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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 4.5. SERVICES FOR THE DEVELOPMENTALLY DISABLED [4500 - 4885] (*Division 4.5 added by Stats. 1977, Ch. 1252.*)

CHAPTER 6. Development and Support of Community Facilities and Programs [4670 - 4698.1] (*Chapter 6 added by Stats. 1977, Ch. 1252.*)

ARTICLE 3.5. Adult Residential Facilities for Persons with Special Health Care Needs and Group Homes for Children with Special Health Care Needs [4684.50 - 4684.77] (*Heading of Article 3.5 amended by Stats. 2021, Ch. 76, Sec. 33.*)

4684.50. (a) (1) "Adult Residential Facility for Persons with Special Health Care Needs (ARFPSHN)" means any adult residential facility that provides 24-hour health care and intensive support services in a homelike setting that is licensed to serve up to five adults with developmental disabilities as defined in Section 4512.

(2) "Group Home for Children with Special Health Care Needs (GHCSHN)" means a group home, as described in paragraph (22) of subdivision (a) of Section 1502 of the Health and Safety Code and licensed pursuant to Article 9 (commencing with Section 1567.50) of the Health and Safety Code, that provides 24-hour health care and intensive support services in a homelike setting that is licensed to serve up to five children or nonminor dependents with developmental disabilities as defined in Section 4512.

(3) For purposes of this article, an ARFPSHN or a GHCSHN may only be established in a facility approved pursuant to Section 4688.5 or through an approved regional center community placement plan pursuant to Section 4418.25.

(b) "Consultant" means a person professionally qualified by training and experience to give expert advice, information, training, or to provide health-related assessments and interventions specified in a consumer's individual health care plan.

(c) "Direct care personnel" means all personnel who directly provide program or nursing services to consumers. Administrative and licensed personnel shall be considered direct care personnel when directly providing program or nursing services to clients. Consultants shall not be considered direct care personnel.

(d) "Individual health care plan" means the plan that identifies and documents the health care and intensive support service needs of a consumer.

(e) "Individual health care plan team" means those individuals who develop, monitor, and revise the individual health care plan for consumers residing in an ARFPSHN or a GHCSHN.

(1) For an ARFPSHN or a GHCSHN, the team shall, at a minimum, be composed of all of the following individuals:

(A) Regional center service coordinator and other regional center representative, as necessary.

(B) Consumer, and, if appropriate, the consumer's parents, legal guardian or conservator, or authorized representative.

(C) Consumer's primary care physician, or other physician as designated by the regional center.

(D) ARFPSHN or GHCSHN administrator.

(E) ARFPSHN or GHCSHN registered nurse.

(F) Others deemed necessary for developing a comprehensive and effective plan.

(2) For a GHCSHN, in addition to the individuals listed in paragraph (1), the team shall, at a minimum, include all of the individuals required for an individualized health care team as described in subdivision (d) of Section 17710.

(f) "Intensive support needs" means the consumer requires physical assistance in performing four or more of the following activities of daily living:

- (1) Eating.
- (2) Dressing.
- (3) Bathing.
- (4) Transferring.
- (5) Toileting.
- (6) Continence.

(g) "Special health care needs" for an ARFPSHN means the consumer has health conditions that are predictable and stable, as determined by the individual health care plan team, and for which the individual requires nursing supports for any of the following types of care:

- (1) Nutrition support, including total parenteral feeding and gastrostomy feeding, and hydration.
- (2) Cardiorespiratory monitoring.
- (3) Oxygen support, including continuous positive airway pressure and bilevel positive airway pressure, and use of other inhalation-assistive devices.
- (4) Nursing interventions for tracheostomy care and suctioning.
- (5) Nursing interventions for colostomy, ileostomy, or other medical or surgical procedures.
- (6) Special medication regimes including injection and intravenous medications.
- (7) Management of insulin-dependent diabetes.
- (8) Bowel care management, including enemas or suppositories.
- (9) Indwelling urinary catheter/catheter procedure.
- (10) Treatment for antimicrobial resistant infections.
- (11) Treatment for wounds or pressure injuries.
- (12) Postoperative care and rehabilitation.
- (13) Pain management and palliative care.
- (14) Renal dialysis.

