

**DEPARTMENT OF DEVELOPMENTAL SERVICES**  
**Notice of Modification of the Text of Proposed Regulations**  
**Enhanced Behavioral Supports Homes**  
**Notice of 15-day Comment Period**

Government Code Section 11346.8(c) provides that the Department of Developmental Services (Department) may make changes in the proposed regulations, which are nonsubstantial or sufficiently related to the initial text as originally noticed on September 23, 2016.

The Department conducted a 45-day public comment period for these proposed regulations which ran from October 13, 2016, through November 7, 2016.

Summary of Modifications:

All revisions to the originally proposed text are in red text, and highlighted in single strike to indicate text being deleted and highlighted in italics to indicate text being added. Only comments addressing these modifications will be considered. Below are changes sufficiently related to the initial text:

**59050. Definitions.**

(l) "Emergency Intervention(s)" means the interventions used with ~~a consumer~~s during the time they present ~~a~~ *an imminent* danger of *serious* injury to self or others, *which cannot be prevented by the use of a less restrictive technique.*

**59051. General Requirements.**

(e) An applicant for an Enhanced Behavioral Supports Home shall complete the ~~vendor~~ing regional center's residential services orientation pursuant to Section 56003.

**59052. Facility Program Plan.**

(a)(12)(A) Consumers will be supported to make choices, *including community integration.*

**59061. Direct Care Staff Qualifications.**

(b) (2) Become a registered behavior technician within twelve months of initial employment; or be *either:*

(A) ~~Be a~~ licensed psychiatric technician; *or*  
*(B) A qualified behavior modification professional.*

**59062. Staffing Requirements.**

(b) Direct care staff who have not completed the on-site orientation and training as required by Section 59063(a) and (b) must be under the direct supervision and observation of a ~~fully trained~~ direct care lead staff person *who has completed the requirements of Section 59063 (a)(b) and (d).*, while caring for consumers.

(c) The administrator shall assign a qualified behavior modification professional to each consumer. A minimum of ~~6~~ six hours per month of *behavioral consultation, which includes review, implementation, and training of direct care staff on* behavior assessments and behavior interventions, must be provided ~~to~~ for each consumer by a qualified behavior modification professional. This time must be documented in the consumer file.

(f) *In consultation with the individual behavior supports team,* the regional center shall require an Enhanced Behavioral Supports Home to provide additional professional, administrative, or direct care staff whenever the regional center determines, ~~in~~ *consultation with the individual behavior supports team,* that additional personnel are needed to provide for the health and safety of consumers.

**59063. Staff Training.**

(a)(8) Identification and reporting of *suspected* consumer abuse *and neglect*, and

**59070. Facility Files.**

(h) Behavior and emergency intervention *data collection and* reporting;

**59072. Establishment of Rates.**

(a)(1) An Enhanced Behavioral Supports Home shall complete one Department form DS 6023 (*New Revised 10/20165*) entitled "*Enhanced Behavioral Supports Home Rate Development - Facility Costs*" for the facility, incorporated herein.

(b)(1) An Enhanced Behavioral Supports Home shall complete one Department form DS 6024 (*New Revised 10/20165*) entitled "*Enhanced Behavioral Supports Home Rate Development - Individual Costs Associated with Residency*", incorporated herein, for each consumer to establish the consumer's individual rate.

*(c) Administrative costs may not exceed 15% pursuant to Section 4629.7 of the Welfare and Institutions Code.*

All other changes are nonsubstantial and grammatical in nature. Refer to the full text.

A copy of the full text of the regulations as originally proposed with the newly proposed revisions clearly indicated is enclosed and is also available on the Department's website and paper copies may also be obtained by contacting Tiffani Andrade, Acting Assistant Deputy Director of the Community Development and Housing Section at the address, fax or email listed below.

The comment period extends from January 9, 2017 through 5:00 p.m. on January 24, 2017. All written comments received during this period which pertain to the indicated changes will be reviewed and responded to by the Department as part of the compilation of the rulemaking file. Please limit your comments to the modifications of

the text. Any written comments received regarding the changes must be responded to in the final statement of reasons.

General and substantive inquiries and comments concerning the proposed action may be directed to:

Department of Developmental Services  
Community Development and Housing  
1600 9th Street, Room 320, MS 3-9  
Sacramento, CA 95814  
Attention: Tiffani Andrade, Acting Assistant Deputy Director  
Phone: (916) 654-3016 Fax: (916) 654-2775  
Email: [tiffani.andrade@dds.ca.gov](mailto:tiffani.andrade@dds.ca.gov)

**TITLE 17. PUBLIC HEALTH  
DIVISION 2. HEALTH AND WELFARE AGENCY  
CHAPTER 3. COMMUNITY SERVICES**

**SUBCHAPTER 24. ENHANCED BEHAVIORAL SUPPORTS HOMES**

**Article 1 – Definitions**

**59050. Definitions.**

The following definitions shall apply to the regulations used in this subchapter:

(a) "Administrator" means the person defined in Title 22, California Code of Regulations, Section 80001(a)(2).

