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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 4. MENTAL HEALTH [4000 - 4390] (*Heading of Division 4 amended by Stats. 1977, Ch. 1252.*)

PART 1. GENERAL ADMINISTRATION, POWERS AND DUTIES OF THE DEPARTMENT [4000 - 4098.5] (*Heading of Part 1 amended by Stats. 1977, Ch. 1252.*)

CHAPTER 3. Facility Licensing, Program Certification, and Ratesetting [4080 - 4096.6] (*Heading of Chapter 3 amended by Stats. 1991, Ch. 89, Sec. 36.*)

ARTICLE 5. Programs for Seriously Emotionally Disturbed Children and Court Wards and Dependents [4094 - 4096.6] (*Article 5 added by Stats. 1991, Ch. 89, Sec. 47.*)

4094. (a) The State Department of Mental Health shall establish, by regulations adopted at the earliest possible date, but no later than December 31, 1994, program standards for any facility licensed as a community treatment facility. This section shall apply only to community treatment facilities described in this subdivision.

(b) Commencing July 1, 2012, the State Department of Health Care Services may adopt or amend regulations pertaining to the program standards for any facility licensed as a community treatment facility.

(c) A certification of compliance issued by the State Department of Health Care Services shall be a condition of licensure for the community treatment facility by the State Department of Social Services. The department may, upon the request of a county, delegate the certification and supervision of a community treatment facility to the county department of mental health.

(d) The State Department of Health Care Services shall adopt regulations to include, but not be limited to, the following:

(1) Procedures by which the Director of Health Care Services shall certify that a facility requesting licensure as a community treatment facility pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code is in compliance with program standards established pursuant to this section.

(2) Procedures by which the Director of Health Care Services shall deny a certification to a facility or decertify a facility that is licensed as a community treatment facility pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, but no longer complying with program standards established pursuant to this section, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Provisions for site visits by the State Department of Health Care Services for the purpose of reviewing a facility's compliance with program standards established pursuant to this section.

(4) Provisions for the community care licensing staff of the State Department of Social Services to report to the State Department of Health Care Services when there is reasonable cause to believe that a community treatment facility is not in compliance with program standards established pursuant to this section.

(5) Provisions for the State Department of Health Care Services to provide consultation and documentation to the State Department of Social Services in any administrative proceeding regarding denial, suspension, or revocation of a community treatment facility license.

(e) The standards adopted by regulations pursuant to subdivisions (a) and (b) shall include, but not be limited to, standards for treatment, staffing, and for the use of psychotropic medication, discipline, and restraints in the facilities. The standards shall also meet the requirements of Section 4094.5.

(f) (1) A community treatment facility shall not be required by the State Department of Health Care Services to have 24-hour onsite licensed nursing staff, but shall retain at least one full-time, or full-time-equivalent, registered nurse onsite if all of the following are applicable:

(A) The facility does not use mechanical restraint.

(B) The facility only admits children who have been assessed, at the point of admission, by a licensed primary care provider and a licensed psychiatrist, who have concluded, with respect to each child, that the child does not require medical services that require 24-hour nursing coverage. For purposes of this section, a "primary care provider" includes a person defined in Section 14254, or a nurse practitioner who has the responsibility for providing initial and primary care to patients, for maintaining the continuity of care, and for initiating referral for specialist care.

(C) Other medical or nursing staff shall be available on call to provide appropriate services, when necessary, within one hour. In order for a placement in a community treatment facility to be funded with federal Aid to Families with Dependent Children-Foster Care on behalf of an eligible child, the facility shall maintain registered or licensed nursing staff and other licensed clinical staff who are onsite, according to the facility's treatment model, and who are available 24 hours a day and 7 days a week. If consistent with the facility's treatment model, a community treatment facility may access the same nursing resources as those made available to a short-term residential therapeutic program pursuant to Section 4096.55.

(D) All direct care staff shall be trained in first aid and cardiopulmonary resuscitation, and in emergency intervention techniques and methods approved by the Community Care Licensing Division of the State Department of Social Services.

(2) The State Department of Health Care Services may adopt emergency regulations as necessary to implement this subdivision. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, and general welfare. The regulations shall be exempt from review by the Office of Administrative Law and shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 180 days unless the adopting agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, as required by subdivision (e) of Section 11346.1 of the Government Code.

(g) During the initial public comment period for the adoption of the regulations required by this section, the community care facility licensing regulations proposed by the State Department of Social Services and the program standards proposed by the State Department of Health Care Services shall be presented simultaneously.

(h) A minor shall be admitted to a community treatment facility only if the requirements of Section 4094.5 of this code, Section 1530.9 of the Health and Safety Code, and either of the following conditions are met:

(1) The minor is within the jurisdiction of the juvenile court, and has made voluntary application for mental health services pursuant to Section 6552.

(2) Informed consent is given by a parent, guardian, conservator, or other person having custody of the minor.

(i) Any minor admitted to a community treatment facility shall have the same due process rights afforded to a minor who may be admitted to a state hospital, pursuant to the holding in *In re Roger S.* (1977) 19 Cal.3d 921. Minors who are wards or dependents of the court and to whom this subdivision applies shall be afforded due process in accordance with Section 6552 and related case law, including *In re Michael E.* (1975) 15 Cal.3d 183. Regulations adopted pursuant to Section 4094 shall specify the procedures for ensuring these rights, including provisions for notification of rights and the time and place of hearings.

