

AMENDED IN SENATE AUGUST 16, 2016

AMENDED IN SENATE JUNE 20, 2016

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY MAY 4, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2809

Introduced by Assembly Member Rodriguez

February 19, 2016

An act to amend Sections ~~4646.5, 4648, and 4686.2~~ *4646.5 and 4648* of the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2809, as amended, Rodriguez. Developmental services: regional centers.

~~Existing law, the California Early Intervention Services Act, provides a statewide system of coordinated, comprehensive, family-centered, multidisciplinary, and interagency programs that are responsible for providing appropriate early intervention services and support to all eligible infants and toddlers, as defined, and their families and requires an eligible infant or toddler receiving services under the act to have an individualized family service plan (IFSP). The act requires these services to be provided pursuant to the existing regional center system under the Lanterman Developmental Disabilities Service Act.~~

Under existing law, the Lanterman Developmental Disabilities Services Act, the State Department of Developmental Services is

responsible for providing various services and supports to individuals with developmental disabilities, and for ensuring the appropriateness and quality of those services and supports. Under existing law, the department contracts with regional centers to provide services and supports to persons with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements.

This bill would require regional centers to provide certain ~~information~~ *information, including a statement of services and supports purchased and information about the appeal and complaint process*, to a consumer or his or her parents, legal guardian, conservator, or authorized representative, or both, in threshold languages, as defined.

~~Existing law also requires a regional center to only purchase applied behavioral analysis (ABA) services or intensive behavioral intervention services when the parent or parents of minor consumers receiving services participate in the intervention plan for the consumers. Existing law includes completion of group instruction on the basics of behavior intervention within the definition of “parent participation.”~~

~~This bill would prohibit a parent’s or caregiver’s noncompletion of group instruction on the basics of behavior intervention from being used to deny, delay, or reduce ABA or intensive behavioral intervention services if the parent or caregiver demonstrates hardship in accessing or attending group instruction classes. The bill would require the IPP or IFSP team to review the parent’s or caregiver’s demonstration of hardship every 6 months.~~

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

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

- 1 SECTION 1. Section 4646.5 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 4646.5. (a) The planning process for the individual program
- 4 plan described in Section 4646 shall include all of the following:
- 5 (1) Gathering information and conducting assessments to
- 6 determine the life goals, capabilities and strengths, preferences,
- 7 barriers, and concerns or problems of the person with
- 8 developmental disabilities. For children with developmental
- 9 disabilities, this process should include a review of the strengths,

1 preferences, and needs of the child and the family unit as a whole.
2 Assessments shall be conducted by qualified individuals and
3 performed in natural environments whenever possible. Information
4 shall be taken from the consumer, his or her parents and other
5 family members, his or her friends, advocates, authorized
6 representative, if applicable, providers of services and supports,
7 and other agencies. The assessment process shall reflect awareness
8 of, and sensitivity to, the lifestyle and cultural background of the
9 consumer and the family.

10 (2) A statement of goals, based on the needs, preferences, and
11 life choices of the individual with developmental disabilities, and
12 a statement of specific, time-limited objectives for implementing
13 the person's goals and addressing his or her needs. These objectives
14 shall be stated in terms that allow measurement of progress or
15 monitoring of service delivery. These goals and objectives should
16 maximize opportunities for the consumer to develop relationships,
17 be part of community life in the areas of community participation,
18 housing, work, school, and leisure, increase control over his or her
19 life, acquire increasingly positive roles in community life, and
20 develop competencies to help accomplish these goals.

21 (3) When developing individual program plans for children,
22 regional centers shall be guided by the principles, process, and
23 services and support parameters set forth in Section 4685.

24 (4) When developing an individual program plan for a transition
25 age youth or working age adult, the planning team shall consider
26 the Employment First Policy described in Chapter 14 (commencing
27 with Section 4868).

