

DEPARTMENT OF DEVELOPMENTAL SERVICES

CHAPTER 3. COMMUNITY SERVICES

Subchapter 24. Enhanced Behavioral Supports Homes

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 SB 856, Chapter 30, Statutes of 2014.

The authorizing language for these emergency regulations is found at Welfare and Institutions Code section 4684.86(b). This provision 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: Welfare and Institutions Code sections 4684.80, 4684.81, 4684.82, 4684.83, 4684.84, 4684.85, 4684.86, and 4684.7.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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The Lanterman Developmental Disabilities Services Act (Lanterman Act), Welfare & Institutions Code section 4500 et seq., was enacted to reduce institutionalization of people with developmental disabilities and prevent their dislocation from their home communities. Under the Lanterman Act, people with developmental disabilities have a right to services and supports in the least restrictive environment. With the reduced reliance on restrictive institutional and out-of-state placements, there is a need to increase community capacity and develop new alternatives, particularly for the most difficult-to-serve consumers.

To continue the development of alternative living arrangements, Senate Bill 856, Chapter 30, Statutes of 2014, requires the Department of Developmental Services (DDS) to develop Enhanced Behavioral Supports Homes.

Section 59050: Defines terms relative to Enhanced Behavioral Supports Homes and these regulations.

Section 59051: Sets forth general requirements for the operation of the Enhanced Behavioral Supports homes.

Section 59052: Specifies the items to be included in the Facility Program Plan to ensure the stable operation of the facility and ensure the health and safety of the consumers in residence.

Section 59053: Requires DDS review of the Facility Program Plan to ensure it meets the requirements of section 59052 and permits DDS approval of the Facility Program Plan and requires DDS to submit a Certificate of Approval to the Department of Social Services as a condition of licensure.

59054: Requires the development of an Individual Behavior Supports Plan for each consumer that outlines the behavioral treatment the consumer will receive.

59055: Specifies regional center monitoring of an Enhanced Behavioral Supports Home to ensure consistent treatment of the consumer and ensure the health and safety of the consumer.

59056: Specifies the assessments that must be completed and plans that must be completed to ensure a consumer is smoothly transitioned into the Enhanced Behavioral Supports Home.

59057: Requires a contract between the Enhanced Behavioral Supports Home and the regional center and specifies what must be in the contract.

59058: Allows for contract termination when the Enhanced Behavioral Supports Home is unable to maintain substantial compliance with applicable laws or its contract with the regional center or when the Enhanced Behavioral Supports Home demonstrates an inability to ensure the health and safety of consumers.

59059: As a matter of due process, allows the Enhanced Behavioral Supports Home to appeal the regional center's decision to terminate the contract.

59060: Specifies the minimum qualifications that must be met by a facility administrator.

59061: Specifies the minimum qualifications that must be met by direct care staff persons.

59062: Specifies the minimum staffing requirements to ensure the orderly operation of the facility and to ensure the health and safety of consumers.

59063: Specifies the minimum amount of training required of direct care staff to ensure competent care of consumers.

59064: Specifies the minimum amount of continuing education required of direct care staff to ensure continued competent care of consumers.

59065: Specifies which situations are considered an immediate danger.

59066: Specifies which situations are considered substantial inadequacies.

59067: Specifies requirements for corrective action plans.

59068: Requires the regional center to apply sanctions when there is noncompliance with the corrective action plan.

59069: Describes the process by which the facility administrator may appeal regional center findings of immediate danger, substantial inadequacies and sanctions.

59070: Requires the maintenance of a facility file and specifies what must be included in the file.

59071: Requires the maintenance of a consumer file and specifies what must be included in the file.

59072: Sets forth the procedures for development of rates for both facility costs and individual costs associated with residency, and specifics for payment of said rates.

OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS

SB 856 requires DDS to adopt emergency regulations to implement Welfare and Institutions Code sections 4684.80, 4684.81, 4684.82, 4684.83, 4684.84, 4684.85, 4684.86, and 4684.7, which existing regulations do not address.

The proposed regulations will implement the requirements Welfare and Institutions Code sections 4684.80, 4684.81, 4684.82, 4684.83, 4684.84, 4684.85, 4684.86, and 4684.7 and enable consumers eligible to reside in Enhanced Behavioral Supports Homes to avoid placement in more restrictive or out-of-state living arrangements.

Benefits:

Adoption of these proposed emergency regulations is required as a condition of the development of licensed residential facilities authorized by SB 856.

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 emergency regulations do not impose any additional costs 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 Government Code section 11346.1(b) or 11346.5(a)(6).

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.