing a facility and includes costs of managerial personnel, facility operation, maintenance and repair, employee benefits, taxes, interest, insurance, depreciation, and general and administrative support. If a facility serves other persons in addition to developmentally disabled persons, unallocated services expenses shall be reimbursed under the provision of this section, only for the proportion of the costs associated with the care of developmentally disabled persons.

(e) Rates established for facilities shall include an amount to reimburse facilities for the depreciation of "mandated capital

improvements and equipment" as established in the state's uniform accounting manual. For purposes of this section, "mandated capital improvements and equipment" are only those remodeling and equipment costs incurred by a facility because an agency of government has required such remodeling or equipment as a condition for the use of the facility as a provider of out-of-home care to persons with developmental disabilities.

(f) When applicable, rates established for proprietary facilities shall include a reasonable "proprietary fee."

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

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

This section shall apply to rates for facilities not participating in the alternative residential care rate model originally authorized in Item 4300-101-001 of the Budget Act of 1985, and as identified in the department's report of April 1987 entitled Alternative Residential Model (ARM).

(i) Except as provided in subdivision (j), this section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

(j) This section shall not be repealed until the State Department of Developmental Services achieves statewide implementation of the Alternative Residential Model.

SEC. 75. Section 4681.1 of the Welfare and Institutions Code is amended to read:

4681.1. (a) The department shall adopt regulations that specify rates for community care facilities serving persons with developmental disabilities. The implementation of the regulations shall be contingent upon an appropriation in the annual Budget Act for this purpose. These rates shall be calculated on the basis of a cost model designed by the department which ensures that

aggregate facility payments support the provision of services to each person in accordance with his or her individual program plan and applicable program requirements. The cost model shall reflect cost elements that shall include, but are not limited to, all of the following:

(1) "Basic living needs" include utilities, furnishings, food, supplies, incidental transportation, housekeeping, personal care items, and other items necessary to ensure a quality environment for persons with developmental disabilities. The amount identified for the basic living needs element of the rate shall be calculated as the average projected cost of these items in an economically and efficiently operated community care facility.

(2) "Direct care" includes salaries, wages, benefits, and other expenses necessary to supervise or support the person's functioning in the areas of self-care and daily living skills, physical coordination mobility, and behavioral self-control, choice making, and integration. The amount identified for direct care shall be calculated as the average projected cost of providing the level of service required to meet each person's functional needs in an economically and efficiently operated community care facility. The direct care portion of the rate shall reflect specific service levels defined by the department on the basis of relative resident need and the individual program plan.

(3) "Special services" include specialized training, treatment, supervision, or other services which a person's individual program plan requires to be provided by the residential facility in addition to the direct care provided under paragraph (2). The amount identified for special services shall be calculated for each individual based on the additional services specified in the person's individual program plan and the prevailing rates paid for similar services in the area. The special services portion of the rate shall reflect a negotiated agreement between the facility and the regional center in accordance with Section 4648.

(4) "Indirect costs" include managerial personnel, facility operation, maintenance and repair, other nondirect care, employee benefits, contracts, training, travel, licenses, taxes, interest, insurance, depreciation, and general administrative expenses. The amount identified for indirect costs shall be calculated as the average projected cost for these expenses in an economically and efficiently operated community care facility.

(5) "Property costs" include mortgages, leases, rent, taxes, capital or leasehold improvements, depreciation, and other expenses related to the physical structure. The amount identified for property costs shall be based on the fair rental value of a model facility which is adequately designed, constructed, and maintained to meet the needs of persons with developmental disabilities. The amount identified for property costs shall be calculated as the average projected fair rental value of an economically and efficiently operated community care facility.

(b) The cost model shall take into account factors which include, but are not limited to, all of the following:

(1) Facility size, as defined by the department on the basis of the number of facility beds licensed by the State Department of Social Services and vendorized by the regional center.

(2) Specific geographic areas, as defined by the department on the basis of cost of living and other pertinent economic indicators.

(3) Common levels of direct care, as defined by the department on the basis of services specific to an identifiable group of persons as determined through the individual program plan.

(4) Positive outcomes, as defined by the department on the basis of increased integration, independence, and productivity at the aggregate facility and individual consumer level.

(5) Owner-operated and staff-operated reimbursement which shall, not differ for facilities that are required to comply with the same program requirements.

(c) The rates established for individual community care facilities serving persons with developmental disabilities shall reflect all of the model cost elements and rate development factors described in this section. The cost model design shall include a process for updating the cost model elements that address variables, including, but not limited to, all of the following:

(1) Economic trends in California.

(2) New state or federal program requirements.

(3) Changes in the state or federal minimum wage.

(4) Increases in fees, taxes, or other business costs.

(5) Increases in federal supplemental security income/state supplementary program for the aged, blind, and disabled payments.

(d) Rates established for developmentally disabled persons who are also dually diagnosed with a mental disorder may be fixed at a higher rate. The department shall work with the State Department

of ~~Mental~~ Health *Care Services* to establish criteria upon which higher rates may be fixed pursuant to this subdivision. The higher rate for developmentally disabled persons who are also dually diagnosed with a mental disorder may be paid when requested by the director of the regional center and approved by the Director of Developmental Services.

(e) By January 1, 2001, the department shall prepare proposed regulations to implement the changes outlined in this section. The department may use a private firm to assist in the development of these changes and shall confer with consumers, providers, and other interested parties concerning the proposed regulations. By May 15, 2001, and each year thereafter, the department shall provide the Legislature with annual community care facility rates, including any draft amendments to the regulations as required. By July 1, 2001, and each year thereafter, contingent upon an appropriation in the annual Budget Act for this purpose, the department shall adopt emergency regulations which establish the annual rates for community care facilities serving persons with developmental disabilities for each fiscal year.

(f) During the first year of operation under the revised rate model, individual facilities shall be held harmless for any reduction in aggregate facility payments caused solely by the change in reimbursement methodology.

SEC. 76. Section 4696.1 of the Welfare and Institutions Code is amended to read:

4696.1. (a) The Legislature finds and declares that improved cooperative efforts between regional centers and county mental health agencies are necessary in order to achieve each of the following:

(1) Increased leadership, communication, and organizational effectiveness between regional centers and county mental health agencies.

(2) Decreased costs and minimized fiscal risk in serving persons who are dually diagnosed with mental illness and developmental disabilities.

(3) Continuity of services.

(4) Improved quality of mental health outcomes for persons who are dually diagnosed.

(5) Optimized utilization of agency resources by building on the strengths of each organization.

(6) Timely resolution of conflicts.

(b) In order to achieve the outcomes specified in subdivision (a), by July 1, 1999, each regional center and county mental health agency shall develop a memorandum of understanding to do all of the following:

(1) Identify staff who will be responsible for all of the following:

(A) Coordinate service activity between the two agencies.

(B) Identify dually diagnosed consumers of mutual concern.

(C) Conduct problem resolution for those consumers serviced by both systems.

(2) Develop a general plan for crisis intervention for persons served by both systems. The plan shall include after-hours emergency response systems, interagency notification guidelines, and followup protocols.

(3) Develop a procedure by which each dually diagnosed consumer shall be the subject of a case conference conducted jointly by both regional center staff and county mental health as soon as possible after admission into a county operated or contracted acute, inpatient mental health facility. The case conference shall confirm the diagnosis and the treatment plan.

(4) Develop a procedure by which planning for dually diagnosed consumers admitted to a mental health inpatient facility shall be conducted collaboratively by both the regional center and the local mental health agency and shall commence as soon as possible or as deemed appropriate by the treatment staff. The discharge plan shall include subsequent treatment needs and the agency responsible for those services.

(5) Develop a procedure by which regional center staff and county mental health staff shall collaborate to plan and provide training to community service providers, including day programs, residential facilities, and intermediate care facilities, regarding effective services to persons who are dually diagnosed. This training shall include crisis prevention with a focus on proactively recognizing crisis and intervening effectively with consumers who are dually diagnosed.

(6) Develop a procedure by which the regional center and the county mental health agency shall work toward agreement on a consumer-by-consumer basis on the presenting diagnosis and medical necessity, as defined by regulations of the State Department of ~~Mental~~ Health *Care Services*.

(c) The department and the State Department of ~~Mental~~ Health *Care Services* shall collaborate to provide a statewide perspective and technical assistance to local service regions when local problem resolution mechanisms have been exhausted and state level participation has been requested by both local agencies.

(d) The director of the local regional center and the director of the county mental health agency or their designees shall meet as needed but no less than annually to do all of the following:

(1) Review the effectiveness of the interagency collaboration.

(2) Address any outstanding policy issues between the two agencies.

(3) Establish the direction and priorities for ongoing collaboration efforts between the two agencies.

(e) Copies of each memorandum of understanding shall be forwarded to the State Department of Developmental Services upon completion or whenever amended. The department shall make copies of the memorandum of understanding available to the public upon request.

(f) By May 15 of each year, the department shall provide all of the following information to the Legislature:

(1) The status of the memorandums of understanding developed jointly by each regional center and the county mental health agency and identify any barriers to meeting the outcomes specified in this section.

(2) The availability of mobile crisis intervention services, including generic services, by regional center catchment area, including the names of vendors and rates paid.

(3) A description of each regional center's funded emergency housing options, including the names and types of vendors, the number of beds and rates, including, but not limited to, crisis emergency group homes, crisis beds in a regular group home, crisis foster homes, motel or hotel or psychiatric facility beds, and whether each emergency housing option serves minors or adults and whether it is physically accessible.

SEC. 77. Section 4835 of the Welfare and Institutions Code is amended to read:

4835. The Director of Developmental Services may establish uniform operational procedures, performance and evaluation standards and utilization criteria for designated agencies pursuant to this chapter.

These standards and criteria shall be developed with participation by consumer organizations, area boards on developmental disabilities, the Association of Regional Center Agencies, the *State* Department of Social Services, the *State* Department of Health *Care* Services, the *State* Department of Education, *and* the Department of Rehabilitation~~, and the Department of Mental Health~~ and consultations with individuals with experience in developmental services programming.

SEC. 78. Section 4844 of the Welfare and Institutions Code is amended to read:

4844. The Director of Developmental Services shall initiate and monitor interagency performance agreements between the Department of Rehabilitation~~, the Department of Mental Health,~~ the *State* Department of Health *Care* Services, the *State* Department of Social Services, and the Department of Housing and Community Development to ~~assure~~ *ensure* planning, coordination, and resource sharing.

SEC. 79. Section 5150 of the Welfare and Institutions Code is amended to read:

5150. When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of ~~Mental Health~~ *Social Services* as a facility for 72-hour treatment and evaluation.

~~Such~~

The facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled. If the probable cause is based on the statement of a person other than the officer, member of the attending staff, or professional person, ~~such~~ *the* person shall

be liable in a civil action for intentionally giving a statement which he or she knows to be false.

SEC. 80. Section 5151 of the Welfare and Institutions Code is amended to read:

5151. If the facility for 72-hour treatment and evaluation admits the person, it may detain him or her for evaluation and treatment for a period not to exceed 72 hours. Saturdays, Sundays, and holidays may be excluded from the 72-hour period if the *State* Department of ~~Mental Health~~ *Social Services* certifies for each facility that evaluation and treatment services cannot reasonably be made available on those days. The certification by the department is subject to renewal every two years. The department shall adopt regulations defining criteria for determining whether a facility can reasonably be expected to make evaluation and treatment services available on Saturdays, Sundays, and holidays.

Prior to admitting a person to the facility for 72-hour treatment and evaluation pursuant to Section 5150, the professional person in charge of the facility or his or her designee shall assess the individual in person to determine the appropriateness of the involuntary detention.

If in the judgment of the professional person in charge of the facility providing evaluation and treatment, or his or her designee, the person can be properly served without being detained, he or she shall be provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis.

Nothing in this section shall be interpreted to prevent a peace officer from delivering individuals to a designated facility for assessment under Section 5150. Furthermore, the preadmission assessment requirement of this section shall not be interpreted to require peace officers to perform any additional duties other than those specified in Sections 5150.1 and 5150.2.

SEC. 81. Section 5152 of the Welfare and Institutions Code is amended to read:

5152. (a) Each person admitted to a facility for 72-hour treatment and evaluation under the provisions of this article shall receive an evaluation as soon as possible after he or she is admitted and shall receive whatever treatment and care his or her condition requires for the full period that he or she is held. The person shall be released before 72 hours have elapsed only if the psychiatrist directly responsible for the person's treatment believes, as a result

of the psychiatrist's personal observations, that the person no longer requires evaluation or treatment. However, in those situations in which both a psychiatrist and psychologist have personally evaluated or examined a person who is placed under a 72-hour hold and there is a collaborative treatment relationship between the psychiatrist and psychologist, either the psychiatrist or psychologist may authorize the release of the person from the hold, but only after they have consulted with one another. In the event of a clinical or professional disagreement regarding the early release of a person who has been placed under a 72-hour hold, the hold shall be maintained unless the facility's medical director overrules the decision of the psychiatrist or psychologist opposing the release. Both the psychiatrist and psychologist shall enter their findings, concerns, or objections into the person's medical record. If any other professional person who is authorized to release the person believes the person should be released before 72 hours have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of the psychiatrist's personal observations, that the person no longer requires evaluation or treatment.

(b) Any person who has been detained for evaluation and treatment shall be released, referred for further care and treatment on a voluntary basis, or certified for intensive treatment, or a conservator or temporary conservator shall be appointed pursuant to this part as required.

(c) A person designated by the mental health facility shall give to any person who has been detained at that facility for evaluation and treatment and who is receiving medication as a result of his or her mental illness, as soon as possible after detention, written and oral information about the probable effects and possible side effects of the medication. The State Department of ~~Mental Health~~ *Health Care Services* shall develop and promulgate written materials on the effects of medications, for use by county mental health programs as disseminated or as modified by the county mental health program, addressing the probable effects and the

possible side effects of the medication. The following information shall be given orally to the patient:

(1) The nature of the mental illness, or behavior, that is the reason the medication is being given or recommended.

(2) The likelihood of improving or not improving without the medication.

(3) Reasonable alternative treatments available.

(4) The name and type, frequency, amount, and method of dispensing the medication, and the probable length of time the medication will be taken.

The fact that the information has or has not been given shall be indicated in the patient's chart. If the information has not been given, the designated person shall document in the patient's chart the justification for not providing the information. A failure to give information about the probable effects and possible side effects of the medication shall not constitute new grounds for release.

(d) The amendments to this section made by Assembly Bill 348 of the 2003–04 Regular Session shall not be construed to revise or expand the scope of practice of psychologists, as defined in Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

SEC. 82. Section 5157 of the Welfare and Institutions Code is amended to read:

5157. (a) Each person, at the time he or she is first taken into custody under provisions of Section 5150, shall be provided, by the person who takes such other person into custody, the following information orally. The information shall be in substantially the following form:

My name is _____ .

I am a _____ .

(peace officer, mental health professional)

with _____ .

(name of agency)

You are not under criminal arrest, but I am taking you for examination by mental health professionals at _____ .

_____

(name of facility)

You will be told your rights by the mental health staff.

If taken into custody at his or her residence, the person shall also be told the following information in substantially the following form:

You may bring a few personal items with you which I will have to approve. You can make a phone call and/or leave a note to tell your friends and/or family where you have been taken.

(b) The designated facility shall keep, for each patient evaluated, a record of the advisement given pursuant to subdivision (a) which shall include:

(1) Name of person detained for evaluation.

(2) Name and position of peace officer or mental health professional taking person into custody.

(3) Date.

(4) Whether advisement was completed.

(5) If not given or completed, the mental health professional at the facility shall either provide the information specified in subdivision (a), or include a statement of good cause, as defined by regulations of the State Department of ~~Mental Health~~ *Social Services*, which shall be kept with the patient's medical record.

(c) Each person admitted to a designated facility for 72-hour evaluation and treatment shall be given the following information by admission staff at the evaluation unit. The information shall be given orally and in writing and in a language or modality accessible to the person. The written information shall be available in the person's native language or the language which is the person's principal means of communication. The information shall be in substantially the following form:

My name is _____.

My position here is _____.

You are being placed into the psychiatric unit because it is our professional opinion that as a result of mental disorder, you are likely to:

(check applicable)

harm yourself ____

harm someone else ____

be unable to take care of your own

food, clothing, and housing needs ____

We feel this is true because

_____

(herewith a listing of the facts upon which the allegation of dangerous

or gravely disabled due to mental disorder is based, including pertinent facts arising from the admission interview.)

You will be held on the ward for a period up to 72 hours.

This does not include weekends or holidays.

Your 72-hour period will begin _____

(day and time.)

During these 72 hours you will be evaluated by the hospital staff, and you may be given treatment, including medications. It is possible for you to be released before the end of the 72 hours. But if the staff decides that you need continued treatment you can be held for a longer period of time. If you are held longer than 72 hours you have the right to a lawyer and a qualified interpreter and a hearing before a judge. If you are unable to pay for the lawyer, then one will be provided free.

(d) For each patient admitted for 72-hour evaluation and treatment, the facility shall keep with the patient's medical record a record of the advisement given pursuant to subdivision (c) which shall include:

(1) Name of person performing advisement.

(2) Date.

(3) Whether advisement was completed.

(4) If not completed, a statement of good cause.

If the advisement was not completed at admission, the advisement process shall be continued on the ward until completed. A record of the matters prescribed by subdivisions (a), (b), and (c) shall be kept with the patient's medical record.

SEC. 83. Section 5202 of the Welfare and Institutions Code is amended to read:

5202. The person or agency designated by the county shall prepare the petition and all other forms required in the proceeding, and shall be responsible for filing the petition. Before filing the petition, the person or agency designated by the county shall request the person or agency designated by the county and approved by the State Department of ~~Mental Health~~ *Social Services* to provide prepetition screening to determine whether there is probable cause to believe the allegations. The person or agency providing prepetition screening shall conduct a reasonable investigation of the allegations and make a reasonable effort to personally interview the subject of the petition. The screening shall also determine whether the person will agree voluntarily to receive

crisis intervention services or an evaluation in his own home or in a facility designated by the county and approved by the State Department of ~~Mental Health~~ *Social Services*. Following prepetition screening, the person or agency designated by the county shall file the petition if satisfied that there is probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled, and that the person will not voluntarily receive evaluation or crisis intervention.

If the petition is filed, it shall be accompanied by a report containing the findings of the person or agency designated by the county to provide prepetition screening. The prepetition screening report submitted to the superior court shall be confidential and shall be subject to the provisions of Section 5328.

SEC. 84. Section 5270.12 of the Welfare and Institutions Code is amended to read:

5270.12. This article shall be operative only in those counties in which the county board of supervisors, by resolution, authorizes its application and, by resolution, makes a finding that any additional costs incurred by the county in the implementation of this article are funded either by new funding sufficient to cover the costs incurred by the county resulting from this article, or funds redirected from cost savings resulting from this article, or a combination thereof, so that no current service reductions will occur as a result of the enactment of this article. Compliance with this section shall be monitored by the *State* Department of ~~Mental~~ Health *Care Services* as part of ~~their~~ *its* review and approval of ~~county Short-Doyle plans~~ *mental health plans and performance contracts*.

SEC. 85. Section 5325 of the Welfare and Institutions Code is amended to read:

5325. Each person involuntarily detained for evaluation or treatment under provisions of this part, *and* each person admitted as a voluntary patient for psychiatric evaluation or treatment to any health facility, as defined in Section 1250 of the Health and Safety Code, in which psychiatric evaluation or treatment is offered, ~~and each mentally retarded~~ *shall have the following rights, a list of which shall be prominently posted in the predominant languages of the community and explained in a language or modality accessible to the patient in all facilities providing those services, and otherwise brought to his or her attention by any*

additional means as the Director of Health Care Services may designate by regulation. Each person committed to a state hospital ~~pursuant to Article 5 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6~~ shall *also* have the following rights, a list of which shall be prominently posted in the predominant languages of the community and explained in a language or modality accessible to the patient in all facilities providing ~~such~~ *those* services and otherwise brought to his or her attention by ~~such~~ *any* additional means as the Director of ~~Mental Health~~ *State Hospitals* may designate by regulation:

(a) To wear his or her own clothes; to keep and use his or her own personal possessions including his or her toilet articles; and to keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases.

(b) To have access to individual storage space for his or her private use.

(c) To see visitors each day.

(d) To have reasonable access to telephones, both to make and receive confidential calls or to have such calls made for them.

(e) To have ready access to letterwriting materials, including stamps, and to mail and receive unopened correspondence.

(f) To refuse convulsive treatment including, but not limited to, any electroconvulsive treatment, any treatment of the mental condition which depends on the induction of a convulsion by any means, and insulin coma treatment.

(g) To refuse psychosurgery. Psychosurgery is defined as those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery, and all other forms of brain surgery if the surgery is performed for the purpose of any of the following:

(1) Modification or control of thoughts, feelings, actions, or behavior rather than the treatment of a known and diagnosed physical disease of the brain.

(2) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, actions, or behavior.

(3) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause for those thoughts, feelings, actions, or behavior.

Psychosurgery does not include prefrontal sonic treatment wherein there is no destruction of brain tissue. The Director of

~~Mental~~ Health *Care Services and the Director of State Hospitals* shall promulgate appropriate regulations to assure adequate protection of patients' rights in such treatment.

(h) To see and receive the services of a patient advocate who has no direct or indirect clinical or administrative responsibility for the person receiving mental health services.

(i) Other rights, as specified by regulation.

Each patient shall also be given notification in a language or modality accessible to the patient of other constitutional and statutory rights which are found by the State Department of ~~Mental~~ Health *Care Services and the State Department of State Hospitals* to be frequently misunderstood, ignored, or denied.

Upon admission to a facility each patient, *involuntarily detained for evaluation or treatment under provisions of this part, or as a voluntary patient for psychiatric evaluation or treatment to a health facility, as defined in Section 1250 of the Health and Safety Code, in which psychiatric evaluation or treatment is offered,* shall immediately be given a copy of a State Department of ~~Mental~~ Health *Care Services* prepared patients' rights handbook. *Each person committed to a state hospital, upon admission, shall immediately be given a copy of a State Department of State Hospitals prepared patients' rights handbook.*

The State Department of ~~Mental~~ Health *Care Services and the State Department of State Hospitals* shall prepare and provide the forms specified in this section ~~and~~. *The State Department of Health Care Services shall prepare and provide the forms specified* in Section 5157.

The rights specified in this section may not be waived by the person's parent, guardian, or conservator.

SEC. 86. Section 5326 of the Welfare and Institutions Code is amended to read:

5326. The professional person in charge of the facility *or state hospital* or his or her designee may, for good cause, deny a person any of the rights under Section 5325, except under subdivisions (g) and (h) and the rights under subdivision (f) may be denied only under the conditions specified in Section 5326.7. To ensure that these rights are denied only for good cause, the Director of ~~Mental~~ Health *Care Services and Director of State Hospitals* shall adopt regulations specifying the conditions under which they may be

denied. Denial of a person's rights shall in all cases be entered into the person's treatment record.

SEC. 87. Section 5326.1 of the Welfare and Institutions Code is amended to read:

5326.1. Quarterly, each local mental health director shall furnish to the Director of ~~Mental~~ Health *Care Services*, the facility reports of the number of persons whose rights were denied and the right or rights which were denied. The content of the reports from facilities shall enable the local mental health director and Director of ~~Mental~~ Health *Care Services* to identify individual treatment records, if necessary, for further analysis and investigation. These quarterly reports, except for the identity of the person whose rights are denied, shall be available, upon request, to Members of the State Legislature, or a member of a county board of supervisors.

Notwithstanding any other provision of law, information pertaining to denial of rights contained in the person's treatment record shall be made available, on request, to the person, his or her attorney, his or her conservator or guardian, the local mental health director, or his or her designee, or the ~~Patient's Rights Office~~ *Patients' Rights program* of the State Department of ~~Mental~~ Health *Care Services*. The information may include consent forms, required documentation for convulsive treatment, documentation regarding the use of restraints and seclusion, physician's orders, nursing notes, and involuntary detention and conservatorship papers. The information, except for the identity of the person whose rights are denied, shall be made available to the Members of the State Legislature or a member of a county board of supervisors.

SEC. 88. Section 5326.15 of the Welfare and Institutions Code is amended to read:

5326.15. (a) Quarterly, any doctor or facility which administers convulsive treatments or psychosurgery, shall report to the local mental health director, who shall transmit a copy to the Director of ~~Mental~~ Health *Care Services*, the number of persons who received such treatments wherever administered, in each of the following categories:

(1) Involuntary patients who gave informed consent.

(2) Involuntary patients who were deemed incapable of giving informed consent and received convulsive treatment against their will.

(3) Voluntary patients who gave informed consent.

(4) Voluntary patients deemed incapable of giving consent.

(b) Quarterly, the State Department of State Hospitals shall report to the Director of Health Care Services the number of persons who received such treatments wherever administered, in each of the following categories:

(1) Involuntary patients who gave informed consent.

(2) Involuntary patients who were deemed incapable of giving informed consent and received convulsive treatment against their will.

(3) Voluntary patients who gave informed consent.

(4) Voluntary patients deemed incapable of giving consent.

~~(b)~~

(c) Quarterly, the Director of ~~Mental~~ Health *Care Services* shall forward to the Medical Board of California any records or information received from ~~such~~ *these* reports indicating violation of the law, and the regulations which have been adopted thereto.

SEC. 89. Section 5326.3 of the Welfare and Institutions Code is amended to read:

5326.3. The State Department of ~~Mental~~ Health *Care Services and State Department of State Hospitals* shall promulgate a standard written consent form, setting forth clearly and in detail the matters listed in Section 5326.2, and ~~such~~ *any* further information with respect to each item as deemed generally appropriate to all patients.

The treating physician shall utilize the standard written consent form and in writing supplement it with those details which pertain to the particular patient being treated.

SEC. 90. Section 5326.8 of the Welfare and Institutions Code is amended to read:

5326.8. Under no circumstances shall convulsive treatment be performed on a minor under 12 years of age. Persons 16 and 17 years of age shall personally have and exercise the rights under this article.

Persons 12 years of age and over, and under 16, may be administered convulsive treatment only if all the other provisions of this law are complied with and in addition:

(a) It is an emergency situation and convulsive treatment is deemed a lifesaving treatment.

(b) This fact and the need for and appropriateness of the treatment are unanimously certified to by a review board of three board-eligible or board-certified child psychiatrists appointed by the local mental health director.

(c) It is otherwise performed in full compliance with regulations promulgated by the Director of ~~Mental Health~~ *State Hospitals* under Section 5326.95.

(d) It is thoroughly documented and reported immediately to the Director of ~~Mental~~ Health *Care Services*.

SEC. 91. Section 5326.9 of the Welfare and Institutions Code is amended to read:

5326.9. (a) Any alleged or suspected violation of the rights described in Chapter 2 (commencing with Section 5150) shall be investigated by the local director of mental health, or his or her designee. Violations of Sections 5326.2 to 5326.8, inclusive, *concerning patients involuntarily detained for evaluation or treatment under this part, or as a voluntary patient for psychiatric evaluation or treatment to a health facility, as defined in Section 1250 of the Health and Safety Code, in which psychiatric evaluation or treatment is offered,* shall also be investigated by the Director of ~~Mental~~ Health *Care Services,* or his or her designee. *Violations of Sections 5326.2 to 5326.8, inclusive, concerning persons committed to a state hospital shall also be investigated by the Director of State Hospitals, or his or her designee.* If it is determined by the local director of mental health ~~or~~*, the* Director of ~~Mental~~ Health *Care Services, or the Director of State Hospitals* that a right has been violated, a formal notice of violation shall be issued.

(b) Either the local director of mental health or the Director of ~~Mental~~ Health *Care Services,* upon issuing a notice of violation, may take any or all of the following action:

(1) Assign a specified time period during which the violation shall be corrected.

(2) Referral to the Medical Board of California or other professional licensing agency. Such board shall investigate further, if warranted, and shall subject the individual practitioner to any penalty the board finds necessary and is authorized to impose.

(3) ~~Revoke~~ *Make a recommendation to the State Department of Social Services to revoke the approval of the county facility designation. The local director of mental health may revoke* a

facility's designation and authorization under Section 5404 to evaluate and treat persons detained involuntarily.

(4) Refer any violation of law to a local district attorney or the Attorney General for prosecution in any court with jurisdiction.

(c) The Director of State Hospitals, upon issuing a notice of violation, may take any or all of the following actions:

(1) Assign a specified time period during which the violation shall be corrected.

(2) Make a referral to the Medical Board of California or other professional licensing agency. The board or agency shall investigate further, if warranted, and shall subject the individual practitioner to any penalty the board finds necessary and is authorized to impose.

(3) Refer any violation of law to a local district attorney or the Attorney General for prosecution in any court with jurisdiction.

~~(c)~~

(d) Any physician who intentionally violates Sections 5326.2 to 5326.8, inclusive, shall be subject to a civil penalty of not more than five thousand dollars ($5,000) for each violation. ~~Such~~ *The* penalty may be assessed and collected in a civil action brought by the Attorney General in a superior court. Such intentional violation shall be grounds for revocation of license.

~~(d)~~

(e) Any person or facility found to have knowingly violated the provisions of the first paragraph of Section 5325.1 or to have denied without good cause any of the rights specified in Section 5325 shall pay a civil penalty, as determined by the court, of fifty dollars ($50) per day during the time in which the violation is not corrected, commencing on the day on which a notice of violation was issued, not to exceed one thousand dollars ($1,000), for each and every violation, except that any liability under this provision shall be offset by an amount equal to a fine or penalty imposed for the same violation under the provisions of Sections 1423 to 1425, inclusive, or 1428 of the Health and Safety Code. These penalties shall be deposited in the general fund of the county in which the violation occurred. The local district attorney or the Attorney General shall enforce this section in any court with jurisdiction. Where the State Department of *Public* Health ~~Services~~, under the provisions of Sections 1423 to 1425, inclusive, of the Health and

Safety Code, determines that no violation has occurred, the provisions of paragraph (4) of subdivision (b) shall not apply.

~~(e)~~

(f) The remedies provided by this subdivision shall be in addition to and not in substitution for any other remedies which an individual may have under law.

SEC. 92. Section 5326.91 of the Welfare and Institutions Code is amended to read:

5326.91. In any facility in which convulsive treatment is performed on a person whether admitted to the facility as an involuntary or voluntary patient, the facility will designate a qualified committee to review all such treatments and to verify the appropriateness and need for such treatment. The local mental health director shall establish a postaudit review committee for convulsive treatments administered anywhere other than in any facility as defined in Section 1250 of the Health and Safety Code in which psychiatric evaluation or treatment is offered. Records of these committees will be subject to availability in the same manner as are the records of other hospital utilization and audit committees and to ~~such~~ other regulations ~~as are promulgated by the Director of Mental Health~~. Persons serving on ~~such~~ *these* review committees will enjoy the same immunities as other persons serving on utilization, peer review, and audit committees of health care facilities.

SEC. 93. Section 5326.95 of the Welfare and Institutions Code is amended to read:

5326.95. The Director of ~~Mental Health~~ *State Hospitals* shall adopt regulations to carry out the provisions of this chapter, including standards defining excessive use of convulsive treatment which shall be developed in consultation with the ~~conference of local mental health directors~~ *State Department of Health Care Services and the California Mental Health Directors Association*.

SEC. 94. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary

or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential. Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator, shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician and surgeon, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, or licensed professional clinical counselor, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician and surgeon, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, licensed professional clinical counselor, nurse, attorney, or other professional person to reveal information that has been given to him or her in confidence by members of a patient's family. Nothing in this subdivision shall be construed to authorize a licensed marriage and family therapist or licensed professional clinical counselor to provide services or to be in charge of a patient's care beyond his or her lawful scope of practice.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, dependent, or conservatee, and his or her parent, guardian, guardian ad litem, conservator, or authorized representative designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician and surgeon, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, licensed professional clinical counselor, nurse, attorney, or other

professional person to reveal information that has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of ~~Mental~~ Health *Care Services, the Director of State Hospitals, the Director of Social Services,* or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons who have received services from ____ (fill in the facility, agency or person), I, ____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Committee on Rules or the Assembly Committee on Rules for the purposes of legislative investigation authorized by the committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient,

except that when the patient is unable to sign the release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician and surgeon, licensed psychologist, social worker with a master's degree in social work, licensed marriage and family therapist, licensed professional clinical counselor, nurse, attorney, or other professional person to reveal information that has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information that has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that the information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(*l*) (1) Between persons who are trained and qualified to serve on multidisciplinary personnel teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the provision of child welfare services or the investigation, prevention, identification, management, or treatment of child abuse or neglect pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9. Information obtained pursuant to this subdivision shall not be used in any criminal or delinquency proceeding. Nothing in this subdivision shall prohibit evidence identical to that contained within the records from being admissible in a criminal or delinquency proceeding, if the evidence is derived solely from means other than this subdivision, as permitted by law.

(2) As used in this subdivision, "child welfare services" means those services that are directed at preventing child abuse or neglect.

(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem, whoever entered into the agreement, may revoke the authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Section ~~4070~~ *14725*.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 125135 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Care Services under Section 125000 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

(r) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies and county child welfare agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

(s) (1) To the designated officer of an emergency response employee, and from that designated officer to an emergency response employee regarding possible exposure to HIV or AIDS, but only to the extent necessary to comply with provisions of the federal Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (Public Law 101-381; 42 U.S.C. Sec. 201).

(2) For purposes of this subdivision, "designated officer" and "emergency response employee" have the same meaning as these terms are used in the federal Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (Public Law 101-381; 42 U.S.C. Sec. 201).

(3) The designated officer shall be subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV results. Further, the designated officer shall inform the exposed emergency response employee that the employee is also subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV test results.

(t) (1) To a law enforcement officer who personally lodges with a facility, as defined in paragraph (2), a warrant of arrest or an abstract of such a warrant showing that the person sought is wanted for a serious felony, as defined in Section 1192.7 of the Penal Code, or a violent felony, as defined in Section 667.5 of the Penal Code. The information sought and released shall be limited to whether or not the person named in the arrest warrant is presently confined in the facility. This paragraph shall be implemented with minimum disruption to health facility operations and patients, in accordance with Section 5212. If the law enforcement officer is informed that the person named in the warrant is confined in the facility, the officer may not enter the facility to arrest the person without obtaining a valid search warrant or the permission of staff of the facility.

(2) For purposes of paragraph (1), a facility means all of the following:

(A) A state hospital, as defined in Section 4001.

(B) A general acute care hospital, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, solely with regard to information pertaining to a ~~mentally disordered~~ person *with mental illness* subject to this section.

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

(D) A psychiatric health facility, as described in Section 1250.2 of the Health and Safety Code.

(E) A mental health rehabilitation center, as described in Section 5675.

(F) A skilled nursing facility with a special treatment program for ~~chronically mentally disordered patients~~ *individuals with mental illness*, as described in Sections 51335 and 72445 to 72475, inclusive, of Title 22 of the California Code of Regulations.

(u) Between persons who are trained and qualified to serve on multidisciplinary personnel teams pursuant to Section 15610.55, 15753.5, or 15761. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused elder or dependent adult pursuant to Chapter 13 (commencing with Section 15750) of Part 3 of Division 9.

(v) The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

(w) This section shall not be limited by Section 5150.05 or 5332.

(x) (1) When an employee is served with a notice of adverse action, as defined in Section 19570 of the Government Code, the following information and records may be released:

(A) All information and records that the appointing authority relied upon in issuing the notice of adverse action.

(B) All other information and records that are relevant to the adverse action, or that would constitute relevant evidence as defined in Section 210 of the Evidence Code.

(C) The information described in subparagraphs (A) and (B) may be released only if both of the following conditions are met:

(i) The appointing authority has provided written notice to the consumer and the consumer's legal representative or, if the consumer has no legal representative or if the legal representative is a state agency, to the clients' rights advocate, and the consumer, the consumer's legal representative, or the clients' rights advocate has not objected in writing to the appointing authority within five business days of receipt of the notice, or the appointing authority, upon review of the objection has determined that the circumstances on which the adverse action is based are egregious or threaten the

health, safety, or life of the consumer or other consumers and without the information the adverse action could not be taken.

(ii) The appointing authority, the person against whom the adverse action has been taken, and the person's representative, if any, have entered into a stipulation that does all of the following:

(I) Prohibits the parties from disclosing or using the information or records for any purpose other than the proceedings for which the information or records were requested or provided.

(II) Requires the employee and the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final except for the actual records and documents or copies thereof that are no longer in the possession of the employee or the employee's legal representative because they were submitted to the administrative tribunal as a component of an appeal from the adverse action.

(III) Requires the parties to submit the stipulation to the administrative tribunal with jurisdiction over the adverse action at the earliest possible opportunity.

(2) For the purposes of this subdivision, the State Personnel Board may, prior to any appeal from adverse action being filed with it, issue a protective order, upon application by the appointing authority, for the limited purpose of prohibiting the parties from disclosing or using information or records for any purpose other than the proceeding for which the information or records were requested or provided, and to require the employee or the employee's legal representative to return to the appointing authority all records provided to them under this subdivision, including, but not limited to, all records and documents from any source containing confidential information protected by this section, and all copies of those records and documents, within 10 days of the date that the adverse action becomes final, except for the actual records and documents or copies thereof that are no longer in the possession of the employee or the employee's legal representatives because they were submitted to the administrative tribunal as a component of an appeal from the adverse action.

(3) Individual identifiers, including, but not limited to, names, social security numbers, and hospital numbers, that are not necessary for the prosecution or defense of the adverse action, shall not be disclosed.

(4) All records, documents, or other materials containing confidential information protected by this section that have been submitted or otherwise disclosed to the administrative agency or other person as a component of an appeal from an adverse action shall, upon proper motion by the appointing authority to the administrative tribunal, be placed under administrative seal and shall not, thereafter, be subject to disclosure to any person or entity except upon the issuance of an order of a court of competent jurisdiction.

(5) For purposes of this subdivision, an adverse action becomes final when the employee fails to answer within the time specified in Section 19575 of the Government Code, or, after filing an answer, withdraws the appeal, or, upon exhaustion of the administrative appeal or of the judicial review remedies as otherwise provided by law.

(y) To the person appointed as the developmental services decisionmaker for a minor, dependent, or ward pursuant to Section 319, 361, or 726.

SEC. 95. Section 5348 of the Welfare and Institutions Code is amended to read:

5348. (a) For purposes of subdivision (e) of Section 5346, a county that chooses to provide assisted outpatient treatment services pursuant to this article shall offer assisted outpatient treatment services including, but not limited to, all of the following:

(1) Community-based, mobile, multidisciplinary, highly trained mental health teams that use high staff-to-client ratios of no more than 10 clients per team member for those subject to court-ordered services pursuant to Section 5346.

(2) A service planning and delivery process that includes the following:

(A) Determination of the numbers of persons to be served and the programs and services that will be provided to meet their needs. The local director of mental health shall consult with the sheriff, the police chief, the probation officer, the mental health board, contract agencies, and family, client, ethnic, and citizen constituency groups as determined by the director.