(j) (1) Notwithstanding subdivisions (a) and (b), pursuant to Section 5963.05, the State Department of Health Care Services may develop and revise documentation standards for community treatment facilities to be consistent with the standards developed pursuant to paragraph (3) of subdivision (h) of Section 14184.402.

(2) The department or the department's delegate shall require community treatment facilities to implement these documentation standards and shall monitor compliance with these standards as part of the program reviews required for certification pursuant to subdivision (c).

(Amended by Stats. 2023, Ch. 790, Sec. 12. (SB 326) Effective October 12, 2023.)

4094.1. The State Department of Health Care Services and the State Department of Social Services, in consultation with community treatment providers, local mental health departments, and county welfare departments, shall develop joint protocols for the oversight of community treatment facilities.

(Amended by Stats. 2012, Ch. 34, Sec. 65. (SB 1009) Effective June 27, 2012.)

4094.2. (a) For the purpose of establishing payment rates for community treatment facility programs, the private nonprofit agencies selected to operate these programs shall prepare a budget that covers the total costs of providing residential care and supervision and mental health services for their proposed programs. These costs shall include categories that are allowable under California's Foster Care program and existing programs for mental health services. They shall not include educational, nonmental health medical, and dental costs.

(b) Each agency operating a community treatment facility program shall negotiate a final budget with the local mental health department in the county in which its facility is located (the host county) and other local agencies, as appropriate. This budget

agreement shall specify the types and level of care and services to be provided by the community treatment facility program and a payment rate that fully covers the costs included in the negotiated budget. All counties that place children in a community treatment facility program shall make payments using the budget agreement negotiated by the community treatment facility provider and the host county.

(c) A foster care rate shall be established for each community treatment facility program by the State Department of Social Services.

(1) (A) These rates shall be established using the existing foster care rate for a short-term residential therapeutic program, as defined in subdivision (ad) of Section 11400, with modifications designed as necessary. It is anticipated that all community treatment facility programs will offer the level of care and services required to receive the highest foster care rate provided for under the current ratesetting system.

(B) Beginning July 1, 2027, or the date specified in paragraph (9) of subdivision (h) of Section 11461, in accordance with the schedules provided in paragraph (4) of subdivision (h) of Section 11461 and Sections 16562 and 16565, whichever is later, the rate paid on behalf of a child or nonminor dependent placed in a community treatment facility shall be equivalent to the Tiered Rate Structure described in paragraphs (1) to (3), inclusive, of subdivision (e) of Section 11462.

(2) Except as otherwise provided in paragraph (3), commencing January 1, 2017, the program shall have accreditation from a nationally recognized accrediting entity identified by the State Department of Social Services pursuant to the process described in paragraph (4) of subdivision (b) of Section 11462.

(3) Any community treatment facility shall be reclassified and paid at the appropriate program rate for which it is qualified if it fails to timely obtain or maintain accreditation as required by state law or fails to provide proof of that accreditation to the State Department of Social Services upon request.

(d) For the 2001–02 fiscal year, the 2002–03 fiscal year, the 2003–04 fiscal year, and the 2004–05 fiscal year, community treatment facility programs shall also be paid a community treatment facility supplemental rate of up to two thousand five hundred dollars (\$2,500) per child per month on behalf of children eligible under the foster care program and children placed out of home pursuant to an individualized education program developed under former Section 7572.5 of the Government Code. Subject to the availability of funds, the supplemental rate shall be shared by the state and the counties. Counties shall be responsible for paying a county share of cost equal to 60 percent of the community treatment rate for children placed by counties in community treatment facilities and the state shall be responsible for 40 percent of the community treatment facility supplemental rate. The community treatment facility supplemental rate is intended to supplement, and not to supplant, the payments for which children placed in community treatment facilities are eligible to receive under the foster care program and the existing programs for mental health services.

(e) For initial ratesetting purposes for community treatment facility funding, the cost of mental health services shall be determined by deducting the foster care rate and the community treatment facility supplemental rate from the total allowable cost of the community treatment facility program. Payments to certified providers for mental health services shall be based on eligible services provided to children who are Medi-Cal beneficiaries, up to the approved federal rate for these services.

(f) The State Department of Health Care Services shall provide the community treatment facility supplemental rates to the counties for advanced payment to the community treatment facility providers in the same manner as the regular foster care payment and within the same required payment time limits.

(g) In order to facilitate the study of the costs of community treatment facilities, licensed community treatment facilities shall provide all documents regarding facility operations, treatment, and placements requested by the department.

(h) It is the intent of the Legislature that the State Department of Health Care Services and the State Department of Social Services work to maximize federal financial participation in funding for children placed in community treatment facilities through funds available pursuant to Titles IV-E and XIX of the federal Social Security Act (42 U.S.C. Sec. 670 et seq. and Sec. 1396 et seq.) and other appropriate federal programs.

(i) The State Department of Health Care Services and the State Department of Social Services may adopt emergency regulations necessary to implement joint protocols for the oversight of community treatment facilities, to modify existing licensing regulations governing reporting requirements and other procedural and administrative mandates to take into account the seriousness and frequency of behaviors that are likely to be exhibited by seriously emotionally disturbed children placed in community treatment facility programs, to modify the existing foster care ratesetting regulations, and to pay the community treatment facility supplemental rate. The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, and general welfare. The regulations shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 180 days unless the adopting agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, as required by subdivision (e) of Section 11346.1 of the Government Code.

