

## **INITIAL STATEMENT OF REASONS**

(Government Code § 11346.2(b))

California Code of Regulations  
Title 17, Division 2, Chapter 3, Subchapters 4 and 4.2

### **DESCRIPTION OF THE PROBLEM ADDRESSED**

Pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act), Welfare & Institutions (W&I) Code section 4500 *et seq.*, people with developmental disabilities, as defined in W&I Code section 4512(a), receive, as an entitlement, services and supports based on their individual needs and choices. The Department of Developmental Services (Department) is responsible for administering the Lanterman Act.

Under the Lanterman Act, California provides community-based services to more than 260,000 children and adults with developmental disabilities and their families through a statewide system of 21 regional centers. Regional centers are private, nonprofit agencies under contract with the Department for the adoption of services and supports to people with developmental disabilities. As a single point of entry, regional centers provide diagnostic and assessment services to determine eligibility; convene person-centered planning teams to develop an Individual Program Plan (IPP) for each eligible consumer; and either purchase or obtain from generic agencies appropriate services and supports for each consumer in accordance with his or her IPP. In addition, the Department administers four state developmental centers and one community-based state-operated facility serving approximately 1,465 individuals.

The California Supreme Court has noted that the purpose of the Lanterman Act is twofold: to prevent or minimize the institutionalization of people with developmental disabilities and their dislocation from family and community, and to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community. *Association for Retarded Citizens – California v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388. In enacting the Lanterman Act, the Legislature declared that the State accepts responsibility for persons with developmental disabilities and an obligation to them which it must discharge. In furtherance of this purpose, “[a]n array of services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each stage of life and to support their integration into the mainstream life of the community.” W&I Code § 4501.

The vast majority of people with developmental disabilities live and receive services and supports in the community; however, many still reside in restrictive institutional settings, including state developmental centers and locked mental

health facilities. Others receive services in out-of-state placements. These include individuals who are difficult to serve in the community due to behaviors that are difficult to manage. Some, as a result of their lack of hazard awareness and impulse control, would pose a risk of harm to themselves or others without residential options affording a degree of security not previously available in the community outside of locked institutional settings.

Assembly Bill (AB) 1472, Chapter 25, Statutes of 2012, the 2012-13 Budget trailer bill related to developmental services, included a number of actions intended to reduce reliance on institutional living arrangements for, and out-of-state placements of people with developmental disabilities who receive services and supports pursuant to the Lanterman Act but are difficult to serve in the community with available resources and living options. Among the provisions enacted by AB 1472 were sections 1267.75 and 1531.15 of the Health and Safety (H&S) Code. H&S Code section 1267.75 authorizes specified intermediate care facilities for people with developmental disabilities to install and utilize delayed egress devices of the time delay type in combination with secured perimeters under prescribed conditions. H&S Code section 1531.15 authorizes specified residential community care facilities that are utilizing delayed egress devices to install and utilize secured perimeters under similar prescribed conditions.

As required by AB 1472, H&S Code sections 1267.75(k) and 1531.15(k), the Department has promulgated emergency regulations, at Title 17 California Code of Regulations (CCR), Division 2, Chapter 3, Subchapters 4 and 4.2 (effective June 13, 2013), establishing program standards for homes that include secured perimeters and delayed egress devices, including requirements and timelines for the completion and updating of a comprehensive assessment of each consumer's needs, including the identification through the IPP process of the services and supports needed to transition the consumer to a less restrictive living arrangement, and a timeline for identifying or developing those services and supports. The emergency regulations, as required by AB 1472, also establish a statewide limit on the total number of beds in homes utilizing both delayed egress devices and secured perimeters. As required by statute, the emergency regulations were developed in consultation with stakeholders, including the State Department of Social Services, the State Department of Public Health, consumer advocates, and regional centers.

The Department is now undertaking the regular rulemaking process to make the emergency regulations permanent.

## **SPECIFIC PURPOSE AND RATIONALE FOR NECESSITY**

### **Subchapter 4**

#### **§ 56068. Definitions.**

## **§ 56068(a)**

### Specific Purpose

To be admitted to or reside in an adult residential facility or group home with delayed egress devices utilizing secured perimeters, an interdisciplinary team, through the IPP process, must determine the person “lacks hazard awareness or impulse control and, for his or her safety and security, requires the level of supervision afforded by a facility equipped with secured perimeters, and, but for this placement the person would be at risk of admission to, or would have no option but to remain in, a more restrictive placement.” This provision provides clarity to this criterion by defining what is meant by “lacks hazard awareness or impulse control.”

### Rationale for Necessity

The adoption of this definition is necessary to give direction to the interdisciplinary team in determining whether the individual lacks hazard awareness or impulse control in the context of and consistent with the purpose of the statute by clarifying the meaning of this admission criterion.

## **§ 56068(b)**

### Specific Purpose

This provision clarifies that the term “planning team” as used in the regulations refers to the planning team, as defined in the Lanterman Act.

### Rationale for Necessity

The adoption is necessary for clarity.

## **§ 56069. Use of Secured Perimeters**

### Specific Purpose

This provision describes the licensed residential facilities utilizing delayed egress device of the time delay type that may also utilize secured perimeters.

### Rationale for Necessity

This adoption is necessary for clarity by concisely identifying the types of licensed residential facilities that may utilize secured perimeters.

## **§ 56070. Plan of Operation.**

## **§ 56070(a), (a)(1)**

### Specific Purpose

Subdivision (a) requires that the facility plan of operation that is required by 22 CCR § 80022 include additional information. Paragraph (a)(1) requires that the information include documentation from the local regional center of the local need for the facility to utilize a secured perimeter.

### Rationale for Necessity

The plan of operation informs the licensing agency as to how the licensee plans to operate the facility in conformance with applicable statutes and regulations. Because there is a statewide limit on the total number of beds in licensed homes with both secured perimeters and delayed egress devices, it is necessary to confirm the local need for such a facility.

## **§ 56070(a)(2)(A)**

### Specific Purpose

Section 56070(a)(2) describes the requirements for a component of the plan of operation related to the use of secured perimeters in licensed homes that utilize delayed egress devices. Paragraph (a)(2)(A) requires the licensee to indicate how interior and exterior space is to be used to permit consumers to move freely and safely.

### Rationale for Necessity

This adoption is necessary to ensure that, despite the proposed addition of a secured perimeter to the property, consumers in homes currently utilizing delayed egress devices will otherwise be able move about the premises freely and safely.

## **§ 56070(a)(2)(B)**

### Specific Purpose

This provision requires the licensee to describe staff qualifications and staff training curricula, including participation by the local regional center and the clients' rights advocate.