(b) "Assistant Behavior Analyst" means an individual who is recognized by the ~~n~~National Behavior Analyst Certification Board as a Board Certified Assistant Behavior Analyst.

(c) "Authorized Consumer Representative" means the parent or guardian of a minor, conservator of an adult, or person who is legally entitled to act on behalf of the consumer.

(d) "Behavior Analyst" means an individual who is recognized by the national Behavior Analyst Certification Board as a Board Certified Behavior Analyst.

(e) "Clients' Rights Advocate" means the representative of the nonprofit agency with which the Department contracts for clients' rights advocacy services pursuant to Section 4433(b) of the Welfare and Institutions Code who is responsible for clients' rights assurances for persons with developmental disabilities.

(f) "Consultant" means an individual or group eligible for vendorization in accordance with Sections 54319 and 54342, or other individual qualified by training, education, and/or experience who provides a service integral to a consumer's Individual Behavior Supports Plan, as identified by the Individual Behavior Supports Team.

(g) "Consumer" means an individual who has been determined by a regional center to meet the eligibility criteria of Section 4512(a) of the Welfare and Institutions Code, and Sections 54000, 54001 and 54010, and for whom the regional center has accepted responsibility.

(1) A consumer residing in an Enhanced Behavioral Supports Home is a "client" as defined in Title 22, California Code of Regulations, Section 80001(c)(9).

(h) "Continuous Quality Improvement System" means a process to ensure systematic improvement of services to increase positive outcomes for the consumers being served.

(i) "Day" means calendar day unless otherwise stated.

(j) "Department" means the Department of Developmental Services.

(k) "Direct Care Staff" means facility staff who personally provide direct supervision and special services to consumers, as defined in Section 56002(a). The term includes the licensee, the administrator, management, supervisory, and lead staff during that time when they are providing direct supervision and special services to consumers.

(1) Direct supervision and special services shall include "care and supervision" as defined in Title 22, California Code of Regulations, Section 80001(c)(3).

(l) "Emergency Intervention(s)" means the interventions used with **a** consumer**s** during the time they present **a** *imminent* danger of *serious* injury to self or others, *which cannot be prevented by the use of a less restrictive technique.*

(m) "Emergency Intervention Plan" means a written plan which addresses the implementation of emergency interventions and the prevention of injury.

(n) "Enhanced Behavioral Services and Supports" means additional staffing, supervision, and other services and supports to address a consumer's challenging behaviors, which are beyond what is typically available in other community living arrangements.

(o) "Enhanced Behavioral Supports Home" means an adult residential facility or a group home certified by the Department and licensed by the Department of Social Services that provides 24-hour nonmedical care to individuals with developmental disabilities who require enhanced behavioral supports, staffing, and supervision in a homelike setting, as defined in Section 4684.80 of the Welfare and Institutions Code. An Enhanced Behavioral Supports Home shall have a maximum capacity of four consumers.

(p) "Facility Liaison" means the person, or his or her designee, assigned by the vendoring regional center as the principal coordinator between the regional center and the facility.

(q) "Immediate Danger" means conditions which constitute an impending threat to the health and safety of a consumer and which require immediate action by the regional center to safeguard the health and safety of the consumers in the facility, and as defined in Section 56053.

(r) "Individual Behavior Supports Plan" means the plan that: identifies and documents the behavior and intensive support and service needs of a consumer; details the

strategies to be employed and services to be provided to address those needs; and includes the entity responsible for providing those services and timelines for when each identified individual behavior support will commence.

(s) "Individual Behavior Supports Team" means those individuals who contribute to the development, revision and monitoring of the ~~i~~Individual ~~b~~Behavior ~~s~~Supports ~~p~~Plan for consumers residing in an Enhanced Behavioral Supports Home. The team shall, at a minimum, be composed of the following individuals:

(1) Consumer and, where applicable, authorized consumer representative;

(2) Regional center service coordinator and other regional center representatives, as necessary;

(3) Licensee's qualified behavior modification professional;

(4) Enhanced Behavioral Supports Home administrator;

(5) Regional center clients' rights advocate, unless the consumer objects on his or her own behalf to participation by the clients' rights advocate.

(6) Any other individuals deemed necessary by the consumer, or, where applicable, his or her authorized consumer representative, if any, for developing a comprehensive and effective individual behavior supports plan.