(j) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services may implement, interpret, or make specific changes made to this section by the act that added this subdivision through and by means of all-county letters or similar

written directives, which shall be exempt from submission to or review by the Office of Administrative Law. These all-county letters or similar written directives shall have the same force and effect as regulations until the adoption of regulations no later than January 1, 2030.

(Amended by Stats. 2024, Ch. 46, Sec. 8. (AB 161) Effective July 2, 2024.)

4094.5. Regulations for community treatment facilities adopted pursuant to Section 4094 shall include, but not be limited to, the following:

- (a) Only a child with serious emotional disturbance, as defined in Section 5699.2, either (1) for whom other less restrictive mental health interventions have been tried, as documented in the case plan, or (2) who is currently placed in an acute psychiatric hospital or state hospital or in a facility outside the state for mental health treatment, and who may require periods of containment to participate in, and benefit from, mental health treatment, shall be placed in a community treatment facility. For purposes of this subdivision, lesser restrictive interventions shall include, but are not limited to, outpatient therapy, family counseling, case management, family preservation efforts, special education classes, or nonpublic schooling.
- (b) A facility shall have the capacity to provide secure containment. For purposes of this section, a facility or an area of a facility shall be defined as secure if residents are not permitted to leave the premises of their own volition. All or part of a facility, including its perimeter, but not a room alone, may be locked or secure. If a facility uses perimeter fencing, all beds within the perimeter shall be considered secure beds. All beds outside of a locked or secure wing or facility shall be considered nonsecure beds.
- (c) A locked or secure program in a facility shall not be used for disciplinary purposes, but shall be used for the protection of the child. It may be used as a treatment modality for a child needing that level of care. The use of the secure facility program shall be for as short a period as possible, consistent with the child's case plan and safety. The department shall develop regulations governing the oversight, review, and duration of the use of secure beds.
- (d) Fire clearance approval shall be obtained pursuant to Section 1531.2 of the Health and Safety Code.
- (e) (1) Prior to admission, a child admitted to a community treatment facility shall have been certified as having serious emotional disturbance, as defined in Section 5699.2, by a licensed mental health professional.

(A) Except in the case of placement on an emergency basis, as described in subdivision (i) of Section 4096, any child who is a dependent or ward of the juvenile court, is the subject of a petition filed pursuant to Section 300, has been detained pursuant to Section 636, or is voluntarily placed and the placement is funded by the Aid to Families with Dependent Children-Foster Care program, shall, prior to admission, have been determined by a county interagency placement committee to require placement in the community treatment facility, as prescribed by subdivision (e) of Section 4096. A copy of the interagency placement committee determination shall be provided to the facility.

(B) Any child who is a dependent or ward of the juvenile court, is the subject of a petition filed pursuant to Section 300, has been detained pursuant to Section 636, or is voluntarily placed and the placement is funded by the Aid to Families with Dependent Children-Foster Care program, shall be assessed by a qualified individual, as defined in subdivision (l) of Section 16501, pursuant to subdivision (g) of Section 4096, as needing the level of care provided by a community treatment facility. The assessment by the qualified individual shall occur prior to the child's admission to the facility, or, if delaying placement for the qualified individual's assessment would be contrary to the child's well-being, within 30 days after the child began physically residing in the facility. A copy of the completed assessment shall be provided to the facility.

(C) Federal financial participation under the Medi-Cal program shall only be available if all state and federal requirements are met and the treatment is medically necessary. Federal financial participation under the Medi-Cal program shall not be claimed for medical assistance expenditures relating to minors or nonminors detained in a juvenile justice facility, unless expressly permitted under the federal law, or approved under the CalAIM Terms and Conditions as defined in subdivision (c) of Section 14184.101 or the approved terms and conditions of a successor waiver or demonstration project.

- (2) Any county cost associated with the certification and the determination provided for in paragraph (1) may be billed as a utilization review expense.

(Amended by Stats. 2024, Ch. 948, Sec. 4. (AB 2119) Effective January 1, 2025.)

4094.6. The patients' rights provisions contained in Sections 5325, 5325.1, 5325.2, and 5326 shall be available to any child admitted to, or eligible for admission to, a community treatment facility. Every child placed in a community treatment facility shall have a right to a hearing by writ of habeas corpus, within two judicial days of the filing of a petition for the writ of habeas corpus with the superior court of the county in which the facility is located, for his or her release. Regulations adopted pursuant to Section 4094 shall specify the procedures by which this right shall be ensured. These regulations shall generally be consistent with the procedures contained in Section 5275 et seq., concerning habeas corpus for individuals, including children, subject to various involuntary holds.

(Added by Stats. 1993, Ch. 1245, Sec. 6. Effective October 11, 1993.)

4094.7. (a) A community treatment facility may have both secure and nonsecure beds. However, the State Department of Health Care Services shall limit the total number of beds in community treatment facilities to not more than 400 statewide. The State Department of Health Care Services shall certify community treatment facilities in such a manner as to ensure an adequate dispersal of these facilities within the state. The State Department of Health Care Services shall ensure that there is at least one facility in each of the State Department of Social Services' five regional licensing offices.

(b) The State Department of Health Care Services shall notify the State Department of Social Services when a facility has been certified and has met the program standards pursuant to Section 4094. The State Department of Social Services shall license a community treatment facility for a specified number of secure beds and a specified number of nonsecure beds. The number of secure and nonsecure beds in a facility shall be modified only with the approval of both the State Department of Social Services and the State Department of Health Care Services.

