

AMENDED IN ASSEMBLY JULY 11, 1997

SENATE BILL

No. 1039

Introduced by Senator Thompson

February 27, 1997

An act to ~~amend Section 4501 of Sections 4500.5, 4501, 4508, 4512, 4593, 4595, 4598, 4647, 4648, 4660, 4661, 4664, and 4666 of,~~ and to add Sections 4414, 4418.3, 4542, 4602, 4640.8, and 12300.5 to, the Welfare and Institutions Code, relating to human services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1039, as amended, M. Thompson. ~~Developmental disabilities~~ *Disabilities: regional centers: in-home services.*

Existing law requires the Department of Developmental Services to contract with regional centers for the provision of various services to persons with developmental disabilities.

This bill would require the department, the State Council on Developmental Disabilities, area boards on developmental disabilities, and regional centers to ensure representation by persons with developmental disabilities (consumers) and family members representing California's multicultural diversity when convening any task force or advisory group.

This bill would require certain services, including planning and review, for the transition process from a developmental center to a community living arrangement.

This bill would state the intent of the Legislature that the department ensure that regional centers meet their obligations in providing services to persons with developmental disabilities.

Under existing law, consumers may be released from state hospitals for provisional placement, with consent from specified persons, not to exceed 6 months.

This bill would instead provide that consumers may be released from developmental centers for provisional placement, with consent from specified persons, not to exceed 12 months.

Existing law sets forth a procedure under which area boards are required, the extent that resources are available, to review the policies and practices of publicly funded agencies that serve consumers to determine if the programs are meeting their obligations under law.

This bill would revise this procedure.

This bill would provide that consumers in regional centers are eligible to receive supplemental services including additional staffing.

Existing law sets forth provisions governing meetings of the board of directors of each regional center, and requires these meetings to be open and public.

This bill would revise these requirements.

This bill would make related changes.

Existing law provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, or by or through contract by the county, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes. Counties are responsible for the administration of the IHSS program.

This bill would prohibit a person from being denied in-home supportive services solely because he or she lives in a community care facility that is owned or operated by a family member, guardian, or conservator, unless that family member, guardian, or conservator receives public funds for providing supportive services to that person.

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

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

- 1 SECTION 1. Section 4414 is added to the Welfare and
- 2 Institutions Code, to read:



1 4414. When convening any task force or advisory
2 group, the department shall ensure representation by
3 consumers and family members representing California's
4 multicultural diversity.

5 SEC. 2. Section 4418.3 is added to the Welfare and
6 Institutions Code, to read:

7 4418.3. (a) It is the intent of the Legislature to ensure
8 that the transition process from a developmental center
9 to a community living arrangement is based upon the
10 individual's needs, developed through the individual
11 program plan process, and ensures that needed services
12 and supports will be in place at the time the individual
13 moves.

14 (b) The development of the individual program plan
15 shall be consistent with Sections 4646 and 4646.5. For the
16 purpose of this section, the planning team shall include
17 developmental center staff knowledgeable about the
18 service and support needs of the consumer.

19 (c) As part of the transition process and during the
20 development of the individual program plan, the
21 consumer shall be afforded the opportunity to visit a
22 variety of community living arrangements that could
23 meet his or her needs. If the visits are not feasible, as
24 determined by the planning team, a family member or
25 other representative of the consumer may conduct the
26 visits.

27 (d) Once the individual program plan is completed
28 and providers of services and supports are identified and
29 agreed to, pursuant to subdivision (b) of Section 4646.5,
30 and no less than 15 days prior to the move, a transition
31 conference shall be held. Participants in the transition
32 conference shall include, but not be limited to, the
33 consumer, where appropriate the consumer's parents,
34 legal guardian, or conservator, a regional center
35 representative, a state hospital representative, and a
36 representative of each provider identified in the
37 individual program plan. This meeting may take place in
38 the catchment area to which the consumer is moving. If
39 necessary, conferees may participate by telephone or
40 video conference. The purpose of this conference is to



1 *ensure a smooth transition from the developmental*
2 *center to the community.*