### Rationale for Necessity

This adoption is necessary to ensure staff has the appropriate training and experience to supervise the consumers living in the home and ensure that the local regional center and regional center clients' rights advocate participate in staff training.

**§ 56070(a)(2)(C)**

Specific Purpose

This provision requires the licensee or applicant to explain how the licensee will protect consumers' personal rights.

Rationale for Necessity

This adoption is necessary to ensure there is no violation of a consumer's rights while living in the facility and to identify statutory and regulatory sources of the rights specified in the Lanterman Act and its implementing regulations, and state licensing regulations.

**§ 56070(a)(2)(D)**

Specific Purpose

This provision requires the licensee or applicant to describe how they will manage a consumer's lack of hazard awareness and impulse control behavior.

Rationale for Necessity

This adoption is necessary to ensure the licensee or applicant has a plan and is prepared to respond in instances in which a consumer may pose a danger to himself, herself or others.

**§ 56070(a)(2)(E)**

Specific Purpose

This provision requires the licensee to inform consumers they have a right to leave the facility and requires the licensee to describe how supervision of the consumer will be maintained while the consumer is out of the facility and continued supervision for consumers that remain in the facility.

Rationale for Necessity

This adoption is necessary to ensure supervision of the consumer while not infringing on the consumer's right to leave the facility in a safe manner.

#### **§ 56070(a)(2)(F)**

##### Specific Purpose

This provision requires the inclusion of procedures to be used for conducting and documenting fire and earthquake drills at least every three months that includes all facility staff.

##### Rationale for Necessity

This adoption is necessary to ensure that all staff are trained so that a safe and smooth exiting of the consumers occurs in the event of a fire or earthquake. Documentation is necessary so that audits/inspections indicate the drills have taken place.

#### **§ 56070(a)(2)(G)**

##### Specific Purpose

This provision requires the plan of operation to include emergency evacuation procedures.

##### Rationale for Necessity

This adoption is necessary to ensure a safe and smooth exiting of consumers through and beyond secured perimeters.

#### **§ 56070(a)(2)(H)**

##### Specific Purpose

This provision requires that a licensee intending to add a secured perimeter to a home utilizing delayed egress devices include a plan to relocate consumers currently living in the facility who do not meet the criteria for continued residence in a facility with secured perimeters.

##### Rationale for Necessity

This adoption is necessary to ensure that only individuals who meet the criteria for admissions and continued stay in a facility utilizing secured perimeters reside in the facility and that the licensee have a plan for the safe and orderly relocation of consumers who do not meet those criteria.

#### **§ 56070(b)**

##### Specific Purpose

This provision requires the licensee/applicant to provide 16 hours of direct care staff training and require the training to include the personal rights of consumers while secured perimeters and delayed egress are being used, behavior management techniques of consumers who lack hazard awareness and impulse control and procedures to follow in case of a medical emergency or facility disaster.

#### Rationale for Necessity

This adoption is necessary to ensure staff are trained to provide care and supervision to consumers living in a facility utilizing secured perimeters and delayed egress. Based on experience with other training requirements for residential providers, the Department believes 16 hours is sufficient time to cover the required subjects.

#### **§ 56070(c)**

#### Specific Purpose

This provision requires the secured perimeter component of the plan of operation be submitted to the Department for review and approval.

#### Rationale for Necessity

This adoption is necessary to enable the Department to confirm that the licensee or applicant intends to utilize secured perimeters in a facility that uses delayed egress devices and has developed an appropriate plan to ensure that the secured perimeters are being used in a manner that ensures consumers' safety while also protecting consumers' rights.

#### **56071. General Requirements.**

#### **§ 56071(a)**

#### Specific Purpose

This provision prohibits the use of secured perimeters as a substitute for direct care staff supervision.

#### Rationale for Necessity

Current regulations require minimum staffing standards and this adoption is necessary to clarify that adequate staffing must be maintained despite the utilization of secured perimeters.

## **§ 56071(b)**

### Specific Purpose

This provision requires the licensee or applicant to include the written consent to placement or court order authorizing placement in the consumer's record.

### Rationale for Necessity

This adoption is necessary to ensure documentation of proper resident placement.

## **§ 56071(c)**

### Specific Purpose

This provision states specific requirements for secured perimeters, including the size of the dispersal areas, and prohibits gates not in compliance with section 1021 of the California Building Standards Code.

### Rationale for Necessity

This adoption is necessary to inform licensees of the requirements and specifications for the secured perimeters and gates that may be used. The proposed requirements are the same as those specified in existing statute for other residential community care facilities with delayed egress devices that are similarly authorized to use secured perimeters. (H&S Code § 1569.699(b).) The Department has determined that these requirements are also appropriate for the licensed community care facilities subject to the proposed regulations.

## **§ 56072. Approvals.**

### **§ 56072(a)**

#### Specific Purpose

This provision requires the Department to review the licensee/applicant's secured perimeter component of the facility's plan of operation and any other information the Department determines necessary in order to approve or deny. It also requires the Department to issue a written determination of its approval or denial.

#### Rationale for Necessity

This adoption is necessary to clarify that the Department will determine if the proposed component of the facility plan of operation pertaining to the use of a



secured perimeter is appropriate and complies with statutory and regulatory requirements. Providing a written determination ensures the licensee/applicant has documentation of the Department's decision.

#### **§ 56072(b)**

##### Specific Purpose

Should the Department's review exceed 30 days, this provision requires the Department to notify the applicant/licensee of the delay and of the expected date of completion of the review.

##### Rationale for Necessity

The Department has determined that its review of the required secured perimeter component of a licensee/applicant's plan of operation should typically not exceed 30 days. This adoption is necessary to inform the applicant/licensee of any delays in reviewing the required component of the plan of operation and provide an explanation of the reason for the delay.

#### **§ 56072(c)**

##### Specific Purpose

This provision requires the licensee/applicant to submit the Department-approved secured perimeter component to the Community Care Licensing Division (CCLD) of the Department of Social Services (DSS) and requires DSS' approval or denial.

##### Rationale for Necessity

CCLD is responsible for the licensing and oversight of community care facilities including, including the adult residential facilities and group homes having delayed egress devices authorized to utilize secured perimeters pursuant to H&S Code section 1531.15. It is necessary for CCLD to also review the secured perimeter component of the plan of operations in order to determine if it complies with licensing regulations pertaining to standards of facility fitness to provide care and supervision for the residents.

#### **§ 56072(d)**

##### Specific Purpose

This provision specifies that the fire clearance for the use of secured perimeters must be obtained through CCLD.

#### Rationale for Necessity

While CCLD's regulations, at 22 CCR section 80020, require that all facilities secure and maintain a fire clearance, CCLD's regulations do not address secured perimeter requirements. Therefore, it is necessary for these secured perimeter regulations to address the necessity of obtaining a fire clearance and to require that it be obtained through CCLD.

