

DEPARTMENT OF DEVELOPMENTAL SERVICES

Notice of Modification of the Text of Proposed Regulations Utilization of Secured Perimeters and Delayed Egress Devices 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 13, 2013.

The Department conducted a 45-day public comment period for these proposed regulations which ran from September 13, 2013, through October 28, 2013.

Summary of Modifications:

All revisions to the originally proposed text are highlighted in double strike to indicate text being deleted and highlighted in italics to indicate text being added. Only comments addressing these modifications will be considered.

56068. Definitions.

As used in this Article:

(a) "Lacks hazard awareness and impulse control" means the consumer's planning team has determined that the consumer poses a risk of harm to himself or herself or others by wandering off or running away from the residence and requires an enhancement to supervision through the use of delayed egress devices and secured perimeters without which the consumer would require placement in a more restrictive, locked residential setting, ~~including a locked mental health facility, developmental center, jail, prison, or state or county juvenile detention facility.~~

56069. Use of Secured Perimeters.

The licensee of a residential facility for no more than 15 residents licensed as an adult residential facility or group home without any resident who is a foster child under the jurisdiction of the juvenile court pursuant to Section 300, 450, 601 or 602 of the Welfare and Institutions Code, that is eligible for and serving clients eligible for federal Medicaid funding, and is utilizing delayed egress devices of the time delay type pursuant to Health and Safety Code Section 1531.1, may also utilize secured perimeters in compliance with the requirements of Health and Safety Code Section 1531.15 *in addition to state and federal statutes and regulations applicable to adult residential facilities or group homes.*

56101. Definitions.

(a) The following definitions shall apply to the regulations set forth in this subchapter:

(9) "Lacks hazard awareness and impulse control" means the consumer's planning team has determined that the consumer poses a risk of harm to himself or herself or others by wandering off or running away from the residence and requires an enhancement to supervision through the use of delayed egress devices and secured perimeters without which the consumer would require placement in a more restrictive, locked residential setting, ~~including a locked mental health facility, developmental center, jail, prison, or state or county juvenile detention facility.~~

56074. Statewide Limitation on the Number of Beds in Facilities.

(d) The initial or updated statewide limit on beds in facilities utilizing secured perimeters in combination with delayed egress devices, established pursuant to subdivision (b), shall be posted on the Department of Developmental Services Internet Web site, along with an updated list of the number of such beds that have been authorized, by regional center catchment area.

A copy of the full text of the regulation 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 Eric Gelber, Assistant Director of the Office of Legislation and Regulations at the address, fax or email listed below.

The comment period extends from January 10, 2014 through 5:00 p.m. on January 27, 2014. 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 change 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
Office of Legislation and Regulations
1600 9th Street, Room 322, MS 310
Sacramento, CA 95814
Attention: Eric Gelber, Assistant Director
Phone: (916) 654-1844 Fax: (916) 654-1913
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**CALIFORNIA CODE OF REGULATIONS
TITLE 17. DIVISION 2
CHAPTER 3. COMMUNITY SERVICES**

SUBCHAPTER 4. Residential Services and Quality Assurance

Article 12 – Secured Perimeters in Adult Residential Facilities and Group Homes

56068. Definitions.

As used in this Article:

(a) “Lacks hazard awareness and impulse control” means the consumer's planning team has determined that the consumer poses a risk of harm to himself or herself or others by wandering off or running away from the residence and requires an enhancement to supervision through the use of delayed egress devices and secured perimeters without which the consumer would require placement in a more restrictive, locked residential setting, ~~including a locked mental health facility, developmental center, jail, prison, or state or county juvenile detention facility.~~

(b) “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.

Note: Authority cited: Section 1531.15, Health and Safety Code. Reference: Section 1531.15, Health and Safety Code.

56069. Use of Secured Perimeters.

The licensee of a residential facility for no more than 15 residents licensed as an adult residential facility or group home without any resident who is a foster child under the jurisdiction of the juvenile court pursuant to Section 300, 450, 601 or 602 of the Welfare and Institutions Code, that is eligible for and serving clients eligible for federal Medicaid funding, and is utilizing delayed egress devices of the time delay type pursuant to Health and Safety Code Section 1531.1, may also utilize secured perimeters in compliance with the requirements of Health and Safety Code Section 1531.15 *in addition to state and federal statutes and regulations applicable to adult residential facilities or group homes.*

Note: Authority cited: Section 1531.15, Health and Safety Code. Reference: Section 1531.15, Health and Safety Code.

