

**ASSEMBLY BILL**

**No. 226**

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**Introduced by Assembly Member Ramos**

January 11, 2021

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An act to amend Sections 1502, 1562.02, and 1562.03 of the Health and Safety Code, and to amend Sections 11462.01 and 11462.011 of the Welfare and Institutions Code, relating to community care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 226, as introduced, Ramos. Children's crisis psychiatric residential treatment facilities.

The California Community Care Facilities Act (act), among other things, licenses and regulates children's crisis residential programs and requires a children's crisis residential program to meet specified requirements that include obtaining and having in good standing a residential mental health program approval that is available to children under the California Work Opportunity and Responsibility to Kids (CalWORKs) program. The CalWORKs program generally provides cash assistance and other benefits to qualified low-income families and individuals and specifically authorizes a children's crisis residential program to provide a child, under specified conditions, with short-term crisis stabilization, therapeutic intervention, and specialized programming with the goal of supporting the rapid and successful transition of the child back to the community.

This bill would amend the act and related CalWORKs provisions to instead use the term "children's crisis psychiatric treatment facility." The bill would delete the requirement for residential mental health program approval and instead require a children's crisis psychiatric residential treatment facility to obtain and have in good standing a

certification that conforms to federal Medicaid psychiatric residential treatment facility requirements and makes the facility eligible for federal reimbursement as a Medicaid psychiatric residential treatment facility, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1502 of the Health and Safety Code is  
2 amended to read:

3 1502. As used in this chapter:

4 (a) “Community care facility” means any facility, place, or  
5 building that is maintained and operated to provide nonmedical  
6 residential care, day treatment, adult daycare, or foster family  
7 agency services for children, adults, or children and adults,  
8 including, but not limited to, the physically handicapped, mentally  
9 impaired, incompetent persons, and abused or neglected children,  
10 and includes the following:

11 (1) “Residential facility” means any family home, group care  
12 facility, or similar facility determined by the department, for  
13 24-hour nonmedical care of persons in need of personal services,  
14 supervision, or assistance essential for sustaining the activities of  
15 daily living or for the protection of the individual.

16 (2) “Adult day program” means any community-based facility  
17 or program that provides care to persons 18 years of age or older  
18 in need of personal services, supervision, or assistance essential  
19 for sustaining the activities of daily living or for the protection of  
20 these individuals on less than a 24-hour basis.

21 (3) “Therapeutic day services facility” means any facility that  
22 provides nonmedical care, counseling, educational or vocational  
23 support, or social rehabilitation services on less than a 24-hour  
24 basis to persons under 18 years of age who would otherwise be  
25 placed in foster care or who are returning to families from foster  
26 care. Program standards for these facilities shall be developed by  
27 the department, pursuant to Section 1530, in consultation with  
28 therapeutic day services and foster care providers.

29 (4) “Foster family agency” means any public agency or private  
30 organization, organized and operated on a nonprofit basis, engaged  
31 in any of the following:

1 (A) Recruiting, certifying, approving, and training of, and  
2 providing professional support to, foster parents and resource  
3 families.

4 (B) Coordinating with county placing agencies to find homes  
5 for foster children in need of care.

6 (C) Providing services and supports to licensed or certified  
7 foster parents, county-approved resource families, and children to  
8 the extent authorized by state and federal law.

9 (5) “Foster family home” means any residential facility  
10 providing 24-hour care for six or fewer foster children that is  
11 owned, leased, or rented and is the residence of the foster parent  
12 or parents, including their family, in whose care the foster children  
13 have been placed. The placement may be by a public or private  
14 child placement agency or by a court order, or by voluntary  
15 placement by a parent, parents, or guardian. It also means a foster  
16 family home described in Section 1505.2.

17 (6) “Small family home” means any residential facility, in the  
18 licensee’s family residence, that provides 24-hour care for six or  
19 fewer foster children who have mental disorders or developmental  
20 or physical disabilities and who require special care and supervision  
21 as a result of their disabilities. A small family home may accept  
22 children with special health care needs, pursuant to subdivision  
23 (a) of Section 17710 of the Welfare and Institutions Code. In  
24 addition to placing children with special health care needs, the  
25 department may approve placement of children without special  
26 health care needs, up to the licensed capacity.