(t) "Individual Program Plan" (IPP) means a written plan that is developed by a regional center planning team, in accordance with the provisions of Sections 4646 and 4646.5 of the Welfare and Institutions Code.

(u) "Planning Team" refers to the planning team defined in subdivision (j) of Section 4512 of the Welfare and Institutions Code, which develops and reviews a consumer's IPP through the planning process described in Sections 4646 and 4646.5 of the Welfare and Institutions Code.

(v) "Qualified Behavior Modification Professional" means an individual with a minimum two years of experience in designing, supervising, and implementing behavior modification services who is one of the following:

(1) An Assistant Behavior Analyst certified by the ~~n~~National Behavior Analyst Certification Board as a Certified Assistant Behavior Analyst.

(2) A Behavior Analyst certified by the ~~n~~National Behavior Analyst Certification Board as a Certified Behavior Analyst;

(3) A Licensed Clinical Social Worker, pursuant to Sections 4996-4998.5 of the Business and Professions Code;

(4) A Licensed Marriage and Family Therapist, pursuant to Sections 4980-4984.7 of the Business and Professions Code;

(5) A psychologist, licensed by the Medical Board of California or Psychology Examining Board; or

(6) A ~~licensed~~ professional with California licensure, which permits the design of behavior modification intervention services.

(w) “Registered Behavior Technician” means an individual who is recognized by the ~~n~~National Behavior Analyst Certification Board as a Registered Behavior Technician.

(x) “Substantial Inadequacy” means conditions posing a threat to the health and safety of any consumer, that are not considered an immediate danger as specified in Section 56053, and as defined in Section 56054.

(y) “Working Day” means any day that is not a Saturday, Sunday, or holiday as specified in Sections 6700 and 6701 of the Government Code.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.80 and 4684.86, Welfare and Institutions Code.

## **Article 2 – General Requirements.**

### **59051. General Requirements.**

(a) The vendoring regional center shall assign a facility liaison to each vendored Enhanced Behavioral Supports Home.

(b) The Department may decertify an Enhanced Behavioral Supports Home that it determines is not in compliance with applicable laws or when it cannot ensure the health and safety of consumers. The Department shall inform the Department of Social Services of any decision to decertify a facility on the same day.

(c) An Enhanced Behavioral Supports Home shall install and maintain an operable automatic fire sprinkler system.

(d) Each consumer must be provided with his or her own private bedroom.

(e) An applicant for an Enhanced Behavioral Supports Home shall complete the ~~vendoring~~ regional center’s residential services orientation pursuant to Section 56003.

(f) Seclusion shall not be utilized in an Enhanced Behavioral Supports Home, consistent with Section 50515(a).

NOTE: Authority cited: Section 4684.81 and 4684.86, Welfare and Institutions Code.  
Reference: Sections 4684.81 and 4684.85, Welfare and Institutions Code.

### **Article 3 – Facility Program Plan**

#### **59052. Facility Program Plan.**

(a) An applicant shall develop a facility program plan that includes the following:

(1) Number of consumers to be served;

(2) Consumer admission criteria and procedures;

(3) A description of how the facility will ensure that appropriate services and supports are provided at the time of admission to meet the consumer's immediate needs pending development of the individual behavior supports plan;

(4) An organizational chart for the staff in the facility and, if applicable, for the organization;

(5) A description of consumer services to be provided, including the instructional methods and techniques to be utilized;

(6) A description of how the licensee will ensure all direct care staff and consultants are competent to perform their assigned duties, including but not limited to:

(A) A description of the consultant disciplines, qualifications, and hours to be utilized;

(B) A description of staff qualifications and a duty statement for each staff position;

(C) A sample staff schedule;

(D) Staff training plan;

(7) A description of the facility's emergency procedures, including but not limited to:

(A) The facility's emergency evacuation procedures, including procedures for evacuation when delayed egress and secured perimeters are in use pursuant to Sections 56068 through 56074;

(B) The type, location, and response time of emergency medical services;

(C) A description of how regularly scheduled fire and earthquake drills will be conducted on a schedule of no less than every three months, with the drills conducted on alternating work shifts so that drills are conducted during the day and evening hours;



(D) The emergency intervention plan;

(8) An explanation of how the Enhanced Behavioral Supports Home will ensure the protection of consumers' personal rights, including those specified in Sections 50500-50550;

(9) The methodology used to measure consumer progress which includes:

(A) Types of data to be collected, including use of emergency interventions;

(B) Data collection systems;

(C) Frequency of data collection; and

(D) Methods and intervals for summarizing data and reporting on progress made.