3 *(e) To ascertain that the individual program plan is*
4 *being implemented, that planned services are being*
5 *provided, and that the consumer and, where appropriate*
6 *the consumer's parents, legal guardian, or conservator,*
7 *are satisfied with the community living arrangement, the*
8 *regional center shall schedule face-to-face reviews no less*
9 *than once every 30 days for the first 90 days. Following the*
10 *first 90 days, and following notification to the department,*
11 *the regional center may conduct these reviews less often*
12 *as specified in the individual program plan.*

13 *SEC. 3. Section 4500.5 of the Welfare and Institutions*
14 *Code is amended to read:*

15 4500.5. The Legislature makes the following findings
16 regarding the State of California's responsibility to
17 provide services to persons with developmental
18 disabilities, and the right of those individuals to receive
19 services, pursuant to this division:

20 (a) Since the enactment of this division in 1977, the
21 number of consumers receiving services under this
22 division has substantially increased and the nature,
23 variety, and types of services necessary to meet the needs
24 of the consumers and their families have also changed.
25 Over the years the concept of service delivery has
26 undergone numerous revisions. Services that were once
27 deemed desirable by consumers and families may now no
28 longer be appropriate, or the means of service delivery
29 may be outdated.

30 (b) As a result of the increased demands for services
31 and changes in the methods in which those services are
32 provided to consumers and their families, the value
33 statements and principles contained in this division
34 should be updated.

35 (c) It is the intent of the Legislature, in enacting the
36 act that added this section, to update existing law; clarify
37 the role of consumers and their families in determining
38 service needs; and to describe more fully service options
39 available to consumers and their families, pursuant to the
40 individual program plan. Nothing in these provisions shall



1 be construed to expand the existing entitlement to
2 services for persons with developmental disabilities set
3 forth in this division.

4 *(d) It is the intent of the Legislature that the*
5 *department shall ensure that each individual consumer*
6 *eligible for services and supports under this division shall*
7 *receive the services and supports identified in the*
8 *individual program plan.*

9 SEC. 4. Section 4501 of the Welfare and Institutions
10 Code is amended to read:

11 4501. The State of California accepts a responsibility
12 for persons with developmental disabilities and an
13 obligation to them which it must discharge. Affecting
14 hundreds of thousands of children and adults directly, and
15 having an important impact on the lives of their families,
16 neighbors, and whole communities, developmental
17 disabilities present social, medical, economic, and legal
18 problems of extreme importance.

19 The complexities of providing services and supports to
20 persons with developmental disabilities requires the
21 coordination of services of many state departments and
22 community agencies to ensure that no gaps occur in
23 communication or provision of services and supports. A
24 consumer of services and supports, and where
25 appropriate, his or her parents, legal guardian, or
26 conservator, shall have a leadership role in service design.

27 An array of services and supports should be established
28 which is sufficiently complete to meet the needs and
29 choices of each person with developmental disabilities,
30 regardless of age or degree of disability, and at each stage
31 of life and to support their integration into the
32 mainstream life of the community. To the maximum
33 extent feasible, services and supports should be available
34 throughout the state to prevent the dislocation of persons
35 with developmental disabilities from their home
36 communities.

37 Services and supports should be available to enable
38 persons with developmental disabilities to approximate
39 the pattern of everyday living available to people without
40 disabilities of the same age. Consumers of services and



1 supports, and where appropriate, their parents, legal
2 guardian, or conservator, should be empowered to make
3 choices in all life areas. These include promoting
4 opportunities for individuals with developmental
5 disabilities to be integrated into the mainstream of life in
6 their home communities, including supported living and
7 other appropriate community living arrangements. In
8 providing these services, consumers and their families,
9 when appropriate, should participate in decisions
10 affecting their own lives, including, but not limited to,
11 where and with whom they live, their relationships with
12 people in their community, the way in which they spend
13 their time, including education, employment, and
14 leisure, the pursuit of their own personal future, and
15 program planning and implementation. The
16 contributions made by parents and family members in
17 support of their children and relatives with
18 developmental disabilities are important and those
19 relationships should also be respected and fostered, to the
20 maximum extent feasible, so that consumers and their
21 families can build circles of support within the
22 community.