56070. Plan of Operation.

(a) In addition to the requirements of Title 22, California Code of Regulations, Section 80022, the plan of operation shall include the following information for the use of secured perimeters:

(1) Documentation provided by the regional center of the local need for the facility to utilize a secured perimeter.

(2) A component describing the following:

(A) An explanation of how interior and exterior space is to be made available on the facility premises to permit consumers to move freely and safely.

(B) Staff qualifications and staff training curricula, including participation by the local regional center and the clients' rights advocate providing advocacy services pursuant to Section 4433 of the Welfare and Institutions Code.

(C) An explanation of how the facility licensee will ensure the protection of consumers' personal rights, including those specified in Chapter 1 of Division 4.5 of the Welfare and Institutions Code, and any applicable personal rights provided in Titles 17 and 22 of the California Code of Regulations.

(D) The licensee's or applicant's plan for managing consumers' lack of hazard awareness and impulse control behavior.

(E) Procedures to inform consumers that they have the right to leave the facility and procedures to be followed if a consumer indicates a desire to leave the facility, including the use of redirection or, if the consumer indicates a continued desire to leave following redirection, procedures for staff accompaniment and supervision, and for ensuring adequate staffing for the remaining residents.

(F) Procedures to be used for conducting and documenting fire and earthquake drills at least once every 3 months that include all facility staff providing the consumer care and supervision.

(G) The facility's emergency evacuation procedure. The procedure shall include the protocol for consumers moving through and beyond the secured perimeters when needed for their safety.

(H) In the case of an existing facility with delayed egress devices seeking to add secured perimeters, a plan for relocating current facility consumers who have not been determined to meet the admissions and continued placement requirements for residential facilities utilizing secured perimeters as set forth in Section 56073 and Health and Safety Code Section 1531.15.

(b) In addition to any other required training, the licensee or applicant shall provide 16 hours of training for each direct care staff, prior to staff being left alone with clients, which shall include at least the following:

(1) The personal rights of facility residents, including rights related to utilizing secured perimeters and delayed egress devices.

(2) Behavior management techniques of consumers lacking hazard awareness and impulse control.

(3) Emergency procedures in the event of a medical emergency or facility disaster.

(c) The information required in subdivision (a) shall be submitted to the Department of Developmental Services for review and approval.

Note: Authority cited: Section 1531.15, Health and Safety Code. Reference: Section 1531.15, Health and Safety Code.

56071. General Requirements.

(a) The use of secured perimeters shall not substitute for adequate staff in sufficient numbers to meet the care and supervision needs of all consumers, including additional staffing as determined to be necessary by a consumer's regional center planning team.

(b) The licensee or applicant shall maintain one of the following documents in the consumer's individual consumer file maintained by the facility:

(1) The written consent for placement, described in paragraph (1) of subdivision (b) of Section 56073.

(2) A court order authorizing placement of the consumer in a non-state-operated facility utilizing secured perimeters.

(c) Grounds of residential facilities governed by this article may be fenced, and gates therein equipped with locks, provided safe dispersal areas are located not less than 50 feet (15240mm) from the buildings. Dispersal areas shall be sized to provide an area of not less than three square feet (0.282) per occupant. Gates shall not be installed across corridors or passageways leading to the dispersal areas unless they comply with the exit requirements of Section 1021 of the California Building Standards Code.

Note: Authority cited: Section 1531.15, Health and Safety Code. Reference: Section 1531.15, Health and Safety Code.

56072. Approvals.

(a) The Department of Developmental Services shall review the proposed component of the applicant's or licensee's facility plan of operation described in paragraph (2) of

subdivision (a) of Section 56070, as well as additional available information that the Department determines is relevant and requests on the licensee's or applicant's history, if any, of providing services and supports to consumers who lack hazard awareness or impulse control, and provide a written determination of its approval or denial to the applicant or licensee.