(10) Consumer exit criteria;

(11) A description of the proposed facility, including size, layout, and location; *and*

(12) A description of the facility's continuous quality improvement system, including but not limited to how:

(A) Consumers will be supported to make choices, *including community integration*;

(B) Consumers will be supported to exercise rights;

(C) Changing needs of consumers will be addressed;

(D) Consumers receive prompt and appropriate routine and specialized medical services;

(E) Individual risk is managed and mitigated;

(F) Medication is safely managed; and

(G) Staff turnover is mitigated.

(b) The facility program plan shall include the date and signature of the applicant.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Sections 4684.81 and 4684.86, Welfare and Institutions Code.

### **59053. Facility Program Plan Approval.**

(a) The facility applicant shall submit the proposed facility program plan to the vendoring regional center responsible for contract development.

(b) The regional center shall submit a copy of the proposed facility program plan along with its recommendation for approval to the Department.

(c) Upon approval by the Department, the Department shall issue a certificate of program approval for the Enhanced Behavioral Supports Home and provide a copy to the regional center and the Department of Social Services within 310 days of approval.

(d) The certificate of program approval must be included in the plan of operation submitted to the Department of Social Services.

(e) The facility administrator shall submit any proposed changes in the operation of the facility that alters the contents of the approved facility program plan, including a change of administrator, to the Department and the contracting regional center. Both entities shall approve the proposed changes prior to implementation. The Department shall notify the Department of Social Services of the approved change(s) on the date of approval.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Sections 4684.81 and 4684.86, Welfare and Institutions Code.

### **Article 4 – Individual Behavior Supports Plan**

#### **59054. Individual Behavior Supports Plan.**

(a) The facility administrator is responsible for coordinating the development and subsequent updating of each consumer's individual behavior supports plan.

(b) The individual behavior supports plan must be developed within seven days of the consumer's admission.

(c) The individual behavior supports team members shall provide their input for inclusion in the individual behavior supports plan within 30 days of the consumer's admission, review the plan monthly and provide update information as necessary.

(d) The consumer's individual behavior supports plan must be function-based, evidence-based, target functionally equivalent replacement behaviors, and include a description of the following:

(1) Baseline behaviors;

(2) Target behaviors and goals;

(3) Function of behaviors;

(4) Desired outcomes/replacement behaviors;

(5) Intervention strategies, including antecedent strategies, instructional strategies and consequence strategies;

(6) Entity responsible;

(7) Environmental changes;

(8) Timelines/review dates;

(9) Data collection/monitoring progress/evaluation methods; and

(10) Emergency interventions that may be necessary.

(e) The facility administrator shall submit the individual behavior supports plan and any updates to the vendoring and/or placing regional center service coordinator and, unless the consumer objects on his or her own behalf, to the clients' rights advocate.

NOTE: Authority cited: Sections 4684.80 and 4684.86, Welfare and Institutions Code. Reference: Sections 4684.83 and 4684.86, Welfare and Institutions Code.

## **Article 5 – Monitoring**

### **59055. Regional Center Monitoring.**

(a) The consumer's regional center is responsible for monitoring and evaluating services provided in the Enhanced Behavioral Supports Home by conducting or coordinating at least quarterly face-to-face case management visits with each consumer, or more frequently if specified in the consumer's IPP.

(b) In addition, the vendoring regional center is responsible for monitoring and evaluating services provided in the Enhanced Behavioral Supports Home by conducting a quarterly quality assurance visit using a format prescribed by the Department.

(c) A vendoring regional center qualified behavior modification professional shall visit the consumers, announced or unannounced, in person, at least monthly in the Enhanced Behavioral Supports Home to monitor the individual behavior supports plan objectives, and prepare written documentation on the status of the objectives. At least four of these visits per year must be unannounced.

(d) The Department shall monitor regional center compliance with subdivisions (a), (b) and (c). Monitoring must include on-site visits by the Department to all Enhanced Behavioral Supports Homes at least once every six months, including review of the

written documentation prepared by the regional center qualified behavior modification professional.

(e) If the Department or regional center determines that urgent action is necessary to protect a consumer residing in an Enhanced Behavioral Supports Home from physical or mental abuse, abandonment, or any other substantial threat to the consumer's health and safety, the Department shall direct the regional center to immediately obtain alternative or additional services and supports to ensure the health and safety of the consumer. The Department may take into consideration any notification by the Department of Social Services pursuant to Section 1567.65 of the Health and Safety Code.

(1) If additional services and supports cannot be provided immediately or if the Department determines that a different living arrangement is necessary to ensure the consumer's health and safety, the regional center shall, upon request by the Department, relocate the consumer within 24 hours of the determination, pursuant to Section 4684.81(h) of the Welfare & Institutions Code and Section 1567.65 of the Health & Safety Code.

(2) The regional center shall convene an IPP meeting within two working days of any action taken pursuant to this subdivision to review and update the IPP and the individual behavior supports plan, as needed.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Sections 4684.81, 4684.84, 4684.85, and 4684.86, Welfare and Institutions Code and Section 1567.65, Health& Safety Code.