28 (5) A schedule of the type and amount of services and supports
29 to be purchased by the regional center or obtained from generic
30 agencies or other resources in order to achieve the individual
31 program plan goals and objectives, and identification of the
32 provider or providers of service responsible for attaining each
33 objective, including, but not limited to, vendors, contracted
34 providers, generic service agencies, and natural supports. The
35 individual program plan shall specify the approximate scheduled
36 start date for services and supports and shall contain timelines for
37 actions necessary to begin services and supports, including generic
38 services. In addition to the requirements of subdivision (h) of
39 Section 4646, each regional center shall offer, and upon request
40 provide, a written copy of the individual program plan to the

1 consumer, and, when appropriate, his or her parents, legal guardian
2 or conservator, or authorized representative within 45 days of their
3 request in a threshold language, as defined by paragraph (3) of
4 subdivision (a) of Section 1810.410 of Title 9 of the California
5 Code of Regulations.

6 (6) At the beginning of each individual program plan meeting,
7 the regional center shall provide a consumer and, when appropriate,
8 his or her parents, legal guardian, conservator, or authorized
9 representative information about the appeal and complaint process
10 in threshold languages, as defined in paragraph (3) of subdivision
11 (a) of Section 1810.410 of Title 9 of the California Code of
12 Regulations, as appropriate. This paragraph is in addition to, and
13 independent of, any other rights, remedies, or procedures under
14 any other law and shall not be construed to alter, limit, or negate
15 any other rights, remedies, or procedures provided for by law.

16 (7) When agreed to by the consumer, the parents, legally
17 appointed guardian, or authorized representative of a minor
18 consumer, or the legally appointed conservator of an adult
19 consumer or the authorized representative, including those
20 appointed pursuant to subdivision (a) of Section 4541, subdivision
21 (b) of Section 4701.6, and subdivision (e) of Section 4705, a review
22 of the general health status of the adult or child, including medical,
23 dental, and mental health needs, shall be conducted. This review
24 shall include a discussion of current medications, any observed
25 side effects, and the date of the last review of the medication.
26 Service providers shall cooperate with the planning team to provide
27 any information necessary to complete the health status review. If
28 any concerns are noted during the review, referrals shall be made
29 to regional center clinicians or to the consumer's physician, as
30 appropriate. Documentation of health status and referrals shall be
31 made in the consumer's record by the service coordinator.

32 (8) (A) The development of a transportation access plan for a
33 consumer when all of the following conditions are met:

34 (i) The regional center is purchasing private, specialized
35 transportation services or services from a residential, day, or other
36 provider, excluding vouchered service providers, to transport the
37 consumer to and from day or work services.

38 (ii) The planning team has determined that a consumer's
39 community integration and participation could be safe and
40 enhanced through the use of public transportation services.

1 (iii) The planning team has determined that generic
2 transportation services are available and accessible.

3 (B) To maximize independence and community integration and
4 participation, the transportation access plan shall identify the
5 services and supports necessary to assist the consumer in accessing
6 public transportation and shall comply with Section 4648.35. These
7 services and supports may include, but are not limited to, mobility
8 training services and the use of transportation aides. Regional
9 centers are encouraged to coordinate with local public
10 transportation agencies.

11 (9) A schedule of regular periodic review and reevaluation to
12 ascertain that planned services have been provided, that objectives
13 have been fulfilled within the times specified, and that consumers
14 and families are satisfied with the individual program plan and its
15 implementation.

16 (b) For all active cases, individual program plans shall be
17 reviewed and modified by the planning team, through the process
18 described in Section 4646, as necessary, in response to the person's
19 achievement or changing needs, and no less often than once every
20 three years. If the consumer or, where appropriate, the consumer's
21 parents, legal guardian, authorized representative, or conservator
22 requests an individual program plan review, the individual program
23 shall be reviewed within 30 days after the request is submitted.

24 (c) (1) The department, with the participation of representatives
25 of a statewide consumer organization, the Association of Regional
26 Center Agencies, an organized labor organization representing
27 service coordination staff, and the state council shall prepare
28 training material and a standard format and instructions for the
29 preparation of individual program plans, which embody an
30 approach centered on the person and family.

31 (2) Each regional center shall use the training materials and
32 format prepared by the department pursuant to paragraph (1).

33 (3) The department shall biennially review a random sample of
34 individual program plans at each regional center to ensure that
35 these plans are being developed and modified in compliance with
36 Section 4646 and this section.

37 SEC. 2. Section 4648 of the Welfare and Institutions Code is
38 amended to read:

1 4648. In order to achieve the stated objectives of a consumer's
2 individual program plan, the regional center shall conduct activities,
3 including, but not limited to, all of the following:

4 (a) Securing needed services and supports.