#### **§ 56072(e)**

##### Specific Purpose

This provision requires CCLD to review the licensee/applicant's licensing history, if any, as a residential service provider to verify the licensee/applicant's appropriateness to provide the level of care necessary when utilizing secured perimeters and requires CCLD denial or approval.

##### Rationale for Necessity

This adoption is necessary as an additional safeguard to ensure that a licensee/applicant seeking to use secured perimeters is qualified to protect the health and safety of consumers requiring the use of secured perimeters.

#### **§ 56072(f)**

##### Specific Purpose

This provision requires CCLD to provide to the applicant/licensee a written determination of the approval or denial of the secured perimeter component of the plan of operation.

##### Rationale for Necessity

This adoption is necessary to ensure the applicant/licensee has documentation of CCLD's decision.

#### **§ 56072(g)**

##### Specific Purpose

Once both the Department and CCLD approval is obtained, this provision requires the licensee/applicant to provide the approvals to the regional center along with an anticipated start date for utilization of the secured perimeter.

##### Rationale for Necessity

This adoption is necessary to ensure the regional center is informed of the Department and CCLD approval for the use of secured perimeters. Notice to the regional center of an anticipated start date allows the regional center to identify consumers in need of a community placement who meet the admissions criteria for placement in the home.

#### **§ 56072(h)**

##### Specific Purpose

This provision authorizes CCLD to immediately terminate the approved use of secured perimeters when the approved fire clearance pertaining to secured perimeters is withdrawn, and requires CCLD to immediately terminate its approved use of secured perimeters should the Department withdraw its secured perimeter approval.

##### Rationale for Necessity

This adoption is necessary to ensure that a facility does not continue to utilize secured perimeters without the proper clearances or approvals.

#### **§ 56073. Admission and Continued Stay Requirements.**

##### **§ 56073(a)**

##### Specific Purpose

This provision requires the regional center to convene an assessment team to determine if the consumer lacks hazard awareness or impulse control and if the consumer requires the level of care that's provided by a secured facility. This provision also requires documentation of the decision in the consumer's file.

##### Rationale for Necessity

This adoption is necessary in order to ensure that there has been a determination that the consumer meets the requirements for admission to a home with delayed egress devices and a secured perimeter, and that this determination is documented in the consumer's record at the facility.

##### **§ 56073(b), (b)(1)**

##### Specific Purpose

Subdivision (b) requires signed written consents or court documentation affirming the placement in a facility utilizing secured perimeters. Paragraph (b)(1) specifies

who may consent to placement for consumers 18 years of age or older, and for consumers under 18 years of age.

#### Rationale for Necessity

This adoption is necessary to ensure that authorization for placement is obtained from the consumer or an individual with legal authority to consent to the placement—in the form of authorized written consent—or in a court order, and that the written consent or court order is provided to the residential service provider and maintained in the consumer’s regional center record.

#### **§ 56073(b)(2)**

##### Specific Purpose

This provision requires the written consent include a description and manner in which the perimeter will be secured, a statement that the facility has delayed egress devices of the time delay type and the perimeter fence is locked, and a statement that consent to admission may be withdrawn at any time.

#### Rationale for Necessity

This adoption is necessary to ensure that, in the case of an admission that is not court-ordered, consent to admission is informed.

#### **§ 56073(c)**

##### Specific Purpose

This provision requires the court order or the written consent and the documentation of the date and time of any withdrawal of consent be maintained in the consumer’s facility file.

#### Rationale for Necessity

This adoption is necessary to ensure that documentation of the authority for the placement, or withdrawal of consent, is placed in the consumer’s file at the facility that is readily accessible to facility staff or licensing personnel.

#### **§ 56073(d)**

##### Specific Purpose

This provision specifies that when a court-ordered placement expires, the consumer can remain in the facility if the consumer is determined eligible to remain and the consumer or other authorized individual gives consent.

### Rationale for Necessity

This adoption is necessary to ensure that the consumer can remain in the living arrangement after the expiration of the court ordered placement if the consumer meets the criteria for the placement and authorized consent is obtained.

### **§ 56073(e)**

#### Specific Purpose

This provision requires the regional center to convene the planning team for purposes of documenting in the consumer's IPP the needed services and supports that will enable the consumer can move from the facility to a less restrictive community setting and a timeline for securing those services and supports. A copy of this documentation is required to be maintained in the consumer's record at the facility.

### Rationale for Necessity

The adoption is necessary to ensure that, from the time of admission, steps are being taken to move consumers out of homes with secured perimeters and into less restrictive community living arrangements in a timely manner, consistent with the intent of H&S Code section 1531.15—particularly for consumers at least 10 years of age but less than 14 years of age—and the Lanterman Act. The Department has determined that 30 days after admission is a reasonable period of time to convene an initial IPP meeting for purposes of identifying the services and supports that would enable the consumer to move from the facility, and a plan to transition the consumer to an alternative residential setting.

### **§ 56073(f)**

#### Specific Purpose

This section requires the planning team to meet quarterly (every 90 days) and to continually monitor and document the continued appropriateness of the consumer's placement.

### Rationale for Necessity

The planning team is responsible for developing and updating a consumer's IPP. This adoption is necessary to help ensure that consumers reside in facilities with secured perimeters for only as long as necessary to meet their needs. The Department has determined that requiring that planning teams convene on a quarterly basis to review the current placement and the transition plan is

reasonable to protect the consumer's right to receive services and supports in the least restrictive environment.

#### **§ 56073(g)**

##### Specific Purpose

This provision requires the regional center to transmit to the consumer's attorney and any other parties to the court proceedings the planning team recommendations and transition plan.

##### Rationale for Necessity

This adoption is necessary to protect consumers' rights to receive services and supports in the least restrictive setting by informing the parties to court proceedings that resulted in the consumer's admission to a secured perimeter facility with current information on recommendations for, and the plan for obtaining, services and supports that would enable the consumer to live in a less restrictive living arrangement.

#### **§ 56073(h)**

##### Specific Purpose

This provision requires that placements of consumers age 10 to 14 comply with the requirements of Health and Safety Code section 1531.15(c)(3)(B).

##### Rationale for Necessity

This adoption is necessary for clarity to ensure the placement of 10 to 14-year-olds is appropriate and that the requirements of the referenced code provision are met.

#### **§ 56073(i)**

##### Specific Purpose

This provision requires periodic updating to the comprehensive assessment and the transition plan.