(B) Plans for services, including outreach to families whose severely mentally ill adult is living with them, design of mental health services, coordination and access to medications, psychiatric and psychological services, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and veterans' services. Plans shall also contain evaluation strategies, which shall consider cultural, linguistic, gender, age, and special needs of minorities and those based on any characteristic listed or defined in Section 11135 of the Government Code in the target populations. Provision shall be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services as a result of having limited-English-speaking ability and cultural differences. Recipients of outreach services may include families, the public, primary care physicians, and others who are likely to come into contact with individuals who may be suffering from an untreated severe mental illness who would be likely to become homeless if the illness continued to be untreated for a substantial period of time. Outreach to adults may include adults voluntarily or involuntarily hospitalized as a result of a severe mental illness.

(C) Provision for services to meet the needs of persons who are physically disabled.

(D) Provision for services to meet the special needs of older adults.

(E) Provision for family support and consultation services, parenting support and consultation services, and peer support or self-help group support, where appropriate.

(F) Provision for services to be client-directed and that employ psychosocial rehabilitation and recovery principles.

(G) Provision for psychiatric and psychological services that are integrated with other services and for psychiatric and psychological collaboration in overall service planning.

(H) Provision for services specifically directed to seriously mentally ill young adults 25 years of age or younger who are homeless or at significant risk of becoming homeless. These provisions may include continuation of services that still would be received through other funds had eligibility not been terminated as a result of age.

(I) Services reflecting special needs of women from diverse cultural backgrounds, including supportive housing that accepts

children, personal services coordinator therapeutic treatment, and substance treatment programs that address gender-specific trauma and abuse in the lives of persons with mental illness, and vocational rehabilitation programs that offer job training programs free of gender bias and sensitive to the needs of women.

(J) Provision for housing for clients that is immediate, transitional, permanent, or all of these.

(K) Provision for clients who have been suffering from an untreated severe mental illness for less than one year, and who do not require the full range of services, but are at risk of becoming homeless unless a comprehensive individual and family support services plan is implemented. These clients shall be served in a manner that is designed to meet their needs.

(3) Each client shall have a clearly designated mental health personal services coordinator who may be part of a multidisciplinary treatment team who is responsible for providing or assuring needed services. Responsibilities include complete assessment of the client's needs, development of the client's personal services plan, linkage with all appropriate community services, monitoring of the quality and followthrough of services, and necessary advocacy to ensure each client receives those services that are agreed to in the personal services plan. Each client shall participate in the development of his or her personal services plan, and responsible staff shall consult with the designated conservator, if one has been appointed, and, with the consent of the client, shall consult with the family and other significant persons as appropriate.

(4) The individual personal services plan shall ensure that persons subject to assisted outpatient treatment programs receive age-appropriate, gender-appropriate, and culturally appropriate services, to the extent feasible, that are designed to enable recipients to:

(A) Live in the most independent, least restrictive housing feasible in the local community, and, for clients with children, to live in a supportive housing environment that strives for reunification with their children or assists clients in maintaining custody of their children as is appropriate.

(B) Engage in the highest level of work or productive activity appropriate to their abilities and experience.

(C) Create and maintain a support system consisting of friends, family, and participation in community activities.

(D) Access an appropriate level of academic education or vocational training.

(E) Obtain an adequate income.

(F) Self-manage their illnesses and exert as much control as possible over both the day-to-day and long-term decisions that affect their lives.

(G) Access necessary physical health care and maintain the best possible physical health.

(H) Reduce or eliminate serious antisocial or criminal behavior, and thereby reduce or eliminate their contact with the criminal justice system.

(I) Reduce or eliminate the distress caused by the symptoms of mental illness.

(J) Have freedom from dangerous addictive substances.

(5) The individual personal services plan shall describe the service array that meets the requirements of paragraph (4), and to the extent applicable to the individual, the requirements of paragraph (2).

(b) A county that provides assisted outpatient treatment services pursuant to this article also shall offer the same services on a voluntary basis.

(c) Involuntary medication shall not be allowed absent a separate order by the court pursuant to Sections 5332 to 5336, inclusive.

(d) A county that operates an assisted outpatient treatment program pursuant to this article shall provide data to the State Department of ~~Mental~~ Health *Care Services* and, based on the data, the department shall report to the Legislature on or before May 1 of each year in which the county provides services pursuant to this article. The report shall include, at a minimum, an evaluation of the effectiveness of the strategies employed by each program operated pursuant to this article in reducing homelessness and hospitalization of persons in the program and in reducing involvement with local law enforcement by persons in the program. The evaluation and report shall also include any other measures identified by the department regarding persons in the program and all of the following, based on information that is available:

(1) The number of persons served by the program and, of those, the number who are able to maintain housing and the number who maintain contact with the treatment system.

(2) The number of persons in the program with contacts with local law enforcement, and the extent to which local and state incarceration of persons in the program has been reduced or avoided.

(3) The number of persons in the program participating in employment services programs, including competitive employment.

(4) The days of hospitalization of persons in the program that have been reduced or avoided.

(5) Adherence to prescribed treatment by persons in the program.

(6) Other indicators of successful engagement, if any, by persons in the program.

(7) Victimization of persons in the program.

(8) Violent behavior of persons in the program.

(9) Substance abuse by persons in the program.

(10) Type, intensity, and frequency of treatment of persons in the program.

(11) Extent to which enforcement mechanisms are used by the program, when applicable.

(12) Social functioning of persons in the program.

(13) Skills in independent living of persons in the program.

(14) Satisfaction with program services both by those receiving them and by their families, when relevant.

SEC. 96. Section 5349 of the Welfare and Institutions Code is amended to read:

5349. This article shall be operative in those counties in which the county board of supervisors, by resolution, authorizes its application and makes a finding that no voluntary mental health program serving adults, and no children's mental health program, may be reduced as a result of the implementation of this article. Compliance with this section shall be monitored by the State Department of ~~Mental~~ Health *Care Services* as part of its review and approval of county ~~Short-Doyle plans~~ *performance contracts*.

SEC. 97. Section 5349.1 of the Welfare and Institutions Code is amended to read:

5349.1. (a) Counties that elect to implement this article, shall, in consultation with the ~~department~~ *State Department of Health Care Services*, client and family advocacy organizations, and other

stakeholders, develop a training and education program for purposes of improving the delivery of services to mentally ill individuals who are, or who are at risk of being, involuntarily committed under this part. This training shall be provided to mental health treatment providers contracting with participating counties and to other individuals, including, but not limited to, mental health professionals, law enforcement officials, and certification hearing officers involved in making treatment and involuntary commitment decisions.

(b) The training shall include both of the following:

(1) Information relative to legal requirements for detaining a person for involuntary inpatient and outpatient treatment, including criteria to be considered with respect to determining if a person is considered to be gravely disabled.

(2) Methods for ensuring that decisions regarding involuntary treatment as provided for in this part direct patients toward the most effective treatment. Training shall include an emphasis on each patient's right to provide informed consent to assistance.

SEC. 98. Section 5358 of the Welfare and Institutions Code is amended to read:

5358. (a) (1) When ordered by the court after the hearing required by this section, a conservator appointed pursuant to this chapter shall place his or her conservatee as follows:

(A) For a conservatee who is gravely disabled, as defined in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, in the least restrictive alternative placement, as designated by the court.

(B) For a conservatee who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, in a placement that achieves the purposes of treatment of the conservatee and protection of the public.

(2) The placement may include a medical, psychiatric, nursing, or other state-licensed facility, or a state hospital, county hospital, hospital operated by the Regents of the University of California, a United States government hospital, or other nonmedical facility approved by the State Department of ~~Mental Health~~ *Social Services* or an agency accredited by the State Department of ~~Mental~~ Health *Care Services*, or in addition to any of the foregoing, in cases of chronic alcoholism, to a county alcoholic treatment center.

(b) A conservator shall also have the right, if specified in the court order, to require his or her conservatee to receive treatment related specifically to remedying or preventing the recurrence of the conservatee's being gravely disabled, or to require his or her conservatee to receive routine medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled. Except in emergency cases in which the conservatee faces loss of life or serious bodily injury, no surgery shall be performed upon the conservatee without the conservatee's prior consent or a court order obtained pursuant to Section 5358.2 specifically authorizing that surgery.

(c) (1) For a conservatee who is gravely disabled, as defined in subparagraph (A) of paragraph (1) of subdivision (h) of Section 5008, if the conservatee is not to be placed in his or her own home or the home of a relative, first priority shall be to placement in a suitable facility as close as possible to his or her home or the home of a relative. For the purposes of this section, suitable facility means the least restrictive residential placement available and necessary to achieve the purpose of treatment. At the time that the court considers the report of the officer providing conservatorship investigation specified in Section 5356, the court shall consider available placement alternatives. After considering all the evidence the court shall determine the least restrictive and most appropriate alternative placement for the conservatee. The court shall also determine those persons to be notified of a change of placement. The fact that a person for whom conservatorship is recommended is not an inpatient shall not be construed by the court as an indication that the person does not meet the criteria of grave disability.

(2) For a conservatee who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, first priority shall be placement in a facility that achieves the purposes of treatment of the conservatee and protection of the public. The court shall determine the most appropriate placement for the conservatee. The court shall also determine those persons to be notified of a change of placement, and additionally require the conservator to notify the district attorney or attorney representing the originating county prior to any change of placement.

(3) For any conservatee, if requested, the local mental health director shall assist the conservator or the court in selecting a placement facility for the conservatee. When a conservatee who is receiving services from the local mental health program is placed, the conservator shall inform the local mental health director of the facility's location and any movement of the conservatee to another facility.

(d) (1) Except for a conservatee who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, the conservator may transfer his or her conservatee to a less restrictive alternative placement without a further hearing and court approval. In any case in which a conservator has reasonable cause to believe that his or her conservatee is in need of immediate more restrictive placement because the condition of the conservatee has so changed that the conservatee poses an immediate and substantial danger to himself or herself or others, the conservator shall have the right to place his or her conservatee in a more restrictive facility or hospital. Notwithstanding Section 5328, if the change of placement is to a placement more restrictive than the court-determined placement, the conservator shall provide written notice of the change of placement and the reason therefor to the court, the conservatee's attorney, the county patient's rights advocate and any other persons designated by the court pursuant to subdivision (c).

(2) For a conservatee who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, the conservator may not transfer his or her conservatee without providing written notice of the proposed change of placement and the reason therefor to the court, the conservatee's attorney, the county patient's rights advocate, the district attorney of the county that made the commitment, and any other persons designated by the court to receive notice. If any person designated to receive notice objects to the proposed transfer within 10 days after receiving notice, the matter shall be set for a further hearing and court approval. The notification and hearing is not required for the transfer of persons between state hospitals.

(3) At a hearing where the conservator is seeking placement to a less restrictive alternative placement pursuant to paragraph (2), the placement shall not be approved where it is determined by a

preponderance of the evidence that the placement poses a threat to the safety of the public, the conservatee, or any other individual.

(4) A hearing as to placement to a less restrictive alternative placement, whether requested pursuant to paragraph (2) or pursuant to Section 5358.3, shall be granted no more frequently than is provided for in Section 5358.3.

SEC. 99. Section 5366.1 of the Welfare and Institutions Code is amended to read:

5366.1. Any person detained as of June 30, 1969, under court commitment, in a private institution, a county psychiatric hospital, facility of the Veterans Administration, or other agency of the United States government, community mental health service, or detained in a state hospital or facility of the Veterans Administration upon application of a local health officer, pursuant to former Section 5567 or Sections 6000 to 6019, inclusive, as they read immediately preceding July 1, 1969, may be detained, after January 1, 1972, for a period no longer than 180 days, except as provided in this section.

Any person detained pursuant to this section on the effective date of this section shall be evaluated by the facility designated by the county and approved by the State Department of ~~Mental Health~~ *Social Services* pursuant to Section 5150 as a facility for 72-hour treatment and evaluation. ~~Such~~ *The* evaluation shall be made at the request of the person in charge of the institution in which the person is detained. If in the opinion of the professional person in charge of the evaluation and treatment facility or his *or her* designee, the evaluation of the person can be made by ~~such~~ *the* professional person or his *or her* designee at the institution in which the person is detained, the person shall not be required to be evaluated at the evaluation and treatment facility, but shall be evaluated at the institution where he *or she* is detained, or other place to determine if the person is a danger to others, himself *or herself*, or gravely disabled as a result of mental disorder.

Any person evaluated under this section shall be released from the institution in which he *or she* is detained immediately upon completion of the evaluation if in the opinion of the professional person in charge of the evaluation and treatment facility, or his *or her* designee, the person evaluated is not a danger to others, or to himself *or herself*, or gravely disabled as a result of mental

disorder, unless the person agrees voluntarily to remain in the institution in which he *or she* has been detained.

If in the opinion of the professional person in charge of the facility or his *or her* designee, the person evaluated requires intensive treatment or recommendation for conservatorship, ~~such~~ *the* professional person or his *or her* designee shall proceed under Article 4 (commencing with Section 5250) of Chapter 2, or under Chapter 3 (commencing with Section 5350), of Part 1 of Division 5.

If it is determined from the evaluation that the person is gravely disabled and a recommendation for conservatorship is made, and if the petition for conservatorship for ~~such~~ *the* person is not filed by June 30, 1972, the court commitment or detention under a local health officer application for ~~such~~ *the* person shall terminate and the patient shall be released unless he *or she* agrees to accept treatment on a voluntary basis.

SEC. 100. Section 5370.2 of the Welfare and Institutions Code is amended to read:

5370.2. (a) ~~Beginning January 1, 1996, the~~ *The* State Department of ~~Mental Health~~ *State Hospitals and the State Department of Health Care Services* shall contract with a single nonprofit agency that meets the criteria specified in subdivision (b) of Section 5510 to conduct the ~~following~~ activities *specified in paragraphs (1) to (4), inclusive. These two state departments shall enter into a memorandum of understanding to ensure the effective management of the contract and the required activities affecting county patients' rights programs*:

(1) Provide patients' rights advocacy services for, and conduct investigations of alleged or suspected abuse and neglect of, including deaths of, persons with mental disabilities residing in state hospitals.

(2) Investigate and take action as appropriate and necessary to resolve complaints from or concerning recipients of mental health services residing in licensed health or community care facilities regarding abuse, and unreasonable denial, or punitive withholding of rights guaranteed under this division that cannot be resolved by county patients' rights advocates.

(3) Provide consultation, technical assistance, and support to county patients' rights advocates in accordance with their duties under Section 5520.

(4) Conduct program review of patients' rights programs.

(b) The services shall be provided in coordination with the appropriate mental health patients' rights advocates.

(c) (1) The contractor shall develop a plan to provide patients' rights advocacy services for, and conduct investigations of alleged or suspected abuse and neglect of, including the deaths of, persons with mental disabilities residing in state hospitals.

(2) The contractor shall develop the plan in consultation with the statewide organization of mental health patients' rights advocates, the statewide organization of mental health clients, and the statewide organization of family members of persons with mental disabilities, and the statewide organization of county mental health directors.

(3) In order to ensure that persons with mental disabilities have access to high quality advocacy services, the contractor shall establish a grievance procedure and shall advise persons receiving services under the contract of the availability of other advocacy services, including services provided by the protection and advocacy agency specified in Section 4901 and the county patients' rights advocates specified in Section 5520.

(d) Nothing contained in this section shall be construed to restrict or limit the authority of the department to conduct the reviews and investigations it deems necessary for personnel, criminal, and litigation purposes.

(e) The State Department of ~~Mental Health~~ *State Hospitals and the State Department of Health Care Services* shall *jointly* contract on a multiyear basis for a contract term of up to five years.

SEC. 101. Section 5400 of the Welfare and Institutions Code is amended to read:

5400. The Director of ~~Mental~~ Health *Care Services* shall administer this part and shall adopt rules, regulations, and standards as necessary. In developing rules, regulations, and standards, the Director of ~~Mental~~ Health *Care Services* shall consult with the California ~~Conference of Local~~ Mental Health Directors *Association*, the California ~~Council on~~ Mental Health *Planning Council*, and the office of the Attorney General. Adoption of ~~such~~ *these* standards, rules, and regulations shall require approval by the California ~~Conference of Local~~ Mental Health Directors *Association* by majority vote of those present at an official session.

Wherever feasible and appropriate, rules, regulations, and standards adopted under this part shall correspond to comparable rules, regulations, and standards adopted under the ~~Short-Doyle~~ *Bronzan-McCorquodale* Act. ~~Such~~ *These* corresponding rules, regulations, and standards shall include qualifications for professional personnel.

Regulations adopted pursuant to this part may provide standards for services for chronic alcoholics which differ from the standards for services for the mentally disordered.

SEC. 102. Section 5402 of the Welfare and Institutions Code is amended to read:

5402. (a) The State Department of ~~Mental~~ Health *Care Services* shall collect and publish annually quantitative information concerning the operation of this division including the number of persons admitted for 72-hour evaluation and treatment, 14-day and 30-day periods of intensive treatment, and 180-day postcertification intensive treatment, the number of persons transferred to mental health facilities pursuant to Section 4011.6 of the Penal Code, the number of persons for whom temporary conservatorships are established, and the number of persons for whom conservatorships are established in each county.

(b) Each local mental health director, and each facility providing services to persons pursuant to this division, shall provide the department, upon its request, with any information, records, and reports which the department deems necessary for the purposes of this section. The department shall not have access to any patient name identifiers.

(c) Information published pursuant to this section shall not contain patient name identifiers and shall contain statistical data only.

(d) The department shall make the reports available to medical, legal, and other professional groups involved in the implementation of this division.

SEC. 103. Section 5404 of the Welfare and Institutions Code is amended to read:

5404. *(a)* Each county may designate facilities, which are not hospitals or clinics, as 72-hour evaluation and treatment facilities and as 14-day intensive treatment facilities if ~~such~~ *the* facilities meet ~~such~~ *those* requirements as the Director of ~~Mental Health~~ *Social Services* shall establish by regulation. The Director of

~~Mental Health~~ *Social Services* shall encourage the use by counties of appropriate facilities, which are not hospitals or clinics, for the evaluation and treatment of patients pursuant to this part.

(b) All regulations relating to the approval of facilities designated by the county for 72-hour treatment and evaluation and 14-day intensive treatment facilities, heretofore adopted by the State Department of Mental Health, shall remain in effect and shall be fully enforceable by the State Department of Social Services with respect to any facility or program required to be approved as a facility for 72-hour treatment and evaluation and 14-day intensive treatment facilities, unless and until readopted, amended, or repealed by the Director of Social Services. The State Department of Social Services shall succeed to and be vested with all duties, powers, purposes, functions, responsibilities, and jurisdiction of the State Department of Mental Health as they relate to approval of facilities for 72-hour treatment and evaluation and 14-day intensive treatment facilities.

SEC. 104. Section 5405 of the Welfare and Institutions Code is amended to read:

5405. (a) This section shall apply to each facility licensed by the State ~~Department of Mental Health~~ *Department of Social Services*, or its delegated agent, on or after January 1, 2003. For purposes of this section, "facility" ~~includes~~ *means* psychiatric health facilities, as defined in Section 1250.2 of the Health and Safety Code, licensed pursuant to Chapter 9 (commencing with Section 77001) of Division 5 of Title 22 of the California Code of Regulations and mental health rehabilitation centers licensed pursuant to Chapter 3.5 (commencing with Section 781.00) of Division 1 of Title 9 of the California Code of Regulations.

(b) (1) (A) Prior to the initial licensure or first renewal of a license on or after January 1, 2003, of any person to operate or manage a facility specified in subdivision (a), the department shall submit fingerprint images and related information pertaining to the applicant or licensee to the Department of Justice for purposes of a criminal record check, as specified in paragraph (2), at the expense of the applicant or licensee. The Department of Justice shall provide the results of the criminal record check to the department. The department may take into consideration information obtained from or provided by other government agencies. The department shall determine whether the applicant

or licensee has ever been convicted of a crime specified in subdivision (c). The department shall submit fingerprint images and related information each time the position of administrator, manager, program director, or fiscal officer of a facility is filled and prior to actual employment for initial licensure or an individual who is initially hired on or after January 1, 2003. For purposes of this subdivision, "applicant" and "licensee" include the administrator, manager, program director, or fiscal officer of a facility.

(B) Commencing ~~January 1, 2003~~ *July 1, 2012*, upon the employment of, or contract with or for, any direct care staff the ~~department~~ *State Department of Social Services* shall submit fingerprint images and related information pertaining to the direct care staff person to the Department of Justice for purposes of a criminal record check, as specified in paragraph (2), at the expense of the direct care staff person or licensee. The Department of Justice shall provide the results of the criminal record check to the department. The department shall determine whether the direct care staff person has ever been convicted of a crime specified in subdivision (c). The department shall notify the licensee of these results. No direct client contact by the trainee or newly hired staff, or by any direct care contractor shall occur prior to clearance by the department unless the trainee, newly hired employee, contractor, or employee of the contractor is constantly supervised.

(C) Commencing ~~January 1, 2003~~ *July 1, 2012*, any contract for services provided directly to patients or residents shall contain provisions to ensure that the direct services contractor submits to the ~~department~~ *State Department of Social Services* fingerprint images and related information pertaining to the direct services contractor for submission to the Department of Justice for purposes of a criminal record check, as specified in paragraph (2), at the expense of the direct services contractor or licensee. The Department of Justice shall provide the results of the criminal record check to the department. The department shall determine whether the direct services contractor has ever been convicted of a crime specified in subdivision (c). The department shall notify the licensee of these results.

(2) If the applicant, licensee, direct care staff person, or direct services contractor specified in paragraph (1) has resided in California for at least the previous seven years, the ~~department~~

State Department of Social Services shall only require the submission of one set of fingerprint images and related information. The Department of Justice shall charge a fee sufficient to cover the reasonable cost of processing the fingerprint submission. Fingerprints and related information submitted pursuant to this subdivision include fingerprint images captured and transmitted electronically. When requested, the Department of Justice shall forward one set of fingerprint images to the Federal Bureau of Investigation for the purpose of obtaining any record of previous convictions or arrests pending adjudication of the applicant, licensee, direct care staff person, or direct services contractor. The results of a criminal record check provided by the Department of Justice shall contain every conviction rendered against an applicant, licensee, direct care staff person, or direct services contractor, and every offense for which the applicant, licensee, direct care staff person, or direct services contractor is presently awaiting trial, whether the person is incarcerated or has been released on bail or on his or her own recognizance pending trial. The department shall request subsequent arrest notification from the Department of Justice pursuant to Section 11105.2 of the Penal Code.

(3) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of his or her knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against him or her by any federal, state, or local government agency and shall certify that, to the best of his or her knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of his or her application or exemption or revocation of any exemption previously granted.

(c) (1) ~~The department~~ *The State Department of Social Services* shall deny any application for any license, suspend or revoke any

existing license, and disapprove or revoke any employment or contract for direct services, if the applicant, licensee, employee, or direct services contractor has been convicted of, or incarcerated for, a felony defined in subdivision (c) of Section 667.5 of, or subdivision (c) of Section 1192.7 of, the Penal Code, within the preceding 10 years.

(2) The application for licensure or renewal of any license shall be denied, and any employment or contract to provide direct services shall be disapproved or revoked, if the criminal record of the person includes a conviction in another jurisdiction for an offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses referred to in paragraph (1).

(d) (1) ~~The department~~ *The State Department of Social Services* may approve an application for, or renewal of, a license, or continue any employment or contract for direct services, if the person has been convicted of a misdemeanor offense that is not a crime upon the person of another, the nature of which has no bearing upon the duties for which the person will perform as a licensee, direct care staff person, or direct services contractor. In determining whether to approve the application, employment, or contract for direct services, the department shall take into consideration the factors enumerated in paragraph (2).

(2) Notwithstanding subdivision (c), if the criminal record of a person indicates any conviction other than a minor traffic violation, the ~~department~~ *State Department of Social Services* may deny the application for license or renewal, and may disapprove or revoke any employment or contract for direct services. In determining whether or not to deny the application for licensure or renewal, or to disapprove or revoke any employment or contract for direct services, the department shall take into consideration the following factors:

(A) The nature and seriousness of the offense under consideration and its relationship to the person's employment, duties, and responsibilities.

(B) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.

(C) The time that has elapsed since the commission of the conduct or offense and the number of offenses.

(D) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(E) Any rehabilitation evidence, including character references, submitted by the person.

(F) Employment history and current employer recommendations.

(G) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.

(H) The granting by the Governor of a full and unconditional pardon.

(I) A certificate of rehabilitation from a superior court.

(e) Denial, suspension, or revocation of a license, or disapproval or revocation of any employment or contract for direct services specified in subdivision (c) and paragraph (2) of subdivision (d) are not subject to appeal, except as provided in subdivision (f).

(f) After a review of the record, the director may grant an exemption from denial, suspension, or revocation of any license, or disapproval of any employment or contract for direct services, if the crime for which the person was convicted was a property crime that did not involve injury to any person and the director has substantial and convincing evidence to support a reasonable belief that the person is of such good character as to justify issuance or renewal of the license or approval of the employment or contract.

(g) A plea or verdict of guilty, or a conviction following a plea of nolo contendere shall be deemed a conviction within the meaning of this section. The ~~department~~ *State Department of Social Services* may deny any application, or deny, suspend, or revoke a license, or disapprove or revoke any employment or contract for direct services based on a conviction specified in subdivision (c) when the judgment of conviction is entered or when an order granting probation is made suspending the imposition of sentence.

(h) (1) For purposes of this section, "direct care staff" means any person who is an employee, contractor, or volunteer who has contact with other patients or residents in the provision of services. Administrative and licensed personnel shall be considered direct care staff when directly providing program services to participants.

(2) An additional background check shall not be required pursuant to this section if the direct care staff or licensee has received a prior criminal history background check while working in a mental health rehabilitation center or psychiatric health facility

licensed by the ~~department~~ *State Department of Social Services,* and provided the department has maintained continuous subsequent arrest notification on the individual from the Department of Justice since the prior criminal background check was initiated.

(3) When an application is denied on the basis of a conviction pursuant to this section, the ~~department~~ *State Department of Social Services* shall provide the individual whose application was denied with notice, in writing, of the specific grounds for the proposed denial.

SEC. 105. The heading of Article 2 (commencing with Section 5510) of Chapter 6.2 of Part 1 of Division 5 of the Welfare and Institutions Code is amended to read:

Article 2. Patients' Rights ~~Office~~ *Program*

SEC. 106. Section 5510 of the Welfare and Institutions Code is amended to read:

5510. (a) The Legislature finds and declares as follows:

(1) The State of California accepts its responsibility to ensure and uphold the right of persons with mental disabilities and an obligation, to be executed by the State Department of ~~Mental Health~~ *State Hospitals and the State Department of Health Care Services,* to ensure that mental health laws, regulations and policies on the rights of recipients of mental health services are observed and protected in state hospitals and in licensed health and community care facilities.

(2) Persons with mental ~~disabilities~~ *illness* are vulnerable to abuse, neglect, and unreasonable and unlawful deprivations of their rights.

(3) Patients' rights advocacy and investigative services concerning patient abuse and neglect ~~currently~~ *previously* provided by the *State Department of Mental Health, including the Office of Human Rights and investigator, and state hospitals' patients' rights advocates and state hospital investigators and transferred to the State Department of Health Care Services and the* State Department of ~~Mental Health, including the department's Office of Human Rights and investigator, and state hospital patients' rights advocates and state hospital investigators~~ *State Hospitals,* may have *had or have* conflicts of interest or the appearance of a conflict of interest.

(4) The services provided to patients and their families ~~is~~ *are* of such a special and unique nature that they must be contracted out pursuant to paragraph (3) of subdivision (b) of Section 19130 of the Government Code.

(b) Therefore, to avoid the potential for a conflict of interest or the appearance of a conflict of interest, it is the intent of the Legislature that the patients' rights advocacy and investigative services described in this article be provided by a single contractor specified in Section 5370.2 that meets both of the following criteria:

(1) The contractor can demonstrate the capability to provide statewide advocacy services for persons with mental disabilities.

(2) The contractor has no direct or indirect responsibility for providing services to persons with mental disabilities, except advocacy services.

(c) For the purposes of this article, the Legislature further finds and declares, because of a potential conflict of interest or the appearance of a conflict of interest, that the goals and purposes of the state patients' rights advocacy and investigative services cannot be accomplished through the utilization of persons selected pursuant to the regular state civil service system. Accordingly, the contracts into which the department enters pursuant to this section are permitted and authorized by paragraphs (3) and (5) of subdivision (b) of Section 19130 of the Government Code. ~~The~~

(d) The State Department of ~~Mental Health~~ *State Hospitals and the State Department of Health Care Services* shall contract with a single nonprofit entity to provide for the protection and advocacy services to persons with mental disabilities*, as specified in Section 5370.2. The State Department of Health Care Services and the State Department of State Hospitals shall enter into a memorandum of understanding to ensure the effective management of the contract and the required activities affecting county patients' rights programs*. The entity shall be responsible for ensuring that mental health laws, regulations, and policies on the rights of recipients of mental health services are observed in state hospitals and in licensed health and community care facilities.

~~(d)~~

(e) The findings and declarations of potential conflict of interest provided in this section shall not apply to advocacy services provided under Article 3 (commencing with Section 5520).

SEC. 107. Section 5513 of the Welfare and Institutions Code is amended to read:

5513. The ~~Patients' Rights Office~~ *patients' rights program* shall serve as a liaison between county patients' rights advocates and the State Department of ~~Mental~~ Health *Care Services*.

SEC. 108. Section 5514 of the Welfare and Institutions Code is amended to read:

5514. There shall be a five-person Patients' Rights ~~Subcommittee of the California Council on Mental Health~~ *Committee formed through the California Mental Health Planning Council*. This ~~subcommittee~~ *committee*, supplemented by two ad hoc members appointed by the chairperson of the ~~subcommittee~~ *committee*, shall advise the Director of ~~Mental~~ Health *Care Services and the Director of State Hospitals* regarding department policies and practices that affect patients' rights. The ~~subcommittee~~ *committee* shall also review the advocacy and patients' rights components of each county ~~Short-Doyle~~ *mental health* plan *or performance contract* and advise the Director of ~~Mental~~ Health *Care Services and the Director of State Hospitals* concerning the adequacy of each plan *or performance contract* in protecting patients' rights. The ad hoc members of the ~~subcommittee~~ *committee* shall be persons with substantial experience in establishing and providing independent advocacy services to recipients of mental health services.

SEC. 109. Section 5520 of the Welfare and Institutions Code is amended to read:

5520. Each local mental health director shall appoint, or contract for the services of, one or more county patients' rights advocates. The duties of these advocates shall include, but not be limited to, the following:

(a) To receive and investigate complaints from or concerning recipients of mental health services residing in licensed health or community care facilities regarding abuse, unreasonable denial or punitive withholding of rights guaranteed under the provisions of Division 5 (commencing with Section 5000).

(b) To monitor mental health facilities, services and programs for compliance with statutory and regulatory patients' rights provisions.

(c) To provide training and education about mental health law and patients' rights to mental health providers.

(d) To ensure that recipients of mental health services in all licensed health and community care facilities are notified of their rights.

(e) To exchange information and cooperate with the ~~Patients' Rights Office~~ *patients' rights program*.

This section does not constitute a change in, but is declarative of the existing law.

SEC. 110. Section 5530 of the Welfare and Institutions Code is amended to read:

5530. (a) County patients' rights advocates shall have access to all clients and other recipients of mental health services in any mental health facility, program, or service at all times as are necessary to investigate or resolve specific complaints and in accord with subdivision (b) of Section 5523. County patients' rights advocates shall have access to mental health facilities, programs, and services, and recipients of services therein during normal working hours and visiting hours for other advocacy purposes. Advocates may appeal any denial of access directly to the head of any facility, the director of a county mental health program, or the State Department of ~~Mental~~ Health *Care Services*, or may seek appropriate relief in the courts. If a petition to a court sets forth prima facie evidence for relief, a hearing on the merits of the petition shall be held within two judicial days of the filing of the petition. The superior court for the county in which the facility is located shall have jurisdiction to review petitions filed pursuant to this chapter.

(b) County patients' rights advocates shall have the right to interview all persons providing the client with diagnostic or treatment services.

(c) Upon request, all mental health facilities shall, when available, provide reasonable space for county patients' rights advocates to interview clients in privacy and shall make appropriate staff persons available for interview with the advocates in connection with pending matters.

(d) Individual patients shall have a right to privacy which shall include the right to terminate any visit by persons who have access pursuant to this chapter and the right to refuse to see any patient advocate.

(e) Notice of the availability of advocacy services and information about patients' rights may be provided by county

patients' rights advocates by means of distribution of educational materials and discussions in groups and with individual patients.

SEC. 111. Section 5585.21 of the Welfare and Institutions Code is amended to read:

5585.21. The Director of ~~Mental Health~~ *Social Services* may promulgate regulations as necessary to implement and clarify the provisions of this part as they relate to minors.

SEC. 112. Section 5585.22 of the Welfare and Institutions Code is amended to read:

5585.22. The Director of ~~Mental Health~~ *Health Care Services*, in consultation with the California ~~Conference of Local~~ Mental Health Directors *Association*, may develop the appropriate educational materials and a training curriculum, and may provide training as necessary to ~~assure~~ *ensure that* those persons providing services pursuant to this part fully understand its purpose.

SEC. 113. Section 5585.50 of the Welfare and Institutions Code is amended to read:

5585.50. When any minor, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled and authorization for voluntary treatment is not available, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the minor into custody and place him or her in a facility designated by the county and approved by the State Department of ~~Mental Health~~ *Social Services* as a facility for ~~seventy-two hour~~ *72-hour* treatment and evaluation of minors. The facility shall make every effort to notify the minor's parent or legal guardian as soon as possible after the minor is detained.

The facility shall require an application in writing stating the circumstances under which the minor's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the minor is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled and authorization for voluntary treatment is not available. If the probable cause is based on the statement of a person other than the officer, member of the

attending staff, or professional person, the person shall be liable in a civil action for intentionally giving a statement which he or she knows to be false.

SEC. 114. Section 5585.55 of the Welfare and Institutions Code is amended to read:

5585.55. The minor committed for involuntary treatment under this part shall be placed in a health facility designated by the county and approved by the State Department of ~~Mental Health~~ *Social Services* as a facility for 72-hour evaluation and treatment. Except as provided for in Section 5751.7, each county shall ~~assure~~ *ensure* that minors under ~~the age of~~ 16 years *of age* are not held with adults receiving psychiatric treatment under the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

SEC. 115. Section 5600.8 of the Welfare and Institutions Code is repealed.

~~5600.8. (a) The department may allocate the funds appropriated in Schedule (2) of Item 4440-101-0001 of the annual Budget Act, to county mental health programs that meet programmatic goals and model adult system of care programs to the satisfaction of the department. The department shall audit and monitor the use of these funds to ensure they are used solely in support of Adult System of Care programming. If county programs receiving adult system of care funding do not comply with program and audit requirements determined by the department, funding shall be redistributed to other counties to implement, expand, or model adult systems of care.~~

~~(b) The department may allocate the funds appropriated in Schedule (3) of Item 4440-101-0001 of the annual Budget Act, to county mental health programs for Children's System of Care programming. These funds shall be utilized by counties only in support of a mental health system serving seriously emotionally disturbed children, in accordance with the principles and program requirements associated with the system of care model, as set forth in Part 4 (commencing with Section 5850). The department shall audit and monitor the use of these funds to ensure they are used solely in support of the Children's System of Care program. If county programs receiving children's system of care funding do not comply with program and audit requirements determined by the department, funds shall be redistributed to other counties to~~

~~implement, expand, or model children's system of care programming.~~

SEC. 116. Section 5601 of the Welfare and Institutions Code is amended to read:

5601. As used in this part:

(a) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly; and in the case of a city, the city council or city councils acting jointly.

(b) "Conference" means the California ~~Conference of Local~~ Mental Health Directors *Association* as established under *former* Section 5757.

(c) Unless the context requires otherwise, "to the extent resources are available" means to the extent that funds deposited in the mental health account of the local health and welfare fund are available to an entity qualified to use those funds.

(d) "Part 1" refers to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

(e) "Director of ~~Mental Health"~~ *Health Care Services"* or "director" means the Director of the State Department of ~~Mental~~ Health *Care Services*.

(f) "Institution" includes a general acute care hospital, a state hospital, a psychiatric hospital, a psychiatric health facility, a skilled nursing facility, including an institution for mental disease as described in Chapter 1 (commencing with Section 5900) of Part 5, an intermediate care facility, a community care facility or other residential treatment facility, or a juvenile or criminal justice institution.

(g) "Mental health service" means any service directed toward early intervention in, or alleviation or prevention of, mental disorder, including, but not limited to, diagnosis, evaluation, treatment, personal care, day care, respite care, special living arrangements, community skill training, sheltered employment, socialization, case management, transportation, information, referral, consultation, and community services.

SEC. 117. Section 5602 of the Welfare and Institutions Code is amended to read:

5602. The board of supervisors of every county, or the boards of supervisors of counties acting under the joint powers provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code shall establish a

community mental health service to cover the entire area of the county or counties. Services of the State Department of ~~Mental~~ Health *Care Services* shall be provided to the county, or counties acting jointly, or, if both parties agree, the state facilities may, in whole or in part, be leased, rented or sold to the county or counties for county operation, subject to terms and conditions approved by the Director of General Services.

SEC. 118. Section 5604 of the Welfare and Institutions Code is amended to read:

5604. (a) (1) Each community mental health service shall have a mental health board consisting of 10 to 15 members, depending on the preference of the county, appointed by the governing body, except that boards in counties with a population of less than 80,000 may have a minimum of five members. One member of the board shall be a member of the local governing body. Any county with more than five supervisors shall have at least the same number of members as the size of its board of supervisors. Nothing in this section shall be construed to limit the ability of the governing body to increase the number of members above 15. Local mental health boards may recommend appointees to the county supervisors. Counties are encouraged to appoint individuals who have experience and knowledge of the mental health system. The board membership should reflect the ethnic diversity of the client population in the county.

(2) Fifty percent of the board membership shall be consumers or the parents, spouses, siblings, or adult children of consumers, who are receiving or have received mental health services. At least 20 percent of the total membership shall be consumers, and at least 20 percent shall be families of consumers.

(3) (A) In counties under 80,000 population, at least one member shall be a consumer, and at least one member shall be a parent, spouse, sibling, or adult child of a consumer, who is receiving, or has received, mental health services.

(B) Notwithstanding subparagraph (A), a board in a county with a population under 80,000 that elects to have the board exceed the five-member minimum permitted under paragraph (1) shall be required to comply with paragraph (2).

(b) The term of each member of the board shall be for three years. The governing body shall equitably stagger the appointments

so that approximately one-third of the appointments expire in each year.

(c) If two or more local agencies jointly establish a community mental health service under Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the mental health board for the community mental health service shall consist of an additional two members for each additional agency, one of whom shall be a consumer or a parent, spouse, sibling, or adult child of a consumer who has received mental health services.

(d) No member of the board or his or her spouse shall be a full-time or part-time county employee of a county mental health service, an employee of the State Department of ~~Mental~~ Health *Care Services*, or an employee of, or a paid member of the governing body of, a mental health contract agency.

(e) Members of the board shall abstain from voting on any issue in which the member has a financial interest as defined in Section 87103 of the Government Code.

(f) If it is not possible to secure membership as specified from among persons who reside in the county, the governing body may substitute representatives of the public interest in mental health who are not full-time or part-time employees of the county mental health service, the State Department of ~~Mental~~ Health *Care Services*, or on the staff of, or a paid member of the governing body of, a mental health contract agency.

(g) The mental health board may be established as an advisory board or a commission, depending on the preference of the county.