23 The Legislature finds that the mere existence or the
24 delivery of services and supports is, in itself, insufficient
25 evidence of program effectiveness. It is the intent of the
26 Legislature that agencies serving persons with
27 developmental disabilities shall produce evidence that
28 their services have resulted in consumer or family
29 empowerment and in more independent, productive,
30 and normal lives for the persons served. It is further the
31 intent of the Legislature that the Department of
32 Developmental Services, through appropriate and
33 regular monitoring activities, ensure that regional
34 centers meet their statutory, regulatory, and contractual
35 obligations in providing services to persons with
36 developmental disabilities. The Legislature declares its
37 intent to monitor program results through continued
38 legislative oversight and review of ~~request~~ *requests* for
39 appropriations to support developmental disabilities
40 programs.



1 SEC. 5. Section 4508 of the Welfare and Institutions
2 Code is amended to read:

3 4508. ~~Developmentally disabled persons~~ *Persons with*
4 *developmental disabilities* may be released from ~~state~~
5 ~~hospitals~~ *developmental centers* for provisional
6 placement, with parental consent in the case of a minor
7 or with the consent of an adult ~~developmentally disabled~~
8 *person with developmental disabilities* or with the
9 consent of the guardian or conservator of the
10 ~~developmentally disabled~~ *person with developmental*
11 *disabilities*, not to exceed ~~six~~ *twelve* months, and shall be
12 referred to a regional center for services pursuant to this
13 division. Any person placed pursuant to this section shall
14 have an automatic right of return to the ~~state hospital~~
15 *developmental center* during the period of provisional
16 placement.

17 SEC. 6. Section 4512 of the Welfare and Institutions
18 Code is amended to read:

19 4512. As used in this part:

20 (a) “Developmental disability” means a disability
21 which originates before an individual attains age 18,
22 continues, or can be expected to continue, indefinitely,
23 and constitutes a substantial disability for that individual.
24 As defined by the Director of Developmental Services, in
25 consultation with the Superintendent of Public
26 Instruction, this term shall include mental retardation,
27 cerebral palsy, epilepsy, and autism. This term shall also
28 include disabling conditions found to be closely related to
29 mental retardation or to require treatment similar to that
30 required for mentally retarded individuals, but shall not
31 include other handicapping conditions that are solely
32 physical in nature.

33 (b) “Services and supports for persons with
34 developmental disabilities” means specialized services
35 and supports or special adaptations of generic services
36 and supports directed toward the alleviation of a
37 developmental disability or toward the social, personal,
38 physical, or economic habilitation or rehabilitation of an
39 individual with a developmental disability, or toward the
40 achievement and maintenance of independent,



1 productive, normal lives. The determination of which
2 services and supports are necessary for each consumer
3 shall be made through the individual program plan
4 process. The determination shall be made on the basis of
5 the needs and preferences of the consumer or, when
6 appropriate, the consumer's family, and shall include
7 consideration of a range of service options proposed by
8 individual program plan participants, the effectiveness of
9 each option in meeting the goals stated in the individual
10 program plan, and the cost-effectiveness of each option.
11 Services and supports listed in the individual program
12 plan may include, but are not limited to, diagnosis,
13 evaluation, treatment, personal care, day care,
14 domiciliary care, special living arrangements, physical,
15 occupational, and speech therapy, training, education,
16 supported and sheltered employment, mental health
17 services, recreation, counseling of the individual with a
18 developmental disability and of his or her family,
19 protective and other social and sociolegal services,
20 information and referral services, follow-along services,
21 adaptive equipment and supplies; advocacy assistance,
22 including self-advocacy training, facilitation and peer
23 advocates; assessment; assistance in locating a home;
24 childcare; behavior training and behavior modification
25 programs; camping; community integration services;
26 community support; daily living skills training;
27 emergency and crisis intervention; facilitating circles of
28 support; habilitation; homemaker services; infant
29 stimulation programs; paid roommates; paid neighbors;
30 respite; short term out-of-home care; social skills training;
31 specialized medical and dental care; supported living
32 arrangements; technical and financial assistance; travel
33 training; training for parents of children with
34 developmental disabilities; training for parents with
35 developmental disabilities; vouchers; and transportation
36 services necessary to ensure delivery of services to
37 persons with developmental disabilities. Nothing in this
38 subdivision is intended to expand or authorize a new or
39 different service or support for any consumer unless that



1 service or support is contained in his or her individual
2 program plan.