27 (7) “Social rehabilitation facility” means any residential facility  
28 that provides social rehabilitation services for no longer than 18  
29 months in a group setting to adults recovering from mental illness  
30 who temporarily need assistance, guidance, or counseling. Program  
31 components shall be subject to program standards pursuant to  
32 Article 1 (commencing with Section 5670) of Chapter 2.5 of Part  
33 2 of Division 5 of the Welfare and Institutions Code.

34 (8) “Community treatment facility” means any residential  
35 facility that provides mental health treatment services to children  
36 in a group setting and that has the capacity to provide secure  
37 containment. Program components shall be subject to program  
38 standards developed and enforced by the State Department of  
39 Health Care Services pursuant to Section 4094 of the Welfare and  
40 Institutions Code.

1 ~~Nothing in this section shall be construed to~~

2 *This section does not* prohibit or discourage placement of  
3 persons who have mental or physical disabilities into any category  
4 of community care facility that meets the needs of the individual  
5 placed, if the placement is consistent with the licensing regulations  
6 of the department.

7 (9) (A) “Full-service adoption agency” means any licensed  
8 entity engaged in the business of providing adoption services, that  
9 does all of the following:

10 (i) Assumes care, custody, and control of a child through  
11 relinquishment of the child to the agency or involuntary termination  
12 of parental rights to the child.

13 (ii) Assesses the birth parents, prospective adoptive parents, or  
14 child.

15 (iii) Places children for adoption.

16 (iv) Supervises adoptive placements.

17 (B) Private full-service adoption agencies shall be organized  
18 and operated on a nonprofit basis. As a condition of licensure to  
19 provide intercountry adoption services, a full-service adoption  
20 agency shall be accredited and in good standing according to Part  
21 96 (commencing with Section 96.1) of Title 22 of the Code of  
22 Federal Regulations, or supervised by an accredited primary  
23 provider, or acting as an exempted provider, in compliance with  
24 Subpart F (commencing with Section 96.29) of Part 96 of Title 22  
25 of the Code of Federal Regulations.

26 (10) (A) “Noncustodial adoption agency” means any licensed  
27 entity engaged in the business of providing adoption services, that  
28 does all of the following:

29 (i) Assesses the prospective adoptive parents.

30 (ii) Cooperatively matches children freed for adoption, who are  
31 under the care, custody, and control of a licensed adoption agency,  
32 for adoption, with assessed and approved adoptive applicants.

33 (iii) Cooperatively supervises adoption placements with a  
34 full-service adoptive agency, but does not disrupt a placement or  
35 remove a child from a placement.

36 (B) Private noncustodial adoption agencies shall be organized  
37 and operated on a nonprofit basis. As a condition of licensure to  
38 provide intercountry adoption services, a noncustodial adoption  
39 agency shall be accredited and in good standing according to Part  
40 96 (commencing with Section 96.1) of Title 22 of the Code of

1 Federal Regulations, or supervised by an accredited primary  
2 provider, or acting as an exempted provider, in compliance with  
3 Subpart F (commencing with Section 96.29) of Part 96 of Title 22  
4 of the Code of Federal Regulations.

5 (11) “Transitional shelter care facility” means any group care  
6 facility that provides for 24-hour nonmedical care of persons in  
7 need of personal services, supervision, or assistance essential for  
8 sustaining the activities of daily living or for the protection of the  
9 individual. Program components shall be subject to program  
10 standards developed by the State Department of Social Services  
11 pursuant to Section 1502.3.

12 (12) “Transitional housing placement provider” means an  
13 organization licensed by the department pursuant to Section  
14 1559.110 to provide transitional housing to foster children who  
15 are at least 16 years of age to promote their transition to adulthood.  
16 A transitional housing placement provider shall be privately  
17 operated and organized on a nonprofit basis.

18 (13) “Group home” means a residential facility that provides  
19 24-hour care and supervision to children, delivered at least in part  
20 by staff employed by the licensee in a structured environment. The  
21 care and supervision provided by a group home shall be  
22 nonmedical, except as otherwise permitted by law.