SEC. 119. Section 5607 of the Welfare and Institutions Code is amended to read:

5607. The local mental health services shall be administered by a local director of mental health services to be appointed by the governing body. He *or she* shall meet such standards of training and experience as the State Department of ~~Mental~~ Health *Care Services*, by regulation, shall require. Applicants for ~~such~~ *these* positions need not be residents of the city, county, or state, and may be employed on a full or part-time basis. If a county is unable to secure the services of a person who meets the standards of the State Department of ~~Mental~~ Health *Care Services*, the county may select an alternate administrator ~~subject to the approval of the Director of Mental Health~~.

SEC. 120. Section 5610 of the Welfare and Institutions Code is amended to read:

5610. (a) Each county mental health system shall comply with reporting requirements developed by the State Department of ~~Mental~~ Health *Care Services, in consultation with the California Mental Health Planning Council and the Mental Health Services Oversight and Accountability Commission,* which shall be uniform and simplified. The department shall review existing data requirements to eliminate unnecessary requirements and consolidate requirements which are necessary. These requirements shall provide comparability between counties in reports.

(b) The department shall develop, in consultation with the Performance Outcome Committee*, the California Mental Health Planning Council, and the Mental Health Services Oversight and Accountability Commission,* pursuant to Section 5611, and with the *California* Health and ~~Welfare~~ *Human Services* Agency, uniform definitions and formats for a statewide, nonduplicative client-based information system that includes all information necessary to meet federal mental health grant requirements and state and federal ~~medicaid~~ *Medicaid* reporting requirements, as well as any other state requirements established by law. The data system, including performance outcome measures reported pursuant to Section 5613, shall be developed by July 1, 1992.

(c) Unless determined necessary by the department to comply with federal law and regulations, the data system developed pursuant to subdivision (b) shall not be more costly than that in place during the 1990–91 fiscal year.

(d) (1) The department shall develop unique client identifiers that permit development of client-specific cost and outcome measures and related research and analysis.

(2) The department's collection and use of client information, and the development and use of client identifiers, shall be consistent with clients' constitutional and statutory rights to privacy and confidentiality.

(3) Data reported to the department may include name and other personal identifiers. That information is confidential and subject to Section 5328 and any other state and federal laws regarding confidential client information.

(4) Personal client identifiers reported to the department shall be protected to ensure confidentiality during transmission and storage through encryption and other appropriate means.

(5) Information reported to the department may be shared with local public mental health agencies submitting records for the same person and that information is subject to Section 5328.

(e) All client information reported to the department pursuant to Chapter 2 (commencing with Section 4030) of Part 1 of Division 4 and Sections 5328 to ~~5780~~ *5772.5*, inclusive, *Chapter 8.9 (commencing with Section 14700)*, and any other state and federal laws regarding reporting requirements, consistent with Section 5328, shall not be used for purposes other than those purposes expressly stated in the reporting requirements referred to in this subdivision.

(f) The department may adopt emergency regulations to implement this section in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of emergency regulations to implement this section that are filed with the Office of Administrative Law within one year of the date on which the act that added this subdivision took effect shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare and shall remain in effect for no more than 180 days.

SEC. 121. Section 5650 of the Welfare and Institutions Code is amended to read:

5650. (a) The board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of ~~Mental Health~~ *Health Care Services* in the form and according to the procedures specified by the director, a proposed annual county mental health services performance contract for mental health services in the county or counties.

(b) The State Department of ~~Mental Health~~ *Health Care Services* shall develop and implement the requirements, format, procedure, and submission dates for the preparation and submission of the proposed performance contract.

SEC. 122. Section 5651 of the Welfare and Institutions Code is amended to read:

5651. The proposed annual county mental health services performance contract shall include all of the following:

(a) The following assurances:

(1) That the county is in compliance with the expenditure requirements of Section 17608.05.

(2) That the county shall provide services to persons receiving involuntary treatment as required by Part 1 (commencing with Section 5000) and Part 1.5 (commencing with Section 5585).

(3) That the county shall comply with all requirements necessary for Medi-Cal reimbursement for mental health treatment services and case management programs provided to Medi-Cal eligible individuals, including, but not limited to, the provisions set forth in Chapter 3 (commencing with Section 5700), and that the county shall submit cost reports and other data to the department in the form and manner determined by the ~~department~~ *State Department of Health Care Services*.

(4) That the local mental health advisory board has reviewed and approved procedures ensuring citizen and professional involvement at all stages of the planning process pursuant to Section 5604.2.

(5) That the county shall comply with all provisions and requirements in law pertaining to patient rights.

(6) That the county shall comply with all requirements in federal law and regulation pertaining to federally funded mental health programs.

(7) That the county shall provide all data and information set forth in Sections 5610 and 5664.

(8) That the county, if it elects to provide the services described in Chapter 2.5 (commencing with Section 5670), shall comply with guidelines established for program initiatives outlined in that chapter.

(9) Assurances that the county shall comply with all applicable laws and regulations for all services delivered, *including all laws, regulations, and guidelines of the Mental Health Services Act*.

~~(b) The county's proposed agreement with the department for state hospital usage as required by Chapter 4 (commencing with Section 4330) of Part 2 of Division 4.~~

~~(c)~~

(b) Any contractual requirements needed for any program initiatives utilized by the county contained within this part. In

addition, any county may choose to include contract provisions for other state directed mental health managed programs within this performance contract.

(c) The State Department of Health Care Services' ability to monitor the county's three-year program and expenditure plan and annual update pursuant to Section 5847.

(d) Other information determined to be necessary by the director, to the extent this requirement does not substantially increase county costs.

SEC. 123. Section 5652.7 of the Welfare and Institutions Code is amended to read:

5652.7. A county shall have only 60 days from the date of submission of an application to review and certify or deny an application to establish a new mental health care provider. If an application requires review by the State Department of Health *Care* Services, the department shall also have only 60 days from the date of submission of the application to review and certify or deny an application to establish a new mental health care provider.

SEC. 124. Section 5653 of the Welfare and Institutions Code is amended to read:

5653. ~~In developing the county Short-Doyle plan, optimum~~ *Optimum* use shall be made of appropriate local public and private organizations, community professional personnel, and state agencies. Optimum use shall also be made of federal, state, county, and private funds which may be available for mental health planning.

In order that maximum utilization be made of federal and other funds made available to the Department of Rehabilitation, the Department of Rehabilitation may serve as a contractual provider under the provisions of a county ~~Short-Doyle~~ plan of vocational rehabilitation services for the mentally disordered.

SEC. 125. Section 5653.1 of the Welfare and Institutions Code is amended to read:

5653.1. In conducting evaluation, planning, and research activities ~~to develop and implement the county Short-Doyle plan, counties~~, *counties* may contract with public or private agencies.

SEC. 126. Section 5654 of the Welfare and Institutions Code is amended to read:

5654. In order to serve the increasing needs of children and adolescents with mental and emotional problems, county mental

health programs may use funds ~~allocated under the Short-Doyle Act~~ for the purposes of consultation and training.

SEC. 127. Section 5655 of the Welfare and Institutions Code is amended to read:

5655. All departments of state government and all local public agencies shall cooperate with county officials to assist them in mental health planning. The State Department of ~~Mental~~ Health *Care Services* shall, upon request and with available staff, provide consultation services to the local mental health directors, local governing bodies, and local mental health advisory boards.

If the Director of ~~Mental~~ Health *Care Services* considers any county to be failing, in a substantial manner, to comply with any provision of this code or any regulation, ~~or with the approved county Short-Doyle plan,~~ the director shall order the county to appear at a hearing, before the director or the director's designee, to show cause why the department should not take action as set forth in this section. The county shall be given at least 20 days' notice of ~~such~~ *the* hearing. The director shall consider the case on the record established at the hearing and make final findings and decision.

If the director determines that there is or has been a failure, in a substantial manner, on the part of the county to comply with any provision of this code or any regulations ~~or the approved county Short-Doyle plan~~, and that administrative sanctions are necessary, the department may invoke any, or any combination of, the following sanctions:

(a) Withhold part or all of state mental health funds from ~~such~~ *the* county.

(b) Require the county to enter into negotiations for the purpose of ~~assuring~~ *ensuring* county ~~Short-Doyle plan~~ compliance with ~~such~~ *those* laws and regulations.

(c) Bring an action in mandamus or ~~such~~ *any* other action in court as may be appropriate to compel compliance. Any ~~such~~ action *filed in accordance with this section* shall be entitled to a preference in setting a date for a hearing.

SEC. 128. Section 5664 of the Welfare and Institutions Code is amended to read:

5664. ~~(a) County~~ *In consultation with the California Mental Health Directors Association, the State Department of Health Care Services, the Mental Health Services Oversight and Accountability*

Commission, the California Mental Health Planning Council, and the California Health and Human Services Agency, county mental health systems shall provide reports and data to meet the information needs of the state*, as necessary*.

~~(b) The department shall not implement this section in a manner requiring a higher level of service for state reporting needs than that which it was authorized to require prior to July 1, 1991.~~

SEC. 129. Section 5664.5 of the Welfare and Institutions Code is amended to read:

5664.5. (a) County mental health systems shall continue to provide data required by the State Department of ~~Mental~~ Health *Care Services* to establish uniform definitions and time increments for reporting type and cost of services received by local mental health program clients.

(b) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it is repealed; or until the date upon which the director informs the Legislature that the new data system is established pursuant to Section 5610, whichever is later, unless the provisions of the section are required by the federal government ~~as a condition of funding for the Short-Doyle Medi-Cal program~~.

SEC. 130. Section 5666 of the Welfare and Institutions Code is amended to read:

5666. (a) The Director of ~~Mental Health~~ *Health Care Services, or his or her designee,* shall review each proposed county mental health services performance contract to determine that it complies with the requirements of this division.

(b) The director *or his or her designee* shall require modifications in the proposed county mental health services performance contract which he or she deems necessary to bring the proposed contract into conformance with the requirements of this division.

(c) Upon approval by both parties, the provisions of the performance contract required by Section 5651 shall be deemed to be a contractual arrangement between the state and county.

SEC. 131. Section 5673 of the Welfare and Institutions Code is repealed.

~~5673. (a) A five-year pilot program is hereby authorized in Napa County and Riverside County to establish a 15-bed locked~~

~~facility in each county, for the provision of community care and treatment for mentally disordered persons who are placed in a state hospital or another health facility because no community placements are available to meet the needs of these patients. It is the intent of the Legislature to carefully evaluate this specific approach to determine its potential for replication in other limited jurisdictions. Participation in this pilot program by the two counties shall be on a voluntary basis. The pilot program shall be implemented notwithstanding the following licensure requirements enforced by the State Department of Social Services:~~

~~(1) Subdivision (a) of Section 1502 of the Health and Safety Code, which defines a community care facility as providing nonmedical care.~~

~~(2) Subdivision (a) of Section 1505 of the Health and Safety Code, which exempts any health facility, as defined by Section 1250 of the Health and Safety Code, from licensure under the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code).~~

~~(3) Section 1507 of the Health and Safety Code, which limits the provision of medical services in community care facilities to incidental medical services.~~

~~(4) Paragraph (5) of subdivision (a) of Section 80001 of Title 22 of the California Code of Regulations, which states that an adult residential facility provides nonmedical care.~~

~~(5) Paragraph (7) of subdivision (a) of Section 80072 of Title 22 of the California Code of Regulations, which relates to a client's right not to be locked in any room, building, or facility premises. However, for purposes of this section, a client shall not be locked in any room.~~

~~(b) Clients provided care within these pilot facilities shall be conservatees as defined by Section 5350 who, prior to the establishment of this program, either received care at a state hospital or were placed in facilities for the mentally disordered.~~

~~(c) Standards for services provided shall be developed by each county mental health director, in consultation with, and approved by, the State Department of Mental Health and monitored regularly by the department for compliance with these standards. These services shall be on a 24-hour basis in a therapeutic homelike environment. The services shall cover the full range of the social~~

~~rehabilitation model concept, including, but not limited to, the following:~~

~~(1) Counseling.~~

~~(2) Day treatment.~~

~~(3) Crisis intervention.~~

~~(4) Vocational training.~~

~~(5) Medication evaluation and management by a licensed physician and other licensed professional and paraprofessional staff who possess a valid license or certificate to perform this function.~~

~~(d) Administration of medication and monitoring of medication shall occur notwithstanding statutory and regulatory licensure requirements for community care facilities to the contrary. Standards for use of medications shall be developed and monitored by the State Department of Mental Health.~~

~~(e) The facilities shall be licensed and monitored by the State Department of Social Services and shall comply with all licensing requirements except those specifically exempted by this section. In addition, no less than 75 square feet of outdoor space per client shall be made available for client use. The State Department of Social Services shall conduct inspections of the facilities pursuant to Section 1533 of the Health and Safety Code and shall be given immediate access to the facilities.~~

~~(f) In staffing the pilot program, each county board of supervisors shall give full consideration to each potential means of implementation, including, but not limited to, the clinical, programmatic, and economic benefits and advantages of each alternative. The pilot program shall meet all of the staffing criteria of subdivision (b) of Section 5670.5. The staff shall use and document the actions of a multidisciplinary professional consultation staff to meet the specific diagnostic and treatment needs of clients. The staff shall include, but need not be limited to, a licensed psychiatrist, a psychologist, a social worker, and a psychiatric technician. The staff may also include a licensed vocational nurse. One or more of the following licensed professionals shall be present at the facility at all times:~~

~~(1) A psychiatrist or psychologist.~~

~~(2) A registered psychiatric nurse.~~

~~(3) A psychiatric technician.~~

~~(4) A licensed vocational nurse.~~

~~(g) Protocols and training shall be established for licensed vocational nurses employed by these facilities.~~

~~(h) The State Department of Mental Health shall certify the program content in each county and monitor the program's functions on a regular basis and the State Department of Social Services shall regularly evaluate the facilities in accord with its statutory and regulatory licensure functions, pursuant to subdivisions (d) and (e).~~

~~(i) The pilot program shall be deemed successful if it demonstrates both of the following:~~

~~(1) That costs of the program are no greater than public expenditures for providing alternative services to the clients served by the program.~~

~~(2) That the benefit to the clients, as described in subdivision (h), is improved by the program.~~

~~(j) Commencement of the pilot program in each county pursuant to this section shall be contingent upon the county and the department identifying funds for this purpose, as described in a financial plan that is approved in advance by the Department of Finance.~~

SEC. 132. Section 5675 of the Welfare and Institutions Code is amended to read:

~~5675. (a) Subject to Section 5768, Placer County and up to 15 other counties may establish a pilot project for up to six years, to develop a shared mental health rehabilitation center for the provision of community care and treatment for persons with mental disorders who are placed in a state hospital or another health facility because no community placements are available to meet the needs of these patients. Participation in this pilot project by the counties shall be on a voluntary basis.~~

~~(b) (1) The department shall establish, by emergency regulation, the standards for the pilot project, and monitor the compliance of the counties with those standards. Participating counties, in consultation with the department, shall be responsible for program monitoring.~~

~~(2) The department, in conjunction with the county mental health directors, shall provide an interim report to the Legislature within three years of the commencement of operation of the facilities authorized pursuant to this section regarding the progress and cost effectiveness demonstrated by the pilot project. The department,~~

~~in conjunction with the county mental health directors, shall report to the Legislature within five years of the commencement of operation of the facilities authorized pursuant to this section regarding the progress and cost effectiveness demonstrated by the pilot project. The report shall evaluate whether the pilot project is effective based on clinical indicators, and is successful in preventing future placement of its clients in state hospitals or other long-term health facilities, and shall report whether the cost of care in the pilot facilities is less than the cost of care in state hospitals or in other long-term health facility options. The evaluation report shall include, but not be limited to, an evaluation of the selected method and the effectiveness of the pilot project staffing, and an analysis of the effectiveness of the pilot project at meeting all of the following objectives:~~

5675. (a) Mental health rehabilitation centers shall only be licensed by the State Department of Social Services subsequent to application by counties, county contract providers, or other organizations. In the application for a mental health rehabilitation center, program evaluation measures shall include, but not be limited to:

~~(A)~~

(1) That the clients placed in the facilities show improved global assessment scores, as measured by preadmission and postadmission tests.

~~(B)~~

(2) That the clients placed in the facilities demonstrate improved functional behavior as measured by preadmission and postadmission tests.

~~(C)~~

(3) That the clients placed in the facilities have reduced medication levels as determined by comparison of preadmission and postadmission records.

~~(3) The pilot project shall be deemed successful if it demonstrates both of the following:~~

~~(A) The costs of the program are no greater than public expenditures for providing alternative services to the clients served by the project.~~

~~(B) That the benefit to the clients, as described in this subdivision, is improved by the project.~~

~~(c) The project shall be subject to existing regulations of the State Department of Health Services applicable to health facilities that the State Department of Mental Health deems necessary for fire and life safety of persons with mental illness.~~

~~(d) The department shall consider projects proposed by other counties under Section 5768.~~

~~(e) (1) Clients served by the project shall have all of the protections and rights guaranteed to mental health patients pursuant to the following provisions of law:~~

~~(A) Part 1 (commencing with Section 5000) and this part.~~

~~(B) Article 5 (commencing with Section 835), Article 5.5 (commencing with Section 850), and Article 6 (commencing with Section 860) of Chapter 4 of Title 9 of the California Code of Regulations.~~

~~(2) Clients shall have access to the services of a county patients' rights advocates as provided in Chapter 6.2 (commencing with Section 5500) of Part 1.~~

(b) The State Department of Social Services shall conduct annual licensing inspections of mental health rehabilitation centers.

(c) All regulations relating to the licensing of mental health rehabilitation centers, heretofore adopted by the State Department of Mental Health, shall remain in effect and shall be fully enforceable by the State Department of Social Services with respect to any facility or program required to be licensed as a mental health rehabilitation center, unless and until readopted, amended, or repealed by the Director of Social Services. The State Department of Social Services shall succeed to and be vested with all duties, powers, purposes, functions, responsibilities, and jurisdiction of the State Department of Mental Health as they relate to licensing mental health rehabilitation centers.

SEC. 133. Section 5675.1 of the Welfare and Institutions Code is amended to read:

5675.1. (a) In accordance with subdivision (b), the ~~department~~ *State Department of Social Services and the State Department of Health Care Services* may establish a system for the imposition of prompt and effective civil sanctions for long-term care facilities licensed or certified by ~~the department~~ *those departments,* including facilities licensed under the provisions of Sections 5675 and 5768, and including facilities certified as providing a special treatment

program under Sections 72443 to 72474, inclusive, of Title 22 of the California Code of Regulations.

(b) If the ~~department determines~~ *departments determine* that there is or has been a failure, in a substantial manner, on the part of any such facility to comply with the applicable laws and regulations, the ~~director~~ *directors* may impose the following sanctions:

(1) A plan of corrective action that addresses all failure identified by the ~~department~~ *departments* and includes timelines for correction.

(2) A facility that is issued a plan of corrective action, and that fails to comply with the plan and repeats the deficiency, may be subject to immediate suspension of its license or certification, until the deficiency is corrected, when failure to comply with the plan of correction may cause a health or safety risk to residents.

(c) The ~~department~~ *departments* may also establish procedures for the appeal of an administrative action taken pursuant to this section, including a plan of corrective action or a suspension of license or certification.

SEC. 134. Section 5675.2 of the Welfare and Institutions Code is amended to read:

5675.2. (a) There is hereby created in the State Treasury the ~~Licensing and Certification Fund,~~ Mental Health *Facility Licensing Fund*, from which money, upon appropriation by the Legislature in the Budget Act, shall be expended by the State Department ~~of Mental Health~~ *of Social Services* to fund administrative and other activities in support of the ~~department's Licensing and Certification Program.~~ *mental health licensing and certification functions of the State Department of Social Services. The Mental Health Facility Licensing Fund is the successor to the Licensing and Certification Fund, Mental Health, which fund is hereby abolished. All references in any law to the Licensing and Certification Fund, Mental Health shall be deemed to refer to the Mental Health Facility Licensing Fund.*

(b) Commencing January 1, 2005, each new and renewal application for a license to operate a mental health rehabilitation center shall be accompanied by an application or renewal fee.

(c) The amount of the fees shall be determined and collected by the State Department of ~~Mental Health~~ *Social Services*, but the total amount of the fees collected shall not exceed the actual costs

of licensure and regulation of the centers, including, but not limited to, the costs of processing the application, inspection costs, and other related costs.

(d) Each license or renewal issued pursuant to this chapter shall expire 12 months from the date of issuance. Application for renewal of the license shall be accompanied by the necessary fee and shall be filed with the department at least 30 days prior to the expiration date. Failure to file a timely renewal may result in expiration of the license.

(e) License and renewal fees collected pursuant to this section shall be deposited into the ~~Licensing and Certification Fund,~~ Mental Health *Facility Licensing Fund*.

(f) Fees collected by the ~~department~~ *State Department of Social Services* pursuant to this section shall be expended by the ~~department~~ *State Department of Social Services* for the purpose of ensuring the health and safety of all individuals providing care and supervision by licensees and to support activities of the ~~Licensing and Certification Program~~ *department*, including, but not limited to, monitoring facilities for compliance with applicable laws and regulations.

(g) ~~The department~~ *The State Department of Social Services* may make additional charges to the facilities if additional visits are required to ensure that corrective action is taken by the licensee.

SEC. 135. Section 5676 of the Welfare and Institutions Code is amended to read:

5676. (a) ~~The department,~~ *The State Department of Health Care Services,* in conjunction with the State Department of *Public* Health ~~Services~~, shall develop a state-level plan for a streamlined and consolidated evaluation and monitoring program for the review of skilled nursing facilities with special treatment programs. The plan shall provide for consolidated reviews, reports, and penalties for these facilities. The plan shall include the cost of, and a timeline for implementing, the plan. The plan shall be developed in consultation with stakeholders, including county mental health programs, consumers, family members of persons residing in long-term care facilities who have serious mental illness, and long-term care providers. The plan shall review resident safety and quality programming, ensure that long-term care facilities engaged primarily in diagnosis, treatment, and care of persons with mental diseases are available and appropriately evaluated,

and ensure that strong linkages are built to local communities and other treatment resources for residents and their families. The plan shall be submitted to the Legislature on or before March 1, 2001.

(b) The State Department of *Public* Health ~~Services~~ shall forward to the State Department of ~~Mental~~ Health *Care Services* copies of citations issued to a skilled nursing facility that has a special treatment program certified by the State Department of ~~Mental~~ Health *Care Services*.

SEC. 136. Section 5688.6 of the Welfare and Institutions Code is amended to read:

5688.6. Any and all funds appropriated for the homeless mentally disabled which have been determined to be unexpended and unencumbered two years after the date the funds were appropriated shall be transferred to the Department of Housing and Community Development. The amount of transfer shall be determined after the State Department of ~~Mental~~ Health *Care Services* settles county cost reports for the fiscal year the funds were appropriated. The funds transferred to the Department of Housing and Community Development shall be administered in accordance with that department's Special Users Housing Rehabilitation or Emergency Shelter programs to provide low-income transitional and long-term housing for homeless mentally disabled persons. Special priority shall be given to project proposals for homeless mentally disabled persons in the same county from which the funds for the support of the community support system were originally allocated.

SEC. 137. Article 2.5 (commencing with Section 5689) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 138. Section 5692 of the Welfare and Institutions Code is amended to read:

5692. The State Department of ~~Mental~~ Health *Care Services* shall, to the extent resources are available, have responsibility for the provision of technical assistance, maximizing federal revenue, and ensuring coordination with other state agencies including implementing and coordinating interagency agreements between the Department of Rehabilitation and the State Department of ~~Mental~~ Health *Care Services*.

SEC. 139. Section 5701 of the Welfare and Institutions Code is amended to read:

5701. (a) To achieve equity of funding, available funding for local mental health programs beyond the funding provided pursuant to Section 17601 shall be distributed to cities, counties, and cities and counties pursuant to the procedures described in subdivision (c) of Section 17606.05.

(b) Funding provided pursuant to Section 6 of Article XIII B of the California Constitution, funding provided pursuant to subdivision (c), and funding provided for future pilot projects shall be exempt from the requirements of subdivision (a).

(c) Effective in the ~~1994–95~~ *2012–13* fiscal year and each year thereafter:

(1) The State Department of ~~Mental~~ Health *Care Services* shall annually identify from mental health block grant funds provided by the federal government, the maximum amount that federal law and regulation permit to be allocated to counties and cities and counties pursuant to this subdivision. This section shall apply to any federal mental health block grant funds in excess of the following:

~~(A) The amount allocated to counties and cities and counties from the alcohol, drug abuse, and mental health block grant in the 1991–92 fiscal year.~~

~~(B)~~

(A) Funds for departmental support.

~~(C)~~

(B) Amounts awarded to counties and cities and counties for children's systems of care programs pursuant to Part 4 (commencing with Section 5850).

~~(D) Amounts allocated to small counties for the development of alternatives to state hospitalization in the 1993–94 fiscal year.~~

~~(E)~~

(C) Amounts appropriated by the Legislature for the purposes of this part.

(2) Notwithstanding subdivision (a), annually the State Department of ~~Mental~~ Health *Care Services* shall allocate to counties and cities and counties the funds identified in paragraph (1), not to exceed forty million dollars ($40,000,000) in any year. The allocations shall be proportional to each county's and each city and county's percentage of the forty million dollars ($40,000,000) in Cigarette and Tobacco Products Surtax funds

that were allocated to local mental health programs in the 1991–92 fiscal year.

(3) Monthly, the Controller shall allocate funds from the Vehicle License Collection Account of the Local Revenue Fund to counties and cities and counties for mental health services. Allocations shall be made to each county or city and county in the same percentages as described in paragraph (2), until the total of the funds allocated to all counties in each year pursuant to paragraph (2) and this paragraph reaches forty million dollars ($40,000,000).

(4) Funds allocated to counties and cities and counties pursuant to paragraphs (2) and (3) shall not be subject to Section 17606.05.

(5) Funds that are available for allocation in any year in excess of the forty million dollar ($40,000,000) limits described in paragraph (2) or (3) shall be deposited into the Mental Health Subaccount of the Local Revenue Fund.

(6) Nothing in this section is intended to, nor shall it, change the base allocation of any city, county, or city and county as provided in Section 17601.

SEC. 140. Section 5701.1 of the Welfare and Institutions Code is amended to read:

5701.1. Notwithstanding Section 5701, the State Department of ~~Mental~~ Health *Care Services*, in consultation with the California Mental Health Directors Association *and the California Mental Health Planning Council*, may utilize funding from the Substance Abuse and Mental Health Services Administration Block Grant, awarded to the State Department of ~~Mental~~ Health *Care Services*, above the funding level provided in federal fiscal year 1998, for the development of innovative programs for identified target populations, upon appropriation by the Legislature.

SEC. 141. Section 5705 of the Welfare and Institutions Code is amended to read:

~~5705. (a) It is the intent of the Legislature that the use of negotiated net amounts, as provided in this section, be given preference in contracts for services under this division.~~

~~(b)~~

5705. (a) Negotiated net amounts may be used as the cost of services in ~~contracts between the state and the county or~~ contracts between the county and a subprovider of services~~, or both~~. A negotiated net amount shall be determined by calculating the total budget for services for a program or a component of a program,

less the amount of projected revenue. All participating government funding sources, except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9), shall be bound to that amount as the cost of providing all or part of the total county mental health program as described in the county performance contract for each fiscal year, to the extent that the governmental funding source participates in funding the county mental health programs. Where the State Department of Health Care Services promulgates regulations for determining reimbursement of ~~Short-Doyle~~ mental health services allowable under the Medi-Cal program, those regulations shall be controlling as to the rates for reimbursement of ~~Short-Doyle~~ mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of ~~Mental~~ Health *Care Services* and local mental health programs any information required by the State Department of ~~Mental~~ Health *Care Services* in accordance with procedures established by the Director of ~~Mental~~ Health *Care Services*.

~~(c)~~

(b) Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a provider's expenditure pursuant to this section.

SEC. 142. Section 5707 of the Welfare and Institutions Code is amended to read:

5707. Funds appropriated to the ~~department~~ *State Department of Health Care Services* which are designated for local mental health services and funds which the ~~department~~ *State Department of Health Care Services* is responsible for allocating or administering, including, but not limited to, federal block grants funds, shall be expended in accordance with this section and ~~Sections 5708~~ *Sections 5710* to 5717, inclusive, except when there are conflicting federal requirements, in which case the federal requirements shall be controlling.

SEC. 143. Section 5708 of the Welfare and Institutions Code is repealed.

~~5708. To maintain stability during the transition, counties that contracted with the department during the 1990–91 fiscal year on~~

~~a negotiated net amount basis may continue to use the same funding mechanism.~~

SEC. 144. Section 5709 of the Welfare and Institutions Code is amended to read:

5709. Regardless of the funding source involved, fees shall be charged in accordance with the ability to pay for *specialty* mental health services rendered but not in excess of actual costs in accordance with Section ~~5720~~ *14708*.

SEC. 145. Section 5710 of the Welfare and Institutions Code is amended to read:

5710. (a) Charges for the care and treatment of each patient receiving service from a county mental health program shall not exceed the actual cost thereof as determined or approved by the Director of ~~Mental~~ Health *Care Services* in accordance with standard accounting practices. The director may include the amount of expenditures for capital outlay or the interest thereon, or both, in his or her determination of actual cost. The responsibility of a patient, his or her estate, or his or her responsible relatives to pay the charges and the powers of the director with respect thereto shall be determined in accordance with Article 4 (commencing with Section 7275) of Chapter 3 of Division 7.

(b) The Director of ~~Mental~~ Health *Care Services* may delegate to each county all or part of the responsibility for determining the financial liability of patients to whom services are rendered by a county mental health program and all or part of the responsibility for determining the ability of the responsible parties to pay for services to minor children who are referred by a county for treatment in a state hospital. Liability shall extend to the estates of patients and to responsible relatives, including the spouse of an adult patient and the parents of minor children. The Director of ~~Mental~~ Health *Care Services* may also delegate all or part of the responsibility for collecting the charges for patient fees. Counties may decline this responsibility as it pertains to state hospitals, at their discretion. If this responsibility is delegated by the director, the director shall establish and maintain the policies and procedures for making the determinations and collections. Each county to which the responsibility is delegated shall comply with the policy and procedures.

(c) The director shall prepare and adopt a uniform sliding scale patient fee schedule to be used in all mental health agencies for

services rendered to each patient. In preparing the uniform patient fee schedule, the director shall take into account the existing charges for state hospital services and those for community mental health program services. If the director determines that it is not practicable to devise a single uniform patient fee schedule applicable to both state hospital services and services of other mental health agencies, the director may adopt a separate fee schedule for the state hospital services which differs from the uniform patient fee schedule applicable to other mental health agencies.

SEC. 146. Section 5711 of the Welfare and Institutions Code is amended and renumbered to read:

~~5711.~~

14707. (a) In the case of federal audit exceptions, *the department shall follow* federal audit appeal processes ~~shall be followed unless the State Department of Mental Health~~ *unless the department*, in consultation with the California ~~Conference of Local~~ Mental Health Directors *Association*, determines that those appeals are not cost beneficial.

(b) Whenever there is a final federal audit exception against the state resulting from expenditure of federal funds by individual counties, the ~~State Department of Mental Health or the State Department of Health Services~~ *department* may *offset federal reimbursement and* request the Controller's office to offset the ~~county's allocation~~ *distribution of funds to the counties* from ~~the Mental Health Subaccount of the Sales Tax Account of the Local Revenue Fund~~ *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 of the Local Revenue Fund 2011, and any other mental health realignment funds from which the Controller makes distributions to the counties* by the amount of the exception. The ~~Controller shall be provided evidence~~ *department shall provide evidence to the Controller* that the county has been notified of the amount of the audit exception no less than 30 days before the offset is to occur. The ~~State Department of Mental Health and the State Department of Health Services~~ *department* shall involve the appropriate counties in developing responses to any draft federal audit reports ~~which may~~ *that* directly impact the ~~counties~~ *county*.

SEC. 147. Section 5712 of the Welfare and Institutions Code is repealed.

~~5712. The department shall contract with counties for the funds appropriated to, and allocated by, the department pursuant to paragraph (2) of subdivision (a) of Section 5700 in accordance with the following:~~

~~(a) The net cost of all services specified in the contract between the counties and the department shall be financed on a basis of 90 percent state funds and 10 percent county funds except for services to be financed from other public or private sources as indicated in the contracts.~~

~~(b) The cost requirement for local financial participation pursuant to this section shall be waived for all counties with a population of 125,000 or less based on the most recent available estimates of population data as determined by the Population Research Unit of the Department of Finance.~~

~~(c) The cost requirements for local financial participation pursuant to this section shall be waived for funds provided pursuant to Part 2.5 (commencing with Section 5775).~~

SEC. 148. Section 5714 of the Welfare and Institutions Code is amended to read:

5714. To continue county expenditures for legal proceedings involving mentally disordered persons, the following costs incurred in carrying out Part 1 (commencing with Section 5000) of this division shall not be paid for from funds designated for mental health services.

(a) The costs involved in bringing a person in for 72-hour treatment and evaluation.

(b) The costs of court proceedings for court-ordered evaluation, including the service of the court order and the apprehension of the person ordered to evaluation when necessary.

(c) The costs of court proceedings in cases of appeal from 14-day intensive treatment.

(d) The cost of legal proceedings in conservatorship other than the costs of conservatorship investigation as defined by regulations of the State Department of ~~Mental~~ Health *Care Services*.

(e) The court costs in postcertification proceedings.

(f) The cost of providing a public defender or other court-appointed attorneys in proceedings for those unable to pay.

SEC. 149. Section 5715 of the Welfare and Institutions Code is amended to read:

5715. Subject to the approval of the ~~department~~ *State Department of Health Care Services*, at the end of the fiscal year, a county may retain unexpended funds allocated to it by the department from funds appropriated to the department, with the exception of block grant funds, exclusive of the amount required to pay for the care of patients in state hospitals, for 12 months for expenditure for mental health services in accordance with this part.

SEC. 150. Section 5716 of the Welfare and Institutions Code is amended and renumbered to read:

~~5716.~~

14705.7. ~~Counties~~ *Mental health plans* may contract with providers on a negotiated net amount basis in the same manner as set forth in Section 5705. *Negotiated net amounts or rates shall not be in contracts between the state and mental health plans for specialty mental health services. Reimbursement to mental health plans that have certified public expenditures shall be consistent with federal Medicaid requirements for calculating upper payment limits, as specified in the approved Medicaid state plan and waivers.*

SEC. 151. Section 5717 of the Welfare and Institutions Code is amended to read:

5717. (a) Expenditures that may be funded from amounts allocated to the county by the ~~department~~ *State Department of Health Care Services* from funds appropriated to the department shall include ~~negotiated rates and net amounts;~~, salaries of personnel~~:~~, approved facilities and services provided through contract~~;~~, *and* operation, maintenance, and service costs, including insurance costs or departmental charges for participation in a county self-insurance program if the charges are not in excess of comparable available commercial insurance premiums and on the condition that any surplus reserves be used to reduce future year contributions; depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on the facility to the extent it was financed by state funds under this part; lease of facilities where there is no intention to, nor option to, purchase; expenses incurred under this act by members of the California ~~Conference of Local~~ Mental Health Directors *Association* for attendance at regular meetings of these conferences;

expenses incurred by either the chairperson or elected representative of the local mental health advisory boards for attendance at regular meetings of the Organization of Mental Health Advisory Boards; expenditures included in approved countywide cost allocation plans submitted in accordance with the Controller's guidelines, including, but not limited to, adjustments of prior year estimated general county overhead to actual costs, but excluding allowable costs otherwise compensated by state funding; net costs of conservatorship investigation, approved by the Director of ~~Mental~~ Health *Care Services*. Except for expenditures made pursuant to Article 6 (commencing with Section 129225) of Chapter 1 of Part 6 of Division 107 of the Health and Safety Code, it shall not include expenditures for initial capital improvements; the purchaser or construction of buildings except for equipment items and remodeling expense as may be provided for in regulations of the State Department of ~~Mental~~ Health *Care Services*; compensation to members of a local mental health advisory board, except actual and necessary expenses incurred in the performance of official duties that may include travel, lodging, and meals while on official business; or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

(b) ~~The director~~ *The Director of Health Care Services* may make investigations and audits of expenditures the director may deem necessary.

(c) With respect to funds allocated to a county by the ~~department~~ *State Department of Health Care Services* from funds appropriated to the department, the county shall repay to the state amounts found not to have been expended in accordance with the requirements set forth in this part. Repayment shall be within 30 days after it is determined that an expenditure has been made that is not in accordance with the requirements. In the event that repayment is not made in a timely manner, the department shall offset any amount improperly expended against the amount of any current or future advance payment or cost report settlement from the state for mental health services. Repayment provisions shall not apply to Short-Doyle funds allocated by the department for fiscal years up to and including the 1990–91 fiscal year.

SEC. 152. Section 5718 of the Welfare and Institutions Code, as added by Section 2 of Chapter 651 of the Statutes of 2011, is amended and renumbered to read:

~~5718.~~

14705. (a) (1) This section ~~and Sections 5719 to 5724, inclusive,~~ shall apply to *specialty* mental health services provided by counties to Medi-Cal eligible individuals. Counties shall provide services to Medi-Cal beneficiaries and seek the maximum federal reimbursement possible for services rendered to ~~the mentally ill~~ *persons with mental illnesses*.

(2) To the extent permitted under federal law *and Section 5892*, funds ~~deposited into the local health and welfare trust fund from the Sales Tax Account of the Local Revenue Fund~~ *distributed to the 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 of 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* may be used to ~~match federal Medicaid funds~~ *pay for services provided by these funds that the counties can then certify as public expenditures* in order to achieve the maximum federal reimbursement possible for services pursuant to this chapter.

(3) The standards and guidelines for the administration of *specialty* mental health services to Medi-Cal eligible persons shall be consistent with federal Medicaid requirements, as specified in the approved Medicaid state plan and waivers to ensure full and timely federal reimbursement to counties for services that are rendered and claimed consistent with federal Medicaid requirements.

(b) With regard to each person receiving *specialty* mental health services from a ~~county mental health program~~ *mental health plan*, the ~~county~~ *mental health plan* shall ~~determine~~ *verify* whether the person is Medi-Cal eligible and, if determined to be Medi-Cal eligible, the person shall be referred when appropriate to a facility, clinic, or program ~~which~~ *that* is certified for Medi-Cal reimbursement.

(c) With regard to county operated facilities, clinics, or programs for which claims are submitted to the department for Medi-Cal reimbursement for *specialty* mental health services to Medi-Cal

eligible individuals, the county shall ensure that all requirements necessary for Medi-Cal reimbursement for these services are complied with, including, but not limited to, utilization review and the submission of yearend cost reports by December 31 following the close of the fiscal year.

(d) Counties shall certify to the state that ~~required certified~~ *they have incurred* public expenditures ~~have been incurred~~ prior to *requesting* the reimbursement of federal funds.

(e) This section shall become operative on July 1, 2012.

SEC. 153. Section 5719 of the Welfare and Institutions Code is amended and renumbered to read:

~~5719.~~

14705.5. Each public or private facility or agency providing local *specialty* mental health services pursuant to a county performance contract plan shall make a written certification within 30 days after a patient is admitted to the facility as a patient or first given services by such a facility or agency, to the local mental health director of the county, stating whether or not each of these patients is presumed to be eligible for *specialty* mental health services under the ~~California Medical Assistance Program~~ *Medi-Cal program*.

