

**OFFICE OF LEGISLATIVE COUNSEL
DRAFT BILL**

RN: 1107801

This request was prepared for you in accordance with instructions provided to us by Miriam Ingenito.

LCB Deputy Contact: Mr. Francisco Martin at 341-8324.

The boxes checked below, if any, apply to this request:

- Cover letter:** This request is accompanied by a cover letter, to bring to your attention legal or practical issues that may be raised by this bill, if introduced.
- Appropriation bill:** This bill, if introduced, will constitute an appropriation bill that the California Constitution prohibits the Legislature from sending to the Governor before the Budget Bill is finally enacted, unless it is recommended by the Governor as an emergency bill (see subd. (c), Sec. 12, Art. IV, Cal. Const.).
- Unbacked bill:** The attached bill draft has **not** been backed for introduction. When a Member has decided to introduce this bill draft, the draft should be returned to the Office of Legislative Counsel as soon as possible so that it can be prepared for introduction by that Member.
- Spot bill:** This bill, if introduced, may not be qualified for referral to a committee, if it is deemed a bill that makes no substantive change in or addition to existing law, or that would not otherwise affect the ongoing operations of state or local government (see, for example, Assembly Rule 51.5).
- Reintroduced bill:** This bill, if introduced, may violate the rule that, except as specified, a Member may not author a bill during a session that would have substantially the same effect as a bill he or she previously introduced during that session (Joint Rule 54(c)).

An act to add Sections 4622.5, 4625.5, 4629.5, 4648.12, and 4648.14 to the Welfare and Institutions Code, relating to developmental services, and declaring the urgency thereof, to take effect immediately.



110780181202BILL

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4622.5 is added to the Welfare and Institutions Code, to read:

4622.5. By August 15 of each year, the governing board of each regional center shall submit to the department detailed documentation, as determined by the department, demonstrating that the composition of the board is in compliance with Section 4622.

SEC. 2. Section 4625.5 is added to the Welfare and Institutions Code, to read:

4625.5. (a) The governing board of each regional center shall adopt and maintain a written policy requiring the board to review and approve any regional center contract of three hundred fifty thousand dollars (\$350,000) or more, before entering into the contract.

(b) No regional center contract of three hundred fifty thousand dollars (\$350,000) or more shall be valid unless approved by the governing board of the regional center in compliance with its written policy pursuant to subdivision (a).

SEC. 3. Section 4629.5 is added to the Welfare and Institutions Code, to read:

4629.5. (a) In addition to the requirements set forth in Section 4629, the department's contract with a regional center shall require the regional center to adopt, maintain, and post on its Internet Web site a board-approved policy regarding transparency and access to public information. The transparency and public information policy shall provide for timely public access to information including, but not limited to, information regarding requests for proposals and contract awards, service provider rates, documentation related to establishment of negotiated rates, audits, and IRS Form 990. The transparency and public information policy shall be in compliance with



applicable law relating to the confidentiality of consumer service information and records, including, but not limited to, Section 4514.

(b) To promote transparency, each regional center shall include on its Internet Web site at least all of the following:

- (1) Regional center annual independent audits.
 - (2) Biannual fiscal audits conducted by the department.
 - (3) Regional center annual reports pursuant to Section 4639.5.
 - (4) Contract awards, including the organization or entity awarded the contract, and the amount and purpose of the award.
 - (5) Purchase of service policies.
 - (6) The names, types of service, and contact information of all vendors, except consumers or family members of consumers.
 - (7) Board meeting agendas and approved minutes of open meetings of the board and all committees of the board.
 - (8) Bylaws of the regional center governing board.
 - (9) The annual performance contract and year-end performance contract entered into with the department pursuant to this division.
 - (10) The biannual Home and Community-based Services Waiver program review conducted by the department and the State Department of Health Care Services.
 - (11) The board-approved transparency and public information policy.
 - (12) The board-approved conflict-of-interest policy.
- (c) The department shall establish and maintain a transparency portal on its Internet Web site that allows consumers, families, advocates, and others to access



provider and regional center information. Posted information on the department's Internet Web site transparency portal shall include, but need not be limited to, all of the following:

(1) A link to each regional center's Internet Web site information referenced in subdivision (b).

(2) Biannual fiscal audits conducted by the department.

(3) Vendor audits.

(4) Biannual Home and Community-based Services Waiver program reviews conducted by the department and the State Department of Health Care Services.

(5) Biannual targeted case management program and federal nursing home reform program reviews conducted by the department.

(6) Early Start Program reviews conducted by the department.

(7) Annual performance contract and year-end performance contract reports.

