

DEPARTMENT OF DEVELOPMENTAL SERVICES

CHAPTER 3. COMMUNITY SERVICES

Subchapter 4. Residential Services and Quality Assurance Regulations

Subchapter 4.2. Intermediate Care Facility (ICF); ICF/Developmentally Disabled (ICF/DD); ICF/DD-Habilitative (ICF/DD-H); ICF/DD-Nursing (ICF/DD-N); Skilled Nursing Facility (SNF) Monitoring Requirements

FINDING OF EMERGENCY

These regulations are being adopted on an emergency basis for the immediate preservation of the public peace, health and safety, and general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, within the meaning of Article IV of the Constitution. These regulations are being adopted in order to make changes necessary for the implementation of AB 1472, Chapter 25, Statutes of 2012.

The authorizing language for these emergency regulations is found at Health and Safety Code Sections 1267.75(k), with respect to specified intermediate care facilities for people with developmental disabilities (ICF/DDs and ICF/DD-Hs), and 1531.15(k), with respect to adult residential facilities and group homes. Each of these provisions includes the following express finding of emergency:

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, or general welfare.

AUTHORITY AND REFERENCE CITATIONS:

Health and Safety Code sections 1267.75 and 1531.15 authorize DDS to adopt these proposed regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

AB 1472 authorizes the installation of secured perimeters around adult residential facilities and group homes utilizing delayed egress devices, and the installation of delayed egress and secured perimeters in and around specified Intermediate Care Facilities for people with developmental disabilities (ICF/DDs and ICF/DD-Hs). The Health and Safety Code provisions added by AB 1472 become operative only upon the publication in Title 17 of the California Code of Regulations of emergency regulations filed by the State Department of Developmental Services (DDS). The regulations must establish program standards for licensed homes that include secured perimeters and delayed

egress devices, including requirements and timelines for the completion and updating of a comprehensive assessment of each consumer's needs, including the identification through the individual program plan process of the services and supports needed to transition the consumer to a less restrictive living arrangement, and a timeline for identifying or developing those services and supports. The regulations must also establish a statewide limit on the total number of beds in homes with secured perimeters.

Pursuant to Sections 2 and 18 of AB 1472, adding, respectively, Health and Safety Code Sections 1267.75 and 1531.13, the proposed emergency regulations would adopt program standards for the utilization of secured perimeters and delayed egress devices to enable consumers who would otherwise require placement in more restrictive, institutional, living arrangements to, instead, live in community-based living arrangement with authorized security features.

§ 56068 adopts definitions unique to the proposed regulations.

§ 56069 adopts criteria for the use of secured perimeters in selected residential facilities.

§ 56070 adopts requirements for inclusion in the Plan of Operation.

§ 56071 adopts guidelines for the use of secured perimeters.

§ 56072 adopts standards by which DDS and DSS must comply in order to approve the secured perimeter component of the Plan of Operation.

§ 56073 adopts admission and continued stay requirements for placement of a consumer in a residence utilizing secured perimeters.

§ 56074 adopts a statewide limitation on the number of beds in facilities utilizing secured perimeters.

§ 56101 adopts definitions unique to the proposed regulations.

§ 56620 adopts criteria for the use of delayed egress and secured perimeters in selected ICFs.

§ 56621 adopts requirements for inclusion in the Plan of Operation.

§ 56622 adopts guidelines for the use of delayed egress and secured perimeters.

§ 56623 adopts standards by which DDS and DPH must comply in order to approve the secured perimeter component of the Plan of Operation.

§ 56624 adopts admission and continued stay requirements for placement of a consumer in a residence utilizing delayed egress and secured perimeters.

OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

AB 1472 requires DDS to adopt emergency regulations to implement Health and Safety Code Sections 1267.75 and 1531.13. Existing regulations do not address the requirements of Sections 1267.75 and 1531.13.

The proposed regulations will implement the requirements of Health and Safety Code Sections 1267.75 and 1531.13 and enable individuals eligible for admission to licensed facilities governed by these regulations to avoid placements in more restrictive living arrangements.

Benefits:

Adoption of these proposed emergency regulations is required as a condition for the development of licensed residential facilities for people with developmental disabilities authorized by AB 1472. With adoption of the proposed emergency regulations, regional centers will be better able to serve difficult-to-serve individuals in community-based settings who would otherwise likely require more restrictive, institutional placements.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

DDS has determined the proposed regulations are not inconsistent or incompatible with existing state regulations.

Mandate on local agencies and school districts: DDS has determined that the proposed emergency regulations do not impose a mandate on local agencies or school districts.

Fiscal Impact: DDS has determined that the proposed emergency regulations do not impose an additional cost or savings requiring reimbursement under Government Code section 17500, et seq., any non-discretionary cost or savings to local agencies or school districts, or any cost or savings in federal funding to the State. DDS has determined there will be no cost or savings to any state agency pursuant to section 11346.1(b) or 11346.5(a)(6) of the Government Code.

Economic Impact: DDS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. DDS has made a determination that the emergency regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. DDS has determined that the

emergency regulations would not affect the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.