SEC. 154. Section 5719.5 of the Welfare and Institutions Code is amended and renumbered to read:

~~5719.5.~~

14705.6. (a) Notwithstanding any other provision of state law, and to the extent permitted by federal law, the State Department of Mental Health may, in consultation with the State Department of Health *Care* Services, field test major components of a capitated, integrated service system of Medi-Cal mental health managed care in not less than two, and not more than five participating counties.

(b) County participation in the field test shall be at the counties' option.

(c) Counties eligible to participate in the field test described in subdivision (a) shall include either of the following:

(1) Any county with an existing county organized health system.

(2) Any county that has been designated for the development of a new county organized health system.

(d) The State Department of Mental Health, in consultation with the State Department of Health *Care* Services, the counties selected for field testing, and groups representing mental health clients,

their families and advocates, county mental health directors, and public and private mental health professionals and providers, shall develop, for the purpose of the field test, major components for an integrated, capitated service system of Medi-Cal mental health managed care, including, but not limited to, all of the following:

(1) (A) A definition of medical necessity.

(B) The preliminary definition developed pursuant to this paragraph shall be submitted to the Legislature no later than February 1, 1994.

(2) Protocols for facilitating access and coordination of mental health, physical health, educational, vocational, and other supportive services for persons receiving services through the field test.

(3) Procedures for promoting quality assurance, performance monitoring measures and outcome evaluation, including measures of client satisfaction, and procedures for addressing beneficiary grievances concerning service denials, changes, or terminations.

(e) Counties participating in the field test shall report to the State Department of Mental Health as the department deems necessary.

(f) Counties participating in the field test shall do both of the following:

(1) (A) Explore, in consultation with the State Department of Mental Health, the State Department of Health *Care* Services, and the California Mental Health Directors Association, rates for capitated, integrated Medi-Cal mental health managed care systems, using an actuarially sound ratesetting methodology.

(B) These rates shall be evaluated by the State Department of Mental Health and the State Department of Health *Care* Services to determine their fiscal impact, and shall result in no increase in cost to the General Fund, compared with the cost that would occur under the existing organization of Medi-Cal funded mental health services, except for caseload growth and price increases as included in the Medi-Cal estimates prepared by the State Department of Health *Care* Services and approved by the Department of Finance. In evaluating the fiscal impact of these rates, the departments shall take into account any shift in clients between Medi-Cal programs in which the nonfederal match is funded by state funds and those in which the match is funded by local funds.

(2) Demonstrate the appropriate fiscal relationship between county organized health systems for the federal medicaid program and integrated, capitated Medi-Cal mental health managed care programs.

(3) This section shall become inoperative on July 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute that is enacted before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 155. Section 5720 of the Welfare and Institutions Code, as added by Section 4 of Chapter 651 of the Statutes of 2011, is amended and renumbered to read:

~~5720.~~

14708. (a) ~~Notwithstanding any other provision of law, the director, in the 1993–94 fiscal year and fiscal years thereafter, subject to the approval of the Director of Health Care Services, shall establish the amount of reimbursement for services provided by county mental health programs to Medi-Cal eligible individuals.~~ For purposes of federal reimbursement to counties that have certified to the state that *they have incurred* certified public expenditures ~~have been incurred~~, the reimbursement amounts shall be consistent with federal Medicaid requirements for calculating federal upper payment limits, as specified in the approved Medicaid state plan and waivers.

(b) If the reimbursement methodology utilizes federal upper payment limits and the total cost of services exceeds the state maximum rates in effect for the 2011–12 fiscal year, a county may use certified public expenditures to claim the costs of services that exceed the state maximum rates, up to the federal upper payment limits. If a county chooses to claim costs that exceed the state maximum rates with certified public expenditures, the county shall use only local funds, and not state funds, to claim the portion of the costs over the state maximum rates. As a condition of receiving reimbursement up to the federal upper payment limits, a county shall enter into and maintain an agreement with the department implementing this subdivision.

(c) Notwithstanding this section, in the event that a health facility has entered into a negotiated rate agreement pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 4 of Division 9, the facility's rates shall be governed by that agreement.

(d) This section shall become operative on July 1, 2012.

SEC. 156. Section 5721 of the Welfare and Institutions Code is amended and renumbered to read:

~~5721.~~

14710. Except as otherwise provided in this section, in determining the amounts which may be paid, fees paid by persons receiving services or fees paid on behalf of persons receiving services by the federal government, by the ~~California Medical Assistance Program~~ *Medi-Cal program* set forth in Chapter 7 (commencing with Section 14000) ~~of Part 3 of Division 9~~, and by other public or private sources, shall be deducted from the costs of providing services. However, a ~~county~~ *mental health plan* may negotiate a contract ~~which~~ *that* permits a *specialty* mental health care provider to retain unanticipated funds above the budgeted contract amount, provided that the unanticipated revenues are utilized for the *specialty* mental health services specified in the contract. If a provider is permitted by contract to retain unanticipated revenues above the budgeted amount, the *specialty* mental health provider shall specify the services funded by those revenues in the ~~year end~~ *yearend* cost report submitted to the ~~county~~ *mental health plan*. A ~~county~~ *mental health plan* shall not permit the retention of any fees paid by private resources on behalf of Medi-Cal beneficiaries without having those fees deducted from the costs of providing services. Whenever feasible, ~~mentally disordered~~ persons *with mental illness* who are eligible for *specialty* mental health services under the ~~California Medical Assistance Program~~ *Medi-Cal program* shall be treated in a facility approved for reimbursement in that program. General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be considered as "fees paid by persons" or "fees paid on behalf of persons receiving services" under this section and the contributions shall not be applied in determining the amounts to be paid. These unrestricted contributions shall not be used in part or in whole to defray the costs or the allocated costs of the ~~California Medical Assistance Program~~ *Medi-Cal program*.

SEC. 157. Section 5722 of the Welfare and Institutions Code is amended and renumbered to read:

~~5722.~~

14706. (a) The department shall have responsibility~~, as delegated by the State Department of Health Services,~~ for conducting investigations and audits of claims and reimbursements for expenditures for *specialty* mental health services provided by ~~county~~ mental health ~~programs~~ *plans* to Medi-Cal eligible individuals.

(b) The amount of the payment or repayment of federal funds in accordance with audit findings pertaining to ~~Short-Doyle~~ Medi-Cal *specialty* mental health services shall be determined by the ~~State Director of Health Services~~ *department* pursuant to the existing administrative appeals process of the ~~State Department of Health Services~~ *department*.

SEC. 158. Section 5723 of the Welfare and Institutions Code is amended and renumbered to read:

~~5723.~~

14709. The provisions of subdivision (a) of Section 14000 shall not be construed to prevent providers of *specialty* mental health services pursuant to this ~~part~~ *chapter* from also being providers of medical assistance mental health services for the purposes of Chapter 7 (commencing with Section 14000) ~~of Part 3 of Division 9~~. Clinics providing *Medi-Cal specialty* mental health services pursuant to this ~~part~~ *chapter* shall ~~not~~ be required to be ~~licensed~~ *certified* as a condition to reimbursement for providing ~~such~~ *those* medical assistance mental health services.

SEC. 159. Section 5723.5 of the Welfare and Institutions Code is repealed.

~~5723.5. Notwithstanding any other provision of state law, and to the extent permitted by federal law and consistent with federal regulations governing these claims, the state may seek federal reimbursement for back claims under the Short-Doyle Medi-Cal program.~~

SEC. 160. Section 5724 of the Welfare and Institutions Code, as added by Section 6 of Chapter 651 of the Statutes of 2011, is amended and renumbered to read:

~~5724.~~

14711. (a) The department ~~and the State Department of Health Care Services~~ shall ~~jointly~~ develop, in consultation with the California Mental Health Directors Association, a reimbursement methodology for use in the ~~Short-Doyle~~ Medi-Cal *claims*

processing and interim payment system that maximizes federal funding and utilizes, as much as practicable, federal Medicaid and Medicare reimbursement principles. The ~~departments~~ *department* shall work with the federal Centers for Medicare and Medicaid Services in the development of the methodology required by this section.

(b) Reimbursement amounts developed through the methodology required by this section shall be consistent with federal Medicaid requirements and the approved Medicaid state plan and waivers.

(c) Administrative costs shall be claimed separately in a manner consistent with federal Medicaid requirements and the approved Medicaid state plan and waivers and shall be limited to 15 percent of the total actual cost of direct client services.

(d) The cost of performing quality assurance and utilization review activities shall be reimbursed separately and shall not be included in administrative cost.

(e) The reimbursement methodology established pursuant to this section shall be based upon certified public expenditures, which encourage economy and efficiency in service delivery.

(f) The reimbursement amounts established for direct client services pursuant to this section shall be based on increments of time for all noninpatient services.

(g) The reimbursement methodology shall not be implemented until it has received any necessary federal approvals.

(h) This section shall become operative on July 1, 2012.

SEC. 161. Section 5750 of the Welfare and Institutions Code is amended to read:

5750. ~~(a)~~ The State Department of ~~Mental~~ Health *Care Services* shall administer this part and shall adopt standards for *the* approval of mental health services, and rules and regulations necessary thereto. However, these standards, rules, and regulations shall be adopted only after consultation with the California ~~Council on Mental Health and the California Conference of Local~~ Mental Health Directors *Association and the California Mental Health Planning Council.* ~~Adoption of these standards, rules, and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session except for regulations pertaining to psychiatric health facilities. For regulations pertaining to psychiatric health~~

~~facilities, the vote by the conference, following consultation, shall be only advisory to the State Department of Mental Health.~~

~~(b) If the conference refuses or fails to approve standards, rules, or regulations submitted to it by the State Department of Mental Health for its approval, the State Department of Mental Health may submit these standards, rules, or regulations to the conference at its next meeting, and if the conference again refuses to approve them, the matter shall be referred for decision to a committee composed of the Secretary of the Health and Welfare Agency, the Director of Mental Health, the President of the California Conference of Local Mental Health Directors, the Chairman of the California Council on Mental Health, and a member designated by the State Advisory Health Council.~~

~~(c) (1) From July 1, 1991, to June 30, 1993, inclusive, the conference shall not approve regulations of the State Department of Mental Health. The impact on this subdivision of regulatory timing shall be included in the department's report to the Legislature on September 30, 1992.~~

~~(2) The department shall continue during that period to involve the conference in the development of all regulations which affect local mental health programs, prior to the promulgation of those regulations pursuant to the Administrative Procedure Act.~~

SEC. 162. Section 5750.1 of the Welfare and Institutions Code is repealed.

~~5750.1. Notwithstanding Section 5750, a standard, rule, or policy, not directly the result of a statutory or administrative law change, adopted by the department or county during the term of an existing county performance contract shall not apply to the negotiated net amount terms of that contract under Sections 5705 and 5716, but shall only apply to contracts established after adoption of the standard, rule, or policy.~~

SEC. 163. Section 5751 of the Welfare and Institutions Code is amended to read:

5751. (a) Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607. These standards may include the maintenance of records of service which shall be reported to the State Department of ~~Mental~~ Health *Care Services* in a manner and at times as it may specify.

(b) Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director be a psychiatrist, psychologist, clinical social worker, marriage and family therapist, professional clinical counselor, registered nurse, or hospital administrator, who meets standards of education and experience established by the Director of ~~Mental~~ Health *Care Services*. Where the director is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by Section 2051 of the Business and Professions Code.

(c) The regulations shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 164. Section 5751.1 of the Welfare and Institutions Code is amended to read:

5751.1. Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director meet the standards of education and experience established by the Director of ~~Mental~~ Health *Care Services* and that the appointment be open on the basis of competence to all eligible disciplines pursuant to Section 5751. Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607.

Where the director of local mental health services is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by Section 2137 of the Business and Professions Code.

SEC. 165. Section 5751.2 of the Welfare and Institutions Code is amended to read:

5751.2. (a) Except as provided in this section, persons employed or under contract to provide mental health services pursuant to this part shall be subject to all applicable requirements of law regarding professional licensure, and no person shall be employed in local mental health programs pursuant to this part to

provide services for which a license is required, unless the person possesses a valid license.

(b) Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same program or facility, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of subdivision (a).

(c) While registered with the licensing board of jurisdiction for the purpose of acquiring the experience required for licensure, persons employed or under contract to provide mental health services pursuant to this part as clinical social workers, marriage and family therapists, or professional clinical counselors shall be exempt from subdivision (a). Registration shall be subject to regulations adopted by the appropriate licensing board.

(d) The requirements of subdivision (a) shall be waived by the ~~department~~ *State Department of Health Care Services* for persons employed or under contract to provide mental health services pursuant to this part as psychologists who are gaining the experience required for licensure. A waiver granted under this subdivision may not exceed five years from the date of employment by, or contract with, a local mental health program for persons in the profession of psychology.

(e) The requirements of subdivision (a) shall be waived by the ~~department~~ *State Department of Health Care Services* for persons who have been recruited for employment from outside this state as psychologists, clinical social workers, marriage and family therapists, or professional clinical counselors and whose experience is sufficient to gain admission to a licensing examination. A waiver granted under this subdivision may not exceed three years from the date of employment by, or contract with, a local mental health program for persons in these four professions who are recruited from outside this state.

SEC. 166. Section 5751.7 of the Welfare and Institutions Code is amended to read:

5751.7. For the purposes of this part and the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)), the ~~department~~ *State Department of Social Services and the State Department of State Hospitals* shall ensure that, whenever feasible, minors shall not be admitted into psychiatric treatment

with adults if the health facility has no specific separate housing arrangements, treatment staff, and treatment programs designed to serve children or adolescents. The ~~director~~ *Director of Social Services* shall provide waivers to counties, upon their request, if this policy creates undue hardship in any county due to inadequate or unavailable alternative resources. In granting the waivers, the ~~director~~ *Director of Social Services* shall require the county to establish specific treatment protocols and administrative procedures for identifying and providing appropriate treatment to minors admitted with adults.

However, notwithstanding any other provision of law, no minor may be admitted for psychiatric treatment into the same treatment ward as any adult receiving treatment who is in the custody of any jailor for a violent crime, is a known registered sex offender, or has a known history of, or exhibits inappropriate, sexual, or other violent behavior which would present a threat to the physical safety of minors.

SEC. 167. Section 5768 of the Welfare and Institutions Code is amended to read:

5768. (a) Notwithstanding any other provision of law, except as to requirements relating to fire and life safety of persons with mental illness, the ~~department~~ *State Department of Social Services*, in its discretion, may permit new programs to be developed and implemented without complying with licensure requirements established pursuant to existing state law.

(b) Any program developed and implemented pursuant to subdivision (a) shall be reviewed at least once each six months, as determined by the ~~department~~ *State Department of Social Services*.

(c) The ~~department~~ *State Department of Social Services* may establish appropriate licensing requirements for these new programs upon a determination that the programs should be continued.

(d) Within six years, any program shall require a licensure category if it is to be continued. However, in the event that any agency other than the ~~department~~ *State Department of Social Services* is responsible for developing a licensure category and fails to do so within the six years, the program may continue to be developed and implemented pursuant to subdivisions (a) and (b) until such time that the licensure category is established.

(e) (1) A nongovernmental entity proposing a program shall submit a program application and plan to the local mental health director that describes at least the following components: clinical treatment programs, activity programs, administrative policies and procedures, admissions, discharge planning, health records content, health records service, interdisciplinary treatment teams, client empowerment, patient rights, pharmaceutical services, program space requirements, psychiatric and psychological services, rehabilitation services, restraint and seclusion, space, supplies, equipment, and staffing standards. If the local mental health director determines that the application and plan are consistent with local needs and satisfactorily address the above components, he or she may approve the application and plan and forward them to the department.

(2) Upon the ~~department's~~ *State Department of Social Services'* approval, the local mental health director shall implement the program and shall be responsible for regular program oversight and monitoring. The department shall be notified in writing of the outcome of each review of the program by the local mental health director, or his or her designee, for compliance with program requirements. The department shall retain ultimate responsibility for approving the method for review of each program, and the authority for determining the appropriateness of the local program's oversight and monitoring activities.

(f) Governmental entities proposing a program shall submit a program application and plan to the ~~department~~ *State Department of Social Services* that describes at least the components described in subdivision (e). Upon approval, the department shall be responsible for program oversight and monitoring.

(g) Implementation of a program shall be contingent upon the ~~department's~~ *State Department of Social Services'* approval, and the department may reject applications or require modifications as it deems necessary. The department shall respond to each proposal within 90 days of receipt.

~~(h) The State Department of Health Services shall allow an applicant approved by the department with a current health facility license to place its license in suspense for a period of six years. At that time the department, in consultation with the State Department of Health Services shall determine the most appropriate licensure for the program, pursuant to subdivisions (c) and (d).~~

~~(i)~~

(h) ~~The department~~ *The State Department of Social Services* shall submit an evaluation to the Legislature of all pilot projects authorized pursuant to this section within five years of the commencement of operation of the pilot project, determining the effectiveness of that program or facility, or both, based on, but not limited to, changes in clinical indicators with respect to client functions.

SEC. 168. Section 5770 of the Welfare and Institutions Code is amended to read:

5770. Notwithstanding any other provision of law, the ~~department~~ *State Department of Health Care Services* may directly, or by contract, with any public or private agency, provide any of the services under this division when the ~~director~~ *state* determines that the services are necessary to protect the public health, safety, or welfare.

SEC. 169. Section 5770.5 of the Welfare and Institutions Code is amended to read:

5770.5. ~~The department~~ *The State Department of Health Care Services* shall encourage county mental health programs to develop and support local programs designed to provide technical assistance to self-help groups for the purposes of maintaining existing groups, as well as to stimulate development of new self-help groups from locally defined needs.

SEC. 170. Section 5771 of the Welfare and Institutions Code is amended to read:

5771. (a) Pursuant to Public Law 102-321, there is the California Mental Health Planning Council. The purpose of the planning council shall be to fulfill those mental health planning requirements mandated by federal law.

(b) (1) The planning council shall have 40 members, to be comprised of members appointed from both the local and state levels in order to ensure a balance of state and local concerns relative to planning.

(2) As required by federal law, eight members of the planning council shall represent various state departments.

(3) Members of the planning council shall be appointed in a manner that will ensure that at least one-half are persons with mental disabilities, family members of persons with mental disabilities, and representatives of organizations advocating on

behalf of persons with mental disabilities. Persons with mental disabilities and family members shall be represented in equal numbers.

(4) The Director of ~~Mental~~ Health *Care Services* shall make appointments from among nominees from various mental health constituency organizations, which shall include representatives of consumer-related advocacy organizations, representatives of mental health professional and provider organizations, and representatives who are direct service providers from both the public and private sectors. The director shall also appoint one representative of the California Coalition on Mental Health.

(c) Members should be balanced according to demography, geography, gender, and ethnicity. Members should include representatives with interest in all target populations, including, but not limited to, children and youth, adults, and older adults.

(d) The planning council shall annually elect a chairperson and a chair-elect.

(e) The term of each member shall be three years, to be staggered so that approximately one-third of the appointments expire in each year.

(f) In the event of changes in the federal requirements regarding the structure and function of the planning council, or the discontinuation of federal funding, the State Department of ~~Mental~~ Health *Care Services* shall, *with input from state-level advocacy groups, consumers, family members and providers, and other stakeholders,* propose to the Legislature modifications in the structure of the planning council that the department deems appropriate.

SEC. 171. Section 5771.3 of the Welfare and Institutions Code is amended to read:

5771.3. The California Mental Health Planning Council may utilize staff of the State Department of ~~Mental~~ Health *Care Services*, to the extent they are available, and the staff of any other public or private agencies that have an interest in the mental health of the public and that are able and willing to provide those services.

SEC. 172. Section 5772 of the Welfare and Institutions Code is amended to read:

5772. The California Mental Health Planning Council shall have the powers and authority necessary to carry out the duties

imposed upon it by this chapter, including, but not limited to, the following:

(a) To advocate for effective, quality mental health programs.

(b) To review, assess, and make recommendations regarding all components of California's mental health system, and to report as necessary to the Legislature, the State Department of ~~Mental~~ Health *Care Services*, local boards, and local programs.

(c) To review program performance in delivering mental health services by annually reviewing performance outcome data as follows:

(1) To review and approve the performance outcome measures.

(2) To review the performance of mental health programs based on performance outcome data and other reports from the State Department of ~~Mental~~ Health *Care Services* and other sources.

(3) To report findings and recommendations on programs' performance annually to the Legislature, the State Department of ~~Mental~~ Health *Care Services*, and the local boards.

(4) To identify successful programs for recommendation and for consideration of replication in other areas. As data and technology are available, identify programs experiencing difficulties.

(d) When appropriate, make a finding pursuant to Section 5655 that a county's performance is failing in a substantive manner. The State Department of ~~Mental~~ Health *Care Services* shall investigate and review the finding, and report the action taken to the Legislature.

(e) To advise the Legislature, the State Department of ~~Mental~~ Health *Care Services*, and county boards on mental health issues and the policies and priorities that this state should be pursuing in developing its mental health system.

(f) To periodically review the state's data systems and paperwork requirements to ensure that they are reasonable and in compliance with state and federal law.

(g) To make recommendations to the State Department of ~~Mental~~ Health *Care Services* on the award of grants to county programs to reward and stimulate innovation in providing mental health services.

(h) To conduct public hearings on the state mental health plan, the Substance Abuse and Mental Health Services Administration block grant, and other topics, as needed.

~~(i) To participate in the recruitment of candidates for the position of Director of Mental Health and provide advice on the final selection.~~

~~(j)~~

(i) In conjunction with other statewide and local mental health organizations, assist in the coordination of training and information to local mental health boards as needed to ensure that they can effectively carry out their duties.

~~(k)~~

(j) To advise the Director of ~~Mental~~ Health *Care Services* on the development of the state mental health plan and the system of priorities contained in that plan.

~~(l)~~

(k) To assess periodically the effect of realignment of mental health services and any other important changes in the state's mental health system, and to report its findings to the Legislature, the State Department of ~~Mental~~ Health *Care Services*, local programs, and local boards, as appropriate.

~~(m)~~

(l) To suggest rules, regulations, and standards for the administration of this division.

~~(n)~~

(m) When requested, to mediate disputes between counties and the state arising under this part.

~~(o)~~

(n) To employ administrative, technical, and other personnel necessary for the performance of its powers and duties, subject to the approval of the Department of Finance.

~~(p)~~

(o) To accept any federal fund granted, by act of Congress or by executive order, for purposes within the purview of the California Mental Health Planning Council, subject to the approval of the Department of Finance.

~~(q)~~

(p) To accept any gift, donation, bequest, or grants of funds from private and public agencies for all or any of the purposes within the purview of the California Mental Health Planning Council, subject to the approval of the Department of Finance.

SEC. 173. Section 5775 of the Welfare and Institutions Code is amended and renumbered to read:

~~5775.~~

14712. (a) Notwithstanding any other provision of state law, the ~~State Department of Mental Health~~ *department* shall implement managed mental health care for Medi-Cal beneficiaries through ~~fee-for-service or capitated rate~~ contracts with mental health plans~~,~~ ~~including~~. *Mental health plans may include* individual counties, counties acting jointly, ~~any qualified individual or organization, or a~~ *or an organization or* nongovernmental entity *determined by the department to meet mental health plan standards*. A contract may be exclusive and may be awarded on a geographic basis.

(b) Two or more counties acting jointly may agree to deliver or subcontract for the delivery of *specialty* mental health services *subject to the approval by the department*. The agreement may encompass all or any portion of the *specialty* mental health services provided pursuant to this ~~part~~ *chapter*. This agreement shall not relieve the individual counties of ~~financial~~ *fiscal* responsibility for providing these services. Any agreement between counties shall delineate each county's responsibilities and fiscal liability *for overpayments*.

(c) *(1)* The department shall ~~offer to~~ contract with ~~each~~ *a* county *or counties acting jointly* for the delivery of *specialty* mental health services to ~~that~~ *each* county's *eligible* Medi-Cal beneficiary ~~population prior to offering to contract with any other entity, upon terms at least as favorable as any offered to a noncounty contract provider. If~~ *population. If* a county ~~elects~~ *decides* not to contract with the department, does not renew its contract, or ~~does not~~ *is unable to* meet the ~~minimum~~ standards set by the department, the ~~department may elect to contract with any other governmental or nongovernmental entity for the delivery of mental health services in that county and may administer the delivery of mental health services until a contract for a mental health plan is implemented. The county may not subsequently contract to provide mental health services under this part unless the department elects to contract with the county.~~ *county shall inform the department of this decision in writing.*

~~(B)~~

(2) If the county is unwilling to contract for the delivery of specialty mental health services, the department shall ensure that specialty mental health services are provided to Medi-Cal beneficiaries.

(3) If the department or county determines that the county is unable to adequately provide specialty mental health services, or that the county does not meet the standards of a mental health plan, the department shall ensure that specialty mental health services are provided to Medi-Cal beneficiaries.

(4) The department may contract with qualifying individual counties, counties acting jointly, or other qualified entities approved by the department for the delivery of specialty mental health services in any county that is unable or unwilling to contract with the department. The county may not subsequently contract to provide specialty mental health services under this chapter unless the department elects to contract with the county.

(d) If a county does not contract with the department *or other department-approved entity* to provide *specialty* mental health services, the ~~county~~ *department* shall ~~transfer the responsibility for community Medi-Cal reimbursable mental health services and the anticipated county matching funds needed for community Medi-Cal mental health services in that county to the department. The amount of the anticipated county matching funds shall be determined by the department in consultation with the county, and shall be adjusted annually. The amount transferred shall be based on historical cost, adjusted for changes in the number of Medi-Cal beneficiaries and other relevant factors. The anticipated county matching funds shall be used by the department to contract with another entity for mental health services, and shall not be expended for any other purpose but the provision of those services and related administrative costs. The county shall continue to deliver non-Medi-Cal reimbursable mental health services in accordance with this division, and subject to subdivision (i) of Section 5777~~ *work with the Department of Finance and the Controller to sequester funds from the county that is unable or unwilling to contract in accordance with Section 30027.10 of the Government Code*.

(e) Whenever the department determines that a mental health plan has failed to comply with this ~~part~~ *chapter* or any regulations, *contractual requirements, state plan, or waivers* adopted pursuant to this ~~part that implement this part~~ *chapter*, the department *shall notify the mental health plan in writing within 30 days of its determination and* may impose sanctions, including, but not limited to, fines, penalties, the withholding of payments, special

requirements, probationary or corrective actions, or any other actions deemed necessary to ~~prompt and~~ *promptly* ensure contract and performance compliance. If ~~fines are imposed by the department, they may be withheld from the state matching funds provided to a mental health plan for Medi-Cal mental health services.~~ *the department imposes fines or penalties, to the extent permitted by federal law and state law or contract, it may offset the fines from either of the following:*

(1) Funds from the Mental Health Subaccount, the Mental Health Equity Subaccount, and the Vehicle License Collection Account of the Local Revenue Fund and funds from the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011.

(2) Any other mental health realignment funds from which the Controller is authorized to make distributions to the counties, if the funds described in paragraph (1) are insufficient for the purposes described in this subdivision.

~~(f) Notwithstanding any other provision of law, emergency regulations adopted pursuant to Section 14680 to implement the second phase of mental health managed care as provided in this part shall remain in effect until permanent regulations are adopted, or June 30, 2006, whichever occurs first.~~

~~(g) The department shall convene at least two public hearings to clarify new federal regulations recently enacted by the federal Centers for Medicare and Medicaid Services that affect the state's second phase of mental health managed care and shall report to the Legislature on the results of these hearings through the 2005–06 budget deliberations.~~

~~(h) The department may adopt emergency regulations necessary to implement Part 438 (commencing with Section 438.1) of Subpart A of Subchapter C of Chapter IV of Title 42 of the Code of Federal Regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of emergency regulations to implement this part, that are filed with the Office of Administrative Law within one year of the date on which the act that amended this subdivision in 2003 took effect, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare, and shall remain in effect for no more than 180 days.~~

(f) The due process and appeals process specified in paragraph (4) of subdivision (b) of Section 14718 shall be made available to the mental health plan under the circumstances described in subdivision (e).

SEC. 174. Section 5776 of the Welfare and Institutions Code is amended and renumbered to read:

~~5776.~~

14713. (a) The department and ~~its~~ mental health ~~plan contractors~~ *plans* shall comply with all applicable federal laws, regulations, and *the* guidelines, *standards, and requirements specified in the state plan, waiver, and mental health plan contract,* and, except as provided in this ~~part~~ *chapter*, all applicable state statutes and regulations.

(b) If federal requirements that affect the provisions of this ~~part~~ *chapter* are changed, it is the intent of the Legislature that state requirements be revised to comply with those changes.

SEC. 175. Section 5777 of the Welfare and Institutions Code is amended and renumbered to read:

~~5777.~~

14714. (a) (1) Except as otherwise specified in this ~~part~~ *chapter*, a contract entered into pursuant to this ~~part~~ *chapter* shall include a provision that the mental health plan contractor shall bear the financial risk for the cost of providing medically necessary *specialty* mental health services to Medi-Cal beneficiaries ~~irrespective of whether the cost of those services exceeds the payment set forth in the contract. If the expenditures for services do not exceed the payment set forth in the contract, the mental health plan contractor shall report the unexpended amount to the department, but shall not be required to return the excess to the department~~.

(2) If the mental health plan is not ~~the county's~~ *administered by a county*, the mental health plan ~~may~~ *shall* not transfer the obligation for any *specialty* mental health services to Medi-Cal beneficiaries to the county. The mental health plan may purchase services from the county. The mental health plan shall establish mutually agreed-upon protocols with the county that clearly establish conditions under which beneficiaries may obtain non-Medi-Cal reimbursable services from the county. Additionally, the plan shall establish mutually agreed-upon protocols with the county for the conditions of transfer of beneficiaries who have lost

Medi-Cal eligibility to the county for care under Part 2 (commencing with Section 5600), Part 3 (commencing with Section 5800), and Part 4 (commencing with Section 5850) *of Division 5*.

(3) The mental health plan shall be financially responsible for ensuring access and a minimum required scope of benefits *and services*, consistent with state and federal requirements, to ~~the services to the~~ Medi-Cal beneficiaries *who are residents* of that county regardless of where the beneficiary resides. The department shall require that the *same* definition of medical necessity *be* used, and the minimum scope of benefits offered~~,~~ by each mental health ~~contractor~~ *plan* be the same, except to the extent that ~~any variations receive~~ prior federal approval *is received* and ~~are~~ *is* consistent with state and federal ~~statutes and regulations~~ *laws*.

(b) *(1)* Any contract entered into pursuant to this ~~part~~ *chapter* may be renewed if the *mental health* plan continues to meet the requirements of this ~~part~~ *chapter*, regulations promulgated pursuant thereto, and the terms and conditions of the contract. Failure to meet these requirements shall be cause for nonrenewal of the contract. The department may base the decision to renew on timely completion of a mutually agreed-upon plan of correction of any deficiencies, submissions of required information in a timely manner, or other conditions of the contract. ~~At the discretion of the department, each contract may be renewed for a period not to exceed three years.~~

(2) In the event the contract is not renewed based on the reasons specified in paragraph (1), the department shall notify the Department of Finance, the fiscal and policy committees of the Legislature, and the Controller of the amounts to be sequestered from the Mental Health Subaccount, the Mental Health Equity Account, and the Vehicle License Fee Collection Account of the Local Revenue Fund and the Mental Health Account and the Behavioral Health Subaccount of the Local Revenue Fund 2011, and the Controller shall sequester those funds in the Behavioral Health Subaccount pursuant to Section 30027.10 of the Government Code. Upon this sequestration, the department shall use the funds in accordance with the provisions of Section 30027.10 of the Government Code.

(c) (1) The obligations of the mental health plan shall be changed only by contract or contract amendment.

(2) Notwithstanding paragraph (1), the mental health plan shall comply with federal and state requirements, including the applicable sections of the state plan and waiver.

~~(2)~~

(3) A change may be made during a contract term or at the time of contract renewal, ~~where~~ *when* there is a change in obligations required by federal or state law or when required by a change in the interpretation or implementation of any law or regulation. ~~To the extent permitted by federal law and except as provided under paragraph (10) of subdivision (c) of Section 5778, if any change in obligations occurs that affects the cost to the mental health plan of performing under the terms of its contract, the department may reopen contracts to negotiate the state General Fund allocation to the mental health plan under Section 5778, if the mental health plan is reimbursed through a fee-for-service payment system, or the capitation rate to the mental health plan under Section 5779, if the mental health plan is reimbursed through a capitated rate payment system. During the time period required to redetermine the allocation or rate, payment to the mental health plan of the allocation or rate in effect at the time the change occurred shall be considered interim payments and shall be subject to increase or decrease, as the case may be, effective as of the date on which the change is effective.~~

~~(3)~~

(4) To the extent permitted by federal law, either the department or the mental health plan may request that contract negotiations be reopened during the course of a contract due to substantial changes in the cost of covered benefits that result from an unanticipated event.

(d) The department shall immediately terminate a contract when the director finds that there is an immediate threat to the health and safety of Medi-Cal beneficiaries. Termination of the contract for other reasons shall be subject to reasonable notice of the department's intent to take that action and notification ~~of~~ *to* affected beneficiaries. The plan may request a ~~public~~ hearing by the Office of Administrative Hearings *and Appeals*.

(e) A *mental health* plan may terminate its contract in accordance with the provisions in the contract. The *mental health* plan shall provide written notice to the department at least 180 days prior to the termination or nonrenewal of the contract.

(f) Upon the request of the ~~Director of Mental Health~~ *director*, the Director of *the Department of* Managed Health Care may exempt a mental health plan ~~contractor or a capitated rate contract~~ from the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code). These exemptions may be subject to conditions the director deems appropriate. Nothing in this ~~part~~ *chapter* shall be construed to impair or diminish the authority of the Director of *the Department of* Managed Health Care under the Knox-Keene Health Care Service Plan Act of 1975, nor shall anything in this ~~part~~ *chapter* be construed to reduce or otherwise limit the obligation of a mental health plan contractor licensed as a health care service plan to comply with the requirements of the Knox-Keene Health Care Service Plan Act of 1975, and the rules of the Director of *the Department of* Managed Health Care promulgated thereunder. The ~~Director of Mental Health~~ *director*, in consultation with the Director of *the Department of* Managed Health Care, shall analyze the appropriateness of licensure or application of applicable standards of the Knox-Keene Health Care Service Plan Act of 1975.

(g) ~~(1)~~ The department~~, pursuant to an agreement with the State Department of Health Care Services,~~ shall provide oversight to the mental health plans to ensure quality, access, ~~and~~ cost efficiency, *and compliance with data and reporting requirements*. At a minimum, the department shall, through a method independent of any agency of the mental health plan contractor, monitor the level and quality of services provided, expenditures pursuant to the contract, and conformity with federal and state law.

~~(2) (A) Commencing July 1, 2008, county mental health plans, in collaboration with the department, the federally required external review organization, providers, and other stakeholders, shall establish an advisory statewide performance improvement project (PIP) to increase the coordination, quality, effectiveness, and efficiency of service delivery to children who are either receiving at least three thousand dollars ($3,000) per month in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program services or children identified in the top 5 percent of the county EPSDT cost, whichever is lowest. The statewide PIP shall replace one of the two required PIPs that mental health plans must perform~~

~~under federal regulations outlined in the mental health plan contract.~~

~~(B) The federally required external quality review organization shall provide independent oversight and reviews with recommendations and findings or summaries of findings, as appropriate, from a statewide perspective. This information shall be accessible to county mental health plans, the department, county welfare directors, providers, and other interested stakeholders in a manner that both facilitates, and allows for, a comprehensive quality improvement process for the EPSDT Program.~~

~~(C) Each July, the department, in consultation with the federally required external quality review organization and the county mental health plans, shall determine the average monthly cost threshold for counties to use to identify children to be reviewed who are currently receiving EPSDT services. The department shall consult with representatives of county mental health directors, county welfare directors, providers, and the federally required external quality review organization in setting the annual average monthly cost threshold and in implementing the statewide PIP. The department shall provide an annual update to the Legislature on the results of this statewide PIP by October 1 of each year for the prior fiscal year.~~

~~(D) It is the intent of the Legislature for the EPSDT PIP to increase the coordination, quality, effectiveness, and efficiency of service delivery to children receiving EPSDT services and to facilitate evidence-based practices within the program, and other high-quality practices consistent with the values of the public mental health system within the program to ensure that children are receiving appropriate mental health services for their mental health wellness.~~

~~(E) This paragraph shall become inoperative on September 1, 2011.~~

(h) County employees implementing or administering a mental health plan act in a discretionary capacity when they determine whether or not to admit a person for care or to provide any level of care pursuant to this ~~part~~ *chapter*.

(i) If a county ~~chooses to discontinue~~ *discontinues* operations as the ~~local~~ mental health plan, the *department shall approve any* new *mental health plan. The new mental health* plan shall give reasonable consideration to affiliation with nonprofit community

mental health agencies that were under contract with the county and that meet the mental health plan's quality and cost efficiency standards.

(j) Nothing in this ~~part~~ *chapter* shall be construed to modify, alter, or increase the obligations of counties as otherwise limited and defined in Chapter 3 (commencing with Section 5700) of Part 2 *of Division 5*. The county's maximum obligation for services to persons not eligible for Medi-Cal shall be no more than the amount of funds remaining in the mental health subaccount pursuant to Sections 17600, 17601, 17604, 17605, ~~17606,~~ and 17609 after fulfilling the Medi-Cal contract obligations.

SEC. 176. Section 5777.5 of the Welfare and Institutions Code is amended and renumbered to read:

~~5777.5.~~

14715. (a) (1) The department shall require any mental health plan that provides Medi-Cal *specialty mental health* services to enter into a memorandum of understanding with any Medi-Cal managed care plan that provides Medi-Cal health services to some of the same Medi-Cal recipients served by the mental health plan. The memorandum of understanding shall comply with applicable regulations.

(2) For purposes of this section, a "Medi-Cal managed care plan" means any prepaid health plan or Medi-Cal managed care plan contracting with the ~~State Department of Health Services~~ *department* to provide services to enrolled Medi-Cal beneficiaries under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) ~~of Part 3 of Division 9~~, or Part 4 (commencing with Section 101525) of Division 101 of the Health and Safety Code.

(b) The department shall require the memorandum of understanding to include all of the following:

(1) A process or entity to be designated by the local mental health plan to receive notice of actions, denials, or deferrals from the Medi-Cal managed care plan, and to provide any additional information requested in the deferral notice as necessary for a medical necessity determination.

(2) A requirement that the local mental health plan respond by the close of the business day following the day the deferral notice is received.

(c) The department may sanction a mental health plan pursuant to ~~paragraph (1) of~~ subdivision (e) of Section ~~5775~~ *14712* for failure to comply with this section.

(d) This section shall apply to any contracts entered into, amended, modified, extended, or renewed on or after January 1, 2001.

SEC. 177. Section 5777.6 of the Welfare and Institutions Code is amended and renumbered to read:

~~5777.6.~~

14716. (a) Each local mental health plan shall establish a procedure to ensure access to outpatient *specialty* mental health services, as required by the Early Periodic Screening and Diagnostic Treatment program standards, for any child in foster care who has been placed outside his or her county of adjudication.

(b) The procedure required by subdivision (a) may be established through one or more of the following:

(1) The establishment of, and federal approval, if required, of, a statewide system or procedure.