(c) The State Department of Health Care Services shall develop, with the advice of the State Department of Social Services, county representatives, providers, and interested parties, the criteria to be used to determine which programs among applicant providers shall be licensed. The State Department of Health Care Services shall determine which agencies best meet the criteria, certify them in accordance with Section 4094, and refer them to the State Department of Social Services for licensure.

(d) Any community treatment facility proposing to serve seriously emotionally disturbed foster children shall be incorporated as a nonprofit organization.

(Amended by Stats. 2012, Ch. 439, Sec. 19. (AB 1471) Effective September 22, 2012.)

4095. (a) It is the intent of the Legislature that essential and culturally relevant mental health assessment, case management, and treatment services be available to wards of the court and dependent children of the court placed out of home or who are at risk of requiring out-of-home care. This can be best achieved at the community level through the active collaboration of county social service, probation, education, mental health agencies, and foster care providers.

(b) Therefore, using the Children's Mental Health Services Act (Part 4 (commencing with Section 5850) of Division 5) as a guideline, the State Department of Health Care Services, in consultation with the County Behavioral Health Directors Association of California, the State Department of Social Services, the County Welfare Directors Association of California, the Chief Probation Officers of California, and foster care providers, shall do all of the following:

(1) By July 1, 1994, develop an individualized mental health treatment needs assessment protocol for wards of the court and dependent children of the court.

(2) Define supplemental services to be made available to the target population, including, but not limited to, services defined in Section 540 and following of Title 9 of the California Code of Regulations as of January 1, 1994, family therapy, prevocational services, and crisis support activities.

(3) Establish statewide standardized rates for the various types of services defined by the department in accordance with paragraph (2), and provided pursuant to this section. The rates shall be designed to reduce the impact of competition for scarce treatment resources on the cost and availability of care. The rates shall be implemented only when the state provides funding for the services described in this section.

(4) By January 1, 1994, to the extent state funds are available to implement this section, establish, by regulation, all of the following:

(A) Definitions of priority ranking of subsets of the court wards and dependents target population.

(B) A procedure to certify the mental health programs.

(c) (1) Only those individuals within the target population as defined in regulation and determined to be eligible for services as a result of a mental health treatment needs assessment may receive services pursuant to this section.

(2) Allocation of funds appropriated for the purposes of this section shall be based on the number of wards and dependents and may be adjusted in subsequent fiscal years to reflect costs.

(3) The counties shall be held harmless for failure to provide any assessment, case management, and treatment services to those children identified in need of services for whom there is no funding.

(d) (1) The State Department of Health Care Services shall make information available to the Legislature, on request, on the service populations provided mental health treatment services pursuant to this section, the types and costs of services provided, and the number of children identified in need of treatment services who did not receive the services.

(2) The information required by paragraph (1) may include information on need, cost, and service impact experience from the following:

(A) Family preservation pilot programs.

(B) Pilot programs implemented under the former Children's Mental Health Services Act, as contained in Chapter 6.8 (commencing with Section 5565.10) of Part 1 of Division 5.

(C) Programs implemented under Chapter 26 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and Section 11401.

(D) County experience in the implementation of Section 4096.

(Amended by Stats. 2015, Ch. 455, Sec. 15. (SB 804) Effective January 1, 2016.)

4096. (a) This section governs interagency placement committees related to the placement of a dependent child or a ward into short-term residential therapeutic programs, as specified in Section 11462.01, in a community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, or in an out-of-state residential facility, as defined in subdivision (b) of Section 7910 of the Family Code.

(1) Interagency collaboration and children's program services shall be structured in a manner that will facilitate implementation of the goals of Part 4 (commencing with Section 5850) of Division 5 to develop protocols outlining the roles and responsibilities of placing agencies and programs regarding nonemergency placements of a foster child in a certified residential therapeutic program.

(2) Components shall be added to state-county performance contracts required in Section 5650 that provide for reports from counties on how this section is implemented.

(3) The State Department of Health Care Services shall develop performance contract components required by paragraph (2).

(4) Performance contracts subject to this section shall document that the procedures to be implemented in compliance with this section have been approved by the county social services department and the county probation department.

(b) Funds specified in subdivision (a) of Section 17601 for services to wards of the court and dependent children of the court shall be allocated and distributed to counties based on the number of wards of the court and dependent children of the court in the county.

(c) A county may utilize funds allocated pursuant to subdivision (b) only if the county has established an operational interagency placement committee with a membership that includes at least the county placement agency and a licensed mental health professional from the county department of mental health. If necessary, the funds may be used for costs associated with establishing the interagency placement committee.

(d) Funds allocated pursuant to subdivision (b) shall be used to provide services to wards of the court and dependent children of the court jointly identified by county mental health, social services, and probation departments as the highest priority. Every effort shall be made to match those funds with funds received pursuant to Title XIX of the federal Social Security Act, contained in Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

(e) (1) Each interagency placement committee shall establish procedures whereby a ward of the court or dependent child of the court, a child who is the subject of a petition filed pursuant to Section 300, a child detained pursuant to Section 636, or a voluntarily placed child whose placement is funded by the Aid to Families with Dependent Children-Foster Care program, who is to be placed or is currently placed in a program, as specified in subdivision (a), shall be determined to meet one of the following:

(A) The child or ward meets the medical necessity criteria for Medi-Cal specialty mental health services, as the criteria are described in Section 1830.205 or 1830.210 of Title 9 of the California Code of Regulations.