(b) If the Department's review and approval process exceeds 30 days of the applicant's or licensee's submission, or exceeds 30 days of the submission of any additional information requested by the Department, the Department shall notify the applicant or licensee of the reasons for the delay and the expected date of completion of the review and approval process.

(c) Upon receiving written approval from the Department of Developmental Services of the proposed secured perimeter component of the facility plan of operation, the licensee or applicant shall submit the written approval and the approved component of the licensee's or applicant's plan of operation to the Department of Social Services, Community Care Licensing Division (DSS CCLD) for approval or denial.

(d) The request for fire clearance for the use of the secured perimeter shall be made through the DSS CCLD. The DSS CCLD approval shall be contingent on a fire clearance being obtained for the specific use of the secured perimeter.

(e) The DSS CCLD shall review the licensee's or applicant's licensing history, if any, as a residential service provider licensed by the DSS CCLD and shall be authorized to require additional documentation if needed to verify the licensee's or applicant's ability to protect the health and safety of consumers.

(f) The DSS CCLD shall provide to the applicant or licensee a written determination of its approval or denial of the proposed secured perimeter component of the plan of operation.

(g) Upon written approval of the secured perimeter component of the licensee's or applicant's plan of operation by the DSS CCLD, the licensee or applicant shall submit both approvals to the local regional center along with an anticipated start date for utilization of the secured perimeter.

(h) The DSS CCLD approval is immediately terminated by operation of law upon any suspension or revocation of the fire clearance approval specific to the use of the secured perimeter, or upon the Department of Developmental Services' withdrawal of its approval of the secured perimeter component of the licensee's or applicant's plan of operation.

Note: Authority cited: Section 1531.15, Health and Safety Code. Reference: Section 1531.15, Health and Safety Code.

56073. Admission and Continued Stay Requirements.

(a) Prior to an admission to an adult residential facility or group home utilizing secured perimeters, the regional center shall conduct a comprehensive assessment and convene a planning team meeting to determine whether the consumer lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with secured perimeters and delayed egress devices. The planning team's determination shall be documented in the client record.

(b) Prior to placement in a facility utilizing secured perimeters, the regional center shall obtain either a court order authorizing the placement or written consent agreeing to the placement. These documents shall be provided to the residential service provider and maintained in the regional center's records required by Section 56060.

(1) The written consent shall be signed by:

(A) A non-conserved consumer, 18 or older, or, as appropriate, the consumer's conservator or other person with legal authority, or

(B) For a consumer under 18 years of age, by the person having the legal authority to place the consumer in the facility using secured perimeter.

(2) The written consent shall include:

(A) A description of the location and manner in which the perimeter will be secured.

(B) A statement that the facility has delayed egress devices of the time delay type and the perimeter fence is locked.

(C) A statement that consent may be withdrawn at any time.

(c) The following shall be maintained in the consumer's file at the facility required by Section 56059:

(1) The court order or written consent required under subdivision (b).

(2) Documentation of the date and time of any withdrawal of consent.

(d) If the consumer's placement is pursuant to a court order, the consumer may remain in the facility upon expiration of the order only if it is determined that he or she meets the admission and continued stay requirements of this section and consent is obtained as provided in (b)(1).

(e) The regional center shall ensure that, for all facility residents, within 30 days of admission, the planning team shall convene and document in the consumer's IPP the services and supports needed for the consumer to move from the facility to a less

restrictive community setting, and a timeline for securing those services and supports. The IPP shall include a plan to transition the consumer to a less restrictive setting. A copy of those portions of the current IPP related to the residential placement and community services and supports, including the transition plan, shall be maintained in the consumer's record at the facility.

(f) Every 90 days after admission, the planning team shall convene to determine the continued appropriateness of the current placement and the transition plan and shall document their determination.

(g) If the consumer is placed in the facility pursuant to a court order, the regional center shall provide the initial and updated planning team recommendations and transition plan to the consumer's attorney and other parties to the court proceedings.