(2) An arrangement between local mental health plans for reimbursement for services provided by a mental health plan other than the mental health plan in the county of adjudication and designation of an entity to provide additional information needed for approval or reimbursement. This arrangement shall not require providers who are already credentialed or certified by the mental health plan in the beneficiary's county of residence to be credentialed or certified by, or to contract with, the mental health plan in the county of adjudication.

(3) Arrangements between the mental health plan in the county of adjudication and mental health providers in the beneficiary's county of residence for authorization of, and reimbursement for, services. This arrangement shall not require providers credentialed or certified by, and in good standing with, the mental health plan in the beneficiary's county of residence to be credentialed or certified by the mental health plan in the county of adjudication.

(c) The department shall collect and keep statistics that will enable the department to compare access to outpatient specialty mental health services by foster children placed in their county of adjudication with access to outpatient specialty mental health services by foster children placed outside of their county of adjudication.

SEC. 178. Section 5777.7 of the Welfare and Institutions Code is amended and renumbered to read:

~~5777.7.~~

14717. (a) In order to facilitate the receipt of medically necessary specialty mental health services by a foster child who is placed outside his or her county of original jurisdiction, the ~~State Department of Mental Health~~ *department* shall take all of the following actions:

(1) On or before July 1, 2008, create all of the following items, in consultation with stakeholders, including, but not limited to, the California Institute for Mental Health, the Child and Family Policy Institute, the California Mental Health Directors Association, and the California Alliance of Child and Family Services:

(A) A standardized contract for the purchase of medically necessary specialty mental health services from organizational providers, when a contract is required.

(B) A standardized specialty mental health service authorization procedure.

(C) A standardized set of documentation standards and forms, including, but not limited to, forms for treatment plans, annual treatment plan updates, day treatment intensive and day treatment rehabilitative progress notes, and treatment authorization requests.

(2) On or before January 1, 2009, use the standardized items as described in paragraph (1) to provide medically necessary specialty mental health services to a foster child who is placed outside his or her county of original jurisdiction, so that organizational providers who are already certified by a mental health plan are not required to be additionally certified by the mental health plan in the county of original jurisdiction.

(3) (A) On or before January 1, 2009, use the standardized items described in paragraph (1) to provide medically necessary specialty mental health services to a foster child placed outside his or her county of original jurisdiction to constitute a complete contract, authorization procedure, and set of documentation standards and forms, so that no additional documents are required.

(B) Authorize a county mental health plan to be exempt from subparagraph (A) and have an addendum to a contract, authorization procedure, or set of documentation standards and forms, if the county mental health plan has an externally placed

requirement, such as a requirement from a federal integrity agreement, that would affect one of these documents.

(4) Following consultation with stakeholders, including, but not limited to, the California Institute for Mental Health, the Child and Family Policy Institute, the California Mental Health Directors Association, the California State Association of Counties, and the California Alliance of Child and Family Services, require the use of the standardized contracts, authorization procedures, and documentation standards and forms as specified in paragraph (1) in the 2008–09 state-county mental health plan contract and each state-county mental health plan contract thereafter.

(5) The mental health plan shall complete a standardized contract, as provided in paragraph (1), if a contract is required, or another mechanism of payment if a contract is not required, with a provider or providers of the county's choice, to deliver approved specialty mental health services for a specified foster child, within 30 days of an approved treatment authorization request.

(b) The California Health and Human Services Agency shall coordinate the efforts of the ~~State Department of Mental Health~~ *department* and the State Department of Social Services to do all of the following:

(1) Participate with the stakeholders in the activities described in this section.

(2) During budget hearings in 2008 and 2009, report to the Legislature regarding the implementation of this section and subdivision (c) of Section ~~5777.6~~ *14716*.

(3) On or before July 1, 2008, establish the following, in consultation with stakeholders, including, but not limited to, the California Mental Health Directors Association, the California Alliance of Child and Family Services, and the County Welfare Directors Association of California:

(A) Informational materials that explain to foster care providers how to arrange for *specialty* mental health services on behalf of the beneficiary in their care.

(B) Informational materials that county child welfare agencies can access relevant to the provision of services to children in their care from the out-of-county local mental health plan that is responsible for providing those services, including, but not limited to, receiving a copy of the child's treatment plan within 60 days after requesting services.

(C) It is the intent of the Legislature to ensure that foster children who are adopted or placed permanently with relative guardians, and who move to a county outside their original county of residence, can access *specialty* mental health services in a timely manner. It is the intent of the Legislature to enact this section as a temporary means of ensuring access to these services, while the appropriate stakeholders pursue a long-term solution in the form of a change to the Medi-Cal Eligibility Data System that will allow these children to receive *specialty* mental health services through their new county of residence.

SEC. 179. Section 5778 of the Welfare and Institutions Code, as added by Section 8 of Chapter 651 of the Statutes of 2011, is amended and renumbered to read:

~~5778.~~

14718. (a) This section shall be limited to specialty mental health services reimbursed ~~through a fee-for-service payment system~~ *to a mental health plan that certifies public expenditures subject to cost settlement or specialty mental health services reimbursed through the department's fiscal intermediary*.

(b) The following provisions shall apply to matters related to specialty mental health services provided under the *approved* Medi-Cal ~~specialty mental health services waiver~~ *state plan and the Specialty Mental Health Services Waiver*, including, but not limited to, reimbursement and claiming procedures, reviews and oversight, and appeal processes for mental health plans (MHPs) and MHP subcontractors.

(1) ~~During the initial phases of the implementation of this part, as~~ *As* determined by the department, the MHP ~~contractor and subcontractors shall submit claims under the Medi-Cal program for eligible services on a fee-for-service basis~~ *shall submit claims for reimbursement to the Medi-Cal program for eligible services*.

~~(2) A qualifying county may elect, with the approval of the department, to operate under the requirements of a capitated, integrated service system field test, pursuant to Section 5719.5 rather than this part, in the event the requirements of the two programs conflict. A county that elects to operate under that section shall comply with all other provisions of this part that do not conflict with that section.~~

~~(3) (A) No sooner than October 1, 1994, state matching funds for Medi-Cal fee-for-service acute psychiatric inpatient services,~~

~~and associated administrative days, shall be transferred to the department. No later than July 1, 1997, upon agreement between the department and the State Department of Health Care Services, state matching funds for the remaining Medi-Cal fee-for-service mental health services and the state matching funds associated with field test counties under Section 5719.5 shall be transferred to the department.~~

~~(B) The department, in consultation with the State Department of Health Care Services, a statewide organization representing counties, and a statewide organization representing health maintenance organizations shall develop a timeline for the transfer of funding and responsibility for fee-for-service mental health services from Medi-Cal managed care plans to MHPs. In developing the timeline, the department shall develop screening, referral, and coordination guidelines to be used by Medi-Cal managed care plans and MHPs.~~

~~(4) (A) (i) A MHP subcontractor providing specialty mental health services shall be financially responsible for federal audit exceptions or disallowances to the extent that these exceptions or disallowances are based on the MHP subcontractor's conduct or determinations.~~

~~(ii) The state shall be financially responsible for federal audit exceptions or disallowances to the extent that these exceptions or disallowances are based on the state's conduct or determinations. The state shall not withhold payment from a MHP for exceptions or disallowances that the state is financially responsible for pursuant to this clause.~~

~~(iii) A MHP shall be financially responsible for state audit exceptions or disallowances to the extent that these exceptions or disallowances are based on the MHP's conduct or determinations. A MHP shall not withhold payment from a MHP subcontractor for exceptions or disallowances for which the MHP is financially responsible pursuant to this clause.~~

~~(B) For purposes of subparagraph (A), a "determination" shall be shown by a written document expressly stating the determination, while "conduct" shall be shown by any credible, legally admissible evidence.~~

~~(C)~~

(2) The department ~~and the State Department of Health Care Services shall work jointly with MHPs in initiating any necessary~~

~~appeals. The department may invoice or~~ *may* offset the amount of any federal disallowance~~ or~~, audit exception, *or overpayment* against subsequent claims from the MHP~~ or MHP subcontractor~~. *The department may offset the amount of any state disallowance, or audit exception or overpayment against subsequent claims from the mental health plan, through the 2010–11 fiscal year.* This offset may be done at any time, after the *department has invoiced or otherwise notified the mental health plan about the* audit exception ~~or~~, disallowance~~ has been withheld from the federal financial participation claim made by the State Department of Health Care Services~~, *or overpayment*. The~~ maximum~~ *department shall determine the* amount that may be withheld *from each payment to the mental health plan. The maximum withheld amount* shall be 25 percent of each payment~~ to the plan or subcontractor~~ *as long as the department is able to comply with the federal requirements for repayment of federal financial participation pursuant to Section 1903(d)(2) of the federal Social Security Act (42 U.S.C. Sec. 1396b(d)(2)). The department may increase the maximum amount when necessary for compliance with federal laws and regulations*.

~~(5)~~

(3) (A) Oversight by the department of the MHPs~~ and MHP subcontractors~~ may include client record reviews of Early Periodic Screening Diagnosis and Treatment (EPSDT) specialty mental health services *rendered by MHPs and MHP subcontractors* under the Medi-Cal specialty mental health services waiver in addition to other audits or reviews that are conducted.

(B) The department may contract with an independent, nongovernmental entity to conduct client record reviews. The contract awarded in connection with this section shall be on a competitive bid basis, pursuant to the Department of General Services contracting requirements, and shall meet both of the following additional requirements:

(i) Require the entity awarded the contract to comply with all federal and state privacy laws, including, but not limited to, the federal Health Insurance Portability and Accountability Act (HIPAA; 42 U.S.C. Sec. 1320d et seq.) and its implementing regulations, the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and Section 1798.81.5 of the Civil Code. The entity shall be subject to existing penalties for violation of these laws.

(ii) Prohibit the entity awarded the contract from using~~, selling,~~ or disclosing client records *or client information* for a purpose other than the one for which the record was given.

(iii) Prohibit the entity awarded the contract from selling client records or client information.

(C) For purposes of this paragraph, the following terms shall have the following meanings:

(i) "Client record" means a medical record, chart, or similar file, as well as other documents containing information regarding an individual recipient of services, including, but not limited to, clinical information, dates and times of services, and other information relevant to the individual and services provided and that evidences compliance with legal requirements for Medi-Cal reimbursement.

(ii) "Client record review" means examination of the client record for a selected individual recipient for the purpose of confirming the existence of documents that verify compliance with legal requirements for claims submitted for Medi-Cal reimbursement.

(D) The department shall recover overpayments of federal financial participation from MHPs within the timeframes required by federal law and regulation~~ and return those funds to the State Department of Health Care Services~~ for repayment to the federal Centers for Medicare and Medicaid Services.~~ The department shall recover overpayments of General Fund moneys utilizing the recoupment methods and timeframes required by the State Administrative Manual.~~

~~(6)~~

(4) (A) The department, in consultation with mental health stakeholders, the California Mental Health Directors Association, and MHP subcontractor representatives, shall provide an appeals process that specifies a progressive process for resolution of disputes about claims or recoupments relating to specialty mental health services under the Medi-Cal specialty mental health services waiver.

(B) The department shall provide MHPs and MHP subcontractors the opportunity to directly appeal findings in accordance with procedures that are similar to those described in Article 1.5 (commencing with Section 51016) of Chapter 3 of Subdivision 1 of Division 3 of Title 22 of the California Code of

Regulations, until new regulations for a progressive appeals process are promulgated. When an MHP subcontractor initiates an appeal, it shall give notice to the MHP. The department shall propose a rulemaking package *consistent with the department's appeals process that is in effect on July 1, 2012* by no later than the end of the ~~2008–09~~ *2013–14* fiscal year ~~to amend the existing appeals process~~. The reference in this subparagraph to the procedures described in Article 1.5 (commencing with Section 51016) of Chapter 3 of Subdivision 1 of Division 3 of Title 22 of the California Code of Regulations, shall only apply to those appeals addressed in this subparagraph.

(C) The department shall develop regulations as necessary to implement this paragraph.

~~(7)~~

(5) The department shall ~~assume the applicable program oversight authority formerly provided by the State Department of Health Care Services, including, but not limited to, the~~ *conduct* oversight of utilization controls as specified in Section 14133. The MHP shall include a requirement in any subcontracts that all inpatient subcontractors maintain necessary licensing and certification. MHPs shall require that services delivered by licensed staff are within their scope of practice. Nothing in this ~~part~~ *chapter* shall prohibit the MHPs from establishing standards that are in addition to the ~~minimum~~ federal and state requirements, provided that these standards do not violate federal and state ~~Medi-Cal~~ requirements and guidelines.

~~(8)~~

(6) (A) Subject to federal approval and consistent with state requirements, the MHP may negotiate rates with providers of *specialty* mental health services.

~~(9) Under the fee-for-service payment system, any~~

(B) Any excess in the ~~payment set forth in the contract~~ *distribution of funds* over the expenditures for services by the *mental health* plan shall be spent for the provision of specialty mental health services ~~under the Medi-Cal specialty mental health service waiver~~ and related administrative costs.

~~(10)~~

(7) Nothing in this ~~part~~ *chapter* shall limit the MHP from being reimbursed ~~the full and~~ appropriate federal financial participation for any qualified services ~~even if the total expenditures for service~~

~~exceeds the contract amount with the department. Matching nonfederal public funds shall be provided by the plan for the federal financial participation matching requirement~~. *To receive federal financial participation, the mental health plan shall certify its public expenditures for specialty mental health services to the department*.

~~(11)~~

(8) Notwithstanding Section 14115, claims for *federal* reimbursement for service pursuant to this ~~part~~ *chapter* shall be submitted by MHPs within the timeframes required by federal Medicaid requirements and the approved Medicaid state plan and waivers.

~~(c) This subdivision shall apply to managed mental health care funding allocations and risk-sharing determinations and arrangements.~~

~~(1) The department shall allocate and distribute annually the full appropriated amount to each MHP for the managed mental health care program, exclusive of the EPSDT specialty mental health services program, provided under the mental health services waiver. The allocated funds shall be considered to be funds of the plan to be used as specified in this part.~~

~~(2) Each fiscal year the state matching funds for Medi-Cal specialty mental health services shall be included in the annual budget for the department. The amount included shall be based on historical cost, adjusted for changes in the number of Medi-Cal beneficiaries and other relevant factors. The appropriation for funding the state share of the costs for EPSDT specialty mental health services provided under the Medi-Cal specialty mental health services waiver shall only be used for reimbursement payments of claims for those services.~~

~~(3) Initially, the~~

(9) The MHP shall use the fiscal intermediary of the Medi-Cal program of the State Department of Health Care Services for the processing of claims for inpatient psychiatric hospital services rendered in fee-for-service Medi-Cal hospitals. The department shall request the Controller to offset the distribution of funds to the counties from the Mental Health Subaccount, the Mental Health Equity Subaccount, or the Vehicle License Collection Account of the Local Revenue Fund, or funds from the Mental Health Account or the Behavioral Health Subaccount of the Local Revenue Fund

2011 for the nonfederal financial participation share for these claims.

(c) Counties may set aside funds for self-insurance, audit settlement, and statewide program risk pools. The counties shall assume all responsibility and liability for appropriate administration of the funds. Special consideration may be given to small counties with a population of less than 200,000. Nothing in the paragraph shall in any way make the state or department liable for mismanagement or loss of funds by the entity designated by counties under this subdivision.

(d) The department shall consult with the ~~State Department of Health Care Services and the~~ California Mental Health Directors Association in February and September of each year to ~~review the methodology used to forecast future trends~~ *obtain data and methodology necessary to forecast future fiscal trends* in the provision of ~~EPSDT~~ specialty mental health services provided under the Medi-Cal specialty mental health services waiver, to estimate ~~these yearly EPSDT~~ *yearly* specialty mental health services related costs, and to estimate the annual amount of ~~funding required for reimbursements for EPSDT specialty mental health services to ensure relevant factors are incorporated in the methodology. The estimates of costs and reimbursements shall include both federal financial participation amounts and any state General Fund amounts for EPSDT specialty mental health services provided under the State Medi-Cal specialty mental health services waiver. The department shall provide the State Department of Health Care Services the estimate adjusted to a cash basis~~ *federal funding participation to reimburse costs of specialty mental health services provided under the Medi-Cal specialty mental health services waiver. This shall include a separate presentation of the data and methodology necessary to forecast future fiscal trends in the provision of Early Periodic Screening, Diagnosis, and Treatment specialty mental health services provided under the Medi-Cal specialty mental health services waiver, to estimate annual EPSDT specialty mental health services related costs, and to estimate the annual amount of EPSDT specialty mental health services provided under the state Medi-Cal specialty mental health services waiver, including federal funding participation to reimburse costs of EPSDT.*

~~(B) The estimate of annual funding described in subparagraph (A) shall include, but not be limited to, the following factors:~~

~~(i) The impacts of interactions among caseload, type of services, amount or number of services provided, and billing unit cost of services provided.~~

~~(ii) A systematic review of federal and state policies, trends over time, and other causes of change.~~

~~(C) The forecasting and estimates performed under this paragraph are primarily for the purpose of providing the Legislature and the Department of Finance with projections that are as accurate as possible for the state budget process, but will also be informative and useful for other purposes. Therefore, it is the intent of the Legislature that the information produced under this paragraph shall be taken into consideration under paragraph (10) of subdivision (c).~~

(e) When seeking federal approval for any federal Medicaid state plan amendment or waiver associated with Medi-Cal specialty mental health services, the department shall consult with staff of the Legislature, counties, providers, and other stakeholders in the development of the state plan amendment or waiver.

~~(e)~~

(f) This section shall become operative on July 1, 2012.

SEC. 180. Section 5778.3 of the Welfare and Institutions Code is amended and renumbered to read:

~~5778.3.~~

14718.5. Notwithstanding any other law, including subdivision (b) of Section 16310 of the Government Code, the Controller may use the moneys in the Mental Health Managed Care Deposit Fund for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. Interest shall be paid on all moneys loaned to the General Fund from the Mental Health Managed Care Deposit Fund. Interest payable shall be computed at a rate determined by the Pooled Money Investment Board to be the current earning rate of the fund from which loaned. This subdivision does not authorize any transfer that will interfere with the carrying out of the object for which the Mental Health Managed Care Deposit Fund was created.

SEC. 181. Section 5779 of the Welfare and Institutions Code is amended to read:

5779. (a) This section shall be limited to mental health services reimbursed through a capitated rate payment system.

(b) Upon mutual agreement, the department and the State Department of Health *Care* Services may combine the funds transferred under this part, other funds available pursuant to Chapter ~~5~~ *6* (commencing with Section 17600) of Part 5 of Division 9, and federal financial participation funds to establish a contract for the delivery of mental health services to Medi-Cal beneficiaries under a capitated rate payment system. The combining of funds shall be done in consultation with a statewide organization representing counties. The combined funding shall be the budget responsibility of the department.

(c) The department, in consultation with a statewide organization representing counties, shall establish a methodology for a capitated rate payment system that is consistent with federal requirements.

(d) Capitated rate payments shall be made on a schedule specified in the contract with the mental health plan.

(e) The department may levy any necessary fines and audit disallowances to mental health plans relative to operations under this part. The mental health plans shall be liable for all federal audit exceptions or disallowances based on the plan's conduct or determinations. The mental health plan shall not be liable for federal audit exceptions or disallowances based on the state's conduct or determinations. The department shall work jointly with the mental health plan in initiating any necessary appeals. The department may offset the amount of any federal disallowance or audit exception against subsequent payment to the mental health plan at any time. The maximum amount that may be withheld shall be 25 percent of each payment to the mental health plan.

(f) This section shall become inoperative on July 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute that is enacted before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 182. Section 5780 of the Welfare and Institutions Code is amended and renumbered to read:

~~5780.~~

14721. (a) This ~~part~~ *chapter* shall only be implemented to the extent that the necessary federal waivers are obtained. The director shall execute a declaration, to be retained by the director, that a

waiver necessary to implement any provision of this ~~part~~ *chapter* has been obtained.

(b) This ~~part~~ *chapter* shall become inoperative on the date that, and only if, the director executes a declaration, to be retained by the director, that more than 10 percent of all counties fail to become mental health plan contractors, and ~~no~~ acceptable alternative contractors are *not* available, or if more than 10 percent of all funds allocated for Medi-Cal mental health services must be administered by the department because ~~no~~ *an* acceptable plan is *not* available.

SEC. 183. Section 5781 of the Welfare and Institutions Code is amended and renumbered to read:

~~5781.~~

14722. (a) Notwithstanding any other ~~provision of~~ law, a mental health plan may enter into a contract for the provision of *specialty* mental health services for Medi-Cal beneficiaries with a hospital that provides for a per diem reimbursement rate for services that include room and board, routine hospital services, and all hospital-based ancillary services and that provides separately for the attending mental health professional's daily visit fee. The payment of these negotiated reimbursement rates to the hospital by the mental health plan shall be considered payment in full for each day of inpatient psychiatric and hospital care rendered to a Medi-Cal beneficiary, subject to third-party liability and patient share of costs, if any.

(b) This section shall not be construed to allow a hospital to interfere with, control, or otherwise direct the professional judgment of a physician and surgeon in a manner prohibited by Section 2400 of the Business and Professions Code or any other provision of law.

(c) For purposes of this section, "hospital" means a hospital that submits reimbursement claims for Medi-Cal psychiatric inpatient hospital services through the Medi-Cal fiscal intermediary ~~as permitted by subdivision (g) of Section 5778~~.

SEC. 184. Section 5782 of the Welfare and Institutions Code is amended to read:

5782. *(a)* The provisions of this part are subject to and shall be read as incorporating the authority and oversight responsibilities of the State Department of Health Care Services in its role as the single state agency for the Medicaid program in California. The

provisions of this part shall be implemented only to the extent that federal financial participation is available.

(b) This section shall become inoperative on July 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute that is enacted before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 185. Section 5783 of the Welfare and Institutions Code is amended and renumbered to read:

~~5783.~~

14723. (a) Each eligible public agency, as described in subdivision (b), may, in addition to reimbursement or other payments that the agency would otherwise receive for Medi-Cal specialty mental health services, receive supplemental Medi-Cal reimbursement to the extent provided for in this section.

(b) A public agency shall be eligible for supplemental reimbursement only if it is a county, city, *or* city and county~~, or the University of California~~ and if, consistent with Section ~~5778, it meets either or both of the following characteristics continuously during a state fiscal year:~~ *14718 it provides as a mental health plan, or subcontracts for, specialty mental health services to Medi-Cal beneficiaries pursuant to the Medi-Cal Specialty Mental Health Consolidation Waiver (Number CA.17), as approved by the federal Centers for Medicare and Medicaid Services.*

~~(1) Provides, pursuant to the Medi-Cal Specialty Mental Health Services Consolidation Waiver (Number CA.17), as approved by the federal Centers for Medicare and Medicaid Services, specialty mental health services to Medi-Cal beneficiaries in one or more of its publically owned and operated facilities.~~

~~(2) Provides or subcontracts for specialty mental health services to Medi-Cal beneficiaries as a mental health plan (MHP) pursuant to this part.~~

(c) (1) Subject to paragraph (2), an eligible public agency's supplemental reimbursement pursuant to this section shall be equal to the amount of federal financial participation received as a result of the claims submitted pursuant to paragraph (2) of subdivision (f).

(2) Notwithstanding paragraph (1), in computing an eligible public agency's reimbursement, in no instance shall the expenditures certified pursuant to paragraph (1) of subdivision (e), when combined with the amount received from other sources of

payment and with reimbursement from the Medi-Cal program, including expenditures otherwise certified for purposes of claiming federal financial participation, exceed 100 percent of actual, allowable costs, as determined pursuant to California's Medicaid State Plan, for the specialty mental health services to which the expenditure relates. Supplemental payment may be made on an interim basis until the time when actual, allowable costs are finally determined.

(3) The supplemental Medi-Cal reimbursement provided by this section shall be distributed under a payment methodology based on specialty mental health services provided to Medi-Cal patients by each eligible public agency, on a per-visit basis, a per-procedure basis, a time basis, in one or more lump sums, or on any other federally permissible basis. The ~~State Department of Health Care Services~~ *department* shall seek approval from the federal Centers for Medicare and Medicaid Services for the payment methodology to be utilized, and shall not make any payment pursuant to this section prior to obtaining that federal approval.

(d) (1) It is the intent of the Legislature in enacting this section to provide the supplemental reimbursement described in this section without any expenditure from the General Fund. The department ~~or the State Department of Health Care Services~~ may require an eligible public agency, as a condition of receiving supplemental reimbursement pursuant to this section, to enter into, and maintain, an agreement with the department for the purposes of implementing this section and reimbursing the department ~~and the State Department of Health Care Services~~ for the costs of administering this section.

(2) Expenditures submitted to the department ~~and to the State Department of Health Care Services~~ for purposes of claiming federal financial participation under this section shall have been paid only with funds from the public agencies described in subdivision (b) and certified to the state as provided in subdivision (e).

(e) An eligible public agency shall do all of the following:

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

(2) Provide evidence supporting the certification as specified by the department ~~or by the State Department of Health Care Services~~.

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

(4) Keep, maintain, and have readily retrievable, any records specified by the department ~~or by the State Department of Health Care Services~~ to fully disclose reimbursement amounts to which the eligible public agency is entitled, and any other records required by the federal Centers for Medicare and Medicaid Services.

(f) (1) The ~~State Department of Health Care Services~~ *department* shall promptly seek any necessary federal approvals for the implementation of this section. If necessary to obtain federal approval, the program shall be limited to those costs that the federal Centers for Medicare and Medicaid Services determines to be allowable expenditures under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code). If federal approval is not obtained for implementation of this section, this section shall not be implemented.

(2) The ~~State Department of Health Care Services~~ *department* shall submit claims for federal financial participation for the expenditures described in subdivision (e) related to specialty mental health services that are allowable expenditures under federal law.

(3) The ~~State Department of Health Care Services~~ *department* shall, on an annual basis, submit any necessary materials to the federal Centers for Medicare and Medicaid Services to provide assurances that claims for federal financial participation will include only those expenditures that are allowable under federal law.

~~(4) The department shall collaborate with the State Department of Health Care Services to ensure that the department's policies, procedures, data, and other relevant materials are available to the State Department of Health Care Services as may be required for the implementation and administration of this section and for the claiming of federal financial participation.~~

(g) (1) The director may adopt regulations as are necessary to implement this section. The adoption, amendment, repeal, or readoption of a regulation authorized by this subdivision shall be

deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the department is hereby exempted from the requirement that it describe specific facts showing the need for immediate action.

(2) As an alternative to the adoption of regulations pursuant to paragraph (1), and notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the director may implement and administer this article, in whole or in part, by means of provider bulletins or similar instructions, without taking regulatory action, provided that no bulletin or similar instruction shall remain in effect after June 30, 2011. It is the intent that regulations adopted pursuant to paragraph (1) shall be in place on or before June 30, 2011.

SEC. 186. Section 5803 of the Welfare and Institutions Code is amended to read:

5803. (a) The State Department of ~~Mental~~ Health *Care Services* shall issue a request for proposals to develop system of care programs no later than October 1 in any year in which the state budget provides new funds to expand the system of care provided for in this chapter. The request for proposals shall include the following:

(1) Proposals may be submitted as a regional system of care by counties acting jointly, independent countywide proposals, and proposals to serve discrete geographic areas within counties or for a specific integrated services agency team. Nothing in the request for proposal shall be construed to restrict a county from contracting for part or all services included in the demonstration project proposal.

(2) The department shall establish reporting requirements for direct and indirect costs, and these requirements may be included in the request for proposals.

(3) The department shall require that proposals identify resources necessary to measure client and cost outcome and interagency collaboration. Proposal guidelines shall clearly require identification of procedures to document outcomes.

(4) Proposals must be approved by the board of supervisors and the local mental health board or commission.

(b) The director shall prepare a method for rating proposals to assure objectivity and selection of the best qualified applications.

New proposals shall be selected with consideration of regional balance across the state.

(c) The State Department of ~~Mental~~ Health *Care Services* shall fund counties with integrated service agencies or countywide systems of care funded under Chapter 982 of the Statutes of 1988, operating at the time of passage of this part. Those programs shall be funded under the provisions paragraph (2) of subdivision (a) of Section 5700 and shall be subject to all of the requirements and sanctions of this part.

SEC. 187. Section 5804 of the Welfare and Institutions Code is repealed.

~~5804. (a) The State Department of Mental Health shall include funding under this part in the county's performance contracts required under Section 5650 for existing and new counties selected under this part to develop an integrated service agency component or a countywide or regional system of care. The contracts required pursuant to this part shall be exempt from the requirements of the Public Contract Code and the State Administrative Manual and shall be exempt from approval by the Department of General Services.~~

~~(b) Projects funded under this part, or continued under the provisions of subdivision (b) of Section 5802, shall be considered an ongoing program of service delivery as long as the county and any of its contractors meet client and cost outcomes as required in the annual performance contract established by the department.~~

~~(c) The department may terminate contracts funded under this part when the department determines that the county has failed to meet client and cost outcomes as required in the performance contract or are no longer able to operate programs under the provisions of this part.~~

~~(d) Counties and their contractors shall provide the department with all information needed to evaluate the financial and program performance of participating projects.~~

SEC. 188. Section 5805 of the Welfare and Institutions Code is amended to read:

5805. The State Department of ~~Mental~~ Health *Care Services* shall require counties to use available state and matching funds for the client target population as defined in Section 5600.3 to develop a comprehensive array of services as defined in Sections 5600.6 and 5600.7.

SEC. 189. Section 5806 of the Welfare and Institutions Code is amended to read:

5806. The State Department of ~~Mental~~ Health *Care Services* shall establish service standards that ensure that members of the target population are identified, and services provided to assist them to live independently, work, and reach their potential as productive citizens. The department shall provide annual oversight of grants issued pursuant to this part for compliance with these standards. These standards shall include, but are not limited to, all of the following:

(a) A service planning and delivery process that is target population based and includes the following:

(1) Determination of the numbers of clients to be served and the programs and services that will be provided to meet their needs. The local director of mental health shall consult with the sheriff, the police chief, the probation officer, the mental health board, contract agencies, and family, client, ethnic, and citizen constituency groups as determined by the director.

(2) Plans for services, including outreach to families whose severely mentally ill adult is living with them, design of mental health services, coordination and access to medications, psychiatric and psychological services, substance abuse services, supportive housing or other housing assistance, vocational rehabilitation, and veterans' services. Plans also shall contain evaluation strategies, that shall consider cultural, linguistic, gender, age, and special needs of minorities in the target populations. Provision shall be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services due to limited-English-speaking ability and cultural differences. Recipients of outreach services may include families, the public, primary care physicians, and others who are likely to come into contact with individuals who may be suffering from an untreated severe mental illness who would be likely to become homeless if the illness continued to be untreated for a substantial period of time. Outreach to adults may include adults voluntarily or involuntarily hospitalized as a result of a severe mental illness.

(3) Provision for services to meet the needs of target population clients who are physically disabled.

(4) Provision for services to meet the special needs of older adults.

(5) Provision for family support and consultation services, parenting support and consultation services, and peer support or self-help group support, where appropriate for the individual.

(6) Provision for services to be client-directed and that employ psychosocial rehabilitation and recovery principles.

(7) Provision for psychiatric and psychological services that are integrated with other services and for psychiatric and psychological collaboration in overall service planning.

(8) Provision for services specifically directed to seriously mentally ill young adults 25 years of age or younger who are homeless or at significant risk of becoming homeless. These provisions may include continuation of services that still would be received through other funds had eligibility not been terminated due to age.

(9) Services reflecting special needs of women from diverse cultural backgrounds, including supportive housing that accepts children, personal services coordinator therapeutic treatment, and substance treatment programs that address gender-specific trauma and abuse in the lives of persons with mental illness, and vocational rehabilitation programs that offer job training programs free of gender bias and sensitive to the needs of women.

(10) Provision for housing for clients that is immediate, transitional, permanent, or all of these.

(11) Provision for clients who have been suffering from an untreated severe mental illness for less than one year, and who do not require the full range of services but are at risk of becoming homeless unless a comprehensive individual and family support services plan is implemented. These clients shall be served in a manner that is designed to meet their needs.

(12) Provision for services for veterans.

(b) A client shall have a clearly designated mental health personal services coordinator who may be part of a multidisciplinary treatment team who is responsible for providing or assuring needed services. Responsibilities include complete assessment of the client's needs, development of the client's personal services plan, linkage with all appropriate community services, monitoring of the quality and followthrough of services, and necessary advocacy to ensure that the client receives those services that are agreed to in the personal services plan. A client shall participate in the development of his or her personal services

plan, and responsible staff shall consult with the designated conservator, if one has been appointed, and, with the consent of the client, consult with the family and other significant persons as appropriate.

(c) The individual personal services plan shall ensure that members of the target population involved in the system of care receive age-appropriate, gender-appropriate, and culturally appropriate services or appropriate services based on any characteristic listed or defined in Section 11135 of the Government Code, to the extent feasible, that are designed to enable recipients to:

(1) Live in the most independent, least restrictive housing feasible in the local community, and for clients with children, to live in a supportive housing environment that strives for reunification with their children or assists clients in maintaining custody of their children as is appropriate.

(2) Engage in the highest level of work or productive activity appropriate to their abilities and experience.

(3) Create and maintain a support system consisting of friends, family, and participation in community activities.

(4) Access an appropriate level of academic education or vocational training.

(5) Obtain an adequate income.

(6) Self-manage their illness and exert as much control as possible over both the day-to-day and long-term decisions that affect their lives.

(7) Access necessary physical health care and maintain the best possible physical health.

(8) Reduce or eliminate serious antisocial or criminal behavior and thereby reduce or eliminate their contact with the criminal justice system.

(9) Reduce or eliminate the distress caused by the symptoms of mental illness.

(10) Have freedom from dangerous addictive substances.

(d) The individual personal services plan shall describe the service array that meets the requirements of subdivision (c), and to the extent applicable to the individual, the requirements of subdivision (a).

SEC. 190. Section 5807 of the Welfare and Institutions Code is amended to read:

5807. (a) The State Department of ~~Mental Health~~ *Health Care Services* shall require counties which receive funding to develop interagency collaboration with shared responsibilities for services under this part and achievement of the client and cost outcome goals and interagency collaboration goals specified.

(b) Collaborative activities shall include:

(1) Identification of those agencies that have a significant joint responsibility for the target population and ensuring collaboration on planning for services to that population.

(2) Identification of gaps in services to members of the target population, development of policies to assure service effectiveness and continuity, and setting priorities for interagency services.

(3) Implementation of public and private collaborative programs whenever possible to better serve the target population.

(4) Provision of interagency case management services to coordinate resources to target population members who are using the services of more than one agency.

(5) Coordination with federal agencies responsible for providing veterans' services, as well as national, state, and local nonprofit organizations that provide veterans' services, to maximize the integration of services and to eliminate duplicative efforts.

SEC. 191. Section 5809 of the Welfare and Institutions Code is amended to read:

5809. The State Department of ~~Mental Health~~ *Health Care Services* shall continue to work with participating counties and other interested parties to refine and establish client and cost outcome and interagency collaboration goals including the expected level of attainment with participating system of care counties. These outcome measures should include specific objectives addressing the following goals:

(a) Client benefit outcomes.

(b) Client and family member satisfaction.

(c) System of care access.

(d) Cost savings, cost avoidance, and cost-effectiveness outcomes that measure short-term or long-term cost savings and cost avoidance achieved in public sector expenditures to the target population.

SEC. 192. Article 3 (commencing with Section 5810) of Part 3 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 193. Section 5813.6 of the Welfare and Institutions Code is amended to read:

5813.6. (a) At the time of the release of the January 10 budget plan and the May Revision, the Director of ~~Mental~~ Health *Care Services* shall submit to the Legislature information regarding the projected expenditure of Proposition 63 funding for each state department, and for each major program category specified in the measure, for local assistance. This shall include actual past-year expenditures, estimated current-year expenditures, and projected budget-year expenditures of local assistance funding. In addition, it shall include a complete listing of state support expenditures for the current year and for the budget year by the State Department of ~~Mental~~ Health *Care Services*, including the number of state positions and any contract funds. A description of these state expenditures shall accompany the fiscal information the director is required to submit to the Legislature pursuant to this section.

(b) During each fiscal year, the Director of ~~Mental~~ Health *Care Services* shall submit to the fiscal committees of the Legislature, 30 days in advance, written notice of the intention to expend Proposition 63 local assistance funding in excess of the amounts presented in its May Revision projection for that fiscal year. The written notice shall include information regarding the amount of the additional spending and its purpose.

SEC. 194. Section 5814 of the Welfare and Institutions Code is amended to read:

5814. (a) (1) This part shall be implemented only to the extent that funds are appropriated for purposes of this part. To the extent that funds are made available, the first priority shall go to maintain funding for the existing programs that meet adult system of care contract goals. The next priority for funding shall be given to counties with a high incidence of persons who are severely mentally ill and homeless or at risk of homelessness, and meet the criteria developed pursuant to paragraphs (3) and (4).

(2) ~~The director~~ *The Director of Health Care Services* shall establish a methodology for awarding grants under this part consistent with the legislative intent expressed in Section 5802, and in consultation with the advisory committee established in this subdivision.

(3) (A) ~~The director~~ *The Director of Health Care Services* shall establish an advisory committee for the purpose of providing advice

regarding the development of criteria for the award of grants, and the identification of specific performance measures for evaluating the effectiveness of grants. The committee shall review evaluation reports and make findings on evidence-based best practices and recommendations for grant conditions. At not less than one meeting annually, the advisory committee shall provide to the director written comments on the performance of each of the county programs. Upon request by the department, each participating county that is the subject of a comment shall provide a written response to the comment. The department shall comment on each of these responses at a subsequent meeting.

(B) The committee shall include, but not be limited to, representatives from state, county, and community veterans' services and disabled veterans outreach programs, supportive housing and other housing assistance programs, law enforcement, county mental health and private providers of local mental health services and mental health outreach services, the ~~Board~~ *Department* of Corrections *and Rehabilitation*, the State Department of Alcohol and Drug Programs, local substance abuse services providers, the Department of Rehabilitation, providers of local employment services, the State Department of Social Services, the Department of Housing and Community Development, a service provider to transition youth, the United Advocates for Children of California, the California Mental Health Advocates for Children and Youth, the Mental Health Association of California, the California Alliance for the Mentally Ill, the California Network of Mental Health Clients, the *California* Mental Health Planning Council, *the Mental Health Services Oversight and Accountability Commission*, and other appropriate entities.

(4) The criteria for the award of grants shall include, but not be limited to, all of the following:

(A) A description of a comprehensive strategic plan for providing outreach, prevention, intervention, and evaluation in a cost appropriate manner corresponding to the criteria specified in subdivision (c).

(B) A description of the local population to be served, ability to administer an effective service program, and the degree to which local agencies and advocates will support and collaborate with program efforts.

(C) A description of efforts to maximize the use of other state, federal, and local funds or services that can support and enhance the effectiveness of these programs.

(5) In order to reduce the cost of providing supportive housing for clients, counties that receive a grant pursuant to this part after January 1, 2004, shall enter into contracts with sponsors of supportive housing projects to the greatest extent possible. Participating counties are encouraged to commit a portion of their grants to rental assistance for a specified number of housing units in exchange for the counties' clients having the right of first refusal to rent the assisted units.