5 (1) It is the intent of the Legislature that services and supports
6 assist individuals with developmental disabilities in achieving the
7 greatest self-sufficiency possible and in exercising personal
8 choices. The regional center shall secure services and supports
9 that meet the needs of the consumer, as determined in the
10 consumer's individual program plan, and within the context of the
11 individual program plan, the planning team shall give highest
12 preference to those services and supports which would allow
13 minors with developmental disabilities to live with their families,
14 adult persons with developmental disabilities to live as
15 independently as possible in the community, and that allow all
16 consumers to interact with persons without disabilities in positive,
17 meaningful ways.

18 (2) In implementing individual program plans, regional centers,
19 through the planning team, shall first consider services and supports
20 in natural community, home, work, and recreational settings.
21 Services and supports shall be flexible and individually tailored
22 to the consumer and, where appropriate, his or her family.

23 (3) A regional center may, pursuant to vendorization or a
24 contract, purchase services or supports for a consumer from any
25 individual or agency that the regional center and consumer or,
26 when appropriate, his or her parents, legal guardian, or conservator,
27 or authorized representatives, determines will best accomplish all
28 or any part of that consumer's program plan.

29 (A) Vendorization or contracting is the process for identification,
30 selection, and utilization of service vendors or contractors, based
31 on the qualifications and other requirements necessary in order to
32 provide the service.

33 (B) A regional center may reimburse an individual or agency
34 for services or supports provided to a regional center consumer if
35 the individual or agency has a rate of payment for vendored or
36 contracted services established by the department, pursuant to this
37 division, and is providing services pursuant to an emergency
38 vendorization or has completed the vendorization procedures or
39 has entered into a contract with the regional center and continues
40 to comply with the vendorization or contracting requirements. The

1 director shall adopt regulations governing the vendorization process
2 to be utilized by the department, regional centers, vendors, and
3 the individual or agency requesting vendorization.

4 (C) Regulations shall include, but not be limited to: the vendor
5 application process, and the basis for accepting or denying an
6 application; the qualification and requirements for each category
7 of services that may be provided to a regional center consumer
8 through a vendor; requirements for emergency vendorization;
9 procedures for termination of vendorization; and the procedure
10 for an individual or an agency to appeal any vendorization decision
11 made by the department or regional center.

12 (D) A regional center may vendorize a licensed facility for
13 exclusive services to persons with developmental disabilities at a
14 capacity equal to or less than the facility's licensed capacity. A
15 facility already licensed on January 1, 1999, shall continue to be
16 vendorized at their full licensed capacity until the facility agrees
17 to vendorization at a reduced capacity.

18 (E) Effective July 1, 2009, notwithstanding any other law or
19 regulation, a regional center shall not newly vendor a State
20 Department of Social Services licensed 24-hour residential care
21 facility with a licensed capacity of 16 or more beds, unless the
22 facility qualifies for receipt of federal funds under the Medicaid
23 Program.

24 (4) Notwithstanding subparagraph (B) of paragraph (3), a
25 regional center may contract or issue a voucher for services and
26 supports provided to a consumer or family at a cost not to exceed
27 the maximum rate of payment for that service or support
28 established by the department. If a rate has not been established
29 by the department, the regional center may, for an interim period,
30 contract for a specified service or support with, and establish a
31 rate of payment for, any provider of the service or support
32 necessary to implement a consumer's individual program plan.
33 Contracts may be negotiated for a period of up to three years, with
34 annual review and subject to the availability of funds.

35 (5) In order to ensure the maximum flexibility and availability
36 of appropriate services and supports for persons with
37 developmental disabilities, the department shall establish and
38 maintain an equitable system of payment to providers of services
39 and supports identified as necessary to the implementation of a
40 consumer's individual program plan. The system of payment shall

1 include a provision for a rate to ensure that the provider can meet
2 the special needs of consumers and provide quality services and
3 supports in the least restrictive setting as required by law.