(h) The regional center shall ensure, that in the case of a child who is at least 10 years of age but less than 14 years of age, in addition to the requirements of subdivision (a), placement may be made only if the requirements of Section 1531.15(c)(3)(B) of the Health and Safety Code are also met.

(i) The regional center shall update the comprehensive assessment required under subdivision (a) at least annually and the transition plan shall be updated, as appropriate, following each 90-day review specified in subdivision (f).

(j) Each responsible regional center shall also conduct a comprehensive assessment and convene a planning team meeting for any of its consumers residing in an adult residential facility or group home that does not utilize but intends to utilize secured perimeters to determine if the consumer meets the criteria for placement in the facility. The assessment shall be conducted and the planning team meeting shall be convened prior to the utilization of secured perimeters. Unless the consumer meets the criteria for continued placement in the facility, the planning team shall develop a transition plan for moving the consumer to an alternative living arrangement and the consumer shall be moved prior to the use of secured perimeters. The transition plan shall ensure that the consumer and responsible parties are provided with at least 30 days' notice prior to moving the consumer.

(k) In addition to the regularly scheduled reviews pursuant to subdivision (f), the licensee or any member of the planning team may, at any time, request that the regional center convene a planning team meeting pursuant to subdivision (b) of Section 4646.5 of the Welfare and Institutions Code to determine if a resident no longer meets the criteria to reside in the facility. The regional center shall then conduct an IPP review within 30 days. If the planning team determines that the placement is no longer appropriate, the team shall develop a transition plan within 30 days, including timelines, for moving the individual to an alternative living arrangement. If the placement is pursuant to a court order, the regional center shall inform the attorney for the consumer and other parties to the court proceedings of its determination and the proposed

transition plan for moving the individual to an alternative, less restrictive, living arrangement.

(l) If placement is pursuant to a court order, the consumer shall only be moved in accordance with the terms of the court order, which, if necessary, may include, but not be limited to, approval by the court or a modification of the court order prior to moving the consumer.

(m) If the individual who signed the consent form for placement pursuant to subdivision (b) informs the licensee or the regional center that he or she withdraws his or her consent to the placement, the following shall occur:

(1) Upon notification of the withdrawal of consent, the licensee shall immediately inform the regional center, or the regional center shall immediately inform the licensee, as applicable.

(2) The licensee and the regional center shall document the withdrawal of consent in the consumer's records maintained, respectively, by the facility and the regional center.

(3) The licensee shall inform the consumer, verbally and in writing, of his or her right not to be subject to the secured perimeter, in accord with procedures established pursuant to Section 56070(a)(2)(E).

(4) The regional center shall convene a planning team meeting within 10 days to discuss alternatives for meeting the consumer's needs and to develop a plan, with specified timeframes, for moving the consumer to an alternative living arrangement or taking steps to initiate court proceedings, as necessary, for purposes of effecting an appropriate placement.

(n) The regional center shall notify the clients' rights advocate for the regional center when a consumer is admitted to a facility utilizing delayed egress devices and secured perimeters and of all planning team meetings convened pursuant to this article. The clients' rights advocate shall be entitled to participate in all such planning team meetings unless the consumer objects on his or her own behalf.

Note: Authority cited: Section 1531.15, Health and Safety Code. Reference: Section 1531.15, Health and Safety Code.

56074. Statewide Limitation on the Number of Beds in Facilities.

(a) Each regional center shall provide information to the statewide specialized resource service on the adult residential facilities and group homes, including number of beds in each facility, approved for utilizing secured perimeters in its catchment area.

(b) There shall be no more than 100 beds throughout the state in adult residential facilities and group homes, as provided in Section 1531.15 of the Health and Safety Code, and intermediate care facilities, as provided in Section 1267.75 of the Health and

Safety Code, combined, utilizing secured perimeters in combination with delayed egress devices. The Department of Developmental Services may, after consulting with stakeholders, including regional centers and consumer advocates, periodically adjust the total bed limit to address unmet statewide needs.

(c) The Department of Social Services shall not have any role in monitoring or enforcing subdivisions (a) and (b).

(d) The initial or updated statewide limit on beds in facilities utilizing secured perimeters in combination with delayed egress devices, established pursuant to subdivision (b), shall be posted on the Department of Developmental Services Internet Web site, along with an updated list of the number of such beds that have been authorized, by regional center catchment area.