(b) In each year in which additional funding is provided by the annual Budget Act the ~~department~~ *State Department of Health Care Services* shall establish programs that offer individual counties sufficient funds to comprehensively serve severely mentally ill adults who are homeless, recently released from a county jail or the state prison, or others who are untreated, unstable, and at significant risk of incarceration or homelessness unless treatment is provided to them and who are severely mentally ill adults. For purposes of this subdivision, "severely mentally ill adults" are those individuals described in subdivision (b) of Section 5600.3. In consultation with the advisory committee established pursuant to paragraph (3) of subdivision (a), the department shall report to the Legislature on or before May 1 of each year in which additional funding is provided, and shall evaluate, at a minimum, the effectiveness of the strategies in providing successful outreach and reducing homelessness, involvement with local law enforcement, and other measures identified by the department. The evaluation shall include for each program funded in the current fiscal year as much of the following as available information permits:

(1) The number of persons served, and of those, the number who receive extensive community mental health services.

(2) The number of persons who are able to maintain housing, including the type of housing and whether it is emergency, transitional, or permanent housing, as defined by the department.

(3) (A) The amount of grant funding spent on each type of housing.

(B) Other local, state, or federal funds or programs used to house clients.

(4) The number of persons with contacts with local law enforcement and the extent to which local and state incarceration has been reduced or avoided.

(5) The number of persons participating in employment service programs including competitive employment.

(6) The number of persons contacted in outreach efforts who appear to be severely mentally ill, as described in Section 5600.3, who have refused treatment after completion of all applicable outreach measures.

(7) The amount of hospitalization that has been reduced or avoided.

(8) The extent to which veterans identified through these programs' outreach are receiving federally funded veterans' services for which they are eligible.

(9) The extent to which programs funded for three or more years are making a measurable and significant difference on the street, in hospitals, and in jails, as compared to other counties or as compared to those counties in previous years.

(10) For those who have been enrolled in this program for at least two years and who were enrolled in Medi-Cal prior to, and at the time they were enrolled in, this program, a comparison of their Medi-Cal hospitalizations and other Medi-Cal costs for the two years prior to enrollment and the two years after enrollment in this program.

(11) The number of persons served who were and were not receiving Medi-Cal benefits in the 12-month period prior to enrollment and, to the extent possible, the number of emergency room visits and other medical costs for those not enrolled in Medi-Cal in the prior 12-month period.

(c) To the extent that state savings associated with providing integrated services for the mentally ill are quantified, it is the intent of the Legislature to capture those savings in order to provide integrated services to additional adults.

(d) Each project shall include outreach and service grants in accordance with a contract between the state and approved counties that reflects the number of anticipated contacts with people who are homeless or at risk of homelessness, and the number of those who are severely mentally ill and who are likely to be successfully referred for treatment and will remain in treatment as necessary.

(e) All counties that receive funding shall be subject to specific terms and conditions of oversight and training which shall be developed by the department, in consultation with the advisory committee.

(f) (1) As used in this part, "receiving extensive mental health services" means having a personal services coordinator, as described in subdivision (b) of Section 5806, and having an individual personal service plan, as described in subdivision (c) of Section 5806.

(2) The funding provided pursuant to this part shall be sufficient to provide mental health services, medically necessary medications to treat severe mental illnesses, alcohol and drug services, transportation, supportive housing and other housing assistance, vocational rehabilitation and supported employment services, money management assistance for accessing other health care and obtaining federal income and housing support, accessing veterans' services, stipends, and other incentives to attract and retain sufficient numbers of qualified professionals as necessary to provide the necessary levels of these services. These grants shall, however, pay for only that portion of the costs of those services not otherwise provided by federal funds or other state funds.

(3) Methods used by counties to contract for services pursuant to paragraph (2) shall promote prompt and flexible use of funds, consistent with the scope of services for which the county has contracted with each provider.

(g) Contracts awarded pursuant to this part shall be exempt from the Public Contract Code and the state administrative manual and shall not be subject to the approval of the Department of General Services.

(h) Notwithstanding any other provision of law, funds awarded to counties pursuant to this part and Part 4 (commencing with Section 5850) shall not require a local match in funds.

SEC. 195. Section 5815 of the Welfare and Institutions Code is amended to read:

5815. The State Department of Health Care Services~~, in conjunction with the State Department of Mental Health,~~ shall seek all available federal funding for mental health services for veterans.

SEC. 196. Section 5851.5 of the Welfare and Institutions Code is amended to read:

5851.5. For the purposes of this part, a "system of care county" means a county which has been approved by the State Department of ~~Mental~~ Health *Care Services* as having the capability to provide child- and family-centered services in a collaborative manner, resulting in quantitative outcome measures.

SEC. 197. Section 5852 of the Welfare and Institutions Code is amended to read:

5852. There is hereby established an interagency system of care for children with serious emotional and behavioral disturbances that provides comprehensive, coordinated care based on the demonstration project under former Chapter 7 (commencing with Section 5575), as added by Chapter 160 of the Statutes of 1987, and the *former* 1983 State Department of Mental Health planning model for children's services. Each participating county shall adapt the model to local needs and priorities.

SEC. 198. Section 5852.5 of the Welfare and Institutions Code is amended to read:

5852.5. ~~The department~~ *The State Department of Health Care Services, in consultation with the Mental Health Services Oversight and Accountability Commission* shall review those counties that have been awarded funds to implement a comprehensive system for the delivery of mental health services to children with serious emotional disturbance and to their families or foster families to determine compliance with either of the following:

(a) The total estimated cost avoidance in all of the following categories shall equal or exceed the applications for funding award moneys:

(1) Group home costs paid by Aid to Families with Dependent Children-Foster Care (AFDC-FC) program.

(2) Children and adolescent state hospital and acute inpatient programs.

(3) Nonpublic school residential placement costs.

(4) Juvenile justice reincarcerations.

(5) Other short- and long-term savings in public funds resulting from the applications for funding award moneys.

(b) If the department determines that the total cost avoidance listed in subdivision (a) does not equal or exceed applications for funding award amounts, the department shall determine that the county that has been awarded funding shall achieve substantial compliance with all of the following goals:

(1) Total cost avoidance in the categories listed in subdivision (a) to exceed 50 percent of the applications for funding award moneys.

(2) A 20-percent reduction in out-of-county ordered placements of juvenile justice wards and social service dependents.

(3) A statistically significant reduction in the rate of recidivism by juvenile offenders.

(4) A 25-percent reduction in the rate of state hospitalization of minors from placements of special education pupils.

(5) A 10-percent reduction in out-of-county nonpublic school residential placements of special education pupils.

(6) Allow at least 50 percent of children at risk of imminent placement served by the intensive in-home crisis treatment programs, which are wholly or partially funded by applications for funding award moneys, to remain at home at least six months.

(7) Statistically significant improvement in school attendance and academic performance of seriously emotionally disturbed special education pupils treated in day treatment programs which are wholly or partially funded by applications for funding award moneys.

(8) Statistically significant increases in services provided in nonclinic settings among agencies.

(9) Increase in ethnic minority and gender access to services proportionate to the percentage of these groups in the county's school-age population.

SEC. 199. Section 5854 of the Welfare and Institutions Code is amended to read:

5854. The State Department of ~~Mental~~ Health *Care Services* may contract with counties whose programs have been approved by the department and selected pursuant to Article 4 (commencing with Section 5857). A county may request to participate under this part each year according to the terms set forth in Section 5705 for the purpose of establishing a three-year program proposal for developing and implementing a children's comprehensive mental health services system. The contract shall be negotiated on a yearly basis, based on the scope of work plan for each implementation phase.

SEC. 200. Section 5855 of the Welfare and Institutions Code is amended to read:

5855. ~~The department~~ *The State Department of Health Care Services* shall adopt as part of its overall mission the development of community-based, comprehensive, interagency systems of care that target seriously emotionally and behaviorally disturbed children separated from their families or at risk of separation from their families, as defined in Section 5856. These comprehensive, interagency systems of care shall seek to provide the highest benefit to children, their families, and the community at the lowest cost to the public sector. Essential values shall be as follows:

(a) Family preservation. Children shall be maintained in their homes with their families whenever possible.

(b) Least restrictive setting. Children shall be placed in the least restrictive and least costly setting appropriate to their needs when out-of-home placement is necessary.

(c) Natural setting. Children benefit most from mental health services in their natural environments, where they live and learn, such as home, school, foster home, or a juvenile detention center.

(d) Interagency collaboration and a coordinated service delivery system. The primary child-serving agencies, such as social services, probation, education, health, and mental health agencies, shall collaborate at the policy, management, and service levels to provide a coordinated, goal-directed system of care for seriously emotionally disturbed children and their families.

(e) Family involvement. Family participation is an integral part of assessment, intervention, and evaluation.

(f) Cultural competence. Service effectiveness is dependent upon both culturally relevant and competent service delivery.

SEC. 201. Section 5855.5 of the Welfare and Institutions Code is amended to read:

5855.5. (a) Projects funded pursuant to Part 4 (commencing with Section 5850) of Division 5, as added by Chapter 89 of the Statutes of 1991, shall continue under the terms of this part.

(b) ~~The department~~ *The State Department of Health Care Services* shall negotiate with each participating county to establish appropriate evaluation measures for the county's children's system of care program after the initial three-year implementation funding period as established in Section 5854. The department shall, on an annual basis, negotiate a performance contract with each county electing to continue its children's system of care program. The annual performance contract shall be consistent county to county,

and shall include, but not be limited to, a scope of work plan consistent with the provisions of this part and shall contain a budget that has sufficient detail to meet the requirements of the department.

SEC. 202. Section 5863 of the Welfare and Institutions Code is amended to read:

5863. In addition to the requirements of Section 5862, each county program proposal shall contain all of the following:

(a) Methods and protocols for the county mental health department to identify and screen the eligible target population children. These protocols shall be developed with collaborative partners and shall ensure that eligible children can be referred from all collaborating agencies.

(b) Measurable system performance goals for client outcome and cost avoidance. Outcomes shall be made available to collaborating partners and used for program improvement.

(c) Methods to achieve interagency collaboration by all publicly funded agencies serving children experiencing emotional disturbances.

(d) Appropriate written interagency protocols and agreements with all other programs in the county that serve similar populations of children. Agreements shall exist with wrap-around programs (Chapter 4 (commencing with Section 18250) of Part 6 of Division 9), Family Preservation programs (Part 4.4 (commencing with Section 16600) of Division 9), Juvenile Crime Enforcement and Accountability Challenge Grant programs (Article 18.7 (commencing with Section 749.2) of Chapter 2 of Part 1 of Division 1), programs serving children with a dual diagnosis including substance abuse or whose emotional disturbance is related to family substance abuse, and programs serving families enrolled in CalWORKs (Chapter 2 (commencing with Section 11200.5) of Part 3 of Division 9).

(e) A description of case management services for the target population. Each county program proposal shall include protocols developed in the county for case management designed to provide assessment, linkage, case planning, monitoring, and client advocacy to facilitate the provision of appropriate services for the child and family in the least restrictive environment as close to home as possible.

(f) Mental health services that enable a child to remain in his or her usual family setting and that offer an appropriate alternative to out-of-home placement.

(g) Methods to conduct joint interagency placement screening of target population children prior to out-of-home placement.

(h) Identification of the number and level of county evaluation staff and the resources necessary to meet requirements established by the State Department of ~~Mental Health~~ *Health Care Services* to measure client and cost outcome and other system performance measures.

(i) A budget specifying all new and currently funded mental health expenditures provided as part of the proposed system of care. The department shall establish reporting requirements for direct and indirect administrative overhead, to be included in the request for proposals. Weight shall be given to counties with lower administrative overhead costs. In no case shall administrative costs exceed those of existing county mental health programs and services. Expenditures for evaluation staff and resources shall not be considered administrative costs for this purpose.

(j) Any requirements for interagency collaboration, agreements, or protocols contained in this section shall not diminish requirements for the confidentiality of medical information or information maintained by a county agency or department.

SEC. 203. Section 5867.5 of the Welfare and Institutions Code is amended to read:

5867.5. ~~(a)~~ Beginning in the 1998–99 fiscal year, county mental health departments that receive full system of care funding, as determined by the State Department of ~~Mental~~ Health *Care Services* in consultation with counties, shall provide to children served by county social services and probation departments mental health screening, assessment, participation in multidisciplinary placement teams and specialty mental health treatment services for children placed out of home in group care, for those children who meet the definition of medical necessity, to the extent resources are available. These counties shall give first priority to children currently receiving psychoactive medication.

~~(b) The State Department of Mental Health shall develop, by June 1, 1999, an estimate of the extent to which mental health assessment and treatment resources are available to meet all of the following needs:~~

~~(1) Children placed in group care by county departments of social services and probation.~~

~~(2) Children placed in out-of-home care by county departments of social services.~~

~~(3) Children at risk of placement out of home who are receiving services from county departments of social services or probation.~~

~~(c) The estimate required by subdivision (b) shall include identification of specific resource gaps, including human resource gaps, in the delivery of specialty mental health services to children identified by county social services and probation.~~

~~(d) The State Department of Mental Health shall develop, with the assistance of the State Department of Social Services and the Judicial Council, with participation by county mental health departments, county health departments, and county social services departments, and in consultation with group home providers and representatives of current or former foster youth and representatives of pediatricians and child and adolescent psychiatrists, by July 1, 1999, a procedure for review of treatment plans for children receiving prescribed psychoactive medication and who are placed in out-of-home care.~~

SEC. 204. Section 5868 of the Welfare and Institutions Code is amended to read:

5868. (a) ~~The department~~ *The State Department of Health Care Services* shall establish service standards that ensure that children in the target population are identified and receive needed and appropriate services from qualified staff in the least restrictive environment.

(b) The standards shall include, but not be limited to:

(1) Providing a comprehensive assessment and treatment plan for each target population client to be served, and developing programs and services that will meet their needs and facilitate client outcome goals.

(2) Providing for full participation of the family in all aspects of assessment, case planning, and treatment.

(3) Providing methods of assessment and services to meet the cultural, linguistic, and special needs of minorities in the target population.

(4) Providing for staff with the cultural background and linguistic skills necessary to remove barriers to mental health

services resulting from a limited ability to speak English or from cultural differences.

(5) Providing mental health case management for all target population clients in, or being considered for, out-of-home placement.

(6) Providing mental health services in the natural environment of the child to the extent feasible and appropriate.

(c) The responsibility of the case managers shall be to ensure that each child receives the following services:

(1) A comprehensive mental health assessment.

(2) Case planning with all appropriate interagency participation.

(3) Linkage with all appropriate mental health services.

(4) Service plan monitoring.

(5) Client advocacy to ensure the provision of needed services.

SEC. 205. Section 5869 of the Welfare and Institutions Code is amended to read:

5869. ~~The department~~ *The State Department of Health Care Services* shall provide participating counties with all of the following:

(a) Applications for funding guidelines and format, and coordination and oversight of the selection process as described in Article 4 (commencing with Section 5857).

(b) Contracts with each state funded county specifying the approved budget, performance outcomes, and a scope of work plan for each year of participation in the children's system of care program.

(c) Technical assistance related to system evaluation.

SEC. 206. Section 5872 of the Welfare and Institutions Code is amended to read:

5872. In order to offset the cost of services, participating counties shall collect reimbursement for services from the following sources:

(a) Fees paid by families, which shall be the same as patient fees established pursuant to Section ~~5718~~ *14705*.

(b) Fees paid by private or public third-party payers.

(c) Categorical funds from sources established in state or federal law, for which persons with mental ~~disorders~~ *illness* are eligible.

SEC. 207. Section 5878 of the Welfare and Institutions Code is amended to read:

5878. (a) (1) The Secretary of ~~the Health and Welfare Agency~~ *California Health and Human Services*, the Superintendent of Public Instruction, or the Secretary of the ~~Youth and Corrections Agency~~ *Department of Corrections and Rehabilitation* may waive any state regulatory obstacles to the integration of public responsibilities and resources required for counties which have been approved as system of care counties.

(2) The waiver shall remain in effect as long as the local program continues to meet standards as specified in the scope of work plan approved by the State Department of ~~Mental~~ Health *Care Services*.

(b) The Secretary of ~~Health and Welfare~~ *California Health and Human Services*, the Superintendent of Public Instruction, and the Secretary of the ~~Youth and Corrections Agency~~ *Department of Corrections and Rehabilitation*, and those departments designated as single state agencies administering federal programs, shall make every effort to secure federal waivers and any other changes in federal policy or law necessary to support interagency collaboration and coordination in a system of care service delivery system.

SEC. 208. Section 5880 of the Welfare and Institutions Code is amended to read:

5880. For each selected county the ~~department~~ *State Department of Health Care Services* shall define and establish client and cost outcome and other system performance goals, and negotiate the expected levels of attainment for each year of participation. Expected levels of attainment shall include a breakdown by ethnic origin and shall be identified by a county in its proposal. These goals shall include, but not be limited to, both of the following:

(a) Client improvement and cost avoidance outcome measures, as follows:

(1) To reduce the number of child months in group homes, residential placements pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and state hospital placements.

(2) To reduce the cost of AFDC-FC group home care, residential placements as described in paragraph (1), and state hospital utilization, by an amount which equals at least 50 percent of the third year project cost. Cost avoidance shall be based on data comparisons of statewide average expenditure and population.

(3) To increase school attendance for pupils in targeted programs.

(4) To increase the grade level equivalent of pupils in targeted programs from admission to discharge.

(5) To reduce the rate of recidivism incurred for wards in targeted juvenile justice programs.

(6) To show measurable improvement in individual and family functional status for a representative sample of children enrolled in the system of care.

(7) To achieve statistically significant increases in services provided in nonclinic settings among agencies.

(8) To increase ethnic minority and gender access to services proportionate to the percentage of these groups in the county's school-age population.

(b) System development and operation measures, as follows:

(1) To provide an integrated system of care that includes multiagency programs and joint case planning, to children who are seriously emotionally and behaviorally disturbed as defined in Section 5856.

(2) To identify and assess children who comprise the target population in the county evidenced by a roster which contains all children receiving mental health case management and treatment services. This roster shall include necessary standardized and uniform identifying information and demographics about the children served.

(3) To develop and maintain individualized service plans that will facilitate interagency service delivery in the least restrictive environment.

(4) To develop or provide access to a range of intensive services that will meet individualized service plan needs. These services shall include, but not be limited to, case management, expanded treatment services at schoolsites, local juvenile corrections facilities, and local foster homes, and flexible services.

(5) To ensure the development and operation of the interagency policy council and the interagency case management council.

(6) To provide culturally competent programs that recognize and address the unique needs of ethnic populations in relation to equal access, program design and operation, and program evaluation.

(7) To develop parent education and support groups, and linkages with parents to ensure their involvement in the planning process and the delivery of services.

(8) To provide a system of evaluation that develops outcome criteria and which will measure performance, including client outcome and cost avoidance.

(9) To gather, manage, and report data in accordance with the requirements of the state funded outcome evaluation.

SEC. 209. Section 5881 of the Welfare and Institutions Code is amended to read:

5881. (a) Evaluation shall be conducted by ~~both~~ participating county evaluation staff and, subject to the availability of funds, by the ~~department~~ *State Department of Health Care Services and the Mental Health Services Oversight and Accountability Commission*.

(b) Evaluation at both levels shall do all of the following:

(1) Ensure that county level systems of care are serving the targeted population.

(2) Ensure that the timely performance data related to client outcome and cost avoidance is collected, analyzed, and reported.

(3) Ensure that system of care components are implemented as intended.

(4) Provide information documenting needs for future planning.

SEC. 210. Section 5901 of the Welfare and Institutions Code is amended to read:

5901. (a) The Legislature finds that the following issues relating to program operation must be resolved prior to the full assumption of responsibility for institutions for mental disease program monitoring and reimbursement procedures by the counties:

(1) The information regarding the program is inadequate to accurately allocate funding to the counties without significant disruption of patient care.

(2) There is currently no administrative mechanism whereby all counties can immediately assume these responsibilities without endangering the health and safety of the persons being served.

(b) (1) During the 1991–92 fiscal year, the sum of eighty-seven million seven hundred twenty-seven thousand dollars ($87,727,000) shall be made available from the Mental Health Subaccount of the Sales Tax Account of the Local Revenue Fund to the department for support of institutions for mental disease.

(2) For the 1991–92 fiscal year, the department shall issue a preliminary allocation of at least fifty-seven million four hundred fifty thousand dollars ($57,450,000) of the amount identified in paragraph (1). In developing a preliminary allocation, the department shall utilize a methodology that will minimize disruption of services to persons being served and that will continue access at the 1990–91 fiscal year level.

(3) During the 1991–92 fiscal year, the department shall administer institution for mental disease resources remaining from the amount identified in paragraph (1) after the allocation described in (2) has been made, as a risk pool on behalf of all the counties. Effective July 1, 1991, the department shall enter into contracts with institutions for mental disease providers at the 1990–91 fiscal year contract bed level. These resources shall be made available to all counties.

(4) The department shall establish a method for the identification of persons, by county, residing in institutions for mental disease, and notification of counties of their program and fiscal responsibilities.

(c) The Department of Finance may authorize a loan of up to twenty million dollars ($20,000,000) from the General Fund for deposit into the Institutions for Mental Disease Account of the Mental Health Facilities Fund established pursuant to Section 17602.05, for use by the ~~State Department of Mental Health~~ *department* in implementing this part.

SEC. 211. Section 5909 of the Welfare and Institutions Code is amended to read:

5909. The Director of ~~Mental~~ Health *Care Services* shall retain the authority and responsibility to monitor and approve special treatment programs in skilled nursing facilities in accordance with Sections 72443 to 72474, inclusive, of Title 22 of the California Code of Regulations.

SEC. 212. Section 6002.15 of the Welfare and Institutions Code is amended to read:

6002.15. (a) Prior to accepting the written authorization for treatment, the facility shall assure that a representative of the facility has given a full explanation of the treatment philosophy of the facility, including, where applicable, the use of seclusion and restraint, the use of medication, and the degree of involvement of family members in the minor's treatment to the parent, guardian

or other person entitled to the minor's custody. This explanation shall be given orally and in writing, and shall be documented in the minor's treatment record upon completion.

(b) As part of the admission process, the professional person responsible for the minor's admission shall affirm in writing that the minor meets the admission criteria as specified above.

(c) Upon admission, a facility specified in Section 6002.10 shall do all of the following:

(1) Inform the minor in writing of the availability of an independent clinical review of his or her further inpatient treatment. The notice shall be witnessed and signed by an appropriate representative of the facility.

(2) Within one working day, notify the patients' rights advocate, as defined in Article 2 (commencing with Section 5540) of Chapter 5.2, regarding the admission of the minor.

(3) Provide all minors with a booklet promulgated by the State Department of ~~Mental~~ Health *Care Services* outlining the specific rights of minors in mental health facilities. The booklet shall include the phone number of the local advocate and the hours that he or she may be reached.

SEC. 213. Section 6002.40 of the Welfare and Institutions Code is amended to read:

6002.40. (a) For any insurance contracts entered into after January 1, 1990, where any private insurer, certified medical plan, or private health service plan is liable to pay or reimburse a professional provider or institutional provider for the costs of medically necessary mental health services provided to the patient, the costs of the clinical review required by Sections 6002.10 to 6002.40, inclusive, including, but not limited to, the costs of the interpreter, if any, and the costs of the patients' rights advocate, shall be borne by the insurer, certified medical plan, or the health service plan. Payments to providers for the costs of the independent clinical review shall be made promptly.

For Medi-Cal eligible patients placed in these private facilities, the costs of the clinical review required by Sections 6002.10 to 6002.40, inclusive, including the costs of the patients rights advocate, shall be borne by the county.

(b) The Legislature intends that Sections 6002.10 to 6002.40, inclusive, affect only the rights of minors confined in private mental health facilities on the consent of their parents or guardians,

where the costs of treatment are paid or reimbursed by a private insurer or private health service plan.

(c) Mental health facilities shall summarize on an annual basis, information including, but not limited to, the number of minors admitted by diagnosis, length of stay, and source of payment, the number of requests for an independent clinical review by diagnosis, source of payment, and outcome of the independent clinical review and submit this information to the State Department of ~~Mental~~ Health *Care Services*. ~~This annual summary shall be made available by the facility to the~~ *The* State Department of *Public* Health ~~Services which~~ shall monitor compliance of this section during an inspection of the facility pursuant to Sections 1278 and 1279 of the Health and Safety Code.

~~(d) The State Department of Mental Health, in consultation with appropriate organizations, shall develop nonmandatory guidelines for treatment of mental disorders to be utilized pursuant to this act by January 1, 1991.~~

SEC. 214. Section 6007 of the Welfare and Institutions Code is amended to read:

6007. Any person detained as of June 30, 1969, in a private institution, pursuant to former Sections 6030 to 6033, inclusive, as they read immediately preceding July 1, 1969, on the certification of one physician, may be detained after July 1, 1969, for a period no longer than 90 days.

Any person detained as of June 30, 1969, in a private institution, pursuant to such sections, on the certification of two physicians, may be detained after July 1, 1969, for a period no longer than 180 days.

Any person detained pursuant to this section after July 1, 1969, shall be evaluated by the facility designated by the county and approved by the State Department of ~~Mental Health~~ *Social Services* pursuant to Section 5150 as a facility for 72-hour treatment and evaluation. ~~Such~~ *The* evaluation shall be made at the request of the person in charge of the private institution in which the person is detained or by one of the physicians who signed the certificate. If in the opinion of the professional person in charge of the evaluation and treatment facility or his *or her* designee, the evaluation of the person can be made by ~~such~~ *the* professional person or his *or her* designee at the private institution in which the person is detained, the person shall not be required to be evaluated

at the evaluation and treatment facility, but shall be evaluated at the private institution to determine if the person is a danger to others, himself *or herself*, or gravely disabled as a result of mental disorder.

Any person evaluated under this section shall be released from the private institution immediately upon completion of the evaluation if in the opinion of the professional person in charge of the evaluation and treatment facility, or his *or her* designee, the person evaluated is not a danger to others, or to himself *or herself*, or gravely disabled as a result of mental disorder, unless the person agrees voluntarily to remain in the private institution.

If in the opinion of the professional person in charge of the facility or his *or her* designee, the person evaluated requires intensive treatment or recommendation for conservatorship, ~~such~~ *the* professional person or his *or her* designee shall proceed under Article 4 (commencing with Section 5250) of Chapter 2, or under Chapter 3 (commencing with Section 5350), of Part 1 of Division 5.

SEC. 215. Section 6551 of the Welfare and Institutions Code is amended to read:

6551. If the court is in doubt as to whether the person is mentally disordered or mentally retarded, the court shall order the person to be taken to a facility designated by the county and approved by the State Department of ~~Mental Health~~ *Social Services* as a facility for 72-hour treatment and evaluation. Thereupon, Article 1 (commencing with Section 5150) of Chapter 2 of Part 1 of Division 5 applies, except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the person's mental condition. If the professional person in charge of the facility finds the person is, as a result of mental disorder, in need of intensive treatment, the person may be certified for not more than 14 days of involuntary intensive treatment if the conditions set forth in subdivision (c) of Section 5250 and subdivision (b) of Section 5260 are complied with. Thereupon, Article 4 (commencing with Section 5250) of Chapter 2 of Part 1 of Division 5 shall apply to the person. The person may be detained pursuant to Article 4.5 (commencing with Section 5260), or Article 4.7 (commencing with Section 5270.10), or Article 6 (commencing with Section 5300) of Part 1 of Division 5 if that article applies.

If the professional person in charge of the facility finds that the person is mentally retarded, the juvenile court may direct the filing in any other court of a petition for the commitment of a minor as a mentally retarded person to the State Department of Developmental Services for placement in a state hospital. In such case, the juvenile court shall transmit to the court in which the petition is filed a copy of the report of the professional person in charge of the facility in which the minor was placed for observation. The court in which the petition for commitment is filed may accept the report of the professional person in lieu of the appointment, or subpoenaing, and testimony of other expert witnesses appointed by the court, if the laws applicable to such commitment proceedings provide for the appointment by court of medical or other expert witnesses or may consider the report as evidence in addition to the testimony of medical or other expert witnesses.

If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not affected with any mental disorder requiring intensive treatment or mental retardation, the professional person in charge of the facility shall return the minor to the juvenile court on or before the expiration of the 72-hour period and the court shall proceed with the case in accordance with the Juvenile Court Law.

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

The jurisdiction of the juvenile court over the minor shall be suspended during ~~such~~ *the* time ~~as~~ *that* the minor is subject to the jurisdiction of the court in which the petition for postcertification treatment of an imminently dangerous person or the petition for commitment of a mentally retarded person is filed or under remand for 90 days for intensive treatment or commitment ordered by ~~such~~ *the* court.

SEC. 216. Section 7100 of the Welfare and Institutions Code is amended to read:

7100. The board of supervisors of each county may maintain in the county hospital or in any other hospital situated within or without the county or in any other psychiatric health facility

situated within or without the county, suitable facilities and nonhospital or hospital service for the detention, supervision, care, and treatment of persons who are mentally disordered~~,~~ *or* developmentally disabled, or who are alleged to be such.

The county may contract with public or private hospitals for ~~such~~ *those* facilities and hospital service when they are not suitably available in any institution, psychiatric facility, or establishment maintained or operated by the county.

The facilities and services for the mentally disordered and allegedly mentally disordered shall be subject to the approval of the State Department of ~~Mental Health~~ *Social Services*, and the facilities and services for the developmentally disabled and allegedly developmentally disabled shall be subject to the approval of the State Department of Developmental Services. The professional person having charge and control of ~~any such~~ *the* hospital or psychiatric health facility shall allow the department whose approval is required to make ~~such~~ investigations thereof as it deems necessary at any time.

Nothing in this chapter means that mentally disordered or developmentally disabled persons may not be detained, supervised, cared for, or treated, subject to the right of inquiry or investigation by the department, in their own homes, or the homes of their relatives or friends, or in a licensed establishment.

SEC. 217. Section 9101 of the Welfare and Institutions Code is amended to read:

9101. (a) The department shall consist of a director, and any staff as may be necessary for proper administration.

(b) The department shall maintain its main office in Sacramento.

(c) The Governor, with the consent of the Senate, shall appoint the director. The Governor shall consider, but not be limited to, recommendations from the commission.

(d) The director shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code, and shall receive the salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) The director shall do all of the following:

(1) Be responsible for the management of the department and achievement of its statewide goals.

(2) Assist the commission in carrying out its mandated duties and responsibilities in accordance with Section 9202.

(f) The Secretary of ~~the Health and Welfare Agency~~ *California Health and Human Services* shall ensure effective coordination among departments of the agency in carrying out the mandates of this division. For this purpose, the secretary shall regularly convene meetings concerning services to older individuals that shall include, but not be limited to, the State Department of Health *Care* Services, the State Department of Social Services, the State Department of ~~Mental~~ *Public* Health, and the department.

(g) The Secretary of ~~the Health and Welfare Agency~~ *California Health and Human Services* shall also encourage other state departments that have other programs for older individuals to actively participate in periodic joint meetings for the joint purpose of coordinating service activities. These departments shall include, but are not limited to, the Department of Housing and Community Development and the Department of Transportation in the Business, Transportation and Housing Agency, the Department of Parks and Recreation in the *Natural* Resources Agency, the California Arts Council, and the Department of Veterans Affairs.

SEC. 218. Section 11325.7 of the Welfare and Institutions Code is amended to read:

11325.7. (a) It is the intent of the Legislature in enacting this section to create a funding stream and program that assists certain recipients of aid under this chapter to receive necessary mental health services, including case management and treatment, thereby enabling them to make the transition from welfare to work. This funding stream shall be used specifically to serve recipients in need of mental health services, and shall be accounted for and expended by each county in a manner that ensures that recipients in need of mental health services are receiving appropriate services.

(b) The county plan required by Section 10531 shall include a plan for the development of mental health employment assistance services, developed jointly by the county welfare department and the county department of mental health. The plan shall have as its goal the treatment of mental or emotional disabilities that may limit or impair the ability of a recipient to make the transition from welfare-to-work, or that may limit or impair the ability to retain employment over a long-term period. The plan shall be developed in a manner consistent with both the county's welfare-to-work

program and the county's consolidated mental health Medi-Cal services plan. The county may use community based providers, as necessary, that have experience in addressing the needs of the CalWORKs population. The county, whenever possible, shall ensure that the services provided qualify for federal reimbursement of the nonstate share of Medi-Cal costs.

(c) Subject to specific expenditure authority, mental health services available under this section shall include all of the following elements:

(1) Assessment for the purpose of identifying the level of the participant's mental health needs and the appropriate level of treatment and rehabilitation for the participant.

(2) Case management, as appropriate, as determined by the county.

(3) Treatment and rehabilitation services, that shall include counseling, as necessary to overcome mental health barriers to employment and mental health barriers to retaining employment, in coordination with an individual's welfare-to-work plan.

(4) In cases where a secondary diagnosis of substance abuse is made in a person referred for mental or emotional disorders, the welfare-to-work plan shall also address the substance abuse treatment needs of the participant.

(5) A process by which the county can identify those with severe mental disabilities that may qualify them for aid under Chapter 3 (commencing with Section 12000).

(d) Any funds appropriated by the Legislature to cover the nonfederal costs of the mental health employment assistance services required by this section shall be allocated consistent with the formula used to distribute each county's CalWORKs program allocation. Each county shall report annually to the state the number of CalWORKs program recipients who received mental health services and the extent to which the allocation is sufficient to meet the need for these services as determined by the county. The State Department of ~~Mental~~ Health *Care Services* shall develop a uniform methodology for ensuring that this allocation supplements and does not supplant current expenditure levels for mental health services for this population.

SEC. 219. Section 11462.01 of the Welfare and Institutions Code is amended to read:

11462.01. (a) Commencing July 1, 1994, a group home program shall be classified at RCL 13 or RCL 14 if the program meets all of the following requirements:

(1) The group home program is providing, or has proposed to provide, the level of care and services necessary to generate sufficient points in the ratesetting process to be classified at RCL 13 if the rate application is for RCL 13 or to be classified at RCL 14 if the rate application is for RCL 14.

(2) (A) (i) The group home provider shall agree not to accept for placement into a group home program AFDC-FC funded children, including voluntary placements and seriously emotionally disturbed children placed out-of-home pursuant to an individualized education program developed under Section 7572.5 of the Government Code, who have not been approved for placement by an interagency placement committee, as described by Section 4096. The approval shall be in writing and shall indicate that the interagency placement committee has determined the child is seriously emotionally disturbed, as defined by Section 5600.3 and subject to Section 1502.4 of the Health and Safety Code, and that the child needs the level of care provided by the group home.

(ii) For purposes of clause (i), group home providers who accept seriously emotionally disturbed children who are assessed and placed out-of-home pursuant to an individualized education program developed under Section 7572.5 of the Government Code shall be deemed to have met the interagency placement committee approval for placement requirements of clause (i) if the individualized education program assessment indicates that the child has been determined to be seriously emotionally disturbed, as defined in Section 5600.3 and subject to Section 1502.4 of the Health and Safety Code, and needs the level of care described in clause (i).

(B) (i) Nothing in this subdivision shall prevent the emergency placement of a child into a group home program prior to the determination by the interagency placement committee pursuant to subclause (i) of subparagraph (A) if a licensed mental health professional, as defined in the department's AFDC-FC ratesetting regulations, has evaluated, in writing, the child within 72 hours of placement, and determined the child to be seriously emotionally disturbed and in need of the care and services provided by the group home program.

(ii) The interagency placement committee shall, within 30 days of placement pursuant to clause (i), make the determination required by clause (i) of subparagraph (A).

(iii) If, pursuant to clause (ii), the placement is determined to be appropriate, the committee shall transmit the approval, in writing, to the county placing agency and the group home provider.

(iv) If, pursuant to clause (ii) the placement is determined not to be appropriate, the child shall be removed from the group home and referred to a more appropriate placement, as specified in subdivision (f).

(C) Commencing December 15, 1992, with respect to AFDC-FC funded children, only those children who are approved for placement by an interagency placement committee may be accepted by a group home under this subdivision.

(3) The group home program is certified by the State Department of ~~Mental~~ Health *Care Services* pursuant to Section 4096.5.

(b) The department shall not establish a rate for a group home requesting a program change to RCL 13 or RCL 14 unless the group home provider submits a recommendation from the host county or the primary placing county that the program is needed and that the provider is willing and capable of operating the program at the level sought. For purposes of this subdivision, "host county," "primary placing county," and "program change" mean the same as defined in the department's AFDC-FC ratesetting regulations.

(c) The effective date of rates set at RCL 13 or RCL 14 shall be the date that all the requirements are met, but not prior to July 1 of that fiscal year. Nothing in this section shall affect RCL 13 or RCL 14 ratesetting determinations in prior years.

(d) Any group home program that has been classified at RCL 13 or RCL 14 pursuant to the requirements of subdivision (a) shall be reclassified at the appropriate lower RCL with a commensurate reduction in rate if either of the following occurs:

(1) The group home program fails to maintain the level of care and services necessary to generate the necessary number of points for RCL 13 or RCL 14, as required by paragraph (1) of subdivision (a). The determination of points shall be made consistent with the department's AFDC-FC ratesetting regulations for other rate classification levels.

(2) The group home program fails to maintain a certified mental health treatment program as required by paragraph (3) of subdivision (a).

(3) In the event of a determination under paragraph (1), the group home may appeal the finding or submit a corrective action plan. The appeal process specified in Section 11466.6 shall be available to RCL 13 and RCL 14 group home providers. During any appeal, the group home shall maintain the appropriate level of care.

(e) The interagency placement committee shall periodically review, but no less often than that required by current law, the placement of the child. If the committee determines that the child no longer needs, or is not benefiting from, placement in a RCL 13 or RCL 14 group home, the committee shall require the removal of the child and a new disposition.

(f) (1) (A) If, at any time subsequent to placement in an RCL 13 or RCL 14 group home program, the interagency placement committee determines either that the child is not seriously emotionally disturbed or is not in need of the care and services provided by the group home program, it shall notify, in writing, both the county placing agency and the group home provider within 10 days of the determination.

(B) The county placing agency shall notify the group home provider, in writing, within five days from the date of the notice from the committee, of the county's plan for removal of the child.

(C) The county placing agency shall remove the child from the group home program within 30 days from the date of the notice from the interagency placement committee.

(2) (A) If a county placing agency does not remove a child within 30 days from the date of the notice from the interagency placement committee, the group home provider shall notify the interagency placement committee and the department, in writing, of the county's failure to remove the child from the group home program.

(B) The group home provider shall make the notification required by subparagraph (A) within five days of the expiration of the 30-day removal period. If notification is made, a group home provider shall not be subject to an overpayment determination due to failure of the county placing agency to remove the child.

(3) Any county placing agency that fails to remove a child from a group home program under this paragraph within 30 days from the date of the notice from the interagency placement committee shall be assessed a penalty in the amount of the state and federal financial participation in the AFDC-FC rate paid on behalf of the child commencing on the 31st day and continuing until the child is removed.

(g) (1) If any RCL 13 or RCL 14 group home provider discovers that it does not have written approval for placement of any AFDC-FC funded child placed on or after December 15, 1992, from the interagency placement committee, it shall notify the county placing agency, in writing, and shall request the county to obtain approval from the interagency placement committee or remove the child from the group home program. A group home provider shall have 30 days from the child's first day of placement to discover the placement error and to notify the county placing agency.