## **Article 6 – Admission**

### **59056. Consumer Admission.**

(a) Prior to a consumer's admission:

(1) The regional center shall assess the consumer's need for enhanced behavioral services and supports and provide a copy of the assessment to the administrator.

(2) The administrator shall obtain a copy of a medical assessment of the consumer that, at a minimum, meets the requirements of Title 22, California Code of Regulations, Section 80069 and shall put the medical assessment into the consumer's file prior to or at admission.

(3) The regional center shall release written information about the consumer to the administrator pursuant to Section 56017 (b)(1)-(9).

(b) Within seven days of admission:

(1) The administrator, with input from the individual behavior supports team, shall ensure completion of a written individual behavior supports plan.

(c) Within 30 days of admission:

(1) The administrator, with input from the individual behavior supports team, shall ensure completion of a written functional behavior assessment.

(2) The administrator, with input from the individual behavior supports team, shall ensure update of the written ~~A~~individual ~~b~~Behavior ~~s~~Supports ~~p~~Plan.

(d) The administrator is responsible for coordinating the development and updating of the plans required in subdivisions (b) and (c).

(e) The regional center shall notify the clients' rights advocate when a consumer is admitted to an Enhanced Behavioral Supports Home and of all individual behavior supports team meetings convened pursuant to this subchapter. The clients' rights advocate shall be entitled to participate in all such individual behavior supports team meetings unless the consumer objects on his or her own behalf.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

## **Article 7 – Contract**

### **59057. Contract.**

Prior to placing any consumer into an Enhanced Behavioral Supports Home, the vendoring regional center and the vendor shall execute a contract that includes, at a minimum, all of the following:

(a) The names of the regional center and the licensee;

(b) The effective date and termination date of the contract;

(c) A requirement that, under no circumstances, may the contract extend beyond the stated termination date;

(d) A requirement that the execution of any amendment or modification to the contract be in accordance with all applicable laws and be by mutual agreement of both parties;

(e) A requirement that the licensee and the agents and employees of the licensee, in the performance of the contract, act in an independent capacity, and not as officers or employees or agents of the regional center or the State;

(f) Incorporation, by reference, of the Enhanced Behavioral Supports Home's approved program plan and certificate of program approval as issued by the Department; and

(g) Specification of how any portion of the facility rate ~~not unf~~ funded by a consumer placement will be funded, pursuant to Section 59072(a)(3)(A)-(C).

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Sections 4684.82, 4684.86, and 4684.87, Welfare and Institutions Code.

### **59058. Contract Termination.**

(a) A vendoring regional center may terminate its contract with the Enhanced Behavioral Supports Home when the regional center determines that the Enhanced Behavioral Supports Home:

(1) Is unable to maintain substantial compliance with applicable laws or its contract with the regional center, or

(2) Demonstrates an inability to ensure the health and safety of the consumers.

(b) The vendoring regional center shall notify the Enhanced Behavioral Supports Home by letter of its intent to terminate the contract within 30 days of delivery of the letter.

(c) The vendoring regional center shall notify the Department and the Department of Social Services the same day the regional center terminates the contract with the Enhanced Behavioral Supports Home.

(d) If a vendoring regional center terminates its contract with an Enhanced Behavioral Supports Home, the Department shall decertify the Enhanced Behavioral Supports Home and the regional center shall terminate vendorization.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Sections 4648.1(d), 4684.85 and 4684.86, Welfare and Institutions Code.

### **59059. Contract Termination Appeals.**

(a) An Enhanced Behavioral Supports Home may appeal the vendoring regional center's decision to terminate its contract.

(b) An appeal must be submitted in writing and include reasons and facts demonstrating why the termination is inappropriate.

(c) An appeal must be received by the vendoring regional center within 10 working days from receipt of the regional center letter notifying the Enhanced Behavioral Supports Homes of its intent to terminate the contract.

(d) The vendoring regional center's director shall respond with his or her decision within 10 working days of the date of receipt of the appeal from the Enhanced Behavioral Supports Home.

(e) The decision by the vendoring regional center's director is the final administrative decision.

(f) The vendoring regional center shall submit the director's decision to the Department and the Department of Social Services on the same date it is signed.

(g) The vendoring regional center shall mail the director's decision to the administrator within two working days of signature.

(h) Termination of the contract shall be suspended upon receipt of an appeal pursuant to subdivision (c) pending the outcome of the appeal.

NOTE: Authority cited: Sections 4684.85 and 4684.86, Welfare and Institutions Code. Reference: Sections 4684.85 and 4684.86, Welfare and Institutions Code.