(B) The child or ward is assessed and diagnosed with serious emotional disturbance as described in subdivision (a) of Section 5600.3.

(C) The child's or ward's individual behavioral or treatment needs can only be met by the level of care provided in a program, as specified in subdivision (a).

(2) The determination required by paragraph (1) shall do all of the following:

(A) Ensure that the care and services that the child needs, including any care or service needs determined by the qualified individual assessment, are provided by a program, as specified in subdivision (a), and include documentation regarding how

medically necessary Medi-Cal specialty mental health services will be provided in a provisionally licensed program.

(B) Ensure that the requirements of subdivision (c) of Section 16514 have been met with respect to commonality of need.

(C) Consider the detailed history that shall be provided by the placing agency outlining behavior that may pose a threat to the health or safety of that child and the other children residing in the program and consider any potential interference with the effectiveness of the care and services provided to that child and the other children residing in the program, as specified in subdivision (a).

(D) Describe additional safety measures and therapeutic interventions needed to mitigate identified challenging behaviors or risks to the safety of the child and other children in the facility.

(E) Present the determination to the placing agency within five business days of the referral.

(3) This subdivision does not prohibit an interagency placement committee from considering an assessment that was provided by a licensed mental health professional, as described in subdivision (j), and that was developed consistent with procedures established by the county pursuant to paragraph (1).

(4) The State Department of Health Care Services and the State Department of Social Services shall develop a dispute resolution process or utilize an existing dispute resolution process currently operated by each department to jointly review a disputed interagency placement committee determination made pursuant to this subdivision. The departments shall report the developed or utilized dispute resolution process to the appropriate policy and fiscal committees of the Legislature no later than January 1, 2017, and shall track the number of disputes reported and resolved, and provide that information to the Legislature annually as part of the State Budget process. Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the departments may issue guidance on the joint review process for dispute resolution by written directive.

(f) The interagency placement committee shall document the results of the determination required by subdivision (e) and shall notify the appropriate provider in writing, of those results within 10 days of the completion of the determination.

(g) (1) For a placement in a short-term therapeutic residential program, a community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, or in an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, made on or after October 1, 2021, a qualified individual, as defined pursuant to subdivision (l) of Section 16501, shall conduct an assessment pursuant to this subdivision if the child is placed by a county child welfare or probation placing agency.

(2) (A) Unless the placement is an emergency placement pursuant to paragraph (3) of subdivision (h) of Section 11462.01, the qualified individual shall conduct an independent assessment and determination regarding the needs of the child prior to placement in a short-term therapeutic residential program, in a community treatment facility, or in an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code. In the event of an emergency placement, the qualified individual shall conduct the independent assessment and determination regarding the needs of the child within 30 days of the start of the placement.

(B) In connection with the activities required by the qualified individual, placing agencies shall adopt, and all parties to the child's case shall utilize, the universal release of information identified by the State Department of Social Services and the State Department of Health Care Services.

(3) The assessment conducted by the qualified individual shall include, at a minimum, all of the following:

(A) Engagement with the child and family team members and, in the case of an Indian child, the Indian child's tribe, in conducting the assessment.

(B) An assessment of the strengths and needs of the child or nonminor dependent, using an age-appropriate, evidence-based, validated, functional assessment tool and methodology approved by the State Department of Social Services and the State Department of Health Care Services. If the authorized assessment tool has already been completed as part of the child and family team within two months of the referral to a qualified individual, the qualified individual may utilize or update those results at the discretion of the qualified individual. If the assessment tool was completed more than two months before the referral to a qualified individual, the qualified individual shall update those results.

(C) The identification of the child-specific short- and long-term mental and behavioral health goals and treatment needs of the child.

(D) In the case of an Indian child, the qualified individual's efforts to consult with the child's tribe. The qualified individual shall consult and confer with a representative of the child's tribe or, at the direction of the tribal representative, the qualified expert

witness, as described in Section 224.6. Such consultation shall include, but not be limited to, determination of the social and cultural standards of the Indian child's tribe.

(4) The qualified individual shall determine and document the following in writing:

(A) Whether the assessed needs of the child or nonminor dependent can be met with family members, in a tribally approved home in the case of an Indian child, or in another family-based setting.

(B) If the child or nonminor dependent's needs cannot be met with family members, in a tribally approved home in the case of an Indian child, or in another family-based setting, all of the following:

(i) Why the needs of the child cannot be met with family members of the child or in another family-based setting identified by the placing agency, or in a tribally approved home in the case of an Indian child.

(ii) Why a short-term residential therapeutic program, or, where applicable, a community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, or an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment.

(iii) How a short-term residential therapeutic program intervention, or, where applicable, the program intervention of a community treatment facility or an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, is consistent with the short- and long-term goals for the child, as specified in the permanency plan for the child, and for an Indian child, will meet the child's needs consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe.

(iv) The mental and behavioral health interventions and treatment that the program will implement to improve functioning and well-being and, for an Indian child, how the interventions and treatment will be conducted in a manner consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe.

(v) A known multiagency care coordination need that should be planned for during discharge and aftercare planning, as developed pursuant to Section 4096.6, upon the child's transition to a family-based setting.

(C) The engagement with the child and family team members and, in the case of an Indian child, the Indian child's tribe.