4 (6) The regional center and the consumer, or when appropriate,
5 his or her parents, legal guardian, conservator, or authorized
6 representative, including those appointed pursuant to subdivision
7 (a) of Section 4541, subdivision (b) of Section 4701.6, or
8 subdivision (e) of Section 4705, shall, pursuant to the individual
9 program plan, consider all of the following when selecting a
10 provider of consumer services and supports:

11 (A) A provider's ability to deliver quality services or supports
12 that can accomplish all or part of the consumer's individual
13 program plan.

14 (B) A provider's success in achieving the objectives set forth
15 in the individual program plan.

16 (C) Where appropriate, the existence of licensing, accreditation,
17 or professional certification.

18 (D) The cost of providing services or supports of comparable
19 quality by different providers, if available, shall be reviewed, and
20 the least costly available provider of comparable service, including
21 the cost of transportation, who is able to accomplish all or part of
22 the consumer's individual program plan, consistent with the
23 particular needs of the consumer and family as identified in the
24 individual program plan, shall be selected. In determining the least
25 costly provider, the availability of federal financial participation
26 shall be considered. The consumer shall not be required to use the
27 least costly provider if it will result in the consumer moving from
28 an existing provider of services or supports to more restrictive or
29 less integrated services or supports.

30 (E) The consumer's choice of providers, or, when appropriate,
31 the consumer's parent's, legal guardian's, authorized
32 representative's, or conservator's choice of providers.

33 (7) No service or support provided by any agency or individual
34 shall be continued unless the consumer or, when appropriate, his
35 or her parents, legal guardian, or conservator, or authorized
36 representative, including those appointed pursuant to subdivision
37 (a) of Section 4541, subdivision (b) of Section 4701.6, or
38 subdivision (e) of Section 4705, is satisfied and the regional center
39 and the consumer or, when appropriate, the person's parents or
40 legal guardian or conservator agree that planned services and

1 supports have been provided, and reasonable progress toward
2 objectives have been made.

3 (8) Regional center funds shall not be used to supplant the
4 budget of any agency that has a legal responsibility to serve all
5 members of the general public and is receiving public funds for
6 providing those services.

7 (9) (A) A regional center may, directly or through an agency
8 acting on behalf of the center, provide placement in, purchase of,
9 or follow-along services to persons with developmental disabilities
10 in, appropriate community living arrangements, including, but not
11 limited to, support service for consumers in homes they own or
12 lease, foster family placements, health care facilities, and licensed
13 community care facilities. In considering appropriate placement
14 alternatives for children with developmental disabilities, approval
15 by the child's parent or guardian shall be obtained before placement
16 is made.

17 (B) Effective July 1, 2012, notwithstanding any other law or
18 regulation, a regional center shall not purchase residential services
19 from a State Department of Social Services licensed 24-hour
20 residential care facility with a licensed capacity of 16 or more
21 beds. This prohibition on regional center purchase of residential
22 services shall not apply to any of the following:

23 (i) A residential facility with a licensed capacity of 16 or more
24 beds that has been approved to participate in the department's
25 Home and Community Based Services Waiver or another existing
26 waiver program or certified to participate in the Medi-Cal program.

27 (ii) A residential facility service provider that has a written
28 agreement and specific plan prior to July 1, 2012, with the
29 vendoring regional center to downsize the existing facility by
30 transitioning its residential services to living arrangements of 15
31 beds or less or restructure the large facility to meet federal
32 Medicaid eligibility requirements on or before June 30, 2013.

33 (iii) A residential facility licensed as a mental health
34 rehabilitation center by the State Department of Health Care
35 Services or successor agency under any of the following
36 circumstances:

37 (I) The facility is eligible for Medicaid reimbursement.

38 (II) The facility has a department-approved plan in place by
39 June 30, 2013, to transition to a program structure eligible for
40 federal Medicaid funding, and this transition will be completed by

1 June 30, 2014. The department may grant an extension for the date
2 by which the transition will be completed if the facility
3 demonstrates that it has made significant progress toward transition,
4 and states with specificity the timeframe by which the transition
5 will be completed and the specified steps that will be taken to
6 accomplish the transition. A regional center may pay for the costs
7 of care and treatment of a consumer residing in the facility on June
8 30, 2012, until June 30, 2013, inclusive, and, if the facility has a
9 department-approved plan in place by June 30, 2013, may continue
10 to pay the costs under this subparagraph until June 30, 2014, or
11 until the end of any period during which the department has granted
12 an extension.