##### Rationale for Necessity

This adoption ensures documentation and regular monitoring of the appropriateness of each consumer's placement and the plan for transitioning the consumer to a less restrictive living arrangement. The Department has determined that updating the transition plan following each 90-day review and

updating the required comprehensive assessment on an annual basis is reasonable to protect consumers' rights under H&S Code section 1531.15 and the Lanterman Act.

#### **§ 56073(j)**

##### Specific Purpose

This provision requires that a regional center complete a comprehensive assessment and convene a planning team meeting for any of its consumers residing in a licensed facility that intends to utilize secured perimeters to determine whether the consumer meets the criteria for placement in a facility utilizing secured perimeters. Consumers not meeting those criteria must be provided with adequate notice and transitioned to an alternative placement prior to the use of secured perimeters.

##### Rationale for Necessity

This adoption is necessary to protect the rights of residents residing in a facility that intends to utilize secured perimeters by ensuring that the residents either meet the criteria for continued placement in such a facility or are transitioned to alternative, appropriate living arrangements before the secured perimeters may be utilized.

#### **§ 56073(k)**

##### Specific Purpose

This provision requires the regional center to convene the planning team at the request of the licensee or any planning team member to determine whether the resident no longer meets the criteria to reside in the facility, and prescribes the timeline for convening the IPP review and, if it is determined the placement is no longer appropriate, for developing a transition plan, including a timeline, for moving the individual to an alternative living arrangement. If the placement is pursuant to a court order, the regional center must notify the parties of its determination and the proposed transition plan.

##### Rationale for Necessity

This adoption is necessary to protect consumers' rights to live in the least restrictive environment and remain in a facility with a secured perimeter for only such time as the consumer meets the requirements for continued placement. This section enables the licensee or any planning team member to request an IPP review, as provided for in the Lanterman Act, and establishes timelines for conducting the review and, if appropriate, developing a transition plan to move the consumer to a less restrictive living arrangement or to notify the parties to

any applicable court proceedings of the planning team's determination that the placement is no longer appropriate. The timeline for convening the planning team is consistent with the Lanterman Act (W&I Code section 4646.5(b)). The Department has determined that the 30-day timeline for developing a transition plan if it is determined that the consumer no longer meets the requirements for continued placement is reasonable.

#### **§ 56073(l)**

##### Specific Purpose

This provision specifies that, if the individual is placed in the facility pursuant to a court order, relocation of the consumer must be in accordance with the court order or by court approval or modification of the court order.

##### Rationale for Necessity

This adoption is necessary to ensure compliance with any applicable court placement order.

#### **§ 56073(m)**

##### Specific Purpose

This provision establishes the process to be followed when consent to the placement is withdrawn, including requirements for convening a planning team meeting, developing a transition plan, taking steps to initiate court proceedings, as necessary, and notifying the clients' rights advocate for the regional center.

##### Rationale for Necessity

This adoption is necessary to ensure the protection of a consumer's right to move to an alternative living arrangement if consent to placement in the facility utilizing a secured perimeter is withdrawn, unless there is a court order authorizing the placement. The Department has determined that the 10-day timeline to convene a planning team meeting following withdrawal of consent is reasonable and necessary to ensure timely action to find an alternative living arrangement once consent has been withdrawn or, alternatively, to take steps to initiate court proceedings, as appropriate, to maintain the consumer's placement if a less restrictive alternative cannot be provided.

#### **§ 56073(n)**

##### Specific Purpose



This provision requires the clients' rights advocate for the regional center be notified of admissions to a facility utilizing secured perimeters and be authorized to participate in all planning team meetings concerning the placement unless the consumer objects on his or her own behalf.

#### Rationale for Necessity

This adoption is necessary to ensure protection of consumers' rights when admitted to a facility utilizing a secured perimeter.

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

#### **§ 56074(a)**

##### Specific Purpose

This provision requires the regional centers to report to the statewide specialized resource service (SSRS) on the number of beds in adult residential facilities and group homes that are approved for availability in homes utilizing secured perimeters.

##### Rationale for Necessity

AB 1472, at W&I Code section 4418.25(b), directed the Department to develop a database—the SSRS—to track the availability of specialized resources, coordinate the need for specialty services and supports, and identify developmental services that can be made available to consumers residing in the community when no other community resource has been identified. H&S Code section 1531.15 requires that the regulations adopted to implement that section establish a statewide limit on the total number of beds in homes with secured perimeters. This adoption is necessary to provide a means by which the Department can track and enforce the statewide bed limit.

#### **§ 56074(b)**

##### Specific Purpose

This provision limits the number of beds available in facilities utilizing secured perimeters, including both those authorized under H&S Code section 1531.15 and H&S Code section 1267.75, to 100 statewide and authorizes the Department, in consultation with stakeholders, to adjust the limit as needed to address unmet statewide needs.

##### Rationale for Necessity

This adoption is necessary to meet the requirements of the provisions of AB 1472—which authorized the use of secured perimeters in combination with delayed egress devices in specified community residential care facilities and intermediate care facilities—that the Department establish a statewide limit on the number of beds in these facilities. The Department consulted with stakeholders, including regional centers, to determine that the unmet need for residential facilities having both delayed egress devices and secured perimeters would currently not likely exceed 100 beds, statewide. The authorization to adjust this limit is necessary to provide the Department with the flexibility to meet an increased future need, if any, for these facilities.

#### **§ 56074(c)**

##### Specific Purpose

This provision excludes the Department of Social Services from monitoring and enforcement responsibilities for the statewide limit on the number of beds in residential community care facilities utilizing secured perimeters.

##### Rationale for Necessity

This adoption is necessary to clarify that the Department of Social Services will not have monitoring and enforcement responsibilities related to the SSRS or the determination of the number of beds in facilities utilizing secured perimeters.

#### **Subchapter 4.2**

#### **56101. Definitions.**

##### **§ 56101(a)(9)**

##### Specific Purpose

To be admitted to or reside in an intermediate care facility with delayed egress devices and secured perimeters, an interdisciplinary team, through the IPP process, must determine the person “lacks hazard awareness or impulse control and, for his or her safety and security, requires the level of supervision afforded by a facility equipped with secured perimeters, and, but for this placement the person would be at risk of admission to, or would have no option but to remain in, a more restrictive placement.” This adoption provides clarity to this criterion by defining what is meant by “lacks hazard awareness or impulse control.”

##### Rationale for Necessity

The adoption of this definition is necessary to give direction to the interdisciplinary team in determining whether the individual lacks hazard

awareness or impulse control in the context of and consistent with the purpose of the statute by clarifying the meaning of this admission criterion.

#### **§ 56101(a)(11)**

##### Specific Purpose

This provision clarifies that the term “planning team” as used in the regulations refers to the planning team, as defined in the Lanterman Act.