(5) The assessment of the qualified individual does not replace or replicate existing case planning or case management activities, roles, and responsibilities of the county placing agency caseworker in preparation of the child's case plan pursuant to Section 16501.1 or requirements of the interagency placement committee established pursuant to this section.

(6) The qualified individual shall provide the assessment required by paragraph (3) and the report required by paragraph (4) to the county placing agency and the short-term residential therapeutic program, or, where applicable, the community treatment facility, as defined in paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, or the out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, in which the child or nonminor dependent is or will be placed.

(7) It is the intent of the Legislature that the assessments of a qualified individual provided pursuant to this subdivision are provided as specialty mental health services, whenever possible, consistent with all state and federal Medicaid requirements.

(8) For purposes of subparagraph (K) of paragraph (1) of subdivision (a) of Section 827, a qualified individual shall be considered a member of the child's multidisciplinary team.

(h) (1) The State Department of Social Services and the State Department of Health Care Services shall issue joint guidance that shall include, but not be limited to, all of the following:

(A) The statewide standards and approval requirements for qualified individuals, as defined in subdivision (l) of Section 16501.

(B) The requirements for referrals to, and the assessment conducted by, the qualified individual pursuant to subdivision (g).

(C) Documentation requirements necessary to meet state and federal child welfare requirements and documentation requirements for Medi-Cal specialty mental health activities conducted by the qualified individual.

(D) The applicable state and federal privacy and confidentiality laws that permit or limit the dissemination of the assessment of the qualified individual developed pursuant to subdivision (g).

(2) The guidance issued pursuant to this subdivision shall be issued on or before July 31, 2021.

(i) This section does not prevent a county placing agency from making a placement in a short-term residential therapeutic program or a community treatment facility on an emergency basis, as permitted pursuant to subdivision (h) of Section 11462.01, prior to the determination by the interagency placement committee pursuant to this section.

(j) If the child's or youth's placement is not funded by the Aid to Families with Dependent Children-Foster Care program a licensed mental health professional, or an otherwise recognized provider of mental health services, shall certify that the child has been assessed as meeting the medical necessity criteria for Medi-Cal specialty mental health Early and Periodic Screening, Diagnosis, and Treatment services, as the criteria are described in Section 1830.210 of Title 9 of the California Code of Regulations, or assessed and diagnosed with serious emotional disturbance as described in subdivision (a) of Section 5600.3. A "licensed mental health professional" includes a physician licensed under Section 2050 of the Business and Professions Code, a licensed psychologist within the meaning of subdivision (a) of Section 2902 of the Business and Professions Code, a licensed clinical social worker within the meaning of subdivision (a) of Section 4996 of the Business and Professions Code, a licensed marriage and family therapist within the meaning of subdivision (b) of Section 4980 of the Business and Professions Code, or a licensed professional clinical counselor within the meaning of subdivision (e) of Section 4999.12.

(k) (1) Notwithstanding any other law, contracts awarded by the State Department of Social Services for purposes of this section shall be exempt from the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(2) Notwithstanding any other law, contracts awarded by the State Department of Social Services for purposes of this section shall be exempt from the Public Contract Code and the State Contracting Manual, and shall not be subject to the approval of the Department of General Services.

(Amended by Stats. 2024, Ch. 948, Sec. 5. (AB 2119) Effective January 1, 2025.)

4096.5. (a) This section governs standards for the mental health program approval for short-term residential therapeutic programs, which is required under subdivision (c) of Section 1562.01 of the Health and Safety Code.

(b) All short-term residential therapeutic programs that serve children who have either been assessed as meeting the medical necessity criteria for Medi-Cal specialty mental health services, as provided for in Section 1830.205 or 1830.210 of Title 9 of the California Code of Regulations, or who have been assessed and diagnosed with a serious emotional disturbance as defined in subdivision (a) of Section 5600.3, shall obtain and have in good standing a mental health program approval and a Medi-Cal mental health certification, as described in Section 11462.01, issued by the State Department of Health Care Services or a county mental health plan to which the department has delegated approval authority. This approval, which is required pursuant to subdivision (c) of Section 1562.01 of the Health and Safety Code, is a condition for receiving an Aid to Families with Dependent Children-Foster Care rate pursuant to Section 11462.01.

(c) (1) A short-term residential therapeutic program shall not directly provide specialty mental health services without a current mental health program approval. A licensed short-term residential therapeutic program that has not obtained a program approval shall provide children in its care access to appropriate mental health services.

(2) County mental health plans shall ensure that Medi-Cal specialty mental health services, including, but not limited to, services under the Early and Periodic Screening, Diagnosis and Treatment benefit, are provided to all Medi-Cal beneficiaries served by short-term residential therapeutic programs who meet medical necessity criteria, as provided for in Section 1830.205 or 1830.210 of Title 9 of the California Code of Regulations.

(d) (1) The State Department of Health Care Services or a county mental health plan to which the department has delegated mental health program approval authority shall approve or deny mental health program approval requests within 45 days of receiving a request. The State Department of Health Care Services or a county mental health plan to which the department has delegated mental health program approval authority shall issue each mental health program approval for a period of one year, except for approvals granted pursuant to paragraph (2) and provisional approvals granted pursuant to regulations promulgated under subdivision (e), and shall specify the effective date of the approval. Approved entities shall meet all program standards to be reappraised.