(h) "Special health care needs" for a GHCSHN means a predictable and stable condition, as determined by the individual health care plan team, as described in paragraph (2) of subdivision (e), that can rapidly deteriorate, resulting in permanent injury or death, or that requires specialized in-home health care, as described in subdivisions (a) and (g) of Section 17710.

(Amended by Stats. 2021, Ch. 76, Sec. 34. (AB 136) Effective July 16, 2021.)

4684.53. (a) The State Department of Developmental Services and the State Department of Social Services shall jointly implement a licensing program to provide special health care and intensive support services to adults, and a licensing program to provide special health care and intensive support services to children, in homelike community settings.

(b) The programs shall be implemented through approved community placement plans, as follows:

- (1) For an adult who is identified by a regional center as an adult who could benefit from placement in an ARFPSHN.
- (2) For a child who is identified by a regional center as a child who could benefit from placement in a GHCSHN.

(c) (1) Each ARFPSHN shall possess a community care facility license issued pursuant to Article 9 (commencing with Section 1567.50) of Chapter 3 of Division 2 of the Health and Safety Code. Until the Department of Social Services creates a stand-alone chapter for ARFPSHNs, each ARFPSHN shall be subject to the requirements of Chapter 1 (commencing with Section 80000) of Division 6 of Title 22 of the California Code of Regulations, except for Article 8 (commencing with Section 80090).

(2) Each GHCSHN shall possess a community care facility license issued pursuant to Article 9 (commencing with Section 1567.50) of Chapter 3 of Division 2 of the Health and Safety Code, and shall be subject to the requirements of Chapter 1 (commencing with Section 80000) and Chapter 5 (commencing with Section 84000) of Division 6 of Title 22 of the California Code of Regulations, except that Article 8 (commencing with Section 80090) of Chapter 1 of Division 6 of Title 22 of the California Code of Regulations shall not apply.

(d) For purposes of this article, a health facility licensed pursuant to subdivision (e) or (h) of Section 1250 of the Health and Safety Code may place its licensed bed capacity in voluntary suspension for the purpose of licensing the facility to operate an ARFPSHN or a GHCSHN if the facility is selected to participate pursuant to Section 4684.58. Consistent with subdivision (a) of Section 4684.50, any facility licensed pursuant to this section shall serve up to five adults or up to five children. A facility's bed capacity shall not be placed in voluntary suspension until all consumers residing in the facility under the license to be suspended have been relocated. A consumer shall not be relocated unless it is reflected in the consumer's individual program plan developed pursuant to Sections 4646 and 4646.5.

(e) Each ARFPSHN and each GHCSHN are subject to the requirements of Subchapters 5 to 9, inclusive, of Chapter 1 of, and Subchapters 2 and 4 of Chapter 3 of, Division 2 of Title 17 of the California Code of Regulations.

(f) Each ARFPSHN and each GHCSHN shall ensure that an operable automatic fire sprinkler system is installed and maintained.

(g) Each ARFPSHN and each GHCSHN shall have an operable automatic fire sprinkler system that is approved by the State Fire Marshal and that meets the National Fire Protection Association (NFPA) 13D standard for the installation of sprinkler systems in single- and two-family dwellings and manufactured homes. A local jurisdiction shall not require a sprinkler system exceeding this standard by amending the standard or by applying standards other than NFPA 13D. A public water agency shall not interpret this section as changing the status of a facility from a residence entitled to residential water rates, nor shall a new meter or larger connection pipe be required of the facility.

(h) Each ARFPSHN and each GHCSHN shall provide an alternative power source to operate all functions of the facility for a minimum of six hours in the event the primary power source is interrupted. The alternative power source shall comply with the manufacturer's recommendations for installation and operation. The alternative power source shall be maintained in safe operating condition, and shall be tested every 14 days, or as per the manufacturer's recommended schedule, under the full load condition for a minimum of 10 minutes. Written records of inspection, performance, exercising period, and repair of the alternative power source shall be regularly maintained on the premises and available for inspection by the State Department of Developmental Services.

(Amended by Stats. 2021, Ch. 76, Sec. 35. (AB 136) Effective July 16, 2021.)