13 (III) There is an emergency circumstance in which the regional
14 center determines that it cannot locate alternate federally eligible
15 services to meet the consumer's needs. Under such an emergency
16 circumstance, an assessment shall be completed by the regional
17 center as soon as possible and within 30 days of admission. An
18 individual program plan meeting shall be convened immediately
19 following the assessment to determine the services and supports
20 needed for stabilization and to develop a plan to transition the
21 consumer from the facility into the community. If transition is not
22 expected within 90 days of admission, an individual program plan
23 meeting shall be held to discuss the status of transition and to
24 determine if the consumer is still in need of placement in the
25 facility. Commencing October 1, 2012, this determination shall
26 be made after also considering resource options identified by the
27 statewide specialized resource service. If it is determined that
28 emergency services continue to be necessary, the regional center
29 shall submit an updated transition plan that can cover a period of
30 up to 90 days. In no event shall placements under these emergency
31 circumstances exceed 180 days.

32 (C) (i) Effective July 1, 2012, notwithstanding any other law
33 or regulation, a regional center shall not purchase new residential
34 services from, or place a consumer in, institutions for mental
35 disease, as described in Part 5 (commencing with Section 5900)
36 of Division 5, for which federal Medicaid funding is not available.
37 Effective July 1, 2013, this prohibition applies regardless of the
38 availability of federal funding.

39 (ii) The prohibition described in clause (i) shall not apply to
40 emergencies, as determined by the regional center, when a regional

1 center cannot locate alternate services to meet the consumer's
2 needs. As soon as possible within 30 days of admission due to an
3 emergency, an assessment shall be completed by the regional
4 center. An individual program plan meeting shall be convened
5 immediately following the assessment, to determine the services
6 and supports needed for stabilization and to develop a plan to
7 transition the consumer from the facility to the community. If
8 transition is not expected within 90 days of admission, an
9 emergency program plan meeting shall be held to discuss the status
10 of the transition and to determine if the consumer is still in need
11 of placement in the facility. If emergency services continue to be
12 necessary, the regional center shall submit an updated transition
13 plan to the department for an extension of up to 90 days. Placement
14 shall not exceed 180 days.

15 (iii) To the extent feasible, prior to any admission, the regional
16 center shall consider resource options identified by the statewide
17 specialized resource service established pursuant to subdivision
18 (b) of Section 4418.25.

19 (iv) The clients' rights advocate shall be notified of each
20 admission and individual program plan meeting pursuant to this
21 subparagraph and may participate in all individual program plan
22 meetings unless the consumer objects on his or her own behalf.
23 For purposes of this clause, notification to the clients' rights
24 advocate shall include a copy of the most recent comprehensive
25 assessment or updated assessment and the time, date, and location
26 of the meeting, and shall be provided as soon as practicable, but
27 not less than seven calendar days prior to the meeting.

28 (v) If a consumer is placed in an institution for mental disease
29 by another entity, the institution for mental disease shall inform
30 the regional center of the placement within five days of the date
31 the consumer is admitted. If an individual's records indicate that
32 he or she is a regional center consumer, the institution for mental
33 disease shall make every effort to contact the local regional center
34 or department to determine which regional center to provide notice.
35 As soon as possible within 30 days of admission to an institution
36 for mental disease due to an emergency pursuant to clause (ii), or
37 within 30 days of notification of admission to an institution for
38 mental disease by an entity other than a regional center, an
39 assessment shall be completed by the regional center.

(vi) Regional centers shall complete a comprehensive assessment of any consumer residing in an institution for mental disease as of July 1, 2012, for which federal Medicaid funding is not available, and for any consumer residing in an institution for mental disease as of July 1, 2013, without regard to federal funding. The comprehensive assessment shall be completed prior to the consumer's next scheduled individual program plan meeting and shall include identification of the services and supports needed and the timeline for identifying or developing those services needed to transition the consumer back to the community. Effective October 1, 2012, the regional center shall also consider resource options identified by the statewide specialized resource service. For each individual program plan meeting convened pursuant to this subparagraph, the clients' rights advocate for the regional center shall be notified of the meeting and may participate in the meeting unless the consumer objects on his or her own behalf. For purposes of this clause, notification to the clients' rights advocate shall include the time, date, and location of the meeting, and shall be provided as soon as practicable, but not less than seven calendar days prior to the meeting.