## **Article 8 – Personnel**

### **59060. Administrator Qualifications.**

(a) An administrator must:

(1) Have a minimum of ~~2~~ *two* years of prior experience providing direct care or supervision to individuals with developmental disabilities; and be one of the following:

(A) A registered behavior technician.

(B) A licensed psychiatric technician.

(C) A qualified behavior modification professional.

(b) An administrator must complete the residential services orientation as required per Section 56003(b).

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

### **59061. Direct Care Staff Qualifications.**

(a) A direct care lead staff person must:

(1) Have at least one year prior experience providing direct care to individuals with developmental disabilities, with a focus on behavioral services; and

(2) Become a registered behavior technician within 60 days of initial employment; or, be either:

(A) A licensed psychiatric technician; or

(B) A qualified behavior modification professional.

(b) A direct care staff person must:

(1) Have at least six months prior experience providing direct care to individuals with developmental disabilities, with a focus on behavioral services; and

(2) Become a registered behavior technician within twelve months of initial employment; or be *either*:

(A) *Be a* A licensed psychiatric technician; *or*

*(B) A qualified behavior modification professional.*

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

### **59062. Staffing Requirements.**

(a) At least one direct care lead staff person and one direct care staff person must be on duty at all times when a consumer is under the supervision of the facility staff. Staffing beyond this minimum is determined by each consumer's individual support needs identified per the approved DS 6024 form completed pursuant to Section 59072(b).

(b) Direct care staff who have not completed the on-site orientation and training as required by Section 59063(a) and (b) must be under the direct supervision and observation of a *fully trained* direct care lead staff person *who has completed the requirements of Section 59063 (a)(b) and (d)*, while caring for consumers.

(c) The administrator shall assign a qualified behavior modification professional to each consumer. A minimum of *6 six* hours per month of *behavioral consultation, which includes review, implementation, and training of direct care staff on* behavior



assessments and behavior interventions, must be provided ~~to~~ *for* each consumer by a qualified behavior modification professional. This time must be documented in the consumer file.

(d) Each Enhanced Behavioral Supports Home must have an administrator on duty a minimum of 20 hours per week per facility to ensure the effective operation of the facility.

(e) In addition to the hours required in subsection (c), the facility administrator shall ensure provision of a minimum of 6 consultant hours per month per consumer, which must be appropriate to meet individual consumer service needs.

(f) *In consultation with the individual behavior supports team*, the regional center shall require an Enhanced Behavioral Supports Home to provide additional professional, administrative, or direct care staff whenever the regional center determines, ~~in consultation with the individual behavior supports team~~, that additional personnel are needed to provide for the health and safety of consumers.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

### **59063. Staff Training.**

(a) Within the first 40 hours of employment, the administrator shall ensure that direct care staff complete a minimum of 32 hours of on-site orientation. The on-site orientation must include the training required pursuant to Title 22, California Code of Regulations Sections 80065(f) and 84065(i) as applicable to the facility's licensure type, and must also address the following:

(1) The specialized needs of each of the consumers;

(2) Consumers' rights and protections pursuant to Sections 50500-50550 and Title 22, California Code of Regulations sections as follows:

(A) Section 84072 for an Enhanced Behavioral Supports Home licensed as a group home.

(B) Sections 85072 and 80072 for an Enhanced Behavioral Supports Home licensed as an adult residential facility.

(3) The facility's program plan;

(4) Implementation of the consumers' IPPs;

(5) Health and emergency procedures, including fire safety;

(6) The disaster and mass casualty plan required in Title 22, California Code of Regulations, Section 80023, including emergency evacuation and exit procedures when secured perimeters/delayed egress are in use;

(7) Identification and reporting of special incidents, as required by Section 54327(a);

(8) Identification and reporting of *suspected* consumer abuse *and neglect*; and

(9) Assistance to consumers with prescribed medications.

(b) In addition to the on-site orientation, the administrator shall ensure that direct care staff receive a minimum of 16 hours of emergency intervention training, which must include the techniques the licensee will use to prevent injury and maintain safety regarding consumers who are a danger to self or others and must emphasize positive behavioral supports and techniques that are alternatives to physical restraints, pursuant to Title 22, California Code of Regulations.

(c) A direct care staff person may not implement emergency interventions prior to successfully completing the training required in subdivision (b).

(d) In addition to the training required by subdivisions (a) and (b), the administrator shall ensure that, prior to providing direct consumer care, direct care staff receive hands-on training in first aid and cardiopulmonary resuscitation by a certified instructor.

(1) Direct care staff shall maintain current certifications in first aid and cardiopulmonary resuscitation. The administrator shall maintain the certifications in facility personnel records.

(2) Cardiopulmonary resuscitation certification must be renewed annually.