(2) Any county placing agency that receives notification pursuant to paragraph (2) of subdivision (f) shall obtain approval for placement from the interagency placement committee or remove the child from the group home program within 30 days from the date of the notice from the group home provider. The program shall not be reclassified to a lower RCL for a violation of the provisions referred to in this paragraph.

(3) (A) If a county placing agency does not have the placement of a child approved by the interagency placement committee or removed from the group home within 30 days from the date of the notice from the group home provider, the group home provider shall notify the county placing agency and the department, in writing, of the county's failure to have the placement of the child approved or remove the child from the group home program.

(B) The group home provider shall make the notification required by subparagraph (A) within five days after the expiration of the 30-day approval or removal period. If notification is made, a group home provider shall not be subject to an overpayment determination due to failure of the county placing agency to remove the child.

(C) Any group home provider that fails to notify the county placing agency pursuant to subparagraph (A) shall be assessed a penalty in the amount of the AFDC-FC rate paid to the group home

provider on behalf of the child commencing on the 31st day of placement and continuing until the county placing agency is notified.

(4) Any county placing agency that fails to have the placement of a child approved or to have the child removed from the group home program within 30 days shall be assessed a penalty in the amount of the state and federal financial participation in the AFDC-FC rate paid on behalf of the child commencing on the 31st day of placement and continuing until the child is removed.

(h) The department shall develop regulations to obtain payment of assessed penalties as provided in this section. For audit purposes and the application of penalties for RCL 13 and RCL 14 programs, the department shall apply statutory provisions that were in effect during the period for which the audit was conducted.

(i) (1) Nothing in this subparagraph shall prohibit a group home classified at RCL 13 or RCL 14 for purposes of the AFDC-FC program, from accepting private placements of children.

(2) In cases where a referral is not from a public agency and no public funding is involved, there shall be no requirement for public agency review or determination of need.

(3) Children subject to paragraphs (1) and (2) shall have been assessed as seriously emotionally disturbed, as defined in Section 5600.3 and subject to Section 1502.4 of the Health and Safety Code, by a licensed mental health professional, as defined in Sections 629 to 633, inclusive, of Title 9 of the California Code of Regulations.

(j) A child shall not be placed in a group home program classified at an RCL 13 or RCL 14 if the placement is paid for with county-only funds unless the child is assessed as seriously emotionally disturbed, as defined in Section 5600.3, subject to Section 1502.4 of the Health and Safety Code, by a licensed mental health professional, as defined in Sections 629 to 633, inclusive, of Title 9 of the California Code of Regulations.

SEC. 220. Section 11495.1 of the Welfare and Institutions Code is amended to read:

11495.1. (a) The department shall convene a task force including, but not limited to, district attorney domestic violence units, county departments of social services, the County Welfare Directors Association of California, the California State Association of Counties, statewide domestic violence prevention

groups, local domestic violence prevention advocates, and service providers, the State Department of Health *Care* Services, the State Department of ~~Mental~~ *Public* Health, and the ~~Office of Criminal Justice Planning~~ *California Emergency Management Agency*. The department shall develop, in consultation with the task force, protocols on handling cases in which recipients are past or present victims of abuse. The protocols shall define domestic abuse, and shall address training standards and curricula, individual case assessments, confidentiality procedures, notice procedures and counseling or other appropriate participation requirements as part of an overall plan to transition from welfare-to-work. The protocol shall specify how counties shall do the following:

(1) Identify applicants and recipients of assistance under this chapter who have been or are victims of abuse, including those who self-identify, while protecting confidentiality.

(2) Refer these individuals to supportive services.

(3) Waive, on a case-by-case basis, for so long as necessary, pursuant to a determination of good cause under paragraph (2) of subdivision (f) of Section 11320.3, any program requirements that would make it more difficult for these individuals or their children to escape abuse, and that would be detrimental or unfairly penalize past or present victims of abuse. Requirements that may be waived include, but are not limited to, time limits on receipt of assistance, work requirements, educational requirements, paternity establishment and child support cooperation requirements.

(b) The department shall issue regulations describing the protocol identified in subdivision (a) no later than January 1, 1999.

(c) Waivers of time limits granted pursuant to this section shall not be implemented if federal statutes or regulations clarify that abuse victims are included in the 20 percent hardship exemptions and that no good cause waivers of the 20 percent limit will be granted to the state for victims of abuse, thereby incurring a penalty to the state.

(d) Waivers of the work requirements granted pursuant to this section shall not be implemented if federal statutes or regulations clarify that the state will be penalized for failing to meet work participation requirements due to granting waivers to abuse victims.

SEC. 221. Section 14021.3 of the Welfare and Institutions Code, as added by Section 2 of Chapter 1384 of the Statutes of 1987, is amended to read:

14021.3. *(a)* The department shall amend the state plan for medical assistance under Medicaid pursuant to Section 1915(g) of Title 19 of the *federal* Social Security Act, as amended by Public Law 99-272 (42 U.S.C. Sec. 1396n(g)), to add case management services as a covered benefit under the ~~Short-Doyle/Medi-Cal~~ *specialty mental health services Medi-Cal* program, and shall submit the plan for federal approval by December 31, 1988, or, if the plan has not been submitted by that date, shall submit a letter to the Legislature by that date explaining the circumstances delaying the plan's submission.

Upon federal approval for federal financial assistance, the department~~, in consultation with the State Department of Mental Health,~~ shall define case management services, shall establish the standards under which case management services qualify as a ~~Short-Doyle/Medi-Cal~~ *specialty mental health* reimbursable service, and shall develop an appropriate rate of reimbursement, subject to utilization controls.

It is the intent of the Legislature that at least 50 percent of the total state dollars that are offset as a result of the federal funds received for case management services be redirected to services for those persons identified in Section 14132.44 and that the remainder of these funds be redirected to services under the jurisdiction of the *California* Health and ~~Welfare~~ *Human Services* Agency for persons other than those persons identified in Section 14132.44.

(b) This section shall become inoperative on July 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 222. Section 14021.3 of the Welfare and Institutions Code, as added by Section 1 of Chapter 1385 of the Statutes of 1987, is amended to read:

14021.3. The ~~department shall amend the~~ state plan for medical assistance under Medicaid pursuant to Section 1915(g) of Title 19 of the *federal* Social Security Act, as amended by Public Law 99-272 (42 U.S.C. Section 1396n(g)), ~~to add~~ *shall include targeted* case management services as a benefit under the ~~Short-Doyle~~ *specialty mental health services* Medi-Cal program ~~for persons served by the State Department of Mental Health and Short-Doyle mental health programs~~.

SEC. 223. Section 14021.4 of the Welfare and Institutions Code is amended to read:

14021.4. (a) ~~The State Department of Mental Health shall prepare by January 15, 1991, amendments to~~ California's plan for federal Medi-Cal grants for medical assistance programs, pursuant to Subchapter XIX (commencing with Section 1396) of Title 42 of the United States Code, ~~to~~ *shall* accomplish the following objectives:

(1) Expansion of the location and type of therapeutic services offered to ~~the mentally ill~~ *persons with mental illnesses* under Medi-Cal by the category of "other diagnostic, screening, preventative, and rehabilitative services" which is available to states under the *federal* Social Security Act *and its implementing regulations* (42 U.S.C. Sec. 1396d(a)(13); 42 C.F.R. 440.130).

(2) Expansion of federal financial participation in the costs of ~~community~~ *specialty* mental health services provided by local ~~Short-Doyle community mental health programs~~ *mental health plans* or under contract ~~to local Short-Doyle community mental health programs~~ *with the mental health plans*.

(3) Expansion of the location where reimbursable ~~Short-Doyle Medi-Cal~~ *specialty* mental health services can be provided, including home, school, and community based sites.

(4) Expansion of federal financial participation for services which meet the rehabilitation needs of ~~severely mentally ill consumers~~ *persons with mental illnesses*, including, but not limited to, medication management, functional rehabilitation assessments of clients, and rehabilitative services which include remedial services directed at restoration to the highest possible functional level for persons with ~~psychiatric disabilities~~ *mental illnesses* and maximum reduction of symptoms of mental illness.

(5) Improvement of fiscal systems and accountability structures for ~~Short-Doyle Medi-Cal and Short-Doyle costs~~ *specialty mental health services, costs,* and rates, with the goal of achieving federal fiscal requirements.

(b) ~~This Short-Doyle Medi-Cal~~ *The department's* state plan revision shall be completed with review and comments by the California ~~Conference of Local~~ Mental Health Directors *Association* and other appropriate groups. ~~The addition of~~

(c) Services under the rehabilitative option shall be limited to ~~Short-Doyle providers~~ *specialty mental health plans* certified to provide Medi-Cal under this option.

~~(c) The State Department of Health Services shall review the state plan revision for medicaid services as recommended by the State Department of Mental Health. If the state plan amendment satisfies published federal requirements for these amendments and if the State Department of Health Services has approved and submitted to the Health Care Financing Administration a plan of correction for audit issues identified for the Short-Doyle Medi-Cal program, then the department shall promptly pursue federal adoption of the state plan revision. If the State Department of Health Services does not recommend adoption of the revision, it shall report on the financial and programmatic implications of the proposal and the reasons for the rejection to the Joint Legislative Budget Committee by July 1, 1991.~~

~~(d) The state and local funds required to match federal financial participation shall include, but not be limited to, Short-Doyle and county matching funds. Additional General Fund moneys for this purpose shall be subject to appropriation in the annual Budget Act.~~

~~(e)~~

(d) It is the intent of the Legislature that the rehabilitation option of the state ~~medicaid~~ *Medicaid* plan be implemented to expand and provide flexibility to treatment services and to increase the federal participation without increasing the costs to the General Fund.

~~(f) It is the intent of the Legislature that addition of the rehabilitation option as a Short-Doyle Medi-Cal benefit shall become operative only after the Health Care Financing Administration has reviewed and approved the state plan revision submitted by the State Department of Health Services, a plan of correction approved by the department for audit issues identified for the Short-Doyle Medi-Cal program has been submitted, and the requirements of this section have been fully satisfied.~~

~~(g) If the Medi-Cal state plan revision required by this section is approved by the State Department of Health Services, and submitted for federal approval, the State Department of Mental Health~~

(e) The department shall review and revise the quality assurance standards and guidelines required by ~~Article 5 (commencing with~~

~~Section 4070) of Chapter 2 of Division 4 to meet the necessary standards~~ *Section 14725* to ~~assure~~ *ensure* that quality services are delivered to the eligible population. ~~This review~~ *Any reviews* shall include, but not be limited to, appropriate use of mental health professionals, including psychiatrists, in the treatment and rehabilitation of clients under this model. The existing quality assurance standards and guidelines shall remain in effect until the adoption of the new quality assurance standards and guidelines.

~~(h)~~

(f) Consistent with services offered to persons ~~who are mentally ill~~ *with mental illnesses* under the Medi-Cal program, as required by this section, it is the intent of the Legislature for the ~~State Department of Mental Health, working collaboratively with the department,~~ *department* to include care and treatment of persons with mental ~~disorders~~ *illnesses* who are eligible for the Medi-Cal program in facilities with a bed capacity of 16 beds or less.

SEC. 224. Section 14021.5 of the Welfare and Institutions Code is amended to read:

14021.5. (a) Notwithstanding any other provision of law, rates for reimbursing ~~Short-Doyle~~ *specialty* mental health and ~~drug~~ *substance use disorder* services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries ~~under the Short-Doyle program~~ shall continue to be based on the upper limits allowable under federal law and regulations for services provided prior to July 1, 1980, on the lower of reasonable cost and customary charges for services provided July 1, 1980, through June 30, 1982, and on the lowest of reasonable cost, customary charges, and rates paid by the ~~Short-Doyle~~ *Medi-Cal* program for services provided July 1, 1982, through June 30, 1984.

(b) The Legislature hereby states and declares that this section does not constitute a change in, but is declaratory of, existing law and that rates for reimbursing ~~Short-Doyle~~ *specialty* mental health and ~~drug~~ *substance use disorder* services to Medi-Cal beneficiaries under the ~~Short-Doyle~~ *Medi-Cal* program in previous fiscal years were based upon the lower of reasonable costs or customary charges.

(c) The ~~State Department of Health Services, after consulting with the State Department of Mental Health and the State Department of Alcohol and Drug Programs, in regard to their respective programs,~~ *department* shall promulgate emergency

regulations relating to claims submission and establishing rates and a ratesetting methodology for determining reimbursement of ~~Short-Doyle~~ *specialty* mental health and ~~drug~~ *substance use disorder* services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries ~~under the State Department of Mental Health and the State Department of Alcohol and Drug Programs' programs respectively~~. The methodology and rates shall reflect the most recently completed cost reports and shall be effective commencing July 1, 1984.

(d) Notwithstanding any other ~~provision of~~ law, rates for reimbursing ~~Short-Doyle~~ *specialty* mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries ~~under the programs administered by the State Department of Mental Health~~ shall be effective from July 1 through June 30 of the fiscal year in which these rates are established.

(e) Notwithstanding any other ~~provision of~~ law, rates for reimbursing ~~drug~~ *substance use disorder* services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries ~~under the programs administered by the State Department of Alcohol and Drug Programs~~ shall be effective from July 1 through June 30 of the fiscal year in which these rates are established.

SEC. 225. Section 14053.3 of the Welfare and Institutions Code is amended to read:

14053.3. ~~As~~ *(a) Except as provided under federal law,* federal financial participation reimbursement is not allowed for ancillary services provided to persons residing in facilities that have been found to be institutions for mental disease (IMD), and since, consistent with Part 2 (commencing with Section 5600) of Division 5 and Chapter 6 (commencing with Section 17600) of Part 5, counties are financially responsible for *specialty* mental health services and related ancillary services provided to persons through county mental health programs when Medi-Cal reimbursement is not available, when it is determined that Medi-Cal reimbursement has been paid for ancillary services for residents of IMDs, both the federal financial participation reimbursement and any state funds paid for the ancillary services provided to residents of IMDs shall be recovered from counties by the ~~State Department of Mental Health~~ *department* in accordance with applicable state and federal statutes and regulations.

(b) Mental health plans shall report to the department admission and discharge dates for Medi-Cal beneficiaries in institutions for mental diseases on a quarterly basis in a format provided by the department.

SEC. 226. Section 14108.1 of the Welfare and Institutions Code is amended to read:

14108.1. Any recipient receiving care in a nursing facility under this chapter, as part of a certified special treatment program for ~~mentally disordered~~ persons *with mental illnesses*, or as a part of a mental health therapeutic and rehabilitative program approved and certified by a local mental health director, is entitled to be temporarily absent from those facilities. The ~~State Department of Health Services shall, with consultation from the State Department of Mental Health,~~ *department may* develop regulations ~~within 60 days of the effective date of this act~~ establishing the periods of time and conditions under which temporary absences shall be permitted. These regulations shall require that absences be in accordance with an individual patient care plan and also provide for absences due to hospitalization for an acute condition. The limits on temporary leaves of absence established by the ~~State Department of Health Services~~ *department* by regulation shall not be less than 30 days per year.

During these temporary absences, the ~~State Department of Health Services~~ *department* shall reimburse the facility for the cost of maintaining the vacant accommodations at a rate to be determined by the department which shall be less than the normal reimbursement rate.

SEC. 227. Section 14110.15 of the Welfare and Institutions Code is amended to read:

14110.15. (a) The department shall develop, collect, and maintain, in an electronic format, all data elements in the minimum data set specified by the federal government. The data base shall incorporate the data required for preadmission screening and annual resident reviews, and Medi-Cal treatment authorization requests. The department shall make the format of this new data base available to the public.

(b) All skilled nursing facilities and nursing facilities required by federal law to complete the minimum data set form shall provide the data to the department in a manner and form prescribed by the

director. The director may require that the submission of that data shall be in an electronic format.

(c) The department shall design the minimum data set data base in a manner that maintains resident confidentiality and that allows the use of the data by other authorized state agencies, including, but not limited to, the Office of Statewide Health Planning and Development ~~and the Department of Mental Health~~. To the extent possible, those other state agencies shall obtain the minimum data set and preadmission screening and annual resident review data from the department's ~~data base~~ *database* established and maintained pursuant to this section.

(d) To the fullest extent possible, the department shall use the minimum data set ~~data base~~ *database* to meet the requirements of the current treatment authorization request review process and shall automate use of the minimum data set information for that purpose.

(e) This section shall not be construed to prohibit the department or any other state agency from requiring additional information that is not available from the minimum data set ~~data base~~ *database* in order to meet other data needs.

(f) The department shall implement this section no later than the date specified by the federal government for facility completion of automation of the minimum data set data. The department shall, within a reasonable time, make necessary system changes to begin the use of the automated minimum data set data to meet its treatment authorization and preadmission screening and annual resident review data requirements. To the fullest extent possible, these system changes shall be anticipated and commenced in advance of the federal government's final implementation date.

(g) The system shall be developed and implemented in consultation with representatives of the long-term care industry and other interested parties, such as physicians and other health care professionals.

(h) The department shall implement the development of the minimum data set ~~data base~~ *database* only if federal funds are available for that purpose. Development of the data system applications for use of the automated minimum data set ~~data base~~ *database* by the department are subject to federal approval and federal financial participation for the affected systems.

SEC. 228. Section 14131.07 of the Welfare and Institutions Code is amended to read:

14131.07. (a) Notwithstanding any other provision of this chapter or Chapter 8 (commencing with Section 14200), the total number of physician office and clinic visits for physician services provided by a physician, or under the direction of a physician, that are a covered benefit under the Medi-Cal program shall be limited to seven visits per beneficiary per fiscal year, excepting visits that meet the conditions set forth in subdivision (b). For purposes of this limit, a visit shall include physician services provided at any federally qualified health center, rural health clinic, community clinic, outpatient clinic, and hospital outpatient department. The department may seek input from consumer organizations and the provider community, as applicable, prior to implementation.

(b) (1) Visits exceeding seven per beneficiary per fiscal year shall be required to be certified by the physician, or other medical professional under the supervision of a physician, attesting that one or more of the following circumstances is applicable:

(A) The services will prevent deterioration in a beneficiary's condition that would otherwise foreseeably result in admission to the emergency department.

(B) The services will prevent deterioration in the beneficiary's condition that would otherwise result in inpatient admission.

(C) The services will prevent disruption in ongoing medical therapy or surgical therapy, or both, including, but not limited to, medications, radiation, or wound management.

(D) The services constitute diagnostic workup in progress that would otherwise foreseeably result in inpatient or emergency department admission.

(E) The services are for the purpose of assessment and form completion for Medi-Cal recipients seeking or receiving in-home supportive services.

(2) The certification shall consist of a written declaration by the physician, or other medical professional under the supervision of the physician, that the visit meets the requirements of any one or more of the circumstances set forth in paragraph (1), and shall include a description of the services provided.

(3) The certification shall be maintained onsite at the physician's office or clinic location at which the medical records for the

beneficiary are maintained and shall be subject to audit and inspection by the department.

(4) This subdivision does not authorize or direct a beneficiary to obtain services at a physician office or clinic visit for an emergency medical condition or that should properly be provided in the emergency department or as hospital inpatient services.

(c) Specialty mental health services furnished or arranged for the provision of mental health services to Medi-Cal beneficiaries pursuant to ~~Part 2.5 (commencing with Section 5775) of Division 5~~ *Chapter 8.9 (commencing with Section 14700)*, shall not be subject to the limit provided in subdivision (a).

(d) Any pregnancy-related visit, or any visit for the treatment of any other condition that might complicate a pregnancy, shall not be subject to the limit provided in subdivision (a).

(e) The limit on physician office and clinic visits provided in subdivision (a) shall not apply to any of the following:

(1) A beneficiary under the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program.

(2) A beneficiary receiving long-term care in a nursing facility that is both of the following:

(A) A skilled nursing facility or intermediate care facility as defined in subdivisions (c), (d), (e), (g), and (h), respectively, of Section 1250 of the Health and Safety Code, and facilities providing continuous skilled nursing care to persons with developmental disabilities under the pilot project established pursuant to Section 14132.20.

(B) Licensed pursuant to subdivision (k) of Section 1250 of the Health and Safety Code.

(f) For managed health care plans that contract with the department pursuant to this chapter or Chapter 8 (commencing with Section 14200), except for *the* Senior Care Action Network or AIDS Healthcare Foundation, payments shall be reduced by the actuarial equivalent amount of the benefit reductions resulting from the implementation of the benefit cap amounts specified in this section pursuant to contract amendments or change orders effective on July 1, 2011, or thereafter.

(g) This section shall be implemented only to the extent permitted by federal law.

(h) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code,

the department may implement this section by means of all-county letters, provider bulletins, or similar instructions, without taking regulatory action.

(i) This section shall be implemented on the first day of the first calendar month following 180 days after the effective date of the act that added this section, or on the first day of the calendar month following 60 days after the date the department secures all necessary federal approvals to implement this section, whichever is later. If the implementation date occurs after July 1, 2011, then the benefit caps described in subdivision (a) for the first year of implementation shall be applied from the implementation date to June 30 of the state fiscal year in which implementation begins. Thereafter, the benefit caps shall apply on a state fiscal year basis.

SEC. 229. Section 14132.73 of the Welfare and Institutions Code is amended to read:

14132.73. The State Department of Health *Care* Services shall allow psychiatrists to receive fee-for-service Medi-Cal reimbursement for services provided through telemedicine ~~until June 30, 2004, or until the State Department of Mental Health department and mental health plans, in collaboration with stakeholders, develop a method for reimbursing psychiatric services provided through telemedicine that is administratively feasible for the mental health plans, primary care providers, and psychiatrists providing the services, whichever occurs later~~ *in accordance with the Medicaid state plan*.

SEC. 230. Section 14167.1 of the Welfare and Institutions Code is amended to read:

14167.1. For purposes of this article, the following definitions shall apply:

(a) "Acute psychiatric days" means the total number of ~~Short-Doyle~~ *Medi-Cal specialty mental health service* administrative days, ~~Short-Doyle~~ *Medi-Cal specialty mental health service* acute care days, acute psychiatric administrative days, and acute psychiatric acute days identified in the Final Medi-Cal Utilization Statistics for the 2008–09 state fiscal year as calculated by the department on September 15, 2008.

(b) "Converted hospital" means a private hospital that becomes a designated public hospital or a nondesignated public hospital after the implementation date, a nondesignated public hospital that becomes a private hospital or a designated public hospital after

the implementation date, or a designated public hospital that becomes a private hospital or a nondesignated public hospital after the implementation date.

(c) "Current Section 1115 Waiver" means California's Medi-Cal Hospital/Uninsured Care Section 1115 Waiver Demonstration in effect on the effective date of the article.

(d) "Designated public hospital" shall have the meaning given in subdivision (d) of Section 14166.1 as that section may be amended from time to time.

(e) "General acute care days" means the total number of Medi-Cal general acute care days paid by the department to a hospital in the 2008 calendar year, as reflected in the state paid claims files on July 10, 2009.

(f) "High acuity days" means Medi-Cal coronary care unit days, pediatric intensive care unit days, intensive care unit days, neonatal intensive care unit days, and burn unit days paid by the department during the 2008 calendar year, as reflected in the state paid claims files on July 10, 2009.

(g) "Hospital inpatient services" means all services covered under Medi-Cal and furnished by hospitals to patients who are admitted as hospital inpatients and reimbursed on a fee-for-service basis by the department directly or through its fiscal intermediary. Hospital inpatient services include outpatient services furnished by a hospital to a patient who is admitted to that hospital within 24 hours of the provision of the outpatient services that are related to the condition for which the patient is admitted. Hospital inpatient services do not include services for which a managed health care plan is financially responsible.

(h) "Hospital outpatient services" means all services covered under Medi-Cal furnished by hospitals to patients who are registered as hospital outpatients and reimbursed by the department on a fee-for-service basis directly or through its fiscal intermediary. Hospital outpatient services do not include services for which a managed health care plan is financially responsible, or services rendered by a hospital-based federally qualified health center for which reimbursement is received pursuant to Section 14132.100.

(i) (1) "Implementation date" means the latest effective date of all federal approvals or waivers necessary for the implementation of this article and Article 5.22 (commencing with Section 14167.31), including, but not limited to, any approvals on

amendments to contracts between the department and managed health care plans or mental health plans necessary for the implementation of this article. The effective date of a federal approval or waiver shall be the earlier of the stated effective date or the first day of the first quarter to which the computation of the payments or fee under the federal approval or waiver is applicable, which may be prior to the date that the federal approval or waiver is granted or the applicable contract is amended.

(2) If federal approval is sought initially for only the 2008–09 federal fiscal year and separately secured for subsequent federal fiscal years, the implementation date for the 2008–09 federal fiscal year shall occur when all necessary federal approvals have been secured for that federal fiscal year.

(j) "Individual hospital acute psychiatric supplemental payment" means the total amount of acute psychiatric hospital supplemental payments to a subject hospital for a quarter for which the supplemental payments are made. The "individual hospital acute psychiatric supplemental payment" shall be calculated for subject hospitals by multiplying the number of acute psychiatric days for the individual hospital for which a mental health plan was financially responsible by four hundred eighty-five dollars ($485) and dividing the result by 4.

(k) (1) "Managed health care plan" means a health care delivery system that manages the provision of health care and receives prepaid capitated payments from the state in return for providing services to Medi-Cal beneficiaries.

(2) (A) Managed health care plans include county organized health systems and entities contracting with the department to provide services pursuant to two-plan models and geographic managed care. Entities providing these services contract with the department pursuant to any of the following:

(i) Article 2.7 (commencing with Section 14087.3).

(ii) Article 2.8 (commencing with Section 14087.5).

(iii) Article 2.81 (commencing with Section 14087.96).

(iv) Article 2.91 (commencing with Section 14089).

(B) Managed health care plans do not include any of the following:

(i) Mental health plan contracting to provide mental health care for Medi-Cal beneficiaries pursuant to ~~Part 2.5 (commencing with~~

~~Section 5775) of Division 5~~ *Chapter 8.9 (commencing with Section 14700)*.

(ii) Health plan not covering inpatient services such as primary care case management plans operating pursuant to Section 14088.85.

(iii) Program of All-Inclusive Care for the Elderly *organizations* operating pursuant to Chapter 8.75 (commencing with Section 14591).

(*l*) "Medi-Cal managed care days" means the total number of general acute care days, including well baby days, listed for the county organized health system and prepaid health plans identified in the Final Medi-Cal Utilization Statistics for the 2008–09 state fiscal year, as calculated by the department on September 15, 2008, except that the general acute care days, including well baby days, for the Santa Barbara Health Care Initiative shall be derived from the Final Medi-Cal Utilization Statistics for the 2007–08 state fiscal year.

(m) "Medicaid inpatient utilization rate" means Medicaid inpatient utilization rate as defined in Section 1396r-4 of Title 42 of the United States Code and as set forth in the final disproportionate share hospital eligibility list for the 2008–09 state fiscal year released by the department on October 22, 2008.

(n) "Mental health plan" means a mental health plan that contracts with the ~~State Department of Mental Health~~ *the department* to furnish or arrange for the provision of mental health services to Medi-Cal beneficiaries pursuant to ~~Part 2.5 (commencing with Section 5775) of Division 5~~ *Chapter 8.9 (commencing with Section 14700)*.

(o) "New hospital" means a hospital that was not in operation under current or prior ownership as a private hospital, a nondesignated public hospital, or a designated public hospital for any portion of the 2008–09 state fiscal year.

(p) "Nondesignated public hospital" means either of the following:

(1) A public hospital that is licensed under subdivision (a) of Section 1250 of the Health and Safety Code, is not designated as a specialty hospital in the hospital's annual financial disclosure report for the hospital's latest fiscal year ending in 2007, and satisfies the definition in paragraph (25) of subdivision (a) of Section 14105.98, excluding designated public hospitals.

(2) A tax-exempt nonprofit hospital that is licensed under subdivision (a) of Section 1250 of the Health and Safety Code, is not designated as a specialty hospital in the hospital's annual financial disclosure report for the hospital's latest fiscal year ending in 2007, is operating a hospital owned by a local health care district, and is affiliated with the health care district hospital owner by means of the district's status as the nonprofit corporation's sole corporate member.

(q) "Outpatient base amount" means the total amount of payments for hospital outpatient services made to a hospital in the 2007 calendar year, as reflected in state paid claims files on January 26, 2008.

(r) "Private hospital" means a hospital that meets all of the following conditions:

(1) Is licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code.

(2) Is in the Charitable Research Hospital peer group, as set forth in the 1991 Hospital Peer Grouping Report published by the department, or is not designated as a specialty hospital in the hospital's Office of Statewide Health Planning and Development Annual Financial Disclosure Report for the hospital's latest fiscal year ending in 2007.

(3) Does not satisfy the Medicare criteria to be classified as a long-term care hospital.

(4) Is a nonpublic hospital, nonpublic converted hospital, or converted hospital as those terms are defined in paragraphs (26) to (28), inclusive, respectively, of subdivision (a) of Section 14105.98.

(s) "Subject federal fiscal year" means a federal fiscal year that ends after the implementation date and begins before December 31, 2010.

(t) "Subject fiscal quarter" means a fiscal quarter beginning on or after the implementation date and ending before January 1, 2011.

(u) "Subject fiscal year" means a state fiscal year that ends after the implementation date and begins before December 31, 2010.

(v) "Subject hospital" shall mean a hospital that meets all of the following conditions:

(1) Is licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code.

(2) Is in the Charitable Research Hospital peer group, as set forth in the 1991 Hospital Peer Grouping Report published by the department, or is not designated as a specialty hospital in the hospital's Office of Statewide Health Planning and Development Annual Financial Disclosure Report for the hospital's latest fiscal year ending in 2007.

(3) Does not satisfy the Medicare criteria to be classified as a long-term care hospital.

(w) "Subject month" means a calendar month beginning on or after the implementation date and ending before January 1, 2011.

(x) "Upper payment limit" means a federal upper payment limit on the amount of the Medicaid payment for which federal financial participation is available for a class of service and a class of health care providers, as specified in Part 447 of Title 42 of the Code of Federal Regulations.

SEC. 231. Section 14167.11 of the Welfare and Institutions Code is amended to read:

14167.11. (a) The department shall increase payments to mental health plans for the subject fiscal years as set forth in this section. The aggregate amount of the increased payments for a subject fiscal quarter shall be the total of the individual hospital acute psychiatric supplemental payment amounts for all hospitals for which federal financial participation is available.

(b) For each subject fiscal quarter, the state shall make increased payments to each mental health plan. The department shall consider the composition of Medi-Cal enrollees in the mental health plan, the anticipated utilization of hospital services by the mental health plan's Medi-Cal enrollees, and other factors that the department determines are reasonable and appropriate to ensure access to high-quality hospital services by the mental health plan's enrollees.

(c) The state shall make increased payments to mental health plans exclusively for the purpose of making payments to hospitals, in order to support the availability of hospital *specialty* mental health services and ensure access for Medi-Cal beneficiaries to hospital *specialty* mental health services. The increased payments to mental health plans shall be made as follows:

(1) The increased payments shall commence on or before the later of the last day of the second month of the quarter in which federal approval is granted or the 45th day following the day on which federal approval is granted. Subsequent increased payments

shall be made on the last day of the second month of each quarter. The last increased payments made pursuant to this section shall be made during November 2010.

(2) The increased payments made for the first quarter for which increased payments are made under this section shall include the sum of increased payments for all prior quarters for which payments are due under subdivision (b).

(3) The increased payments made during November 2010 shall include payments computed under subdivision (b) for all quarters in the 2010–11 subject fiscal year to the extent that federal financial participation is available for the payments.

(4) If all necessary federal approvals are not received on or before September 1, 2010, the department shall make semimonthly payments starting within one month of receipt of all necessary federal approvals until December 31, 2010.

(d) Each mental health plan shall expend, in the form of additional payments to hospitals, the increased payments it receives under this section, pursuant to Section 14167.12.

(e) In the event federal financial participation for a subject fiscal year is not available for all of the increased acute psychiatric payments determined for a quarter pursuant to this section for any reason, the increased payments mandated by this section for that quarter shall be reduced proportionately to the amount for which federal financial participation is available.

(f) Payments to mental health plans that would be paid in the absence of the payments made pursuant to this section shall not be reduced as a consequence of the payments under this section.

(g) Notwithstanding any other provision of this article or Article 5.22 (commencing with Section 14167.31), individual hospital acute psychiatric supplemental payments under this section and Section 14167.12 may be made directly by the department to hospitals in accordance with Section 14167.9 when federal law does not require that the payments be transmitted to the hospitals via mental health plans.

(h) The department may, as necessary, allocate money appropriated to it from the Hospital Quality Assurance Revenue Fund ~~to the State Department of Mental Health~~ for the purposes of making increased payments to mental health plans pursuant to this article.

(i) The amount, if any, by which the aggregate individual hospital acute psychiatric supplemental payment amounts for a subject fiscal quarter, including any carryover amount under this subdivision, exceeds the amount for which federal financial participation is available for that quarter due to the application of a federal upper payment limit shall be added to the aggregate individual hospital acute psychiatric supplemental payment amounts for the succeeding subject fiscal quarter. In the event there is a carryover amount for the subject fiscal quarter ending December 31, 2010, the amount shall be payable under this section for the quarter ending March 31, 2011, and, if necessary due to the application of a federal upper payment limit, the quarter ending June 30, 2011.

SEC. 232. Section 14168.1 of the Welfare and Institutions Code is amended to read:

14168.1. For the purposes of this article, the following definitions shall apply:

(a) "Acute psychiatric days" means the total number of ~~Short-Doyle~~ *Medi-Cal specialty mental health service* administrative days, ~~Short-Doyle~~ *Medi-Cal specialty mental health service* acute care days, acute psychiatric administrative days, and acute psychiatric acute days identified in the Final Medi-Cal Utilization Statistics for the 2008–09 state fiscal year as calculated by the department on September 15, 2008.

(b) "Converted hospital" means a private hospital that becomes a designated public hospital or a nondesignated public hospital on or after January 1, 2011, a nondesignated public hospital that becomes a private hospital or a designated public hospital on or after January 1, 2011, or a designated public hospital that becomes a private hospital or a nondesignated public hospital on or after January 1, 2011.

(c) "Days data source" means the following:

(1) For a hospital that did not submit an Annual Financial Disclosure Report to the Office of Statewide Health Planning and Development for a fiscal year ending during 2007, but submitted that report for a fiscal period ending in 2008 that includes at least 10 months of 2007, the Annual Financial Disclosure Report submitted by the hospital to the Office of Statewide Health Planning and Development for the fiscal period in 2008 that includes at least 10 months of 2007.

(2) For a hospital owned by Kaiser Foundation Hospitals that submitted corrections to reported patient days to the Office of Statewide Health Planning and Development for its fiscal year ending in 2007 before July 31, 2009, the corrected data.

(3) For all other hospitals, the hospital's Annual Financial Disclosure Report in the Office of Statewide Health Planning and Development files as of October 31, 2008, for its fiscal year ending during 2007.

(d) "Designated public hospital" shall have the meaning given in subdivision (d) of Section 14166.1 as of January 1, 2011.

(e) "General acute care days" means the total number of Medi-Cal general acute care days paid by the department to a hospital in the 2008 calendar year, as reflected in the state paid claims files on July 10, 2009.

(f) "High acuity days" means Medi-Cal coronary care unit days, pediatric intensive care unit days, intensive care unit days, neonatal intensive care unit days, and burn unit days paid by the department during the 2008 calendar year, as reflected in the state paid claims files on July 10, 2009.

(g) "Hospital inpatient services" means all services covered under Medi-Cal and furnished by hospitals to patients who are admitted as hospital inpatients and reimbursed on a fee-for-service basis by the department directly or through its fiscal intermediary. Hospital inpatient services include outpatient services furnished by a hospital to a patient who is admitted to that hospital within 24 hours of the provision of the outpatient services that are related to the condition for which the patient is admitted. Hospital inpatient services do not include services for which a managed health care plan is financially responsible.

(h) "Hospital outpatient services" means all services covered under Medi-Cal furnished by hospitals to patients who are registered as hospital outpatients and reimbursed by the department on a fee-for-service basis directly or through its fiscal intermediary. Hospital outpatient services do not include services for which a managed health care plan is financially responsible, or services rendered by a hospital-based federally qualified health center for which reimbursement is received pursuant to Section 14132.100.

(i) "Individual hospital acute psychiatric supplemental payment" means the total amount of acute psychiatric hospital supplemental payments to a subject hospital for a quarter for which the

supplemental payments are made. The "individual hospital acute psychiatric supplemental payment" shall be calculated for subject hospitals by multiplying the number of acute psychiatric days for the individual hospital for which a mental health plan was financially responsible by four hundred eighty-five dollars ($485) and dividing the result by four.

(j) (1) "Managed health care plan" means a health care delivery system that manages the provision of health care and receives prepaid capitated payments from the state in return for providing services to Medi-Cal beneficiaries.

(2) (A) Managed health care plans include county organized health systems and entities contracting with the department to provide services pursuant to two-plan models and geographic managed care. Entities providing these services contract with the department pursuant to any of the following:

(i) Article 2.7 (commencing with Section 14087.3).

(ii) Article 2.8 (commencing with Section 14087.5).

(iii) Article 2.81 (commencing with Section 14087.96).

(iv) Article 2.91 (commencing with Section 14089).

(B) Managed health care plans do not include any of the following:

(i) Mental health ~~plan~~ *plans* contracting to provide mental health care for Medi-Cal beneficiaries pursuant to ~~Part 2.5 (commencing with Section 5775) of Division 5~~ *Chapter 8.9 (commencing with Section 14700)*.

(ii) Health ~~plan~~ *plans* not covering inpatient services such as primary care case management plans operating pursuant to Section 14088.85.

(iii) Program of All-Inclusive Care for the Elderly *organizations* operating pursuant to Chapter 8.75 (commencing with Section 14591).

(k) "Medi-Cal managed care days" means the total number of general acute care days, including well baby days, listed for the county organized health system and prepaid health plans identified in the Final Medi-Cal Utilization Statistics for the 2008–09 fiscal year, as calculated by the department on September 15, 2008, except that the general acute care days, including well baby days, for the Santa Barbara Health Care Initiative shall be derived from the Final Medi-Cal Utilization Statistics for the 2007–08 fiscal year.

(*l*) "Medicaid inpatient utilization rate" means Medicaid inpatient utilization rate as defined in Section 1396r-4 of Title 42 of the United States Code and as set forth in the final disproportionate share hospital eligibility list for the 2008–09 fiscal year released by the department on October 22, 2008.

(m) "Mental health plan" means a mental health plan that contracts with the ~~State Department of Mental Health~~ *department* to furnish or arrange for the provision of mental health services to Medi-Cal beneficiaries pursuant to ~~Part 2.5 (commencing with Section 5775) of Division 5~~ *Chapter 8.9 (commencing with Section 14700)*.

(n) "New hospital" means a hospital operation, business, or facility functioning under current or prior ownership as a private hospital that does not have a days data source or a hospital that has a days data source in whole, or in part, from a previous operator where there is an outstanding monetary liability owed to the state in connection with the Medi-Cal program and the new operator did not assume liability for the outstanding monetary obligation.

(o) "New noncontract hospital" means a private hospital that was a contract hospital on March 1, 2011, and elects to become a noncontract hospital at any time between March 1, 2011, and the end of the program period.