4684.55. (a) A regional center may not pay a rate to an ARFPSHN or a GHCSHN for a consumer that exceeds the rate in the State Department of Developmental Services' approved community placement plan for that facility unless the regional center demonstrates that a higher rate is necessary to protect a consumer's health and safety, and the department has granted prior written authorization.

(b) The payment rate for ARFPSHN or GHCSHN services shall be negotiated between the regional center and the ARFPSHN or GHCSHN.

(c) The established rate for a full month of service shall be made by the regional center if a consumer is temporarily absent from the ARFPSHN or from the GHCSHN for 14 days or less per month. If the consumer's temporary absence is due to the need for inpatient care in a health facility, as defined in subdivision (a), (b), or (c) of Section 1250 of the Health and Safety Code, the regional center shall continue to pay the established rate as long as no other consumer occupies the vacancy created by the consumer's temporary absence, or until the individual health care plan team has determined that the consumer will not return to the facility. In all other cases, the established rate shall be prorated for a partial month of service by dividing the established rate by 30.44 then by multiplying the quotient by the number of days the consumer resided in the facility.

(Amended by Stats. 2021, Ch. 76, Sec. 36. (AB 136) Effective July 16, 2021.)

4684.58. (a) The regional center may recommend for participation, to the State Department of Developmental Services, an applicant to provide services as part of an approved community placement plan if the applicant meets all of the following requirements:

(1) The applicant employs or contracts with a program administrator who has a successful record of administering residential services for at least two years, as evidenced by substantial compliance with the applicable state licensing requirements.

(2) The applicant prepares and submits, to the regional center, a complete facility program plan that includes, but is not limited to, all of the following:

(A) The total number of the consumers to be served.

(B) A profile of the consumer population to be served, including their health care and intensive support needs.

(C) A description of the program components, including a description of the health care and intensive support services to be provided.

(D) A week's program schedule, including proposed consumer day and community integration activities.

(E) A week's proposed program staffing pattern, including licensed, unlicensed, and support personnel and the number and distribution of hours for such personnel.

(F) An organizational chart, including identification of lead and supervisory personnel.

(G) The consultants to be utilized, including their professional disciplines and hours to be worked per week or month, as appropriate.

(H) The plan for accessing and retaining consultant and health care services, including assessments, in the areas of physical therapy, occupational therapy, respiratory therapy, speech pathology, audiology, pharmacy, dietary/nutrition, dental, and other areas required for meeting the needs identified in consumers' individual health care plans.

(I) A description, including the size, layout, location, and condition of the proposed home.

(J) A description of the equipment and supplies available, or to be obtained, for programming and care.

(K) The type, location, and response time of emergency medical service personnel.

(L) The in-service training program plan for at least the next 12 months, that shall include the plan for ensuring that the direct care personnel understands their roles and responsibilities related to implementing individual health care plans, prior to, or within, the first seven days of providing direct care in the home and for ensuring the administrator understands the unique roles, responsibilities, and expectations for administrators of community-based facilities.

(M) The plan for ensuring that outside services are coordinated, integrated, and consistent with those provided by the ARFPSHN or the GHCSHN.

(N) Written certification that an alternative power system required by subdivision (h) of Section 4684.53 meets the manufacturer's recommendations for installation and operation.

(3) Submits a proposed budget itemizing direct and indirect costs, total costs, and the rate for services.

(4) The applicant submits written certification that they have the ability to comply with all of the requirements of Section 1520 of the Health and Safety Code.

(b) The regional center shall provide all documentation specified in paragraphs (2) to (4), inclusive, of subdivision (a) and a letter recommending program certification to the State Department of Developmental Services.

(c) The State Department of Developmental Services shall either approve or deny the recommendation and transmit its written decision to the regional center and to the State Department of Social Services within 30 days of its decision. The decision of the State Department of Developmental Services not to approve an application for program certification shall be the final administrative decision.

(d) Any change in the ARFPSHN or the GHCSHN operation that alters the contents of the approved program plan shall be reported to the State Department of Developmental Services and the contracting regional center, and approved by both agencies, prior to implementation.

(Amended by Stats. 2021, Ch. 76, Sec. 37. (AB 136) Effective July 16, 2021.)