23 (14) “Youth homelessness prevention center” means a group  
24 home licensed by the department to operate a program pursuant  
25 to Section 1502.35 to provide voluntary, short-term, shelter and  
26 personal services to homeless youth, youth who are at risk of  
27 homelessness, youth who are exhibiting status offender behavior,  
28 or runaway youth, as defined in paragraph (2) of subdivision (a)  
29 of Section 1502.35.

30 (15) “Enhanced behavioral supports home” means a facility  
31 certified by the State Department of Developmental Services  
32 pursuant to Article 3.6 (commencing with Section 4684.80) of  
33 Chapter 6 of Division 4.5 of the Welfare and Institutions Code,  
34 and licensed by the State Department of Social Services as an adult  
35 residential facility or a group home that provides 24-hour  
36 nonmedical care to individuals with developmental disabilities  
37 who require enhanced behavioral supports, staffing, and  
38 supervision in a homelike setting. An enhanced behavioral supports  
39 home shall have a maximum capacity of four consumers, shall  
40 conform to Section 441.530(a)(1) of Title 42 of the Code of Federal

1 Regulations, and shall be eligible for federal Medicaid home- and  
2 community-based services funding.

3 (16) “Community crisis home” means a facility certified by the  
4 State Department of Developmental Services pursuant to Article  
5 8 (commencing with Section 4698) of Chapter 6 of Division 4.5  
6 of the Welfare and Institutions Code, and licensed by the State  
7 Department of Social Services pursuant to Article 9.7 (commencing  
8 with Section 1567.80), as an adult residential facility, providing  
9 24-hour nonmedical care to individuals with developmental  
10 disabilities receiving regional center service, in need of crisis  
11 intervention services, and who would otherwise be at risk of  
12 admission to the acute crisis center at Fairview Developmental  
13 Center, Sonoma Developmental Center, an acute general hospital,  
14 acute psychiatric hospital, an institution for mental disease, as  
15 described in Part 5 (commencing with Section 5900) of Division  
16 5 of the Welfare and Institutions Code, or an out-of-state  
17 placement. A community crisis home shall have a maximum  
18 capacity of eight consumers, as defined in subdivision (a) of  
19 Section 1567.80, shall conform to Section 441.530(a)(1) of Title  
20 42 of the Code of Federal Regulations, and shall be eligible for  
21 federal Medicaid home- and community-based services funding.

22 (17) “Crisis nursery” means a facility licensed by the department  
23 to operate a program pursuant to Section 1516 to provide short-term  
24 care and supervision for children under six years of age who are  
25 voluntarily placed for temporary care by a parent or legal guardian  
26 due to a family crisis or stressful situation.

27 (18) “Short-term residential therapeutic program” means a  
28 residential facility operated by a public agency or private  
29 organization and licensed by the department pursuant to Section  
30 1562.01 that provides an integrated program of specialized and  
31 intensive care and supervision, services and supports, treatment,  
32 and short-term, 24-hour care and supervision to children. The care  
33 and supervision provided by a short-term residential therapeutic  
34 program shall be nonmedical, except as otherwise permitted by  
35 law. Private short-term residential therapeutic programs shall be  
36 organized and operated on a nonprofit basis. A short-term  
37 residential therapeutic program may be operated as a children’s  
38 ~~crisis residential program.~~ *psychiatric residential treatment facility.*

39 (19) “Private alternative boarding school” means a group home  
40 licensed by the department to operate a program pursuant to Section

1 1502.2 to provide youth with 24-hour residential care and  
2 supervision, which, in addition to providing educational services  
3 to youth, provides, or holds itself out as providing,  
4 behavioral-based services to youth with social, emotional, or  
5 behavioral issues. The care and supervision provided by a private  
6 alternative boarding school shall be nonmedical, except as  
7 otherwise permitted by law.

8 (20) “Private alternative outdoor program” means a group home  
9 licensed by the department to operate a program pursuant to Section  
10 1502.21 to provide youth with 24-hour residential care and  
11 supervision, which provides, or holds itself out as providing,  
12 behavioral-based services in an outdoor living setting to youth  
13 with social, emotional, or behavioral issues. The care and  
14 supervision provided by a private alternative outdoor program  
15 shall be nonmedical, except as otherwise permitted by law.