##### Rationale for Necessity

The adoption is necessary for clarity.

#### **§ 56620. Use of Delayed Egress Devices and Secured Perimeters.**

##### Specific Purpose

This adoption describes the intermediate care facilities authorized to utilize delayed egress devices of the time delay type in combination with secured perimeters.

##### Rationale for Necessity

This adoption is necessary for clarity by concisely identifying the types of intermediate care facilities that may utilize delayed egress devices in combination with secured perimeters.

#### **§ 56621. Plan of operation.**

#### **§ 56621(a), (a)(1)**

##### Specific Purpose

Subdivision (a) requires that the facility plan of operation that is required by 22 CCR §§ 76309 and 76857 include additional information. Paragraph (a)(1) requires that the information include documentation from the local regional center of the local need for the facility to utilize delayed egress devices in combination with a secured perimeter.

##### Rationale for Necessity

The plan of operation informs the licensing agency as to how the licensee plans to operate the facility in conformance with applicable statutes and regulations. Because there is a statewide limit on the total number of beds in licensed homes

with both secured perimeters and delayed egress devices, it is necessary to confirm the local need for such a facility.

#### **§ 56621(a)(2)(A)**

##### Specific Purpose

section 56621(a)(2) describes the requirements for a component of the facility's plan of operation related to the use of delayed egress devices in combination with secured perimeters. Paragraph (a)(2)(A) requires the licensee to indicate how interior and exterior space is to be used to permit consumers to move freely and safely.

##### Rationale for Necessity

This adoption is necessary to ensure that, despite the proposed addition of delayed egress devices and a secured perimeter to the property, consumers in the intermediate care facility will otherwise be able move about the premises freely and safely.

#### **§ 56621(a)(2)(B)**

##### Specific Purpose

This provision requires the licensee to describe staff qualifications and staff training curricula, including participation by the local regional center and the clients' rights advocate.

##### Rationale for Necessity

This adoption is necessary to ensure staff has the appropriate training and experience to supervise the consumers living in the facility and ensure that the local regional center and regional center clients' rights advocate participate in staff training.

#### **§ 56621(a)(2)(C)**

##### Specific Purpose

This provision requires the licensee or applicant to explain how the licensee will protect consumers' personal rights.

##### Rationale for Necessity

This adoption is necessary to ensure there is no violation of a consumer's rights while living in the facility and to identify statutory and regulatory sources of the

rights specified in the Lanterman Act and its implementing regulations, and state licensing regulations.

#### **§ 56621(a)(2)(D)**

##### Specific Purpose

This provision requires the licensee or applicant to describe how they will manage a consumer's lack of hazard awareness and impulse control behavior.

##### Rationale for Necessity

This adoption is necessary to ensure the licensee or applicant has a plan and is prepared to respond in instances in which a consumer may pose a danger to himself, herself or others.

#### **§ 56621(a)(2)(E)**

##### Specific Purpose

This provision requires the licensee to inform consumers they have a right to leave the facility and requires the licensee to describe how supervision of the consumer will be maintained while the consumer is out of the facility and continued supervision for consumers that remain in the facility.

##### Rationale for Necessity

This adoption is necessary to ensure supervision of the consumer while not infringing on the consumer's right to leave the facility in a safe manner.

#### **§ 56621(a)(2)(F)**

##### Specific Purpose

This adoption requires the inclusion of procedures to be used for conducting and documenting fire and earthquake drills at least every three months that includes all facility staff.

##### Rationale for Necessity

This adoption is necessary to ensure that all staff are trained so that a safe and smooth exiting of the consumers occurs in the event of a fire or earthquake. Documentation is necessary so that audits/inspections indicate the drills have taken place.

#### **§ 56621(a)(2)(G)**

#### Specific Purpose

This adoption requires the plan of operation to include emergency evacuation procedures.

#### Rationale for Necessity

This adoption is necessary to ensure a safe and smooth exiting of consumers through and beyond secured perimeters.

### **§ 56621(a)(2)(H)**

#### Specific Purpose

This provision requires that a licensee intending to add delayed egress devices in combination with secured perimeter include a plan to relocate consumers currently living in the facility who do not meet the criteria for continued residence in a facility with delayed egress devices and a secured perimeter.

#### Rationale for Necessity

This adoption is necessary to ensure that only individuals who meet the criteria for admissions and continued stay in a facility utilizing delayed egress devices in combination with a secured perimeters reside in the facility and that the licensee have a plan for the safe and orderly relocation of consumers who do not meet those criteria.

### **§ 56621(b)**

#### Specific Purpose

This provision requires the licensee/applicant to provide 16 hours of direct care staff training and require the training to include the personal rights of consumers while secured perimeters and delayed egress are being used, behavior management techniques of consumers who lack hazard awareness and impulse control and procedures to follow in case of a medical emergency or facility disaster.

#### Rationale for Necessity

This adoption is necessary to ensure staff are trained to provide care and supervision to consumers living in a facility utilizing secured perimeters and delayed egress. Based on experience with other training requirements for residential providers, the Department believes 16 hours is sufficient time to cover the required subjects.

### **§ 56621(c)**

#### Specific Purpose

This provision requires the delayed egress and secured perimeter component of the plan of operation be submitted to the Department for review and approval.

#### Rationale for Necessity

This adoption is necessary to enable the Department to confirm that the licensee or applicant intends to utilize delayed egress devices in combination with secured perimeters and has developed an appropriate plan to ensure that the delayed egress devices and secured perimeters are being used in a manner that ensures consumers' safety while also protecting consumers' rights.

### **§ 56622. General Requirements.**

#### **§ 56622(a)**

#### Specific Purpose

This provision prohibits the use of delayed egress devices and secured perimeters as a substitute for direct care staff supervision.

#### Rationale for Necessity

Current regulations require minimum staffing standards and this adoption is necessary to clarify that adequate staffing must be maintained despite the utilization of delayed egress devices in combination with secured perimeters.

#### **§ 56622(b)**

#### Specific Purpose

This provision requires the licensee or applicant to include the written consent to placement or court order authorizing placement in the consumer's record.

#### Rationale for Necessity

This adoption is necessary to ensure documentation of proper resident placement.

#### **§ 56622(c)**

#### Specific Purpose

This provision states specific requirements for secured perimeters, including the size of the dispersal areas, and prohibits gates not in compliance with section 1021 of the California Building Standards Code.

#### Rationale for Necessity

This adoption is necessary to inform licensees of the requirements and specifications for the secured perimeters and gates that may be used. The proposed requirements are the same as those specified in existing statute for other residential facilities with delayed egress devices that are similarly authorized to use secured perimeters. (H&S Code § 1569.699(b).) The Department has determined that these requirements are also appropriate for the intermediate care facilities subject to the proposed regulations.