4684.60. The vendoring regional center shall, before placing a consumer into an ARFPSHN or a GHCSHN, ensure that the ARFPSHN or the GHCSHN has a license issued by the State Department of Social Services for not more than five adults, in the case of an ARFPSHN, or not more than five children, in the case of a GHCSHN, and a contract with the regional center that includes, at a minimum, all of the following:

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

(b) A requirement that the contractor shall comply with all applicable statutes and regulations, including Section 4681.1.

(c) The effective date and termination date of the contract.

(d) The definition of terms.

(e) A requirement that the execution of any amendment or modification to the contract be in accordance with all applicable federal and state statutes and regulations and be by mutual agreement of both parties.

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

(g) A requirement that the assignment of the contract for consumer services shall not be allowed.

(h) The rate of payment per consumer.

(i) Incorporation, by reference, of the ARFPSHN's or the GHCSHN's approved program plan.

(j) A requirement that the contractor verify, and maintain for the duration of the project, possession of commercial general liability insurance in the amount of at least one million dollars (\$1,000,000) per occurrence.

(k) Contractor performance criteria.

(Amended by Stats. 2021, Ch. 76, Sec. 38. (AB 136) Effective July 16, 2021.)

4684.63. (a) Each ARFPSHN and each GHCSHN shall do all of the following:

(1) Meet the minimum requirements for a Residential Facility Service Level 4-i pursuant to Sections 56004 and 56013 of Title 17 of the California Code of Regulations, and ensure that all of the following conditions are met:

(A) That a licensed registered nurse, licensed vocational nurse, or licensed psychiatric technician, is awake and on duty 24-hours per day, seven days per week.

(B) That a licensed registered nurse is awake and on duty at least eight hours per person, per week.

(C) That at least two staff on the premises are awake and on duty if providing care to four or more consumers.

(2) Ensure the consumer remains under the care of a physician at all times and is examined by the primary care physician at least once every 60 days, or more often if required by the consumer's individual health care plan.

(3) Ensure that an administrator is on duty at least 20 hours per week to ensure the effective operation of the ARFPSHN or the GHCSHN.

(4) For an ARFPSHN, ensure that the administrator completes the 35-hour administrator certification training program pursuant to paragraph (1) of subdivision (c) of Section 1562.3 of the Health and Safety Code without exception, has at least one year of administrative and supervisory experience in a licensed residential program for persons with developmental disabilities, and is one or more of the following:

(A) A licensed registered nurse.

(B) A licensed nursing home administrator.

(C) A licensed psychiatric technician with at least five years of experience serving individuals with developmental disabilities.

(D) An individual with a bachelors degree or more advanced degree in the health or human services field and two years of experience working in a licensed residential program for persons with developmental disabilities and special health care needs.

(5) For a GHCSHN, ensure that the administrator completes the 40-hour administrator certification training program pursuant to paragraph (1) of subdivision (c) of Section 1522.41 of the Health and Safety Code without exception, has at least one year of administrative and supervisory experience in a licensed residential program for persons with developmental disabilities, and is one or more of the following:

(A) A licensed registered nurse.

(B) A licensed nursing home administrator.

(C) A licensed psychiatric technician with at least five years of experience serving individuals with developmental disabilities.

(D) An individual with a bachelors degree or more advanced degree in the health or human services field and two years of experience working in a licensed residential program for persons with developmental disabilities and special health care needs.

(b) The regional center shall require an ARFPSHN or a GHCSHN to provide additional professional, administrative, or supportive personnel whenever the regional center determines, in consultation with the individual health care plan team, that additional

personnel are needed to provide for the health and safety of consumers.

(c) Each ARFPSHN and each GHCSHN shall ensure that all direct care personnel complete the training requirements specified in Section 4695.2.

(Amended by Stats. 2021, Ch. 76, Sec. 39. (AB 136) Effective July 16, 2021.)

4684.65. (a) A regional center shall not place, or fund the placement for, any consumer in an ARFPSHN or a GHCSHN unless the following requirements are met:

(1) The individual health care plan team has prepared a written individual health care plan that can be fully and immediately implemented upon the consumer's placement.

(2) For placements in a GHCSHN, the regional center considers and documents every possible way to assist the child's family or guardian to maintain the child in the home of the family or guardian, or return the child to the home of the family or guardian, when living at home is the preferred objective in the child's individual program plan.