3 (c) Notwithstanding subdivision (a) and (b), for any
4 organization or agency receiving federal financial
5 participation under the federal Developmental
6 Disabilities Assistance and Bill of Rights Act, as amended
7 “developmental disability” and “services for persons with
8 developmental disabilities” means such terms as defined
9 in the federal act to the extent required by federal law.

10 (d) “Consumer” means a person who has a disability
11 that meets the definition of developmental disability set
12 forth in subdivision (a).

13 (e) “Natural supports” means personal associations
14 and relationships typically developed in the community
15 that enhance the quality and security of life for people,
16 including, but not limited to, family relationships;
17 friendships reflecting the diversity of the neighborhood
18 and the community; associations with fellow students or
19 employees in regular classrooms and workplaces; and
20 associations developed through participation in clubs,
21 organizations, and other civic activities.

22 (f) “Circle of support” means a committed group of
23 community members, which may include family
24 members, meeting regularly with an individual with
25 developmental disabilities in order to share experiences,
26 promote autonomy and community involvement, and
27 assist the individual in establishing and maintaining
28 natural supports. Such a circle of support generally
29 includes a plurality of members who neither provide nor
30 receive services or supports for persons with
31 developmental disabilities and who do not receive
32 payment for participation in the circle of support.

33 (g) “Facilitation” means the use of modified or
34 adapted materials, special instructions, equipment, or
35 personal assistance by an individual, such as assistance
36 with communications, which will enable a consumer to
37 understand and participate to the maximum extent
38 possible in the decisions and choices which effect his or
39 her life.



1 (h) “Family support services” means services and
2 supports that are provided to a child with developmental
3 disabilities or his or her family and that contribute to the
4 ability of the family to reside together.

5 (i) “Voucher” means any authorized alternative form
6 of service delivery in which the consumer or family
7 member is provided with a payment, coupon, chit, or
8 other form of authorization which enables the consumer
9 or family member to choose his or her own service
10 provider.

11 (j) “*Planning team*” means the individual with
12 developmental disabilities, and where appropriate, his or
13 her parents, legal guardian, or conservator; the
14 designated regional center service coordinator pursuant
15 to subdivision (b) of Section 4640.7, other regional center
16 employees designated by the regional center director,
17 and any individual invited by the consumer and, where
18 appropriate, his or her parents, legal guardian or
19 conservator.

20 (k) “*Stakeholder organizations*” means statewide
21 organizations representing the interests of consumers,
22 family members, service providers, and statewide
23 advocacy organizations.

24 SEC. 7. Section 4542 is added to the Welfare and
25 Institutions Code, to read:

26 4542. When convening any task force or advisory
27 group, the state council shall ensure representation by
28 consumers and family members representing California’s
29 multicultural diversity.

30 SEC. 8. Section 4593 of the Welfare and Institutions
31 Code is amended to read:

32 4593. To the extent that resources are available, area
33 boards shall review the policies and practices of publicly
34 funded agencies that serve or may serve persons with
35 developmental disabilities to determine if ~~such~~ the
36 programs are meeting their obligations under local, state,
37 and federal statutes. If ~~any noncompliance is determined,~~
38 the area board *finds that the agency is not meeting its*
39 *obligations, the area board shall inform, in writing, the*



1 director and the managing board of ~~such~~ *the*
2 noncomplying agency of its findings.

3 ~~If the agency fails to alter its policies in order to comply~~
4 ~~with the law within 30 days and after all other informal~~
5 ~~efforts to assist the agency have been exhausted, the area~~
6 ~~board may conduct a public hearing to receive testimony~~
7 ~~on the issue of the agency's noncompliance.~~

8 ~~At least 30 days notice of an area board's public hearing~~
9 ~~on noncompliance shall be given to the general public, to~~
10 ~~the agency, and to the state, federal, or local authorities~~
11 ~~responsible for allocating funds to the agency. The public~~
12 ~~hearing shall be conducted informally for the purpose of~~
13 ~~finding a solution, and all parties shall have an~~
14 ~~opportunity to be represented and to testify but shall be~~
15 ~~recorded.~~

16 ~~If the problem has not been resolved within 30 days~~
17 ~~following the public hearing, The agency shall, within 15~~
18 ~~days respond, in writing, to the area board's findings.~~
19 ~~Following receipt of the agency's response, if the area~~
20 ~~board continues to find that the agency is not meeting its~~
21 ~~obligations, the area board shall pursue informal efforts to~~
22 ~~resolve the issue.~~