SEC. 4. Section 4648.12 is added to the Welfare and Institutions Code, immediately following Section 4648.1, to read:

4648.12. (a) The Legislature finds and declares that under federal and state law, certain individuals and entities are ineligible to provide Medicaid services.

(b) An individual, partnership, group association, corporation, institution, or entity, and the officers, directors, owners, managing employees, or agents thereof, that has been convicted of any felony or misdemeanor involving fraud or abuse in any government program, or related to neglect or abuse of an elder or dependent adult or child, or that has been found liable for fraud or abuse in any civil proceeding, or that has entered into a settlement in lieu of conviction for fraud or abuse in any government



program, within the previous 10 years, shall be ineligible to be a regional center vendor. The regional center shall not deny vendorization to an otherwise qualified applicant whose felony or misdemeanor charges did not result in a conviction solely on the basis of the prior charges.

(c) In order to ensure compliance with federal disclosure requirements and to preserve federal funding of consumer services, the department shall do all of the following:

(1) (A) Adopt emergency regulations to amend provider and vendor eligibility and disclosure criteria to meet federal participation requirements. These emergency regulations shall address, at a minimum, disclosure requirements of current and prospective vendors, including information about entity ownership and control, contracting interests, and criminal convictions or civil proceedings involving fraud or abuse in any government program, or abuse or neglect of an elder, dependent adult, or child.

(B) Adopt emergency regulations to meet federal requirements applicable to vouchered services.

(C) The adoption, amendment, repeal, or readoption of a regulation authorized by this paragraph 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 11349.9 of the Government Code, and the department is hereby exempted from that requirement. For purposes of subdivision (e) of Section 11346.1 of the Government Code, the 120-day period, as applicable to the effective period of an emergency



regulatory action and submission of specified materials to the Office of Administrative Law, is hereby extended to 180 days.

(2) Adopt nonemergency regulations to implement the terms of paragraph (1) though the regular rulemaking process pursuant to Sections 11346 and 11349.1 of the Government Code within 18 months of the adoption of emergency regulations pursuant to paragraph (1).

SEC. 5. Section 4648.14 is added to the Welfare and Institutions Code, immediately preceding Section 4648.2, to read:

4648.14. Notwithstanding any other provision of law, the State Department of Social Services and the State Department of Public Health shall notify the State Department of Developmental Services of any administrative action initiated against a licensee serving consumers with developmental disabilities. For the purposes of this section "administrative action" includes, but is not limited to, all of the following:

- (a) The issuance of a citation requiring corrective action for a health and safety violation.
- (b) The suspension or revocation of a license.
- (c) The issuance of a temporary restraining order.
- (d) The appointment of a temporary receiver pursuant to Section 1327 of the Health and Safety Code.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:



81202

01/30/11 01:22 PM
RN 11 07801 PAGE 7

In order to make changes necessary for implementation of the Budget Act of 2011, it is necessary that this act take effect immediately.

- 0 -



110780181202BILL

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Regional centers: conflicts of interest: transparency.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to enter into contracts with private nonprofit corporations to operate regional centers for the provision of community services and support for persons with developmental disabilities and their families, including, but not limited to, residential placement. Existing law sets forth the duties of the regional centers, including, but not limited to, development of individual program plans, the purchase of needed services to implement the plan, and monitoring of the delivery of those services.

Existing law establishes minimum requirements relating to the composition of the governing board of a regional center.



This bill would require the regional center to annually submit to the department documentation demonstrating that the composition of the board is in compliance with those statutory provisions.

This bill would require a regional center governing board to adopt a written policy requiring any regional center contract of \$350,000 or more to be approved by the regional center governing board, and would condition the validity of those contracts upon board approval in compliance with that policy.

Existing law requires the 5-year contracts between the department and the regional center to contain prescribed provisions, including, but not limited to, the requirement that the contracts include annual performance objectives.

This bill would, in addition, require that the contracts include provisions requiring the regional center to adopt, maintain, and post on its Internet Web site a transparency and public information policy containing prescribed components.

The bill would require the department to establish a transparency portal on its Internet Web site to include, but not be limited to, a link to the regional center transparency and public information policy Internet Web sites, and other service monitoring and enforcement information.

This bill would make certain persons or entities that have been convicted of prescribed crimes or have been found liable for fraud or abuse in any civil proceeding, or that have entered into a settlement in lieu of conviction for fraud or abuse in any government program, within the previous 10 years, ineligible to be regional center vendors, and would require the department to adopt related emergency and nonemergency regulations. The bill would require the State Department of Social



81202

Services and the State Department of Public Health to notify the department of any administrative action, as defined, initiated against a licensee serving consumers with developmental disabilities.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



110780181202BILL