(b) (1) An ARFPSHN and GHCSHN shall only accept, for initial admission, consumers who meet both of the following requirements:

(A) Reside in a developmental center at the time of the proposed placement.

(B) Have an individual program plan that specifies special health care and intensive support needs that indicate the appropriateness of placement in an ARFPSHN or a GHCSHN.

(2) Except as provided in paragraph (3), if a vacancy in an ARFPSHN or a GHCSHN occurs due to the permanent relocation or death of a resident, the vacancy may be filled by a consumer who meets the requirements of paragraph (1).

(3) If there is no resident residing in a developmental center from any regional center who meets the requirements of subparagraph (B) of paragraph (1), a vacancy may be filled by a consumer of any regional center who does not reside in a developmental center if the consumer otherwise meets the requirements of subparagraph (B) of paragraph (1), the regional center demonstrates that the placement is necessary to protect the consumer's health or safety, and the department has granted prior written authorization.

(c) The ARFPSHN or the GHCSHN shall not admit a consumer if the individual health care plan team determines that the consumer is likely to exhibit behaviors posing a threat of substantial harm to others, or has a serious health condition that is unpredictable or unstable. A determination that the individual is a threat to others may only be based on objective evidence or recent behavior and a determination that the threat cannot be mitigated by reasonable interventions.

(Amended by Stats. 2021, Ch. 76, Sec. 40. (AB 136) Effective July 16, 2021.)

4684.68. (a) The individual health care plan shall include, at a minimum, all of the following:

(1) An evaluation of the consumer's current health.

(2) A description of the consumer's ability to perform the activities of daily living.

(3) A list of all current prescription and nonprescription medications the consumer is using.

(4) A list of all health care and intensive support services the consumer is currently receiving or may need upon placement in the ARFPSHN or the GHCSHN.

(5) A written statement from the consumer's primary care physician familiar with the health care needs of the consumer, or other physician as designated by the regional center, that the consumer's medical condition is predictable and stable, and that the consumer's level of care is appropriate for the ARFPSHN or the GHCSHN.

(6) Provision for the consumer to be examined by the consumer's primary care physician at least once every 60 days, or more frequently if indicated.

(7) A list of the appropriate professionals assigned to provide the health care as described in the plan.

(8) A description of, and plan for providing, any training required for all direct care personnel to meet individuals' needs.

(9) The name of the individual health care plan team member, and an alternate designee, who is responsible for day-to-day monitoring of the consumer's health care plan and ensuring its implementation as written.

(10) Identification of the legally authorized representative to make health care decisions on the consumer's behalf, if the consumer lacks the capacity to give informed consent.

(11) The name and telephone number of the person or persons to notify in case of an emergency.

(12) The next meeting date of the individual health care plan team, that shall be at least every six months, to evaluate and update the individual health care plan.

(b) In addition to Section 80075 of Title 22 of the California Code of Regulations, and if applicable for a GHCSHN, Sections 84075 and 84275 of Title 22 of the California Code of Regulations, the ARFPSHN and the GHCSHN shall comply with all of the following requirements:

(1) Medications shall be given only on the order of a person lawfully authorized to prescribe.

(2) Medications shall be administered as prescribed and shall be recorded in the consumer record. The name and title of the person administering the medication or treatment, and the date, time, and dosage of the medication administered shall be recorded. Initials may be used provided the signature of the person administering the medication or treatment is recorded on the medication or treatment record.

(3) Preparation of dosages for more than one scheduled administration time shall not be permitted.

(4) Persons administering medications shall confirm each consumer's identity prior to the administration.

(5) Medications shall be administered within two hours after dosages are prepared and shall be administered by the same person who prepared the dosages. Dosages shall be administered within one hour of the prescribed time unless otherwise indicated by the prescriber.

(6) All medications shall be administered only by those persons specifically authorized to do so by their respective scope of practice, with the exception of emergency medical assistance and injections for severe diabetic hypoglycemia and anaphylactic shock as described in subdivision (a) of Section 1507.25 of the Health and Safety Code.

(7) No medication shall be administered to or used by any consumer other than the consumer for whom the medication was prescribed.