(2) (A) Between January 1, 2017, and December 31, 2017, the State Department of Health Care Services, or a county mental health plan to which the department has delegated mental health program approval authority, shall approve or deny a mental health program approval request within 90 days of receipt.

(B) Between January 1, 2017, and December 31, 2017, the State Department of Health Care Services, or a county mental health plan to which the department has delegated mental health program approval authority, may issue a mental health program approval for a period of less than one year.

(e) (1) The State Department of Health Care Services and the county mental health plans to which the department has delegated mental health program approval authority may enforce the mental health program approval standards by taking any of the following

actions against a noncompliant short-term residential therapeutic program:

- (A) Suspend or revoke a mental health program approval.
- (B) Impose monetary penalties.
- (C) Place a mental health program on probation.
- (D) Require a mental health program to prepare and comply with a corrective action plan.

(2) The State Department of Health Care Services and the county mental health plans to which the department has delegated mental health program approval authority shall provide short-term residential therapeutic programs with due process protections when taking any of the actions described in paragraph (1).

(f) The State Department of Health Care Services, in consultation with the State Department of Social Services, shall promulgate regulations regarding program standards, oversight, enforcement, issuance of mental health program approvals, including provisional approvals that are effective for a period of less than one year, and due process protections related to the mental health program approval process for short-term residential therapeutic programs.

(g) (1) Except for mental health program approval of short-term residential therapeutic programs operated by a county, the State Department of Health Care Services may, upon the request of a county, delegate to that county mental health plan the mental health program approval of short-term residential therapeutic programs within its borders.

(2) Any county to which mental health program approval is delegated pursuant to paragraph (1) shall be responsible for the oversight and enforcement of program standards and the provision of due process for approved and denied entities.

(h) The State Department of Health Care Services or a county mental health plan to which the department has delegated mental health program approval authority shall notify the State Department of Social Services immediately upon the termination of any mental health program approval issued in accordance with subdivisions (b) and (d).

(i) The State Department of Social Services shall notify the State Department of Health Care Services and, if applicable, a county to which the department has delegated mental health program approval authority, immediately upon the revocation of any license issued pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code.

(j) Revocation of a license or a mental health program approval or failure to meet the requirements of subdivision (c) of Section 1562.01 of the Health and Safety Code shall be a basis for rate termination.

(k) (1) Notwithstanding subdivision (f), pursuant to Section 5963.05, the State Department of Health Care Services may develop and revise documentation standards to be consistent with the standards developed pursuant to paragraph (3) of subdivision (h) of Section 14184.402.

(2) The department shall require short-term residential therapeutic programs to implement the documentation standards developed pursuant to paragraph (1) and shall monitor compliance with these standards as part of program reviews.

(Amended by Stats. 2024, Ch. 948, Sec. 6. (AB 2119) Effective January 1, 2025.)

4096.55. (a) The State Department of Social Services, in collaboration with the State Department of Health Care Services, shall make available nursing resources intended to assist short-term residential therapeutic programs with meeting the needs of any child, minor, or nonminor dependent residing in the program placed by a county child welfare agency or probation department.

(b) Nursing resources established pursuant to this section may include both of the following:

(1) A contract that provides for access to nursing services 24 hours a day, 7 days a week.

(2) Any other nursing resources, as identified by the State Department of Social Services, in collaboration with the State Department of Health Care Services and in consultation with the Department of Finance, designed to assist short-term residential therapeutic programs to meet the medical needs of any child, minor, or nonminor dependent residing in the program placed by a county child welfare agency or probation department.

(c) If a child requires regular onsite nursing care, the placing agency shall ensure the nursing care is provided, either by the provider consistent with their treatment model, or by the county arranging for that care to be provided utilizing their nursing resources.

(d) (1) The State Department of Social Services, in collaboration with the State Department of Health Care Services, shall issue necessary guidance for the statewide or regional short-term residential therapeutic program nursing resources, including, but not limited to, implementation, data tracking, and claiming.

(2) The guidance shall also provide information on how to access existing nursing resources for the provision of medically necessary onsite care for children, minors, and nonminor dependents placed by a county child welfare agency or probation department.

(e) (1) Notwithstanding any other law, contracts awarded by the State Department of Social Services for purposes of this section shall be exempt from the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(2) Notwithstanding any other law, contracts awarded by the State Department of Social Services for purposes of this section shall be exempt from the Public Contract Code and the State Contracting Manual and shall not be subject to the approval of the Department of General Services.

(Added by Stats. 2021, Ch. 86, Sec. 33. (AB 153) Effective July 16, 2021.)

4096.6. (a) For the purpose of this section, "family-based aftercare services" means an array of integrated services and supports that meets all of the following specifications:

(1) Are provided to or on behalf of a child for at least six months postdischarge from a short-term residential therapeutic program, a community treatment facility, or an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code. Federal financial participation under the Medi-Cal program shall only be available if all state and federal requirements are met and the service is medically necessary, regardless of the six months postdischarge requirement.

(2) Are family-based and implemented as part of an individualized, child-specific transition plan in a manner that supports the child's permanency plan and incorporates the recommendations of the qualified individual.

(3) No later than October 1, 2022, meet the standards established pursuant to subdivision (c).

(b) (1) On and after October 1, 2021, each county child welfare agency, probation department, and mental health plan, in consultation with the local interagency leadership team established pursuant to Section 16521.6, shall jointly provide, arrange for, or ensure the provision of, at least six months of aftercare services for youth in the placement and care responsibility of the county child welfare or county probation agency who are discharged from a short-term residential therapeutic program, or from an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, to a family-based setting. Federal financial participation under the Medi-Cal program shall only be available if all state and federal requirements are met and the service is medically necessary, regardless of the six months postdischarge requirement.