### **§ 56623. Approvals.**

#### **§ 56623(a)**

##### Specific Purpose

This provision requires the Department to review the licensee/applicant's delayed egress and secured perimeter component of the facility's plan of operation and any other information the Department determines necessary in order to approve or deny. It also requires the Department to issue a written determination of its approval or denial.

##### Rationale for Necessity

This adoption is necessary to clarify that the Department will determine if the proposed component of the facility plan of operation pertaining to the use of delayed egress devices in combination with a secured perimeter is appropriate and complies with statutory and regulatory requirements. Providing a written determination ensures the licensee/applicant has documentation of the Department's decision.

#### **§ 56623(b)**

##### Specific Purpose

Should the Department's review exceed 30 days, this provision requires the Department to notify the applicant/licensee of the delay and of the expected date of completion of the review.

##### Rationale for Necessity



The Department has determined that its review of the required delayed egress/secured perimeter component of a licensee/applicant's plan of operation should typically not exceed 30 days. This adoption is necessary to inform the applicant/licensee of any delays in reviewing the required component of the plan of operation and provide an explanation of the reason for the delay.

#### **§ 56223(c)**

##### Specific Purpose

This provision requires the licensee/applicant to submit the Department-approved delayed egress/secured perimeter component to the Licensing and Certification Division of the Department of Public Health (DPH LCD) and requires DPH's approval or denial.

##### Rationale for Necessity

DPH LCD is responsible for the licensing and oversight of health facilities including, including the intermediate care facilities authorized to utilize delayed egress devices in combination with secured perimeters pursuant to H&S Code section 1267.75. It is necessary for DPH LCD to also review the delayed egress/secured perimeter component of the plan of operations in order to determine if it complies with licensing regulations pertaining to standards of facility fitness to provide care and supervision for the residents.

#### **§ 56223(d)**

##### Specific Purpose

This provision specifies that the fire clearance for the use of secured perimeters must be obtained through DPH LCD.

##### Rationale for Necessity

DPH LCD regulations do not address delayed egress and secured perimeter requirements. Therefore, it is necessary for these regulations to address the necessity of obtaining a fire clearance and to require that it be obtained through DPH LCD.

#### **§ 56223(e)**

##### Specific Purpose

This provision requires DPH LCD to review the licensee/applicant's licensing history, if any, as a residential service provider to verify the licensee/applicant's appropriateness to provide the level of care necessary when utilizing delayed

egress devices in combination with secured perimeters and requires DPH LCD denial or approval.

#### Rationale for Necessity

This adoption is necessary as an additional safeguard to ensure that a licensee/applicant seeking to use secured perimeters is qualified to protect the health and safety of consumers requiring the use of secured perimeters.

#### **§ 56223(f)**

##### Specific Purpose

This provision requires DPH LCD to provide to the applicant/licensee a written determination of the approval or denial of the secured perimeter component of the plan of operation.

##### Rationale for Necessity

This adoption is necessary to ensure the applicant/licensee has documentation of DPH LCD's decision.

#### **§ 56223(g)**

##### Specific Purpose

Once both the Department and DPH LCD approval is obtained, this provision requires the licensee/applicant to provide the approvals to the regional center along with an anticipated start date for utilization of the delayed egress devices and secured perimeter.

##### Rationale for Necessity

This adoption is necessary to ensure the regional center is informed of the Department and DPH LCD approval for the use of delayed egress devices and secured perimeter. Notice to the regional center of an anticipated start date allows the regional center to identify consumers in need of a community placement who meet the admissions criteria for placement in the facility.

#### **§ 56223(h)**

##### Specific Purpose

This provision authorizes DPH LCD to immediately terminate the approved use of delayed egress devices and a secured perimeter when the approved fire clearance pertaining to secured perimeters is withdrawn, and requires DPH LCD

to immediately terminate its approved use of delayed egress devices and secured perimeter should the Department withdraw its secured perimeter approval.

#### Rationale for Necessity

This adoption is necessary to ensure that a facility does not continue to utilize secured perimeters without the proper clearances or approvals.

### **§ 56624. Admission and Continued Stay Requirements.**

#### **§ 56624(a)**

##### Specific Purpose

This provision requires the regional center to convene an assessment team to determine if the consumer lacks hazard awareness or impulse control and if the consumer requires the level of care that's provided by a secured facility. This provision also requires documentation of the decision in the consumer's file.

##### Rationale for Necessity

This adoption is necessary in order to ensure that there has been a determination that the consumer meets the requirements for admission to a facility with delayed egress devices and a secured perimeter, and that this determination is documented in the consumer's record at the facility.

#### **§ 56624(b), (b)(1)**

##### Specific Purpose

Subdivision (b) requires signed written consents or court documentation affirming the placement in a facility utilizing delayed egress devices and secured perimeters. Paragraph (b)(1) specifies who may consent to placement for consumers 18 years of age or older, and for consumers under 18 years of age.

##### Rationale for Necessity

This adoption is necessary to ensure that authorization for placement is obtained from the consumer or an individual with legal authority to consent to the placement—in the form of authorized written consent—or in a court order, and that the written consent or court order is provided to the residential service provider and maintained in the consumer's regional center record.

#### **§ 56624(b)(2)**

#### Specific Purpose

This provision requires the written consent include a description and manner in which the perimeter will be secured, a statement that the facility has delayed egress devices of the time delay type and the perimeter fence is locked, and a statement that consent to admission may be withdrawn at any time.

#### Rationale for Necessity

This adoption is necessary to ensure that, in the case of an admission that is not court-ordered, consent to admission is informed.

### **§ 56624(c)**

#### Specific Purpose

This provision requires the court order or the written consent and the documentation of the date and time of any withdrawal of consent be maintained in the consumer's facility file.

#### Rationale for Necessity

This adoption is necessary to ensure that documentation of the authority for the placement, or withdrawal of consent, is placed in the consumer's file at the facility that is readily accessible to facility staff or licensing personnel.

### **§ 56624(d)**

#### Specific Purpose

This provision specifies that when a court-ordered placement expires, the consumer can remain in the facility if the consumer is determined eligible to remain and the consumer or other authorized individual gives consent.

#### Rationale for Necessity

This adoption is necessary to ensure that the consumer can remain in the living arrangement after the expiration of the court ordered placement if the consumer meets the criteria for the placement and authorized consent is obtained.

### **§ 56624(e)**

#### Specific Purpose

This provision requires the regional center to convene the planning team for purposes of documenting in the consumer's IPP the needed services and

supports that will enable the consumer can move from the facility to a less restrictive community setting and a timeline for securing those services and supports. A copy of this documentation is required to be maintained in the consumer's record at the facility.