(D) A person with developmental disabilities placed by the regional center in a community living arrangement shall have the rights specified in this division. These rights shall be brought to the person's attention by any means necessary to reasonably communicate these rights to each resident, provided that, at a minimum, the Director of Developmental Services prepare, provide, and require to be clearly posted in all residential facilities and day programs a poster using simplified language and pictures that is designed to be more understandable by persons with intellectual disabilities and that the rights information shall also be available through the regional center to each residential facility and day program in alternative formats, including, but not limited to, other languages, braille, and audiotapes, when necessary to meet the communication needs of consumers.

(E) Consumers are eligible to receive supplemental services including, but not limited to, additional staffing, pursuant to the process described in subdivision (d) of Section 4646. Necessary additional staffing that is not specifically included in the rates paid to the service provider may be purchased by the regional center if the additional staff are in excess of the amount required by

1 regulation and the individual's planning team determines the
2 additional services are consistent with the provisions of the
3 individual program plan. Additional staff should be periodically
4 reviewed by the planning team for consistency with the individual
5 program plan objectives in order to determine if continued use of
6 the additional staff is necessary and appropriate and if the service
7 is producing outcomes consistent with the individual program plan.
8 Regional centers shall monitor programs to ensure that the
9 additional staff is being provided and utilized appropriately.

10 (10) Emergency and crisis intervention services including, but
11 not limited to, mental health services and behavior modification
12 services, may be provided, as needed, to maintain persons with
13 developmental disabilities in the living arrangement of their own
14 choice. Crisis services shall first be provided without disrupting a
15 person's living arrangement. If crisis intervention services are
16 unsuccessful, emergency housing shall be available in the person's
17 home community. If dislocation cannot be avoided, every effort
18 shall be made to return the person to his or her living arrangement
19 of choice, with all necessary supports, as soon as possible.

20 (11) Among other service and support options, planning teams
21 shall consider the use of paid roommates or neighbors, personal
22 assistance, technical and financial assistance, and all other service
23 and support options which would result in greater self-sufficiency
24 for the consumer and cost-effectiveness to the state.

25 (12) When facilitation as specified in an individual program
26 plan requires the services of an individual, the facilitator shall be
27 of the consumer's choosing.

28 (13) The community support may be provided to assist
29 individuals with developmental disabilities to fully participate in
30 community and civic life, including, but not limited to, programs,
31 services, work opportunities, business, and activities available to
32 persons without disabilities. This facilitation shall include, but not
33 be limited to, any of the following:

34 (A) Outreach and education to programs and services within
35 the community.

36 (B) Direct support to individuals that would enable them to
37 more fully participate in their community.

38 (C) Developing unpaid natural supports when possible.

39 (14) When feasible and recommended by the individual program
40 planning team, for purposes of facilitating better and cost-effective

1 services for consumers or family members, technology, including
2 telecommunication technology, may be used in conjunction with
3 other services and supports. Technology in lieu of a consumer's
4 in-person appearances at judicial proceedings or administrative
5 due process hearings may be used only if the consumer or, when
6 appropriate, the consumer's parent, legal guardian, conservator,
7 or authorized representative, gives informed consent. Technology
8 may be used in lieu of, or in conjunction with, in-person training
9 for providers, as appropriate.

10 (15) Other services and supports may be provided as set forth
11 in Sections 4685, 4686, 4687, 4688, and 4689, when necessary.

12 (16) Notwithstanding any other law or regulation, effective July
13 1, 2009, regional centers shall not purchase experimental
14 treatments, therapeutic services, or devices that have not been
15 clinically determined or scientifically proven to be effective or
16 safe or for which risks and complications are unknown.
17 Experimental treatments or therapeutic services include
18 experimental medical or nutritional therapy when the use of the
19 product for that purpose is not a general physician practice. For
20 regional center consumers receiving these services as part of their
21 individual program plan (IPP) or individualized family service
22 plan (IFSP) on July 1, 2009, this prohibition shall apply on August
23 1, 2009.

24 (b) (1) Advocacy for, and protection of, the civil, legal, and
25 service rights of persons with developmental disabilities as
26 established in this division.