(e) The administrator shall ensure that direct care staff complete the competency-based training required by *Section 4695.2(a) and (d) of the* Welfare and Institutions Code *Section 4695.2(a) and (d)*, pursuant to Section 56033(b)-(g), (i). Direct Care Staff shall successfully complete both segments of the competency-based training and passage of the competency test, or pass the challenge test, prior to or within one year of employment at the Enhanced Behavioral Supports Home.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

#### **59064. Continuing Education.**

(a) In addition to the training requirements in Section 59063, the administrator shall ensure that direct care staff complete a minimum of 20 hours of continuing education on an annual basis covering, but not limited to, the subjects specified in Section 59063(a).

(1) For Enhanced Behavioral Supports Homes licensed as group homes, 10 of the continuing education hours required by Title 22, California Code of Regulations, Section 84065(j) may be counted towards the required hours.

(b) The administrator shall require additional continuing education, as necessary, to ensure the continued health and safety of each consumer.

(c) Successful completion of the competency-based training and passage of the competency test required by Sections 59063(e) satisfies the direct care staff continuing education requirements specified in subdivision (a) for the year in which the training is satisfactorily completed.

(d) The administrator shall ensure that direct care staff renew the emergency intervention training required in Section 59063(b) annually.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

## **Article 9 – Corrective Action Plans and Sanctions**

### **59065. Immediate Danger.**

(a) The regional center shall immediately investigate situations that come to the attention of, or are reported to, the regional center that constitute, or may constitute, an immediate danger. Situations requiring investigation include but are not limited to those specified in Section 56053(a)(1)-(5).

(b) When investigating a potential situation constituting an immediate danger, the regional center shall comply with Section 56053(b)-(f).

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

### **59066. Substantial Inadequacies.**

(a) The regional center shall investigate situations that come to the attention of, or are reported to, the regional center that constitute or may constitute a substantial inadequacy immediately following the notification. Situations that shall be investigated include those described in Section 56054(a)(1)-(7) and (12)-(13).

(b) When investigating a potential substantial inadequacy, the regional center shall have the authority to make an unannounced visit(s) to the facility.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

#### **59067. Corrective Action Plan (CAP).**

(a) The regional center and the administrator shall comply with the requirements for CAPs described in Section 56056.

(b) The regional center shall forward a copy of the CAP to the Department and the Department of Social Services.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

#### **59068. Sanctions.**

The regional center shall apply sanctions to an Enhanced Behavioral Supports Home pursuant to Section 56057.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

#### **59069. Facility Appeals.**

(a) The administrator may appeal a regional center action in Sections 59065, 59066, or 59068, pursuant to Sections 56061-56065 and 56067.

(b) Implementation of regional center actions during the appeal process occurs as follows:

(1) In the case of immediate danger, the action of the regional center shall remain in effect throughout the appeal process.

(2) In the case of substantial inadequacies, corrective action shall be suspended until the appeal process is complete, except in situations specified in Section 56054(a)(1).

(c) Nothing in subdivision (b) precludes the regional center from taking immediate action if conditions in the facility deteriorate into an immediate danger because the substantial inadequacy has not been corrected.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code

## **Article 10 – Records Maintenance**

### **59070. Facility Files.**

Facilities shall maintain a facility file available on site, which may include electronic records, that includes at least the following:

- (a) Facility program plan;
- (b) Weekly staff schedules;
- (c) Personnel records including:
  - (1) Administrator current credentials, degrees, certificates
  - (2) Direct care and direct care lead staff current credentials, degrees, certificates
  - (3) Qualified behavior modification professional current credentials, degrees, certificates
  - (4) Documentation of completed staff training
  - (5) Hire and separation dates;
- (d) Emergency intervention plan as required by the Department of Social Services;
- (e) Certificate of program approval as issued by the Department;
- (f) Regional center facility liaison monitoring;
- (g) Regional center qualified behavior modification professional monitoring;
- (h) Behavior and emergency intervention *data collection and* reporting;
- (i) Findings of immediate danger;
- (j) Substantial inadequacies;
- (k) Corrective action plans;
- (l) Sanctions; and
- (m) Facility appeals.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

**59071. Consumer Files.**

Facilities shall maintain a consumer file available on site, which may include electronic records, for each consumer that includes at least the following:

- (a) Medical assessment required in Section 59056(a);
- (b) Individual behavior supports plan;
- (c) Updated individual behavior supports plan(s);
- (d) Emergency contact information;
- (e) Current IPP;
- (f) Special incident reports, pursuant to Section 54327;
- (g) Data collection, including progress notes, professional/consultant visits, and interventions/outcomes; and
- (h) Record of medications administered, including initials of staff providing assistance.

NOTE: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Section 4684.86, Welfare and Institutions Code.