23 ~~If, within 30 days of implementing informal efforts to~~
24 ~~resolve the issue, the area board continues to find that the~~
25 ~~agency is not meeting its obligations under local, state, or~~
26 ~~federal statutes, the area board shall conduct a public~~
27 ~~hearing to receive testimony on its findings.~~

28 ~~If the problem has not been resolved within 30 days~~
29 ~~following the public hearing, the area board may notify~~
30 ~~provide the state council with its findings and may~~
31 ~~request authorization to initiate legal action. An area~~
32 ~~board shall not initiate legal action without prior~~
33 ~~authorization from the state council. However, the area~~
34 ~~board may assist any other person, agency, or~~
35 ~~organization that may pursue litigation related to the area~~
36 ~~board's findings.~~

37 *SEC. 9. Section 4595 of the Welfare and Institutions*
38 *Code is amended to read:*

39 4595. The executive director of the state council shall
40 review the ~~proceedings of the public hearing under~~



1 *findings developed pursuant to* Section 4593 and may
2 conduct additional factfinding investigations. The
3 executive director shall report his findings to the state
4 council within 30 days and shall recommend a course of
5 action to be pursued by the council, the area board, or
6 other state administrative or legislative officials.

7 The state council shall review the report of the
8 executive director and shall take such action as it deems
9 necessary to resolve the problem. If the council
10 authorizes the area board to initiate legal action, the state
11 council shall make available to the area board legal
12 assistance through the legal services provisions of Public
13 Law 94-103.

14 The state plan shall include an annual allotment of
15 federal funds from Public Law 94-103 to be utilized for
16 such legal assistance to area boards.

17 *SEC. 10. Section 4598 of the Welfare and Institutions*
18 *Code is amended to read:*

19 4598. The Organization of Area Boards shall consist of
20 the respective chairpersons *or their designees from*
21 *among the volunteer board members* of the individual
22 boards established under the provisions of this chapter.
23 The purposes of this organization shall include activities
24 to resolve common problems, improve coordination,
25 exchange information between areas, and provide advice
26 and recommendations to state agencies, the Legislature,
27 and the state council.

28 *SEC. 11. Section 4602 is added to the Welfare and*
29 *Institutions Code, to read:*

30 4602. *When convening any task force or advisory*
31 *group, the area boards shall ensure adequate*
32 *representation by consumers and family members*
33 *representing the community's multicultural diversity.*

34 *SEC. 12. Section 4640.8 is added to the Welfare and*
35 *Institutions Code, to read:*

36 4640.8. *When convening any task force or advisory*
37 *group, a regional center shall ensure adequate*
38 *representation by consumers and family members*
39 *representing the community's multicultural diversity.*



1 SEC. 13. Section 4647 of the Welfare and Institutions
2 Code is amended to read:

3 4647. (a) Pursuant to Section 4640.7, service
4 coordination shall include those activities necessary to
5 implement an individual program plan, including, but
6 not limited to, participation in the individual program
7 plan process; *assurance that the planning team considers*
8 *all appropriate options for meeting each individual*
9 *program plan objective*; securing, through purchasing or
10 by obtaining from generic agencies or other resources,
11 services and supports specified in the person's individual
12 program plan; coordination of service and support
13 programs; collection and dissemination of information;
14 and monitoring implementation of the plan to ascertain
15 that objectives have been fulfilled and to assist in revising
16 the plan as necessary.

17 (b) The regional center shall assign a service
18 coordinator who shall be responsible for implementing,
19 overseeing, and monitoring each individual program
20 plan. The service coordinator may be an employee of the
21 regional center or may be a qualified individual or
22 employee of an agency with whom the regional center
23 has contracted to provide service coordination services,
24 or persons described in Section 4647.2. No person shall
25 continue to serve as a service coordinator for any
26 individual program plan unless there is agreement by all
27 parties that the person should continue to serve as service
28 coordinator.

29 (c) Where appropriate, a consumer or the consumer's
30 parents or other family members, legal guardian, or
31 conservator, may perform all or part of the duties of the
32 service coordinator described in this section if the
33 regional center director agrees and it is feasible.