27 (2) Whenever the advocacy efforts of a regional center to secure
28 or protect the civil, legal, or service rights of any of its consumers
29 prove ineffective, the regional center or the person with
30 developmental disabilities or his or her parents, legal guardian, or
31 other representative may request advocacy assistance from the
32 state council.

33 (c) The regional center may assist consumers and families
34 directly, or through a provider, in identifying and building circles
35 of support within the community.

36 (d) In order to increase the quality of community services and
37 protect consumers, the regional center shall, when appropriate,
38 take either of the following actions:

39 (1) Identify services and supports that are ineffective or of poor
40 quality and provide or secure consultation, training, or technical

1 assistance services for any agency or individual provider to assist
2 that agency or individual provider in upgrading the quality of
3 services or supports.

4 (2) Identify providers of services or supports that may not be
5 in compliance with local, state, and federal statutes and regulations
6 and notify the appropriate licensing or regulatory authority to
7 investigate the possible noncompliance.

8 (e) When necessary to expand the availability of needed services
9 of good quality, a regional center may take actions that include,
10 but are not limited to, the following:

11 (1) Soliciting an individual or agency by requests for proposals
12 or other means, to provide needed services or supports not presently
13 available.

14 (2) Requesting funds from the Program Development Fund,
15 pursuant to Section 4677, or community placement plan funds
16 designated from that fund, to reimburse the startup costs needed
17 to initiate a new program of services and supports.

18 (3) Using creative and innovative service delivery models,
19 including, but not limited to, natural supports.

20 (f) Except in emergency situations, a regional center shall not
21 provide direct treatment and therapeutic services, but shall utilize
22 appropriate public and private community agencies and service
23 providers to obtain those services for its consumers.

24 (g) When there are identified gaps in the system of services and
25 supports or when there are identified consumers for whom no
26 provider will provide services and supports contained in his or her
27 individual program plan, the department may provide the services
28 and supports directly.

29 (h) (1) At least annually, regional centers shall provide the
30 consumer, his or her parents, legal guardian, conservator, or
31 authorized representative a statement of services and supports the
32 regional center purchased for the purpose of ensuring that they are
33 delivered. The statement shall include the type, unit, month, and
34 cost of services and supports purchased.

35 (2) Upon request of the consumer, or his or her legal guardian,
36 the regional center shall make the statement described in paragraph
37 (1) available in threshold languages, as defined in paragraph (3)
38 of subdivision (a) of Section 1810.410 of Title 9 of the California
39 Code of Regulations, as appropriate, to the consumer or his or her
40 parents, legal guardian, conservator, or authorized representative,

1 or both. This paragraph is in addition to, and independent of, any
2 other rights, remedies, or procedures under any other law and shall
3 not be construed to alter, limit, or negate any other rights, remedies,
4 or procedures provided for by law.

5 ~~SEC. 3. Section 4686.2 of the Welfare and Institutions Code~~
6 ~~is amended to read:~~

7 ~~4686.2. (a) Effective July 1, 2009, notwithstanding any other~~
8 ~~law or regulation to the contrary, any vendor who provides applied~~
9 ~~behavioral analysis (ABA) services, or intensive behavioral~~
10 ~~intervention services or both, as defined in subdivision (d), shall:~~

11 ~~(1) Conduct a behavioral assessment of each consumer to whom~~
12 ~~the vendor provides these services.~~

13 ~~(2) Design an intervention plan that shall include the service~~
14 ~~type, number of hours, and parent participation needed to achieve~~
15 ~~the consumer's goals and objectives, as set forth in the consumer's~~
16 ~~individual program plan (IPP) or individualized family service~~
17 ~~plan (IFSP). The intervention plan shall also set forth the frequency~~
18 ~~at which the consumer's progress shall be evaluated and reported.~~

19 ~~(3) Provide a copy of the intervention plan to the regional center~~
20 ~~for review and consideration by the planning team members.~~

21 ~~(b) Effective July 1, 2009, notwithstanding any other law or~~
22 ~~regulation to the contrary, regional centers shall:~~

23 ~~(1) Only purchase ABA services or intensive behavioral~~
24 ~~intervention services that reflect evidence-based practices, promote~~
25 ~~positive social behaviors, and ameliorate behaviors that interfere~~
26 ~~with learning and social interactions.~~