(2) On and after July 1, 2022, each county child welfare agency, probation department, and mental health plan, in consultation with the local interagency leadership team established pursuant to Section 16521.6, shall jointly provide, arrange for, or ensure the provision of, at least six months of aftercare services for youth in the placement and care responsibility of the county child welfare or county probation agency who are discharged from a community treatment facility, as defined in subparagraph (A) of paragraph (8) of subdivision (a) of Section 1502 of the Health and Safety Code, to a family-based setting. Federal financial participation under the Medi-Cal program shall only be available if all state and federal requirements are met and the service is medically necessary, regardless of the six months postdischarge requirement.

(3) No later than October 1, 2021, county agencies shall leverage existing wraparound programs and other resources to provide at least six months of family-based aftercare services, while planning and incrementally implementing the standards established pursuant to subdivision (c).

(4) No later than October 1, 2023, or 12 months from the date the department issues written policy guidance regarding subdivision (c), whichever occurs later, county agencies shall jointly provide, arrange for, or ensure the provision of, at least 6 months of family-based aftercare services consistent with the minimum requirements established pursuant to subdivision (c).

(c) (1) The State Department of Social Services and the State Department of Health Care Services shall establish, through regulation, statewide minimum standards for family-based aftercare services. Minimum standards shall be informed by stakeholder advisory groups convened by the State Department of Social Services and the State Department of Health Care Services and shall require, but shall not be limited to, all of the following:

(A) The use of a California high-fidelity wraparound model, approved by the State Department of Social Services and consistent with the California Wraparound Standards and Chapter 4 (commencing with Section 18250) of Part 6 of Division 9, for aftercare services.

(B) A process through which a provider shall be certified to provide family-based aftercare services.

(C) Guidelines for ensuring each child, minor, or nonminor dependent discharged from a short-term residential therapeutic program, a community treatment facility, or an out-of-state residential facility, as defined by paragraph (2) of subdivision (b) of Section 7910 of the Family Code, to family-based care is provided aftercare services pursuant to this section, including

process guidance for circumstances in which children, minors, or nonminor dependents reside outside the county of jurisdiction.

(D) Workforce development, training, and curriculum requirements.

(E) Funding planning, which shall include, but not be limited to, controls and documentation to ensure that federal financial participation under the Medi-Cal program is only claimed if all state and federal requirements are met and the service is medically necessary.

(F) Data collection and outcome measures.

(2) No later than August 1, 2021, the State Department of Social Services, in partnership with the State Department of Health Care Services and in consultation with the County Behavioral Health Directors Association of California, the County Welfare Directors Association of California, Chief Probation Officers of California, tribes, child welfare advocates, providers, current or former foster children or youth, caregivers, and other interested stakeholders, shall issue guidance necessary to implement this section.

(d) Each county shall submit a plan to the State Department of Social Services and the State Department of Health Care Services for the provision of family-based aftercare services as follows:

(1) No later than October 1, 2021, each county shall submit a plan for the provision of family-based aftercare services in compliance with paragraph (3) of subdivision (b), including, but not limited to, how existing programs and resources will be leveraged to provide interim aftercare services until full implementation of subdivision (c).

(2) No later than October 1, 2023, or 12 months from the date the department issues written policy guidance regarding subdivision (c), whichever occurs later, each county shall update and submit its plan for the provision of family-based aftercare services in compliance with the requirements of paragraph (4) of subdivision (b) and consistent with the standards established pursuant to subdivision (c) and shall submit updates to the departments based on any modifications to its local plan.

(3) The State Department of Social Services and the State Department of Health Care Services, or its designee, shall jointly review and approve county plans and updates to plans for family-based aftercare services.

(4) A county participating in an individualized or wraparound services program shall submit the plan for family-based aftercare services as a part of the plan developed pursuant to Chapter 4 (commencing with Section 18250) of Part 6 of Division 9.

(e) For this section, federal financial participation under the Medi-Cal program shall only be available if all state and federal requirements are met and the service is medically necessary, regardless of the six-month postdischarge requirement.

(f) The State Department of Health Care Services may issue guidance on the conditions under which federal financial participation is available for Medi-Cal services that intersect with the implementation of this section. Medi-Cal services shall only be claimed to the extent that any necessary federal approvals are obtained and medical assistance federal financial participation is available and is not otherwise jeopardized. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Health Care Services may implement, interpret, or make specific this section concerning the provision of Medi-Cal services by means of plan or all-county letters, information notices, plan or provider bulletins, or other similar instructions, without taking any further regulatory action.

(g) (1) Notwithstanding any other law, contracts awarded by the State Department of Social Services for purposes of this section shall be exempt from the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(2) Notwithstanding any other law, contracts awarded by the State Department of Social Services for purposes of this section shall be exempt from the Public Contract Code and the State Contracting Manual and shall not be subject to the review or approval of the Department of General Services.

(3) This subdivision shall become inoperative on July 1, 2025, unless a later enacted statute, that becomes operative on or before July 1, 2025, deletes or extends the date on which this subdivision becomes inoperative.

(Amended by Stats. 2022, Ch. 50, Sec. 36. (SB 187) Effective June 30, 2022.)