#### Rationale for Necessity

The adoption is necessary to ensure that, from the time of admission, steps are being taken to move consumers out of facilities with delayed egress devices in combination with secured perimeters and into less restrictive community living arrangements in a timely manner, consistent with the intent of H&S Code section 1267.75—particularly for consumers at least 10 years of age but less than 14 years of age—and the Lanterman Act. The Department has determined that 30 days after admission is a reasonable period of time to convene an initial IPP meeting for purposes of identifying the services and supports that would enable the consumer to move from the facility, and a plan to transition the consumer to an alternative residential setting.

#### **§ 56624(f)**

##### Specific Purpose

This section requires the planning team to meet quarterly (every 90 days) and to continually monitor and document the continued appropriateness of the consumer's placement.

##### Rationale for Necessity

The planning team is responsible for developing and updating a consumer's IPP. This adoption is necessary to help ensure that consumers reside in facilities with delayed egress devices in combination with secured perimeters for only as long as necessary to meet their needs. The Department has determined that requiring that planning teams convene on a quarterly basis to review the current placement and the transition plan is reasonable to protect the consumer's right to receive services and supports in the least restrictive environment.

#### **§ 56624g)**

##### Specific Purpose

This provision requires the regional center to transmit to the consumer's attorney and any other parties to the court proceedings the planning team recommendations and transition plan.

##### Rationale for Necessity

This adoption is necessary to protect consumers' rights to receive services and supports in the least restrictive setting by informing the parties to court proceedings that resulted in the consumer's admission to a delayed egress/secured perimeter facility with current information on recommendations for, and the plan for obtaining, services and supports that would enable the consumer to live in a less restrictive living arrangement.

#### **§ 56624(h)**

##### Specific Purpose

This provision requires that placements of consumers age 10 to 14 comply with the requirements of Health and Safety Code section 1267.75(c)(3)(B).

##### Rationale for Necessity

This adoption is necessary for clarity to ensure the placement of 10 to 14-year-olds is appropriate and that the requirements of the referenced code provision are met.

#### **§ 56624(i)**

##### Specific Purpose

This provision requires periodic updating to the comprehensive assessment and the transition plan.

##### Rationale for Necessity

This adoption ensures documentation and regular monitoring of the appropriateness of each consumer's placement and the plan for transitioning the consumer to a less restrictive living arrangement. The Department has determined that updating the transition plan following each 90-day review and updating the required comprehensive assessment on an annual basis is reasonable to protect consumers' rights under H&S Code section 1267.75 and the Lanterman Act.

#### **§ 56624(j)**

##### Specific Purpose

This provision requires that a regional center complete a comprehensive assessment and convene a planning team meeting for any of its consumers residing in a licensed intermediate care facility that intends to utilize delayed egress devices in combination with secured perimeters to determine whether the consumer meets the criteria for placement in a facility utilizing delayed egress

devices and secured perimeters. Consumers not meeting those criteria must be provided with adequate notice and transitioned to an alternative placement prior to the use of delayed egress devices and secured perimeters.

#### Rationale for Necessity

This adoption is necessary to protect the rights of residents residing in an intermediate care facility that intends to utilize delayed egress devices and secured perimeters by ensuring that the residents either meet the criteria for continued placement in such a facility or are transitioned to alternative, appropriate living arrangements before the delayed egress devices and secured perimeters may be utilized.

#### **§ 56624(k)**

##### Specific Purpose

This provision requires the regional center to convene the planning team at the request of the licensee or any planning team member to determine whether the resident no longer meets the criteria to reside in the facility, and prescribes the timeline for convening the IPP review and, if it is determined the placement is no longer appropriate, for developing a transition plan, including a timeline, for moving the individual to an alternative living arrangement. If the placement is pursuant to a court order, the regional center must notify the parties of its determination and the proposed transition plan.

#### Rationale for Necessity

This adoption is necessary to protect consumers' rights to live in the least restrictive environment and remain in a facility with delayed egress devices and a secured perimeter for only such time as the consumer meets the requirements for continued placement. This section enables the licensee or any planning team member to request an IPP review, as provided for in the Lanterman Act, and establishes timelines for conducting the review and, if appropriate, developing a transition plan to move the consumer to a less restrictive living arrangement or to notify the parties to any applicable court proceedings of the planning team's determination that the placement is no longer appropriate. The timeline for convening the planning team is consistent with the Lanterman Act (W&I Code section 4646.5(b)). The Department has determined that the 30-day timeline for developing a transition plan if it is determined that the consumer no longer meets the requirements for continued placement is reasonable.

#### **§ 56624(l)**

##### Specific Purpose

This provision specifies that, if the individual is placed in the facility pursuant to a court order, relocation of the consumer must be in accordance with the court order or by court approval or modification of the court order.

#### Rationale for Necessity

This adoption is necessary to ensure compliance with any applicable court placement order.

### **§ 56624(m)**

#### Specific Purpose

This provision establishes the process to be followed when consent to the placement is withdrawn, including requirements for convening a planning team meeting, developing a transition plan, taking steps to initiate court proceedings, as necessary, and notifying the clients' rights advocate for the regional center.

#### Rationale for Necessity

This adoption is necessary to ensure the protection of a consumer's right to move to an alternative living arrangement if consent to placement in the facility utilizing delayed egress devices and a secured perimeter is withdrawn, unless there is a court order authorizing the placement. The Department has determined that the 10-day timeline to convene a planning team meeting following withdrawal of consent is reasonable and necessary to ensure timely action to find an alternative living arrangement once consent has been withdrawn or, alternatively, to take steps to initiate court proceedings, as appropriate, to maintain the consumer's placement if a less restrictive alternative cannot be provided.

### **§ 56624(n)**

#### Specific Purpose

This provision requires the clients' rights advocate for the regional center be notified of admissions to an intermediate care facility utilizing delayed egress devices in combination with secured perimeters and be authorized to participate in all planning team meetings concerning the placement unless the consumer objects on his or her own behalf.

#### Rationale for Necessity

This adoption is necessary to ensure protection of consumers' rights when admitted to a facility utilizing delayed egress devices in combination with a secured perimeter.



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

### **§ 56625(a)**

#### Specific Purpose

This provision requires the regional centers to report to the statewide specialized resource service (SSRS) on the number of beds in adult residential facilities and group homes that are approved for availability in homes utilizing secured perimeters.

#### Rationale for Necessity

AB 1472, at W&I Code section 4418.25(b), directed the Department to develop a database—the SSRS—to track the availability of specialized resources, coordinate the need for specialty services and supports, and identify developmental services that can be made available to consumers residing in the community when no other community resource has been identified. H&S Code section 1267.75 requires that the regulations adopted to implement that section establish a statewide limit on the total number of beds in homes with secured perimeters. This adoption is necessary to provide a means by which the Department can track and enforce the statewide bed limit.