34 (d) If any person described in subdivision (c) is
35 designated as the service coordinator, that person shall
36 not deviate from the agreed-upon program plan and shall
37 provide any reasonable information and reports required
38 by the regional center director.

39 (e) If any person described in subdivision (c) is
40 designated as the service coordinator, the regional center



1 shall provide ongoing information and support as
2 necessary, to assist the person to perform all or part of the
3 duties of service coordinator.

4 *SEC. 14. Section 4648 of the Welfare and Institutions*
5 *Code is amended to read:*

6 4648. In order to achieve the stated objectives of a
7 consumer's individual program plan, the regional center
8 shall conduct activities including, but not limited to, all of
9 the following:

10 (a) Securing needed services and supports.

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

25 (2) In implementing individual program plans,
26 regional centers, *through the planning team*, shall first
27 consider services and supports in natural community,
28 home, work, and recreational settings. Services and
29 supports shall be flexible and individually tailored to the
30 consumer and, where appropriate, his or her family.

31 (3) A regional center may, pursuant to vendorization
32 or a contract, purchase services or supports for a
33 consumer from any individual or agency which the
34 ~~regional center and consumer or, where appropriate, his~~
35 ~~or her parents, legal guardian, or conservator,~~ *planning*
36 *team* determines will best accomplish all or any part of
37 that consumer's program plan.

38 (A) Vendorization or contracting is the process for
39 identification, selection, and utilization of service
40 vendors or contractors, based on the qualifications and



1 other requirements necessary in order to provide the
2 service.

3 (B) A regional center may reimburse an individual or
4 agency for services or supports provided to a regional
5 center consumer if the individual or agency has a rate of
6 payment for vendored or contracted services established
7 by the department, pursuant to this division, and is
8 providing services pursuant to an emergency
9 vendorization or has completed the vendorization
10 procedures or has entered into a contract with the
11 regional center and continues to comply with the
12 vendorization or contracting requirements. The director
13 shall adopt regulations governing the vendorization
14 process to be utilized by the department, regional
15 centers, vendors and the individual or agency requesting
16 vendorization.

17 (C) Regulations shall include, but not be limited to:
18 the vendor application process, and the basis for
19 accepting or denying an application; the qualification and
20 requirements for each category of services that may be
21 provided to a regional center consumer through a
22 vendor; requirements for emergency vendorization;
23 procedures for termination of vendorization; the
24 procedure for an individual or an agency to appeal any
25 vendorization decision made by the department or
26 regional center.

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



1 (5) In order to ensure the maximum flexibility and
2 availability of appropriate services and supports for
3 persons with developmental disabilities, the department
4 shall establish and maintain an equitable system of
5 payment to providers of services and supports identified
6 as necessary to the implementation of a consumers'
7 individual program plan. The system of payment shall
8 include provision for a rate to ensure that the provider
9 can meet the special needs of consumers and provide
10 quality services and supports in the least restrictive
11 setting as required by law.

12 (6) The ~~regional-center~~ *planning team* shall consider
13 all of the following when selecting a provider of consumer
14 services and supports:

15 (A) A provider's ability to deliver quality services or
16 supports which can accomplish all or part of the
17 consumer's individual program plan.

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

20 (C) Where appropriate, the existence of licensing,
21 accreditation, or professional certification.

22 (D) The cost of providing services or supports of
23 comparable quality by different providers, if available.

24 (E) The consumer's or, where appropriate, the
25 parents, legal guardian, or conservator of a consumer's
26 choice of providers.

27 (7) No service or support provided by any agency or
28 individual shall be continued unless the consumer or,
29 where appropriate, his or her parents, legal guardian, or
30 conservator, is satisfied and the regional center and the
31 consumer or, when appropriate, the person's parents or
32 legal guardian or conservator agree that planned services
33 and supports have been provided, and reasonable
34 progress toward objectives have been made.

35 (8) Regional center funds shall not be used to supplant
36 the budget of any agency which has a legal responsibility
37 to serve all members of the general public and is
38 receiving public funds for providing those services.