**Article 11 – Rates**

**59072. Establishment of Rates.**

(a) Enhanced Behavioral Supports Home Facility Component – Service Code 900.

(1) An Enhanced Behavioral Supports Home shall complete one Department form DS 6023 (~~New Revised~~ 10/20165) entitled "~~Enhanced Behavioral Supports Home~~ Rate Development - Facility Costs" for the facility, incorporated herein.

(A) The administrator shall submit a completed Department form DS 6023 to the regional center for review and written approval as part of the initial contract execution pursuant to Section 59057.

(B) The regional center shall review the facility rate as part of the contract renewal pursuant to Section 59057, and the administrator shall submit an updated Department

form DS 6023 to the regional center for review and written approval. Any change to the facility rate shall become effective on the first day of the month following approval.

(2) The rate of payment for the Enhanced Behavioral Supports Home Facility Component may not exceed the maximum rate of reimbursement as specified below:

(A) The monthly rate of reimbursement to any Enhanced Behavioral Supports Home vendor for the facility component may not exceed the rate limit determined by the Department.

(B) The rate limit is subject to the appropriation of funds pursuant to the Budget Act of each fiscal year.

(3) Facility rate payment.

(A) The monthly facility rate is prorated by the licensed capacity of the facility. Portions not funded by a consumer placement are paid through the contract.

(B) Prior to the facility reaching licensed capacity, the facility rate is paid based on the licensed capacity of the facility, with vacancies funded through the contract. At 6 months from the initial placement in the facility, and at each subsequent 30 days, the vendor and regional center shall meet to determine if the portion of the facility rate funded through the contract due to the unfilled beds will continue.

(C) Once the facility reaches maximum capacity, the facility rate is paid based on the licensed capacity of the facility, despite temporary consumer absences or subsequent temporary vacancies, with vacancies funded through the contract. For purposes of this section, "temporary vacancy" means a vacancy of 60 days or fewer. At 60 days of temporary vacancy, and at each subsequent 30 days, the vendor and regional center shall meet to determine if the portion of the facility rate funded through the contract due to the temporary vacancy will continue.

(D) The established facility rate is prorated for a partial month of service when a consumer is discharged from the facility by dividing the established rate by 30.44, then multiplying the quotient by the number of days the consumer resided in the facility.

(b) Enhanced Behavioral Supports Home Individualized Services and Supports Component – Service Code 901.

(1) An Enhanced Behavioral Supports Home shall complete one Department form DS 6024 (~~New Revised~~ 10/20165) entitled "~~Enhanced Behavioral Supports Home~~Rate Development - Individual Costs Associated with Residency", incorporated herein, for each consumer to establish the consumer's individual rate.

(A) The administrator shall submit the completed Department form DS 6024 to the regional center for review and written approval prior to a consumer's admission to the Enhanced Behavioral Supports Home.

(B) A consumer's individual behavior supports team shall review the consumer's individualized services and supports rate within 60 days of initial placement, and at least annually thereafter, and submit an updated completed Department form DS 6024 to the regional center within 30 days, for review and written approval.

(2) The rate of payment for the Enhanced Behavioral Supports Home Individualized Services and Supports Component may not exceed the maximum rate of reimbursement as specified below:

(A) The monthly rate of reimbursement to any Enhanced Behavioral Supports Home for any consumer's individualized services and supports may not exceed the rate limit determined by the Department.

(B) The rate limit is subject to the appropriation of funds pursuant to the Budget Act of each fiscal year.

(3) Individualized services and supports rate payment:

(A) The established individualized services and supports rate may be paid by the regional center for the full month when the consumer is temporarily absent from the facility 14 days or less per month.

(B) When the consumer's temporary absence is due to the need for inpatient care in a health facility, as defined in subdivision (a), (b), or (c) of Section 1250 of the Health and Safety Code, the regional center may continue to pay the established individualized services and supports rate until the individual behavior supports team has determined that the consumer will not return to the facility. Individualized services and supports funded by a regional center during a consumer's absence from the facility must be approved by the regional center director and may only be approved in 14 day increments. The facility shall continue to provide direct supervision and special services as needed during a consumer's temporary absence to continue to receive payment of the individualized services and supports rate.

(C) The established individualized services and supports rate is prorated for a partial month of service in all other cases by dividing the established rate by 30.44, then multiplying the quotient by the number of days the consumer resided in the facility.

*(c) Administrative costs may not exceed 15% pursuant to Section 4629.7 of the Welfare and Institutions Code.*

*(de) Department Forms DS 6023 and DS 6024 are hereby incorporated by reference.*



NOTE: Authority cited: Section 4684.81 and 4684.86, Welfare and Institutions Code.  
Reference: Section 4684.81 and 4684.86, Welfare and Institutions Code.

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