27 ~~(2) (A) Only purchase ABA or intensive behavioral intervention~~
28 ~~services when the parent or parents of minor consumers receiving~~
29 ~~services participate in the intervention plan for the consumers,~~
30 ~~given the critical nature of parent participation to the success of~~
31 ~~the intervention plan.~~

32 ~~(B) A parent's or caregiver's noncompletion of group instruction~~
33 ~~on the basics of behavior intervention shall not be used to deny,~~
34 ~~delay, or reduce ABA or intensive behavioral intervention services~~
35 ~~if the parent or caregiver demonstrates hardship in accessing or~~
36 ~~attending group instruction classes. The parent's or caregiver's~~
37 ~~demonstration of hardship shall be reviewed by the IPP or IFSP~~
38 ~~team every six months.~~

1 ~~(3) Not purchase either ABA or intensive behavioral intervention~~
2 ~~services for purposes of providing respite, day care, or school~~
3 ~~services.~~

4 ~~(4) Discontinue purchasing ABA or intensive behavioral~~
5 ~~intervention services for a consumer when the consumer's~~
6 ~~treatment goals and objectives, as described under subdivision (a),~~
7 ~~are achieved. ABA or intensive behavioral intervention services~~
8 ~~shall not be discontinued until the goals and objectives are reviewed~~
9 ~~and updated as required in paragraph (5) and shall be discontinued~~
10 ~~only if those updated treatment goals and objectives do not require~~
11 ~~ABA or intensive behavioral intervention services.~~

12 ~~(5) For each consumer, evaluate the vendor's intervention plan~~
13 ~~and number of service hours for ABA or intensive behavioral~~
14 ~~intervention no less than every six months, consistent with~~
15 ~~evidence-based practices. If necessary, the intervention plan's~~
16 ~~treatment goals and objectives shall be updated and revised.~~

17 ~~(6) Not reimburse a parent for participating in a behavioral~~
18 ~~services treatment program.~~

19 ~~(c) For consumers receiving ABA or behavioral intervention~~
20 ~~services on July 1, 2009, as part of their IPP or IFSP, subdivision~~
21 ~~(b) shall apply on August 1, 2009.~~

22 ~~(d) For purposes of this section the following definitions shall~~
23 ~~apply:~~

24 ~~(1) "Applied behavioral analysis" means the design,~~
25 ~~implementation, and evaluation of systematic instructional and~~
26 ~~environmental modifications to promote positive social behaviors~~
27 ~~and reduce or ameliorate behaviors which interfere with learning~~
28 ~~and social interaction.~~

29 ~~(2) "Intensive behavioral intervention" means any form of~~
30 ~~applied behavioral analysis that is comprehensive, designed to~~
31 ~~address all domains of functioning, and provided in multiple~~
32 ~~settings for no more than 40 hours per week, across all settings,~~
33 ~~depending on the individual's needs and progress. Interventions~~
34 ~~can be delivered in a one-to-one ratio or small group format, as~~
35 ~~appropriate.~~

36 ~~(3) "Evidence-based practice" means a decisionmaking process~~
37 ~~that integrates the best available scientifically rigorous research,~~
38 ~~clinical expertise, and individual's characteristics. Evidence-based~~
39 ~~practice is an approach to treatment rather than a specific treatment.~~
40 ~~Evidence-based practice promotes the collection, interpretation,~~

1 integration, and continuous evaluation of valid, important, and
2 applicable individual or family-reported, clinically-observed, and
3 research-supported evidence. The best available evidence, matched
4 to consumer circumstances and preferences, is applied to ensure
5 the quality of clinical judgments and facilitates the most
6 cost-effective care.

7 (4) “Parent participation” shall include, but shall not be limited
8 to, the following meanings:

9 (A) Completion of group instruction on the basics of behavior
10 intervention.

11 (B) Implementation of intervention strategies, according to the
12 intervention plan.

13 (C) If needed, collection of data on behavioral strategies and
14 submission of that data to the provider for incorporation into
15 progress reports.

16 (D) Participation in any needed clinical meetings.

17 (E) Purchase of suggested behavior modification materials or
18 community involvement if a reward system is used.