(8) Medication errors and adverse drug reactions shall be recorded and reported immediately to the practitioner who ordered the drug or another practitioner responsible for the medical care of the consumer. Minor adverse reactions that are identified in the literature accompanying the product as a usual or common side effect, need not be reported to the practitioner immediately, but in all cases shall be recorded in the consumer's record. Medication errors include, but are not limited to, the failure to administer a drug ordered by a prescriber within one hour of the time prescribed, administration of any drugs other than prescribed or the administration of a dose not prescribed.

(Amended by Stats. 2021, Ch. 76, Sec. 41. (AB 136) Effective July 16, 2021.)

4684.70. (a) The State Department of Social Services, in administering the licensing program, shall not have any responsibility for evaluating consumers' level of care or health care provided by an ARFPSHN or a GHCSHN. Any suspected deficiencies in a consumer's level of care or health care identified by the State Department of Social Services' personnel shall be reported immediately to the appropriate regional center and the State Department of Developmental Services for investigation.

(b) The regional center shall have responsibility for monitoring and evaluating the implementation of the consumer's individual plan objectives, including, but not limited to, the health care and intensive support service needs identified in the consumer's individual health care plan and the consumer's integration and participation in community life.

(c) For each consumer placed in an ARFPSHN or a GHCSHN, the regional center shall assign a service coordinator pursuant to subdivision (b) of Section 4647.

(d) A regional center licensed registered nurse shall visit, with or without prior notice, the consumer, in person, at least monthly in the ARFPSHN or the GHCSHN, or more frequently if specified in the consumer's individual health care plan. At least four of these visits, annually, shall be unannounced.

(e) The State Department of Developmental Services shall monitor and ensure the regional centers' compliance with the requirements of this article. The monitoring shall include onsite visits to all the ARFPSHNs and the GHCSHNs at least every six months.

(Amended by Stats. 2021, Ch. 76, Sec. 42. (AB 136) Effective July 16, 2021.)

4684.73. (a) In addition to any other contract termination provisions, a regional center may terminate its contract with an ARFPSHN or a GHCSHN if the regional center determines that the ARFPSHN or the GHCSHN is unable to maintain substantial compliance with state laws, regulations, or its contract with the regional center, or the ARFPSHN or the GHCSHN demonstrates an inability to ensure the health and safety of the consumers.

(b) The ARFPSHN or the GHCSHN may appeal a regional center's decision to terminate its contract by sending, to the executive director of the contracting regional center, a detailed statement containing the reasons and facts demonstrating why the termination is inappropriate. The appeal must be received by the regional center within 10 working days from the date of the letter terminating the contract. The executive director shall respond with their decision within 10 working days of the date of receipt of the appeal from the ARFPSHN or the GHCSHN. The executive director shall submit their decision to the State Department of Developmental Services on the same date that it is signed. The decision of the executive director shall be the final administrative decision.

(c) The Director of Developmental Services may rescind an ARFPSHN's or a GHCSHN's program certification if, in their sole discretion, an ARFPSHN or a GHCSHN does not maintain substantial compliance with an applicable statute, regulation, or ordinance, or cannot ensure the health and safety of the consumers. The decision of the Director of Developmental Services shall be the final administrative decision. The Director of Developmental Services shall transmit their decision rescinding an ARFPSHN's or a GHCSHN's program certification to the State Department of Social Services and the regional center with their recommendation as to whether to revoke the ARFPSHN's or the GHCSHN's license.

(d) In addition to complying with Section 1524.1 of the Health and Safety Code, an ARFPSHN or GHCSHN licensee that is unable to continue to provide services to consumers in the facility shall, upon the date on which a new ARFPSHN license is issued pursuant to Sections 1520 and 1525 of the Health and Safety Code, or a new GHCSHN license is issued pursuant to Sections 1520, 1520.1, and 1525 of the Health and Safety Code, arrange with the regional center or department the transfer of all information, property, and documents related to the operation of the facility and the provision of services to the consumers. The department or the regional center shall take all steps permitted by this article to ensure that at all times the consumers who are residing in the facility receive services set forth in their individual health care plans.

(Amended by Stats. 2021, Ch. 76, Sec. 43. (AB 136) Effective July 16, 2021.)

4684.74. The State Department of Developmental Services shall only approve the development of ARFPSHNs or GHCSHNs that are directly associated with the identification of the need of regional center consumers residing in or at risk of placement in larger congregate settings.