(p) "Nondesignated public hospital" means either of the following:

(1) A public hospital that is licensed under subdivision (a) of Section 1250 of the Health and Safety Code, is not designated as a specialty hospital in the hospital's annual financial disclosure report for the hospital's latest fiscal year ending in 2007, and satisfies the definition in paragraph (25) of subdivision (a) of Section 14105.98, excluding designated public hospitals.

(2) A tax-exempt nonprofit hospital that is licensed under subdivision (a) of Section 1250 of the Health and Safety Code, is not designated as a specialty hospital in the hospital's annual financial disclosure report for the hospital's latest fiscal year ending in 2007, is operating a hospital owned by a local health care district, and is affiliated with the health care district hospital owner by means of the district's status as the nonprofit corporation's sole corporate member.

(q) "Outpatient base amount" means the total amount of payments for hospital outpatient services made to a hospital in the

2007 calendar year, as reflected in *the* state paid claims files on January 26, 2008.

(r) "Private hospital" means a hospital that meets all of the following conditions:

(1) Is licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code.

(2) Is in the Charitable Research Hospital peer group, as set forth in the 1991 Hospital Peer Grouping Report published by the department, or is not designated as a specialty hospital in the hospital's Office of Statewide Health Planning and Development Annual Financial Disclosure Report for the hospital's latest fiscal year ending in 2007.

(3) Does not satisfy the Medicare criteria to be classified as a long-term care hospital.

(4) Is a nonpublic hospital, nonpublic converted hospital, or converted hospital as those terms are defined in paragraphs (26) to (28), inclusive, respectively, of subdivision (a) of Section 14105.98.

(s) "Program period" means the period from January 1, 2011, to June 30, 2011, inclusive.

(t) "Subject fiscal quarter" means a state fiscal quarter beginning on or after January 1, 2011, and ending before July 1, 2011.

(u) "Subject hospital" ~~shall mean~~ *means* a hospital that meets all of the following conditions:

(1) Is licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code.

(2) Is in the Charitable Research Hospital peer group, as set forth in the 1991 Hospital Peer Grouping Report published by the department, or is not designated as a specialty hospital in the hospital's Office of Statewide Health Planning and Development Annual Financial Disclosure Report for the hospital's latest fiscal year ending in 2007.

(3) Does not satisfy the Medicare criteria to be classified as a long-term care hospital.

(v) "Subject month" means a calendar month beginning on or after January 1, 2011, and ending before July 1, 2011.

(w) "Upper payment limit" means a federal upper payment limit on the amount of the Medicaid payment for which federal financial participation is available for a class of service and a class of health

care providers, as specified in Part 447 of Title 42 of the Code of Federal Regulations.

SEC. 233. Section 14169.1 of the Welfare and Institutions Code is amended to read:

14169.1. For the purposes of this article, the following definitions shall apply:

(a) "Acute psychiatric days" means the total number of ~~Short-Doyle~~ *Medi-Cal specialty mental health service* administrative days, ~~Short-Doyle~~ *Medi-Cal specialty mental health service* acute care days, acute psychiatric administrative days, and acute psychiatric acute days identified in the Tentative Medi-Cal Utilization Statistics for the 2011–12 state fiscal year as calculated by the department as of July 21, 2011.

(b) "Converted hospital" means a private hospital that becomes a designated public hospital or a nondesignated public hospital on or after July 1, 2011.

(c) "Days data source" means the hospital's Annual Financial Disclosure Report filed with the Office of Statewide Health Planning and Development as of May 5, 2011, for its fiscal year ending during 2009.

(d) "Designated public hospital" shall have the meaning given in subdivision (d) of Section 14166.1 as of July 1, 2011.

(e) "General acute care days" means the total number of Medi-Cal general acute care days paid by the department to a hospital for services in the 2009 calendar year, as reflected in the state paid claims file on July 15, 2011.

(f) "High acuity days" means Medi-Cal coronary care unit days, pediatric intensive care unit days, intensive care unit days, neonatal intensive care unit days, and burn unit days paid by the department during the 2009 calendar year, as reflected in the state paid claims file prepared by the department on July 15, 2011.

(g) "Hospital inpatient services" means all services covered under Medi-Cal and furnished by hospitals to patients who are admitted as hospital inpatients and reimbursed on a fee-for-service basis by the department directly or through its fiscal intermediary. Hospital inpatient services include outpatient services furnished by a hospital to a patient who is admitted to that hospital within 24 hours of the provision of the outpatient services that are related to the condition for which the patient is admitted. Hospital inpatient

services do not include services for which a managed health care plan is financially responsible.

(h) "Hospital outpatient services" means all services covered under Medi-Cal furnished by hospitals to patients who are registered as hospital outpatients and reimbursed by the department on a fee-for-service basis directly or through its fiscal intermediary. Hospital outpatient services do not include services for which a managed health care plan is financially responsible, or services rendered by a hospital-based federally qualified health center for which reimbursement is received pursuant to Section 14132.100.

(i) "Individual hospital acute psychiatric supplemental payment" means the total amount of acute psychiatric hospital supplemental payments to a subject hospital for a quarter for which the supplemental payments are made. The "individual hospital acute psychiatric supplemental payment" shall be calculated for subject hospitals by multiplying the number of acute psychiatric days for the individual hospital for which a mental health plan was financially responsible by the amount calculated in accordance with paragraph (2) of subdivision (b) of Section 14169.3 and dividing the result by four.

(j) (1) "Managed health care plan" means a health care delivery system that manages the provision of health care and receives prepaid capitated payments from the state in return for providing services to Medi-Cal beneficiaries.

(2) (A) Managed health care plans include county organized health systems and entities contracting with the department to provide services pursuant to two-plan models and geographic managed care. Entities providing these services contract with the department pursuant to any of the following:

(i) Article 2.7 (commencing with Section 14087.3).

(ii) Article 2.8 (commencing with Section 14087.5).

(iii) Article 2.81 (commencing with Section 14087.96).

(iv) Article 2.91 (commencing with Section 14089).

(B) Managed health care plans do not include any of the following:

(i) Mental health plans contracting to provide mental health care for Medi-Cal beneficiaries pursuant to ~~Part 2.5 (commencing with Section 5775) of Division 5~~ *Chapter 8.9 (commencing with Section 14700)*.

(ii) Health plans not covering inpatient services such as primary care case management plans operating pursuant to Section 14088.85.

(iii) ~~Long-Term Care Demonstration Projects~~ *Program* for All-Inclusive Care for the Elderly *organizations* operating pursuant to Chapter 8.75 (commencing with Section ~~14590~~ *14591*).

(k) "Medi-Cal managed care days" means the total number of general acute care days, including well baby days, listed for the county organized health system and prepaid health plans identified in the Tentative Medi-Cal Utilization Statistics for the 2011–12 fiscal year, as calculated by the department as of July 21, 2011.

(*l*) "Medicaid inpatient utilization rate" means Medicaid inpatient utilization rate as defined in Section 1396r-4 of Title 42 of the United States Code and as set forth in the final disproportionate share hospital eligibility list for the 2010–11 fiscal year released by the department as of May 1, 2011.

(m) "Mental health plan" means a mental health plan that contracts with the state to furnish or arrange for the provision of mental health services to Medi-Cal beneficiaries pursuant to ~~Part 2.5 (commencing with Section 5775) of Division 5~~ *Chapter 8.9 (commencing with Section 14700)*.

(n) "New hospital" means a hospital operation, business, or facility functioning under current or prior ownership as a private hospital that does not have a days data source or a hospital that has a days data source in whole, or in part, from a previous operator where there is an outstanding monetary liability owed to the state in connection with the Medi-Cal program and the new operator did not assume liability for the outstanding monetary obligation.

(o) "New noncontract hospital" means a private hospital that was a contract hospital on March 1, 2011, and elects to become a noncontract hospital at any time between March 1, 2011, and the end of the program period.

(p) "Nondesignated public hospital" means either of the following:

(1) A public hospital that is licensed under subdivision (a) of Section 1250 of the Health and Safety Code, is not designated as a specialty hospital in the hospital's Annual Financial Disclosure Report for the hospital's latest fiscal year ending in 2009, and satisfies the definition in paragraph (25) of subdivision (a) of Section 14105.98, excluding designated public hospitals.

(2) A tax-exempt nonprofit hospital that is licensed under subdivision (a) of Section 1250 of the Health and Safety Code, is not designated as a specialty hospital in the hospital's Annual Financial Disclosure Report for the hospital's latest fiscal year ending in 2009, is operating a hospital owned by a local health care district, and is affiliated with the health care district hospital owner by means of the district's status as the nonprofit corporation's sole corporate member.

(q) "Outpatient base amount" means the total amount of payments for hospital outpatient services made to a hospital in the 2009 calendar year, as reflected in the state paid claims files prepared by the department on June 2, 2011.

(r) "Private hospital" means a hospital that meets all of the following conditions:

(1) Is licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code.

(2) Is in the Charitable Research Hospital peer group, as set forth in the 1991 Hospital Peer Grouping Report published by the department, or is not designated as a specialty hospital in the hospital's Office of Statewide Health Planning and Development Annual Financial Disclosure Report for the hospital's latest fiscal year ending in 2009.

(3) Does not satisfy the Medicare criteria to be classified as a long-term care hospital.

(4) Is a nonpublic hospital, nonpublic converted hospital, or converted hospital as those terms are defined in paragraphs (26) to (28), inclusive, respectively, of subdivision (a) of Section 14105.98.

(s) "Program period" means the period from July 1, 2011, to December 31, 2013, inclusive.

(t) "Subject fiscal quarter" means a state fiscal quarter beginning on or after July 1, 2011, and ending before January 1, 2014.

(u) "Subject fiscal year" means a state fiscal year that ends after July 1, 2011, and begins before January 1, 2014.

(v) "Subject hospital" means a hospital that meets all of the following conditions:

(1) Is licensed pursuant to subdivision (a) of Section 1250 of the Health and Safety Code.

(2) Is in the Charitable Research Hospital peer group, as set forth in the 1991 Hospital Peer Grouping Report published by the

department, or is not designated as a specialty hospital in the hospital's Office of Statewide Health Planning and Development Annual Financial Disclosure Report for the hospital's latest fiscal year ending in 2009.

(3) Does not satisfy the Medicare criteria to be classified as a long-term care hospital.

(w) "Subject month" means a calendar month beginning on or after July 1, 2011, and ending before January 1, 2014.

(x) "Upper payment limit" means a federal upper payment limit on the amount of the Medicaid payment for which federal financial participation is available for a class of service and a class of health care providers, as specified in Part 447 of Title 42 of the Code of Federal Regulations. The applicable upper payment limit shall be separately calculated for inpatient and outpatient hospital services.

SEC. 234. Section 14456.5 of the Welfare and Institutions Code is amended to read:

14456.5. (a) For purposes of this section, Medi-Cal managed care plan means any prepaid health plan or Medi-Cal managed care plan contracting with the department to provide services to enrolled Medi-Cal beneficiaries under Chapter 7 (commencing with Section 14000) or this chapter, or Part 4 (commencing with Section 101525) of Division 101 of the Health and Safety Code.

(b) The department shall ensure that coverage is provided for medically necessary prescription medications and related medically necessary medical services that are prescribed by a local mental health plan provider, and are within the Medi-Cal scope of benefits, but are excluded from coverage under ~~Part 2.5 (commencing with Section 5775) of Division 5~~ *Chapter 8.9 (commencing with Section 14700)*, by doing, at least, all of the following:

(1) Requiring Medi-Cal managed care plans to comply with the following standards:

(A) The decision regarding responsibility and coverage for a prescription drug shall be made by the Medi-Cal managed care plan within 24 hours, or one business day, from the date the request for a decision is received by telephone or other telecommunication device.

(B) The decision regarding responsibility and coverage for services, such as laboratory tests, that are medically necessary because of medications prescribed by a mental health provider, shall be made by the Medi-Cal managed care plan within seven

days following the date the request for a decision is received by telephone or other telecommunication device.

(C) If the decision of the Medi-Cal managed care plan on the request is a deferral because of a determination that the Medi-Cal managed care plan needs more information, the Medi-Cal managed care plan shall transmit notice of the deferral, by facsimile or by other telecommunication system, to the pharmacist or other service provider, to the prescribing mental health provider, and to a designated mental health plan representative. The notice shall set out with specificity what additional information is needed to make a medical necessity determination.

(D) Any denial of authorization or payment for a prescription medication or for any services such as laboratory tests that may be medically necessary because of medications ordered by a mental health plan provider shall set forth the reasons for the denial with specificity. The denial notice shall be transmitted by facsimile or other telecommunication system to the pharmacist or other service provider, to the prescribing mental health provider, to a designated mental health plan representative, and by mail to the Medi-Cal beneficiary.

(E) For purposes of subsequent requests for a medication, the local mental health plan provider prescribing the prescription medication shall be treated as a plan provider under subdivision (a) of Section 1367.22 of the Health and Safety Code.

(F) If the decision cannot be made within five working days because of a request for additional information, any Medi-Cal managed care plan licensed pursuant to Division 2 (commencing with Section 1340) of the Health and Safety Code shall inform the enrollee as required by paragraph (5) of subdivision (h) of Section 1367.01 of the Health and Safety Code. In regard to any Medi-Cal managed care plan contract as described pursuant to subdivision (a) that is issued, amended, or renewed on or after January 1, 2001, with a plan not licensed pursuant to Division 2 (commencing with Section 1340) of the Health and Safety Code, if the decision cannot be made within five working days because of a request for additional information as specified in subparagraph (C), the plan shall notify the enrollee, in writing, that the plan cannot make a decision to approve, modify, or deny the request for authorization. All managed care plans shall, upon receipt of all information reasonably necessary for making the decision and that was

requested by the plan, approve, modify, or deny the request for authorization within the timeframes specified in subparagraph (A) or (B), whichever applies.

(2) In consultation with the Medi-Cal managed care plans~~, the State Department of Mental Health,~~ and local mental health plans, establishing a process to recognize credentialing of local mental health plan providers, for the purpose of expediting approval of medications prescribed by a local mental health plan provider who is not contracting with the Medi-Cal managed care plan. In implementing this requirement, the Medi-Cal managed care plan shall not be required to violate licensure, accreditation, or certification requirements of other entities.

(3) Requiring any Medi-Cal managed care plan to enter into a memorandum of understanding with the local mental health plan. The memorandum of understanding shall comply with applicable regulations.

(c) The department may sanction a Medi-Cal managed care plan for violations of this section pursuant to Section 14088.23 or 14304.

(d) Every Medi-Cal managed care plan that provides prescription drug benefits and that maintains one or more drug formularies shall provide to members of the public, upon request, a copy of the most current list of prescription drugs on the formulary of the Medi-Cal managed care plan, by therapeutic category, with an indication of whether any drugs on the list are preferred over other listed drugs. If the Medi-Cal managed care plan maintains more than one formulary, the plan shall notify the requester that a choice of formulary lists is available.

(e) This section shall apply to any contracts entered into, amended, modified, or extended on or after January 1, 2001.

SEC. 235. Section 14640 of the Welfare and Institutions Code is repealed.

~~14640. (a) The State Department of Mental Health shall 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, and in which the number of general acute care hospital psychiatric beds is 50 or less. Counties receiving allocations pursuant to this subdivision may contract with privately operated psychiatric health facilities, or with freestanding~~

~~psychiatric hospitals which have been certified to provide care to Medi-Cal eligible persons.~~

~~(b) Payments made from the allocation established under subdivision (a) shall be made according to state established reimbursement formulas for mental health services, and shall be funded through moneys initially transferred from the State Department of Health Services and subsequently appropriated to the State Department of Mental Health under Item 4440-101-001 of the annual Budget Act.~~

~~(c) Allocations made pursuant to subdivision (a) shall not exceed the General Fund share of expenditures made under the Medi-Cal program for acute psychiatric inpatient care units in general acute care hospitals in the subject county during the 1989–90 state fiscal year. Payments shall be made only to the extent that those inpatient units have ceased operation in subsequent years and the capacity has not been replaced by capacity in other general acute care hospitals.~~

SEC. 236. Section 14680 of the Welfare and Institutions Code, as added by Section 10 of Chapter 651 of the Statutes of 2011, is amended to read:

14680. (a) The Legislature finds and declares that there is a need to establish a standard set of guidelines that governs the provision of managed Medi-Cal *specialty* mental health services at the local level, consistent with federal law.

(b) Therefore, in order to ensure quality and continuity, and to efficiently utilize mental health services under the Medi-Cal program, there shall be developed mental health plans for the provision of those services that are consistent with guidelines established by the ~~State Department of Mental Health~~ *department*. The guidelines shall be consistent with federal Medicaid requirements and the approved Medicaid state plan and waivers to ensure full and timely federal reimbursement to mental health plans for services that are rendered and reimbursed consistent with federal Medicaid requirements.

(c) It is the intent of the Legislature that mental health plans be developed and implemented regardless of whether other systems of Medi-Cal managed care are implemented.

(d) It is further the intent of the Legislature that Sections 14681 to 14685, inclusive, shall not be construed to mandate the

participation of counties in Medi-Cal managed mental health care plans.

(e) This section shall become operative on July 1, 2012.

SEC. 237. Section 14681 of the Welfare and Institutions Code is amended to read:

14681. The ~~State Department of Health Services, in consultation with the State Department of Mental Health,~~ *department* shall ensure that all contracts for Medi-Cal managed care include a process for screening, referral, and coordination with any mental health plan established ~~pursuant to Section 14682~~, of medically necessary *specialty* mental health care services.

SEC. 238. Section 14682 of the Welfare and Institutions Code is amended to read:

14682. (a) Notwithstanding any other provision of state law, and to the extent permitted by federal law, the State Department of Mental Health shall be designated as the state agency responsible for development, consistent with the requirements of Section 4060, and implementation of mental health plans for Medi-Cal beneficiaries.

(b) The department shall convene a steering committee for the purpose of providing advice and recommendations on the development of Medi-Cal mental health managed care systems pursuant to subdivision (a). The committee shall include work groups to advise the department of major issues to be addressed in the managed mental health care plan. Representatives of concerned groups, including, but not limited to, beneficiaries, their families, providers, mental health professionals, statewide representatives of health care service plans, the California Mental Health Planning Council, public and private organizations, and county mental health directors, shall be invited to participate in the steering committee process.

(c) This section shall become inoperative on July 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 239. Section 14682.1 is added to the Welfare and Institutions Code, to read:

14682.1. (a) The State Department of Health Care Services shall be designated as the state agency responsible for development, consistent with the requirements of Section 4060,

and implementation of, mental health plans for Medi-Cal beneficiaries.

(b) The department shall convene a steering committee for the purpose of providing advice and recommendations on the transition and continuing development of the Medi-Cal mental health managed care systems pursuant to subdivision (a). The committee shall include work groups to advise the department of major issues to be addressed in the managed mental health care plan, as well as system transition and transformation issues pertaining to the delivery of mental health care services to Medi-Cal beneficiaries, including services to children provided through the Early and Periodic Screening, Diagnosis and Treatment Program.

(c) The committee shall consist of diverse representatives of concerned and involved communities, including, but not limited to, beneficiaries, their families, providers, mental health professionals, substance use disorder treatment professionals, statewide representatives of health care service plans, representatives of the California Mental Health Planning Council, public and private organizations, county mental health directors, and others as determined by the department. The department has the authority to structure this steering committee process in a manner that is conducive for addressing issues effectively, and for providing a transparent, collaborative, meaningful process to ensure a more diverse and representative approach to problem-solving and dissemination of information.

SEC. 240. Section 14683 of the Welfare and Institutions Code is amended to read:

14683. The~~ State Department of Mental Health~~ *department* shall ensure *all of* the following~~ in the development of mental health plans~~:

(a) That mental health plans include a process for screening, referral, and coordination with other necessary services, including, but not limited to, health, housing, and vocational rehabilitation services. For Medi-Cal eligible children, the mental health plans shall also provide coordination with education programs and any necessary medical or rehabilitative services, including, but not limited to, those provided under the California Children's Services Program (Article 5 (commencing with Section 123800) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code) and the Child Health and Disability Prevention Program (Article 6

(commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code), and those provided by a fee-for-service provider or a Medi-Cal managed care plan. This subdivision shall not be construed to establish any higher level of service from a county than is required under existing law. The ~~county mental health department and the~~ mental health plan~~, if it is not the county department,~~ shall not be liable for the failure of other agencies responsible for the provision of nonmental health services to provide those services or to participate in coordination efforts.

(b) That mental health plans include a system of outreach to enable *Medi-Cal* beneficiaries and providers to participate in and access *Medi-Cal specialty* mental health services under the plans, consistent with existing law.

(c) That standards for quality and access developed by the department~~,~~ in consultation with the steering committee established pursuant to Section ~~14682,~~ *14682.1* are included in mental health plans *serving Medi-Cal beneficiaries*.

SEC. 241. Section 14684 of the Welfare and Institutions Code, as added by Section 12 of Chapter 651 of the Statutes of 2011, is amended to read:

14684. (a) Notwithstanding any other provision of state law, and to the extent permitted by federal law, mental health plans, whether administered by public or private entities, shall be governed by the following guidelines:

(1) State and federal Medi-Cal funds identified for the diagnosis and treatment of mental ~~disorders~~ *illness* shall be used solely for those purposes. Administrative costs incurred by counties for activities necessary for the administration of the mental health plan shall be clearly identified and shall be reimbursed in a manner consistent with federal Medicaid requirements and the approved Medicaid state plan and waivers. Administrative requirements shall be based on and limited to federal Medicaid requirements and the approved Medicaid state plan and waivers, and shall not impose costs exceeding funds available for that purpose.

(2) The development of the mental health plan shall include a public planning process that includes a significant role for Medi-Cal beneficiaries, family members, mental health advocates, providers, and public and private contract agencies.

(3) The mental health plan shall include appropriate standards relating to quality, access, and coordination of services within a managed system of care, and costs established under the plan, and shall provide opportunities for existing Medi-Cal providers to continue to provide services under the mental health plan, as long as the providers meet those standards.

(4) Continuity of care for current recipients of services shall be ensured in the transition to managed mental health care.

(5) Medi-Cal covered *specialty* mental health services shall be provided in the beneficiary's home community, or as close as possible to the beneficiary's home community. Pursuant to the objectives of the rehabilitation option described in subdivision (a) of Section 14021.4, mental health services may be provided in a facility, a home, or other community-based site.

(6) Medi-Cal beneficiaries whose mental or emotional condition results or has resulted in functional impairment, as defined by the department, shall be eligible for covered *specialty* mental health services. Emphasis shall be placed on adults with serious and persistent mental illness and children with serious emotional disturbances, as defined by the department.

(7) Mental health plans shall provide specialty mental health services to eligible Medi-Cal beneficiaries, including both adults and children. Specialty mental health services include Early and Periodic Screening, Diagnosis, and Treatment Services to eligible Medi-Cal beneficiaries under the age of 21 pursuant to 42 U.S.C. Section 1396d(a)(4)(B) of Title 42 of the United States Code.

~~(7)~~

(8) Each mental health plan shall include a mechanism for monitoring the effectiveness of, and evaluating accessibility and quality of, services available. The plan shall utilize and be based upon state-adopted performance outcome measures and shall include review of individual service plan procedures and practices, a beneficiary satisfaction component, and a grievance system for beneficiaries and providers.

~~(8)~~

(9) Each mental health plan shall provide for culturally competent and age-appropriate services, to the extent feasible. The mental health plan shall assess the cultural competency needs of the program. The mental health plan shall include, as part of the quality assurance program required by Section ~~4070~~ *14725*, a

process to accommodate the significant needs with reasonable timeliness. The department shall provide demographic data and technical assistance. Performance outcome measures shall include a reliable method of measuring and reporting the extent to which services are culturally competent and age-appropriate.

(b) This section shall become operative on July 1, 2012.

SEC. 242. Section 14684.1 of the Welfare and Institutions Code is amended to read:

14684.1. (a) The ~~State Department of Mental Health~~ *department* shall establish a process for second level treatment authorization request appeals to review and resolve disputes between mental health plans and hospitals.

(b) When the department establishes an appeals process, the department shall comply with all of the following:

(1) The department shall review appeals initiated by hospitals and render decisions on appeals based on findings that are the result of a review of supporting documents submitted by mental health plans and hospitals.

(2) If the department upholds a mental health plan denial of payment of a hospital claim, a review fee shall be assessed on the provider.

(3) If the ~~State Department of Mental Health~~ *department* reverses a mental health plan denial of payment of a hospital claim, a review fee shall be assessed on the mental health plan.

(4) If the department decision regarding a mental health plan denial of payment upholds the claim in part and reverses the claim in part, the department shall prorate the review fee between the parties accordingly.

(c) The amount of the review fees shall be calculated and adjusted annually. The methodology and calculation used to determine the fee amounts shall result in an aggregate fee amount that, in conjunction with any other outside source of funding for this function, may not exceed the aggregate annual costs of providing second level treatment authorization request reviews.

(d) Fees collected by the department shall be retained by the department and used to offset administrative and personnel services costs associated with the appeals process.

(e) The department may use the fees collected, in conjunction with other available appropriate funding for this function, to contract for the performance of the appeals process function.

SEC. 243. Section 14685 of the Welfare and Institutions Code is amended to read:

14685. Counties shall have the right of first refusal to serve as a mental health plan. If a county elects not to serve as a mental health plan, the ~~State Department of Mental Health~~ *department* shall ensure that these services are provided.

SEC. 244. Section 14685.1 is added to the Welfare and Institutions Code, to read:

14685.1. Section 14685 is hereby repealed on November 7, 2012, if Section 36 has been added to Article XIII of the California Constitution as of that date.

SEC. 245. Section 14702 is added to the Welfare and Institutions Code, to read:

14702. For purposes of this chapter, the following definitions shall apply:

(a) "Department" means the State Department of Health Care Services.

(b) "Director" means the Director of Health Care Services.

SEC. 246. Section 14703 is added to the Welfare and Institutions Code, to read:

14703. Contracts entered into pursuant to this chapter shall be exempt from the requirements of Chapter 1 (commencing with Section 10100) and Chapter 2 (commencing with section 10290) of Part 2 of Division 2 of the Public Contract Code.

SEC. 247. Section 14704 is added to the Welfare and Institutions Code, to read:

14704. A regulation or order concerning Medi-Cal specialty mental health services adopted by the State Department of Mental Health pursuant to Division 5 (commencing with Section 5000), as in effect preceding the effective date of this section, shall remain in effect and shall be fully enforceable, unless and until the readoption, amendment, or repeal of the regulation or order by the department, or until it expires by its own terms.

SEC. 248. Section 14707.5 is added to the Welfare and Institutions Code, to read:

14707.5. (a) It is the intent of the Legislature to develop a performance outcome system for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) mental health services that will improve outcomes at the individual and system levels and will inform fiscal decision making related to the purchase of services.

(b) The State Department of Health Care Services, in collaboration with the California Health and Human Services Agency, and in consultation with the Mental Health Services Oversight and Accountability Commission, shall create a plan for a performance outcome system for EPSDT mental health services provided to eligible Medi-Cal beneficiaries under the age of 21 pursuant to 42 U.S.C. Section 1396d(a)(4)(B).

(1) Commencing no later than September 1, 2012, the department shall convene a stakeholder advisory committee comprised of representatives of child and youth clients, family members, providers, counties, and the Legislature. This consultation shall inform the creation of a plan for a performance outcome system for EPSDT mental health services.

(2) In developing a plan for a performance outcomes system for EPSDT mental health services, the department shall consider the following objectives, among others:

(A) High quality and accessible EPSDT mental health services for eligible children and youth, consistent with federal law.

(B) Information that improves practice at the individual, program, and system levels.

(C) Minimization of costs by building upon existing resources to the fullest extent possible.

(D) Reliable data that are collected and analyzed in a timely fashion.

(3) At a minimum, the plan for a performance outcome system for EPSDT mental health services shall consider evidence-based models for performance outcome systems, such as the Child and Adolescent Needs and Strengths (CANS), federal requirements, including the review by the External Quality Review Organization (EQRO), and, timelines for implementation at the provider, county, and state levels.

(c) The State Department of Health Care Services shall provide the performance outcomes system plan, including milestones and timelines, for EPSDT mental health services described in subdivision (a) to all fiscal committees and appropriate policy committees of the Legislature no later than October 1, 2013.

(d) The State Department of Health Care Services shall propose how to implement the performance outcomes system plan for EPSDT mental health services described in subdivision (a) no later than January 10, 2014.

SEC. 249. Section 18358.15 of the Welfare and Institutions Code is amended to read:

18358.15. (a) Each foster family agency participating in the program shall develop the child's needs and services plan, and have it agreed to by the county interagency review team, or county placing agency, and certified foster parents. Each foster family agency participating in the program shall provide the services and supports identified in the needs and services plan which are allowable under California's foster care program in accordance with Sections 11460 and 11463, and their implementing regulations. Each foster family agency shall also arrange for the services needed by each child and for which the child meets eligibility criteria under applicable publicly funded programs, including, but not limited to, mental health, education, and health services. The foster family agency shall arrange for these services funded by those publicly funded programs to be delivered either by the private nonprofit organization that also operates the foster family agency or by another qualified provider. Children in the ITFC program who meet the public mental health system criteria for mental health services and supports shall have those services and supports funded by the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program pursuant to Section ~~5778~~ *14718* and other appropriate mental health system sources. This subdivision shall not be construed to change the eligibility criteria for EPSDT benefits or services pursuant to federal law. The services that the foster family agency shall provide or arrange for include, but are not limited to, the following:

(1) Individualized needs and services plans that ensure continuity and stability in the placement of participating children in certified family homes that meet the needs of eligible children, including children making the transition from institutional placement to noninstitutional placement. The needs and services plan for each child in placement shall describe the specific needs of the child and the appropriate level of services provided to the child pursuant to Section 18358.30.

(2) Education and mental health services for children.

(3) In-home and support services necessary to implement the case plan.

(4) Other necessary services for children in placement, including medical and dental services.

(b) No more than one emotionally disturbed child or child who has a serious behavioral problem shall be placed in a certified ITFC family home unless the participating foster family agency provides the placing or participating county welfare department with a written assessment of the risk and compatibility of placing together two children who are emotionally disturbed or have a serious behavioral problem. More than two children who are emotionally disturbed or have serious behavioral problems who are siblings may be placed together in the same certified family home if the placement is approved by the county interagency review team or the county placing agency of the participating county. However, there shall be no more than a total of five children living in a certified family home with two adults, and there shall be no more than a total of three children living in a certified family home with one adult, except in cases where children living in the home other than those placed pursuant to this chapter are 15 years of age or older.

(c) Any use of physical contact to manage the behavior of a child that is reported to the foster family agency pursuant to Section 18538.25 shall in turn be reported by the foster family agency to the Community Care Licensing Division of the department as a special incident pursuant to Section 80061 of Title 22 of the California Code of Regulations.

SEC. 250. Section 18986.40 of the Welfare and Institutions Code is amended to read:

18986.40. (a) For the purposes of this chapter, "program" or "integrated children's services programs" means a coordinated children's service system, operating as a program that is part of a department or State Department of ~~Mental~~ Health *Care Services* initiative, that offers a full range of integrated behavioral social, health, and mental health services, including applicable educational services, to seriously emotionally disturbed and special needs children, or programs established by county governments, local education agencies, or consortia of public and private agencies, to jointly provide two or more of the following services to children or their families, or both:

(1) Educational services for children at risk of dropping out, or who need additional educational services to be successful academically.

(2) Health care.

(3) All mental health diagnostic and treatment services, including medication.

(4) Substance abuse prevention and treatment.

(5) Child abuse prevention, identification, and treatment.

(6) Nutrition services.

(7) Child care and development services.

(8) Juvenile justice services.

(9) Child welfare services.

(10) Early intervention and prevention services.

(11) Crisis intervention services, as defined in subdivision (c).

(12) Any other service which will enhance the health, development, and well-being of children and their families.

(b) For the purposes of this chapter, "children's multidisciplinary services team" means a team of two or more persons trained and qualified to provide one or more of the services listed in subdivision (a), who are responsible in the program for identifying the educational, health, or social service needs of a child and his or her family, and for developing a plan to address those needs. A family member, or the designee of a family member, shall be invited to participate in team meetings and decisions, unless the team determines that, in its professional judgment, this participation would present a reasonable risk of a significant adverse or detrimental effect on the minor's psychological or physical safety. Members of the team shall be trained in the confidentiality and information sharing provisions of this chapter.

(c) "Crisis intervention services" means early support and psychological assistance, to be continued as necessary, to children who have been victims of, or whose lives have been affected by, a violent crime or a cataclysmic incident, such as a natural disaster, or who have been involved in school, neighborhood, or family based critical incidents likely to cause profound psychological effects if not addressed immediately and thoroughly.

SEC. 251. Section 18987.7 of the Welfare and Institutions Code is amended to read:

18987.7. (a) The State Department of Social Services shall convene a workgroup of public and private nonprofit stakeholders that shall develop a plan for transforming the current system of group care for foster children or youth, and for children with serious emotional disorders (SED), into a system of residentially based services. The stakeholders may include, but not be limited

to, representatives of the department ~~and of the State Department of Mental Health~~, the State Department of Education, *the State Department of Health Care Services,* the State Department of Alcohol and Drug Programs, and the Department of Corrections and Rehabilitation; county child welfare, probation, mental health, and alcohol and drug programs; local education authorities; current and former foster youth, parents of foster children or youth, and children or youth with SED; private nonprofit agencies operating group homes; children's advocates; and other interested parties.

(b) The plan developed pursuant to this chapter shall utilize the reports delivered to the Legislature pursuant to Section 75 of Chapter 311 of the Statutes of 1998 by the Steering Committee for the Reexamination of the Role of Group Care in a Family-Based System of Care in June 2001 and August 2002, and the "Framework for a New System for Residentially-Based Services in California" published in March 2006.

(c) In the development, implementation, and subsequent revisions of the plan developed pursuant to subdivision (a), the knowledge and experience gained by counties and private nonprofit agencies through the operation of their residentially based services programs created under voluntary agreements made pursuant to Section 18987.72, including, but not limited to, the results of evaluations prepared pursuant to paragraph (3) of subdivision (c) of Section 18987.72 shall be utilized.

(d) By July 1, 2014, the department shall provide a copy of the plan developed by the workgroup pursuant to subdivision (a) to the Legislature. The plan shall include, in addition to other requirements set forth in this chapter, any statutory revisions necessary for its implementation.

SEC. 252. Section 18994.9 of the Welfare and Institutions Code is amended to read:

18994.9. (a) There is hereby established the California Families and Children Home Visit Program Task Force, which shall be convened by the Office of Child Abuse Prevention.

(b) The membership of the task force shall include, but need not be limited to, all of the following:

(1) The head of the Office of Child Abuse Prevention or his or her designee.

(2) The directors, or designees, of all of the following:

(A) The State Department of Social Services.

(B) The State Department of *Public* Health ~~Services~~.

~~(C) The State Department of Mental Health.~~

~~(D)~~

(C) The Department of ~~the Youth Authority~~ *Corrections and Rehabilitation, Division of Juvenile Justice*.

~~(E)~~

(D) The State Department of Education.

~~(F) The Office of Criminal Justice Planning.~~

(E) The California Emergency Management Agency.

(3) At least two county administrators from counties participating in this program, to be appointed by the director, with the consent of the county.

(4) The manager of this program from the Office of Child Abuse Prevention.

(5) Two legislative representatives, who shall be members of policy committees with jurisdiction over social services issues pertaining to children, with at least one each to be appointed by the Speaker of the Assembly and the Senate Committee on Rules.

(c) The task force shall do both of the following:

(1) Identify permanent funding sources from federal and state programs. Sources from which funding may be integrated for purposes of this chapter may include, but are not limited to, Medi-Cal Targeted Case Management and Administrative Program funds, provided for pursuant to Sections 14132.44 and 14132.47, family preservation funds, private health care providers, including health maintenance organizations and nonprofit hospitals, the California Special Supplemental Food Program for Women, Infants and Children, federal Individuals with Disabilities Education Act funds, and Healthy Families Program funds.

(2) Develop recommendations for permanent funding for this chapter, in order that eligible families who choose to participate have access to the program.

(d) Each member of the task force shall serve without compensation, but shall be reimbursed, by his or her employing agency, for actual and necessary expenses incurred in the performance of his or her duties.

(e) The task force shall be supported by a reasonable amount of staff time, which shall be provided by the agencies represented on the task force, to the extent feasible within an agency's existing

resources. The task force may request data from, and may utilize the technical expertise of, other state agencies.

(f) The task force, under the guidance of the Office of Child Abuse Prevention, shall submit its report to the Legislature not later than November 1, 1999.

SEC. 253. Section 25002 of the Welfare and Institutions Code is repealed.

~~25002. To develop the options for achieving universal health care coverage described in Section 25001, the secretary shall establish a process by which these options are developed. The process shall at a minimum include the following:~~

~~(a) The examination and utilization of research results from the study performed by the University of California with regard to methods of financing, delivering and defining universal health care coverage, done pursuant to the criteria in Senate Concurrent Resolution 100 of the 1997–1998 Regular Session of the Legislature.~~

~~(b) The examination and utilization of other data and information, as requested by the secretary or provided to the secretary, with regard to methods of financing, delivering, or defining universal health care coverage.~~

~~(c) Developing a process by which representatives of health care consumers, providers, insurers, health care workers, advocates, counties, and all other interested parties are engaged in discussion and debate of the issues faced by the state in providing universal health coverage. The secretary shall develop the methods by which this discussion occurs, provided that it is broadly inclusive of all groups with an interest in universal health care coverage.~~

~~(d) Interagency participation including, but not limited to, the State Department of Health Services, the State Department of Mental Health, the Department of Finance, the Managed Risk Medical Insurance Board, the Department of Consumer Affairs, the Public Employees' Retirement System, the State Department of Social Services, the Department of Managed Health Care, the Department of Insurance, and any other appropriate agencies which the secretary determines can contribute to the effort to provide universal health care coverage.~~

~~(e) Obtaining information from the United States Health Care Financing Administration regarding federal waivers or other forms of federal participation, if necessary.~~

SEC. 254. (a) The amendments made by this act to Section 43.7 of the Civil Code, to Section 1343 of the Health and Safety Code, and to Sections 4070, 4071, 5328, 5718, 5719, 5719.5, 5720, 5721, 5722, 5723, 5724, 5776, 5775, 5777, 5777.5, 5777.6, 5777.7, 5778, 5779, 5780, 5781, 5782, 5783, 14021.3, 14021.4, 14021.5, 14053.3, 14108.1, 14110.15, 14131.07, 14167.1, 14167.11, 14168.1, 14169.1, 14456.5, 14640, 14680, 14681, 14682, 14683, 14684, 14684.1, 14685, and 18358.15 of the Welfare and Institutions Code shall be operative July 1, 2012.

(b) The provisions of this act repealing Section 5723.5 of, and the heading of Article 4 (commencing with Section 4070) of Chapter 2 of Part 1 of Division 4 of the Welfare and Institutions Code shall be operative on July 1, 2012.

SEC. 255. The sum of $1,000 is hereby appropriated from the General Fund to the State Department of Health Care Services for administration.

SEC. 256. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

SEC. 257. This act shall become operative only if Assembly Bill 1480 or Senate Bill 1020 of the 2011–12 Regular Session of the Legislature is enacted and takes effect.

~~SECTION 1. It is the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.~~

O