Note: Authority cited: Sections 1267.75 and 1531.15, Health and Safety Code.
Reference: Sections 1267.75 and 1531.15, Health and Safety Code.

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

Article 1. Definitions

56101. Definitions.

(a) The following definitions shall apply to the regulations set forth in this subchapter:

(1) "Consumer" means a person who has a disability which meets the definition of "developmental disability" as specified in Welfare and Institutions Code, Section 4512(d).

(2) "Consumer's Authorized Representative" means a person who meets any of the qualifications for an "authorized representative" as set forth in Welfare and Institutions Code Section 4701.6.

(3) "Facility Representative" means a person who is employed or designated by the ICF, ICF/DD, ICF/DD-H, ICF/DD-N or SNF to represent that facility.

(4) "Immediate Danger" means an immediate and serious threat having a high probability that serious harm or injury to the consumer's health and safety could occur at any time, or already has occurred and may occur again if the consumer(s) is not protected effectively from the harm or injury or the threat to the consumer's health and safety is not removed.

(5) "Intermediate Care Facility (ICF)" means an Intermediate Care Facility as defined in Health and Safety Code Section 1250(d).

(6) "Intermediate Care Facility/Developmentally Disabled (ICF/DD)" means an Intermediate Care Facility/Developmentally Disabled as defined in Health and Safety Code Section 1250(g).

(7) "Intermediate Care Facility/Developmentally Disabled/Habilitative (ICF/DD-H)" means an Intermediate Care Facility/Developmentally Disabled-Habilitative as defined in Health and Safety Code Section 1250(e).

(8) "Intermediate Care Facility/Developmentally Disabled/Nursing (ICF/DD-N)" means an Intermediate Care Facility/Developmentally Disabled-Nursing as defined in Health and Safety Code Section 1250(h).

(9) "Lacks hazard awareness and impulse control" means the consumer's planning team has determined that the consumer poses a risk of harm to himself or herself or others by wandering off or running away from the residence and requires an enhancement to supervision through the use of delayed egress devices and secured perimeters without which the consumer would require placement in a more restrictive, locked residential setting, ~~including a locked mental health facility, developmental center, jail, prison, or state or county juvenile detention facility.~~

(10) "Lanterman Act Individual Program Plan (IPP)" means a written plan for consumer services developed by the consumer's planning team in accordance with the provisions of Welfare and Institutions Code Sections 4646 and 4646.5.

(11) "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.

(12) "Regional Center" means a private nonprofit diagnostic, counseling and service coordination center for developmentally disabled persons and their families which is established and operated pursuant to Welfare and Institutions Code Sections 4620 through 4669.

(13) "Regional Center Representative" means a person who is employed or designated by the regional center to represent that agency.

(14) "Skilled Nursing Facility (SNF)" means a skilled facility as defined in Title 22, California Code of Regulations, Section 51121.

Note: Authority cited: Section 11152, Government Code; Section 1267.75, Health and Safety Code; and Section 4405, Welfare and Institutions Code. Reference: Sections

4502 and 4742, Welfare and Institutions Code; Sections 1250 and 1267.5, Health and Safety Code; and Chapter 282, Statutes of 1997, Item 4300-101-0001, Provision 8.

Article 3. Delayed Egress Devices and Secured Perimeters

56620. Use of Delayed Egress Devices and Secured Perimeters.

The licensee of an ICF/DD for 15 or fewer consumers, or an ICF/DD-H, intending to use delayed egress devices of the time delay type in combination with secured perimeters shall comply with the requirements of Health and Safety Code Section 1267.75 in addition to state and federal statutes and regulations applicable to ICF/DDs or ICF/DD-Hs.

Note: Authority cited: Section 1267.75, Health and Safety Code. Reference: Section 1267.75, Health and Safety Code.

56621. Plan of Operation.

(a) In addition to the requirements of Title 22, California Code of Regulations, Sections 76309, with respect to an ICF/DD, and 76857, with respect to an ICF/DD-H, the plan of operation shall include the following information for the use of secured perimeters:

(1) Documentation provided by the regional center responsible for the geographic area in which the facility is located of the local need for the proposed facility with delayed egress devices and a secured perimeter.