### **§ 56625(b)**

#### Specific Purpose

This provision limits the number of beds available in facilities utilizing secured perimeters, including both those authorized under H&S Code section 1531.15 and H&S Code section 1267.75, to 100 statewide and authorizes the Department, in consultation with stakeholders, to adjust the limit as needed to address unmet statewide needs.

#### Rationale for Necessity

This adoption is necessary to meet the requirements of the provisions of AB 1472—which authorized the use of secured perimeters in combination with delayed egress devices in specified community residential care facilities and intermediate care facilities—that the Department establish a statewide limit on the number of beds in these facilities. The Department consulted with stakeholders, including regional centers, to determine that the unmet need for residential facilities having both delayed egress devices and secured perimeters would currently not likely exceed 100 beds, statewide. The authorization to adjust this limit is necessary to provide the Department with the flexibility to meet an increased future need, if any, for these facilities.

## **§ 56074(c)**

### Specific Purpose

This provision excludes the Department of Public Health from monitoring and enforcement responsibilities for the statewide limit on the number of beds in residential community care facilities utilizing secured perimeters.

### Rationale for Necessity

This adoption is necessary to clarify that the Department of Public Health will not have monitoring and enforcement responsibilities related to the SSRS or the determination of the number of beds in facilities utilizing secured perimeters.

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## **BENEFITS ANTICIPATED FROM THE REGULATORY ACTION**

The adoption of these regulations is necessary to permit the continued availability of the residential options authorized by AB 1472 and to establish program standards, consumers' rights protections, and other requirements for these homes. The benefit of these regulations is in furthering the intent of AB 1472 and the Lanterman Act—to minimize institutionalization by establishing community living options to meet the needs of difficult-to-serve individuals with developmental disabilities who would otherwise be at risk of admission to or continued placement in more restrictive, locked institutional settings, or placement out of state.

The regulatory requirements are designed to protect the rights of consumers admitted to homes with secured perimeters and delayed egress devices, including development of individualized plans to transition consumers to less restrictive living arrangements and periodic reassessments of the continued appropriateness of the placement for each consumer. The regulations further establish a limit on the total number beds in homes with secured perimeters and delayed egress devices, as required by AB 1472, which will help to address the needs of difficult-to-serve consumers in non-institutional settings within the state, while recognizing and preventing the potential for over-reliance on these unlocked, albeit relatively secure, community-based alternatives.

## **ECONOMIC IMPACT ASSESSMENT**

The proposed regulations clarify and interpret H&S Code sections 1267.75 and 1531.15. These provisions authorize, but do not require, licensed residential care facilities, as specified, to utilize security measures to enable them to serve

people with developmental disabilities who have been determined through the IPP process to lack hazard awareness or impulse control and who, for reasons of safety and security, require the level of supervision afforded by a facility equipped with secured perimeters and delayed egress devices, and who, but for such a placement, would be at risk of admission to, or would have no option but to remain in, a more restrictive placement.

In accordance with Government Code section 11346.3(b), the Department has made the following assessments regarding the proposed regulations:

### **Creation or Elimination of Jobs within the State of California**

In authorizing the utilization of delayed egress devices and secured perimeters in licensed residential community care facilities and intermediate care facilities serving no more than 100 individuals with developmental disabilities statewide, the regulations will not result in the creation or elimination of jobs in California.

### **Creation of New or Elimination of Existing Businesses within the State of California**

The proposed regulations establish procedures, consumer safeguards, and program standards related to licensed residential facilities that intend to utilize secured perimeters and delayed egress devices. No new businesses in California will be created or existing businesses eliminated.

### **Expansion of Businesses Currently Doing Business within the State**

The proposed regulations establish procedures, consumer safeguards, and program standards related to licensed residential facilities that intend to utilize secured perimeters and delayed egress devices. There will be no expansion of businesses currently doing business within the state as a result of the proposed regulations.

### **Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment**

The Lanterman Act was enacted to provide services and supports to Californians with developmental disabilities to support their integration into the mainstream of the community. The vast majority of people with developmental disabilities live in community settings—in licensed residential care facilities, including group homes for children, adult residential facilities and intermediate care facilities; or in unlicensed community living arrangements, including parental or other family homes, or their own homes with supported living services. There are, however, some individuals with challenging behaviors who lack hazard awareness or impulse control for whom the only available living options have been locked institutions, including state developmental centers or locked mental health

facilities. Some such individuals have had to be placed out of state to obtain secure residential options that can manage their behaviors.

AB 1472 authorized—contingent on the adoption of emergency regulations—non-institutional living options to fill a previously unmet need by providing a safe and secure community living alternative for difficult-to-serve individuals who would otherwise likely be institutionalized in more restrictive settings or placed out of state. DSS-licensed residential community care facilities that were already using delayed egress devices were authorized by AB 1472 to also install and utilize a secured perimeter. Certain intermediate care facilities were authorized by AB 1472 to install and utilize delayed egress devices in combination with a secured perimeter. The proposed regulations interpret and clarify the enabling statutory provisions by establishing program standards, procedures, and consumer safeguards governing these newly authorized community living arrangements.

By filling an unmet need and enabling the development of previously unavailable community living alternatives for among the most difficult-to-serve consumers, AB 1472 and the proposed regulations benefit the general welfare of people with developmental disabilities by furthering the intent of the Lanterman Act—as well as the federal Americans with Disabilities Act—to support their integration into the community. Otherwise, the proposed regulations will not affect the health and welfare of California residents and will not affect worker safety or impact the state's environment.

#### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS**

The Department has not relied on any technical, theoretical, and/or empirical study, reports or documents.

#### **REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES**

The Department did not consider alternatives to the proposed regulations in that these regulations are based on the authorizing statutes, and matters such as required time periods and training requirements specified in the regulations were based on consultation with and input from stakeholders, including the licensing agencies, as well as practices based on current law, which the Department determined were appropriate. Requirements for the use of secured perimeters, including the size of dispersal areas, and the prohibition on gates not in compliance with section 1021 of the California Building Standards Code are based on requirements in existing law for the use of secured perimeters. (E.g., H&S Code § 1569.699(b).)

**EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE  
ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The proposed regulations are a continuation of the current emergency regulations. The authorizing statutes permit but do not require a limited number of specified residential service providers to install secured perimeters around adult residential facilities and group homes utilizing delayed egress devices, and to install delayed egress devices and secured perimeters in and around specified intermediate care facilities. There is no significant statewide economic impact from these regulations affecting business.