(Amended by Stats. 2021, Ch. 76, Sec. 44. (AB 136) Effective July 16, 2021.)

4684.75. (a) The State Department of Developmental Services may adopt emergency regulations to implement this article. The adoption, amendment, repeal, or readoption of a regulation authorized by this section is deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare, for purposes of Sections 11346.1 and 11349.6 of the Government Code, and the State Department of Developmental Services is hereby exempted from the requirement that it describe specific facts showing the need for immediate action. A certificate of compliance for these implementing regulations shall be filed within 24 months following the adoption of the first emergency regulations filed pursuant to this section.

(b) This article shall only be implemented to the extent that funds are made available through an appropriation in the annual Budget Act.

(Amended by Stats. 2010, Ch. 717, Sec. 135. (SB 853) Effective October 19, 2010.)

4684.76. For a child or nonminor dependent who has been adjudged a dependent of the court pursuant to Section 300, a child who has not been adjudged a dependent of the court pursuant to Section 300 but who is in the custody of the county welfare department, or a child who has been adjudged a ward of the court pursuant to Section 601 or 602 and placed in the care and custody of the county probation department, who is or will be placed in a GHCSHN, the following shall apply:

(a) The child or nonminor dependent shall have a predictable and stable condition, as determined by the individualized health care plan team, that can rapidly deteriorate, resulting in permanent injury or death, or that is dependent upon one or more of the following:

- (1) Nutrition support, including enteral feeding tube or total parenteral feeding.
- (2) Cardiorespiratory monitoring.
- (3) Oxygen support.
- (4) A ventilator.
- (5) Nursing interventions for tracheostomy care and suctioning.

(6) Nursing interventions for colostomy, ileostomy, or other medical or surgical procedures.

(7) Special medication regimes including injection and intravenous medications.

(8) Urinary catheterization.

(9) Renal dialysis.

(b) The child or nonminor dependent has been assessed pursuant to Section 4096 and it is determined that the GHCSHN will provide the most effective and appropriate level of care for the child or nonminor dependent in the least restrictive environment and be consistent with the short- and long-term goals for the child or nonminor dependent.

(c) In addition to the individuals identified in paragraph (2) of subdivision (e) of Section 4684.50, the individual health care plan team shall, at a minimum, include:

(1) Any person who holds the right to make developmental services decisions for the child, including any person designated by the court pursuant to paragraph (4) of subdivision (j) of Section 319 or paragraph (5) of subdivision (a) of Section 361.

(2) The child welfare caseworker.

(3) A representative of the child or nonminor dependent's tribe or Indian custodian, as applicable.

(d) The child welfare agency shall continue to be responsible to make all efforts required by law to complete any steps necessary to finalize the permanent placement of the child or nonminor dependent, including, but not limited to, the provision of specialized permanency services as defined in paragraph (9) of subdivision (a) of Section 16501.

(e) The child welfare agency shall review whether the child can be transitioned to a less restrictive environment pursuant to paragraph (9) of subdivision (e) of Section 361.2.

(Added by Stats. 2021, Ch. 76, Sec. 45. (AB 136) Effective July 16, 2021.)

4684.77. (a) If a child requires a living arrangement in a GHCSHN, the regional center shall make every effort to secure placement, consistent with the individual program plan, in a GHCSHN that is reasonably close proximity to the home of the legal guardian.

(b) (1) If a GHCSHN in reasonably close proximity to the home of the family or guardian cannot be secured by the regional center, the regional center shall include with the individual program plan a written statement of its efforts to locate, develop, or adapt appropriate services and supports in a living arrangement within close proximity to the family home and what steps will be taken by the regional center to develop the services and supports necessary to return the child to the family home or within close proximity of the family home.

(2) The statement required pursuant to paragraph (1) shall be updated every six months, or as agreed to by the parents or guardians, and a copy shall be forwarded to the parents or guardians of the minor and to the director of the department.

(c) This section shall not be construed to impede the movement of consumers to other geographic areas or the preference of the legal guardian for the placement of their minor child.

(Added by Stats. 2021, Ch. 76, Sec. 46. (AB 136) Effective July 16, 2021.)