(2) A component describing the following:

(A) An explanation of how interior and exterior space is to be made available on the facility premises to permit consumers to move freely and safely.

(B) Staff qualifications and staff training curricula, including participation by the local regional center and regional center clients' rights advocate providing advocacy services pursuant to section 4433 of the Welfare and Institutions Code.

(C) An explanation of how the applicant or licensee will ensure the protection of consumers' personal rights, including those specified in Chapter 1, Division 4.5 of the Welfare and Institutions Code, and any applicable personal rights provided in Titles 17 and 22 of the California Code of Regulations.

(D) The applicant's or licensee's plan for managing consumers' lack of hazard awareness and impulse control behavior.

(E) Procedures to inform consumers that they have the right to leave the facility and procedures to be followed if a consumer indicates a desire to leave the facility, including the use of redirection or, if the consumer indicates a continued desire to leave following

redirection, procedures for staff accompaniment and supervision, including procedures for ensuring sufficient staffing for the remaining residents.

(F) Procedures to be used for conducting and documenting fire and earthquake drills on each shift at least once every 2 months that include all facility staff providing consumer care and supervision.

(G) The facility's emergency evacuation procedure. The procedure shall include the protocol for consumers moving through and beyond the secured perimeters when needed for their safety.

(H) In the case of an existing facility seeking to add delayed egress devices and secured perimeters, a plan for relocating current facility residents who have not been determined to meet the admissions and continued placement requirements for an ICF/DD or ICF/DD-H utilizing delayed egress devices in combination with secured perimeters as set forth in Section 56622 and Health and Safety Code Section 1267.75.

(b) In addition to any other required training, the licensee shall provide 16 hours of training for each direct care staff, prior to the staff being left alone with clients, which shall include at least the following:

(1) The personal rights of consumers in ICF/DDs and ICF/DDHs, including rights related to the use of secured perimeters and delayed egress devices.

(2) Behavior management techniques of consumers lacking hazard awareness and impulse control.

(3) Emergency procedures in the event of a medical emergency or facility disaster.

(c) The information required in subdivision (a) shall be submitted to the Department of Developmental Services for review and approval.

Note: Authority cited: Section 1267.75, Health and Safety Code. Reference: Section 1267.75, Health and Safety Code.

56622. General Requirements.

(a) The use of delayed egress devices and secured perimeters shall not substitute for adequate staff in sufficient numbers to meet the care and supervision needs of all consumers, including additional staffing as determined to be necessary by a consumer's planning team.

(b) The licensee shall maintain one of the following documents in the consumer's individual consumer file maintained by the facility:

(1) The written consent for placement described in paragraph (1) of subdivision (b) of section 56624.

(2) A court order authorizing placement of the consumer in a non-state-operated facility utilizing secured perimeters.

(c) Grounds of residential facilities governed by this article may be fenced, and gates therein equipped with locks, provided safe dispersal areas are located not less than 50 feet (15240mm) from the buildings. Dispersal areas shall be sized to provide an area of not less than three square feet (0.282) per occupant. Gates shall not be installed across corridors or passageways leading to the dispersal areas unless they comply with the exit requirements of Section 1021 of the California Building Standards Code.

Note: Authority cited: Section 1267.75, Health and Safety Code. Reference: Section 1267.75, Health and Safety Code.

56623. Approvals.

(a) The Department of Developmental Services shall review the proposed delayed egress and secured perimeter component of the applicant's or licensee's facility plan of operation described in paragraph (2) of subdivision (b) of Section 56621, as well as available information, that the Department determines is relevant and requests on the licensee's or applicant's history, if any, of providing services and supports to consumers who lack hazard awareness or impulse control, and provide a written determination of its approval or denial.

(b) If the Department's review and approval process exceeds 30 days of the applicant's or licensee's submission, or exceeds 30 days of the submission of any additional information requested by the Department, the Department shall notify the applicant or licensee of the reasons for the delay and the expected date of completion of the review and approval process.