39 (9) (A) A regional center may, directly or through an
40 agency acting on behalf of the center, provide placement



1 in, purchase of, or follow-along services to persons with
2 developmental disabilities in, appropriate community
3 living arrangements, including, but not limited to,
4 support service for consumers in homes they own or lease,
5 foster family placements, health care facilities, and
6 licensed community care facilities. In considering
7 appropriate placement alternatives for children with
8 developmental disabilities, approval by the child's parent
9 or guardian shall be obtained before placement is made.

10 (B) Each person with developmental disabilities
11 placed by the regional center in a residential facility shall
12 have the rights specified in this division. These rights shall
13 be brought to the person's attention by any means the
14 director may designate by regulation.

15 (C) *Consumers are eligible to receive supplemental*
16 *services including, but not limited to, additional staffing.*
17 *Necessary additional staffing that is not specifically*
18 *included in the rates paid to the service provider may be*
19 *purchased by the regional center if the additional staff are*
20 *in excess of the amount required by regulation and the*
21 *individual's planning team determines the additional*
22 *services are consistent with the provisions of the*
23 *individual program plan. Additional staff should be*
24 *periodically reviewed by the planning team for*
25 *consistency with the individual program plan objectives*
26 *in order to determine if continued use of the additional*
27 *staff is necessary and appropriate and if the service is*
28 *producing outcomes consistent with the individual*
29 *program plan. Regional centers shall monitor programs*
30 *to ensure that the additional staff is being provided and*
31 *utilized appropriately.*

32 (10) Emergency and crisis intervention services
33 including, but not limited to, mental health services and
34 behavior modification services, may be provided, as
35 needed, to maintain persons with developmental
36 disabilities in the living arrangement of their own choice.
37 Crisis services shall first be provided without disrupting
38 a person's living arrangement. If crisis intervention
39 services are unsuccessful, emergency housing shall be
40 available in the person's home community. If dislocation



1 cannot be avoided, every effort shall be made to return
2 the person to his or her living arrangement of choice, with
3 all necessary supports, as soon as possible.

4 (11) Among other service and support options,
5 ~~regional centers~~ *planning teams* shall consider the use of
6 paid roommates or neighbors, personal assistance,
7 technical and financial assistance, and all other service
8 and support options which would result in greater
9 self-sufficiency for the consumer and cost-effectiveness to
10 the state.

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

14 (13) The community support may be provided to assist
15 individuals with developmental disabilities to fully
16 participate in community and civic life, including, but not
17 limited to, programs, services, work opportunities,
18 business, and activities available to persons without
19 disabilities. This facilitation shall include, but not be
20 limited to, any of the following:

21 (A) Outreach and education to programs and services
22 within the community.

23 (B) Direct support to individuals which would enable
24 them to more fully participate in their community.

25 (C) Developing unpaid natural supports when
26 possible.

27 (14) Other services and supports may be provided as
28 set forth in Sections 4685, 4686, 4687, 4688, and 4689, when
29 necessary.

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

33 (2) Whenever the advocacy efforts of a regional
34 center to secure or protect the civil, legal, or service
35 rights of any of its consumers prove ineffective, the
36 regional center or the person with developmental
37 disabilities or his or her parents, legal guardian, or other
38 representative may request the area board to initiate
39 action under the provisions defining area board advocacy
40 functions established in this division.



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

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

7 (1) Identify services and supports that are ineffective
8 or of poor quality and provide or secure consultation,
9 training, or technical assistance services for any agency or
10 individual provider to assist that agency or individual
11 provider in upgrading the quality of services or supports.

12 (2) Identify providers of services or supports that may
13 not be in compliance with local, state, and federal statutes
14 and regulations and notify the appropriate licensing or
15 regulatory authority, or request the area board to
16 investigate the possible noncompliance.

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

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

24 (2) Requesting funds from the Program Development
25 Fund, pursuant to Section 4677, or community placement
26 plan funds designated from that fund, to reimburse the
27 startup costs needed to initiate a new program of services
28 and supports.

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

31 (f) Except in emergency situations, a regional center
32 shall not provide direct treatment and therapeutic
33 services, but shall utilize appropriate public and private
34 community agencies and service providers to obtain
35 those services for its consumers.

36 (g) Where there are identified gaps in the system of
37 services and supports or where there are identified
38 consumers for whom no provider will provide services
39 and supports contained in his or her individual program



1 plan, the department may provide the services and
2 supports directly.