(c) Upon receiving written approval from the Department of Developmental Services of the proposed delayed egress devices and secured perimeter component of the facility plan of operation, the licensee or applicant shall submit the written approval and the approved component of the plan of operation to the Licensing and Certification Division of the Department of Public Health (DPH LCD) for approval or denial.

(d) The request for fire clearance for the use of the delayed egress devices and secured perimeter shall be made through DPH LCD. The DPH LCD approval shall be contingent on a fire clearance being obtained for the specific use of the delayed egress devices and secured perimeters.

(e) The DPH LCD shall review the licensee's or applicant's licensing history, if any, as a residential service provider licensed by the DPH LCD and shall be authorized to require additional documentation if needed to verify the licensee's or applicant's ability to protect the health and safety of consumers.

(f) The DPH LCD shall provide a written determination of its approval or denial of the proposed secured perimeter component of the plan of operation.

(g) Upon approval of the delayed egress devices and secured perimeter component of the applicant's or licensee's plan of operation by the DPH LCD, the applicant or licensee shall submit both approvals to the local regional center along with the anticipated start date for utilization of delayed egress devices and secured perimeter.

(h) The DPH LCD approval is immediately terminated by operation of law upon any suspension or revocation of the fire clearance approval specific to the use of the secured perimeter, or upon the Department of Developmental Services' withdrawal of its approval of the secured perimeter component of the licensee's or applicant's plan of operation.

Note: Authority cited: Section 1267.75, Health and Safety Code. Reference: Section 1267.75, Health and Safety Code.

56624. Admission and Continued Stay Requirements.

(a) Prior to moving a consumer to an ICF/DD or ICF/DD-H utilizing secured perimeters, the regional center shall conduct a comprehensive assessment and convene a planning team meeting to determine whether the consumer lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with secured perimeters and delayed egress devices. The planning team's determination shall be documented in the client record.

(b) Prior to placement in a facility utilizing secured perimeters and delayed egress devices, the regional center shall obtain either a court order authorizing the placement or written consent agreeing to the placement. These documents shall be provided to the residential service provider and maintained in the regional center's records required by Section 56060.

(1) The written consent shall be signed by:

(A) A non-conserved consumer, 18 or older, or, as appropriate, the consumer's conservator or other person with legal authority, or

(B) For a consumer under 18 years of age, by the person having the legal authority to place the consumer in the facility using secured perimeter.

(2) The written consent shall include:

(A) A description of the location and manner in which the perimeter will be secured.

(B) A statement that the facility has delayed egress devices of the time delay type and the perimeter fence is locked.

(C) A statement that consent may be withdrawn at any time.

(c) The following shall be maintained in the consumer's file at the facility:

(1) The court order or written consent required under subdivision (b).

(2) Documentation of the date and time of any withdrawal of consent.

(d) If the consumer's placement is pursuant to a court order, the consumer may remain in the facility upon expiration of the order only if it is determined that he or she meets the admission and continued stay requirements of this section and consent is obtained as provided in (b)(1).

(e) The regional center shall ensure that, for all facility residents, within 30 days of admission, the planning team shall convene and document in the consumer's IPP the services and supports needed for the consumer to live in a less restrictive community setting, and a timeline for securing those services and supports. The IPP shall include a plan to transition the consumer to a less restrictive setting. A copy of those portions of the current IPP related to the residential placement and community services and supports, including the transition plan, shall be kept in the consumer's record at the facility.

(f) Every 90 days after admission, the planning team shall convene to determine the continued appropriateness of the current placement and the transition plan and shall document their determination.

(g) If the consumer is placed in the facility pursuant to a court order, the regional center shall also provide the current planning team recommendations and transition plan to the consumer's attorney and other parties to the court proceedings.

(h) The regional center shall ensure that, in the case of a child who is at least 10 years of age but less than 14 years of age, in addition to the requirements of subdivision (a), placement may be made only if the requirements of Section 1267.75(c)(3)(B) of the Health and Safety Code are also met.

(i) The regional center shall update the comprehensive assessment required under subdivision (a) at least annually and the transition plan shall be updated, as appropriate, following each 90-day review specified in subdivision (f).