3 *SEC. 15. Section 4660 of the Welfare and Institutions*
4 *Code is amended to read:*

5 4660. All meetings of the board of directors of each
6 regional center shall be *scheduled*, open, and public, and
7 all persons shall be permitted to attend any meeting,
8 except as otherwise provided in this section. Regional
9 center board meetings shall be ~~open and public~~ *held* in
10 accordance with all of the following provisions:

11 (a) Each regional center shall provide a copy of this
12 article to each member of the regional center governing
13 board upon his or her assumption of board membership.

14 (b) As used in this article, board meetings include
15 meetings conducted by any committee of the governing
16 board which exercises authority delegated to it by that
17 governing board. However, board meetings shall not be
18 deemed to include board retreats planned solely for
19 educational purposes.

20 (c) At each regional center board meeting, time shall
21 be allowed for public input *on all properly noticed agenda*
22 *items prior to board action on that item. Time shall be*
23 *allowed for public input on any issue not included on the*
24 *agenda.*

25 (d) Any person attending an open and public meeting
26 of a regional center shall have the right to record the
27 proceedings on a tape recorder, *video recorder, or other*
28 *sound, visual, or written transcription recording device,*
29 in the absence of a reasonable finding of the regional
30 center governing board that such recording constitutes,
31 or would constitute, a disruption of the proceedings.

32 *SEC. 16. Section 4661 of the Welfare and Institutions*
33 *Code is amended to read:*

34 4661. (a) Regional centers shall ~~provide~~ *mail* notice
35 of their meetings to any person who requests notice in
36 writing. Notice shall be mailed at least seven days in
37 advance of each meeting. The notice shall include the
38 date, time, and location of, and a specific agenda for, the
39 meeting, which shall include an identification of all
40 substantive topic areas to be discussed, and no item shall



1 be added to the agenda subsequent to the provision of this
2 notice. The notice requirement shall not preclude the
3 regional center board from taking action on any urgent
4 request made by the department, not related to purchase
5 of service reductions, for which *the board makes a*
6 *specific finding that* notice could not have been provided
7 at least seven days before the meeting, or on new items
8 brought before the board at meetings by members of the
9 public.

10 (b) *The regional center shall maintain all recordings*
11 *and written comments submitted as testimony on agenda*
12 *items for no less than two years. These materials shall be*
13 *made available for review by any person, upon request.*

14 (c) *Any action taken by a board that is found by a court*
15 *of competent jurisdiction to have substantially violated*
16 *any provision of this article shall be deemed null and void.*

17 *SEC. 17. Section 4664 of the Welfare and Institutions*
18 *Code is amended to read:*

19 4664. The governing board of a regional center may
20 hold a closed session regarding pending litigation when
21 discussion in open session concerning those matters
22 would prejudice the position of the regional center in the
23 litigation. Litigation shall be considered pending when
24 any of the following circumstances exist:

25 (a) An adjudicatory proceeding to which the regional
26 center is a party has been initiated formally.

27 (b) A point has been reached where, based upon
28 existing facts and circumstances and the advice of legal
29 counsel, it is determined that there is a significant
30 exposure to litigation against the regional center.

31 (c) Based on existing facts and circumstances, the
32 regional center has decided to initiate or is deciding
33 whether to initiate ~~litigation~~ litigation.

34 Prior to holding a closed session pursuant to this section,
35 the regional center governing board shall state publicly
36 to which subdivision it is pursuant.

37 *SEC. 18. Section 4666 of the Welfare and Institutions*
38 *Code is amended to read:*

39 4666. No regional center shall conduct any meeting,
40 conference, or other function in any facility that prohibits



1 the admittance of any person, or persons, on the basis of
2 race, religious creed, color, national origin, ancestry, sex,
3 or ~~handicap~~ disability.

4 *SEC. 19. Section 12300.5 is added to the Welfare and*
5 *Institutions Code, to read:*

6 *12300.5. Notwithstanding any other provision of law,*
7 *a person may not be denied in-home supportive services*
8 *under this article solely because he or she lives in a*
9 *community care facility that is owned or operated by a*
10 *family member, guardian, or conservator, unless that*
11 *family member, guardian, or conservator receives public*
12 *funds for providing supportive services to that person.*