(j) Each responsible regional center shall conduct a comprehensive assessment and convene a planning team meeting for any of its consumers residing in an ICF/DD or ICF/DDH intending to utilize delayed egress devices and secured perimeters to determine if the consumer meets the criteria for placement in the facility. The assessment shall be conducted and the planning team meeting shall be convened prior to the utilization of the delayed egress devices and secured perimeters. Unless the

consumer meets the criteria for continued placement in the facility, the planning team shall develop a transition plan for moving the consumer to an alternative living arrangement prior to the use of delayed egress devices and secured perimeters. The transition plan shall ensure that the consumer and responsible parties are provided with at least 30 days' notice prior to moving the consumer.

(k) In addition to the regularly scheduled reviews pursuant to subdivision (f), the licensee or any member of the planning team may, at any time, request that the regional center convene a planning team meeting pursuant to subdivision (b) of Section 4646.5 of the Welfare and Institutions Code to determine if a resident no longer meets the criteria to reside in the facility. The regional center shall then conduct an IPP review within 30 days. If the planning team determines that the placement is no longer appropriate, the team shall develop a transition plan within 30 days, including timelines, for moving the individual to an alternative living arrangement. If the placement is pursuant to a court order, the regional center shall inform the attorney for the consumer and other parties to the court proceedings of its determination and the proposed transition plan for moving the individual to an alternative, less restrictive, living arrangement.

(l) If placement is pursuant to a court order, the consumer shall only be moved in accordance with the terms of the court order, which, if necessary, may include, but not be limited to, approval by the court or a modification of the court order prior to moving the consumer.

(m) If the individual who signed the consent form for placement pursuant to subdivision (b) informs the licensee that he or she withdraws his or her consent to the placement, the following shall occur:

(1) Upon notification of the withdrawal of consent, the licensee shall immediately inform the regional center, or the regional center shall immediately inform the licensee, as applicable.

(2) The licensee and the regional center shall document the withdrawal of consent in the consumer's records maintained, respectively, by the facility and the regional center.

(3) The licensee shall inform the consumer, verbally and in writing, of his or her right not to be subject to the secured perimeter, in accord with procedures established pursuant to Section 56621(a)(2)(E).

(4) The regional center shall convene a planning team meeting within 10 days to discuss alternatives for meeting the consumer's needs and to develop a plan, with specified timeframes, for moving the consumer to an alternative living arrangement or taking steps to initiate court proceedings, as necessary, for purposes of effecting an appropriate placement.

(n) The regional center shall notify the clients' rights advocate for the regional center when a consumer is admitted to a facility utilizing delayed egress devices and secured perimeters and of all planning team meetings convened pursuant to this article. The clients' rights advocate shall be entitled to participate in all such planning team meetings unless the consumer objects on his or her own behalf.

Note: Authority cited: Section 1267.75, Health and Safety Code. Reference: Section 1267.75, Health and Safety Code.

56625. Statewide Limitation on the Number of Beds in Facilities.

(a) Each regional center shall provide information to the statewide specialized resource service on the ICF/DDs and ICF/DD/-Hs, including number of beds in each facility, approved for utilizing secured perimeters in its catchment area.

(b) There shall be no more than 100 total beds throughout the state in intermediate care facilities, as provided in Section 1267.75 of the Health and Safety Code, and adult residential facilities and group homes, as provided in Section 1531.15 of the Health and Safety Code, combined, utilizing secured perimeters in combination with delayed egress devices. The Department of Developmental Services may, after consulting with stakeholders, including regional centers and consumer advocates, periodically adjust the total bed limit to address unmet statewide needs.

(c) The Department of Public Health shall not have any role in monitoring or enforcing subdivisions (a) and (b).

(d) The initial or updated statewide limit on beds in facilities utilizing secured perimeters in combination with delayed egress devices, established pursuant to subdivision (b), shall be posted on the Department of Developmental Services Internet Web site, along with an updated list of the number of such beds that have been authorized, by regional center catchment area.

Note: Authority cited: Sections 1267.75 and 1531.15, Health and Safety Code. Reference: Sections 1267.75 and 1531.15, Health and Safety Code.