16 (21) “Children’s crisis—residential—program” *psychiatric*  
17 *residential treatment facility*” means a facility licensed by the  
18 department as a short-term residential therapeutic program pursuant  
19 to Section 1562.02 and approved by the State Department of Health  
20 Care Services, or a county mental health plan to which the State  
21 Department of Health Care Services has delegated approval  
22 authority, to operate a children’s crisis—residential—mental health  
23 ~~program approval~~ *psychiatric residential treatment facility certified*  
24 pursuant to Section 11462.011 of the Welfare and Institutions  
25 Code, to serve children experiencing mental health crises as an  
26 alternative to psychiatric hospitalization.

27 (b) “Department” or “state department” means the State  
28 Department of Social Services.

29 (c) “Director” means the Director of Social Services.

30 SEC. 2. Section 1562.02 of the Health and Safety Code is  
31 amended to read:

32 1562.02. (a) The department may license a short-term  
33 residential therapeutic program operating as a children’s crisis  
34 ~~residential program pursuant~~ *psychiatric residential treatment*  
35 *facility* to this chapter. A children’s crisis—residential—program  
36 *psychiatric residential treatment facility* shall meet all of the  
37 following requirements:

38 (1) If the program serves both children who are not experiencing  
39 mental health crises and children who are experiencing mental  
40 health crises, the program shall have an identifiable and physically

1 separate unit for those children who are experiencing mental health  
2 crises. The separate unit shall be indicated on the short-term  
3 residential therapeutic program's license.

4 (2) If the short-term residential therapeutic program operates  
5 on a single site both a program that serves children who are not  
6 experiencing mental health crises and a separate program that only  
7 serves children experiencing mental health crises, the short-term  
8 residential therapeutic program shall obtain, and have in good  
9 standing, a mental health program approval, as described in Section  
10 11462.01 of the Welfare and Institutions Code, and a children's  
11 ~~crisis residential mental health program approval,~~ *psychiatric*  
12 *residential treatment facility certification*, as described in Section  
13 11462.011 of the Welfare and Institutions Code, both of which are  
14 issued by the State Department of Health Care Services, or by a  
15 county mental health plan to which the department has delegated  
16 approval authority. ~~The short-term residential therapeutic program~~  
17 ~~shall obtain a mental health program approval before operating as~~  
18 ~~a children's crisis residential program.~~ *authority, that conforms to*  
19 *federal Medicaid psychiatric residential treatment facility (PRTF)*  
20 *requirements and is, therefore, eligible for federal reimbursement*  
21 *as a PRTF.* The department may revoke a program's license  
22 pursuant to Section 1550 for a program's failure to maintain the  
23 mental health program approval.

24 (3) If the short-term residential therapeutic program serves only  
25 children experiencing a mental health crisis, the short-term  
26 residential therapeutic program shall obtain, and have in good  
27 standing, a children's ~~crisis residential mental health program~~  
28 ~~approval,~~ *psychiatric residential treatment facility certification*,  
29 as described in Section 11462.011 of the Welfare and Institutions  
30 Code, which is issued by the State Department of Health Care  
31 Services or by a county mental health plan to which the department  
32 has delegated approval authority. The short-term residential  
33 therapeutic program shall obtain a mental health program approval  
34 before operating as a children's ~~crisis residential program.~~  
35 *psychiatric residential treatment facility.* The department may  
36 revoke a program's license pursuant to Section 1550 for a  
37 program's failure to maintain the mental health program approval.

38 (4) Comply with all applicable licensing standards for a  
39 short-term residential therapeutic program, unless the department



1 specifies otherwise in regulations that comply with applicable  
2 statutory requirements related to licensure.

3 (b) Contingent upon an appropriation in the annual Budget Act  
4 for these purposes, the department shall begin implementation of  
5 this section no later than July 1, 2018, and shall commence the  
6 licensing process for children’s crisis residential programs no later  
7 than January 1, 2019. *psychiatric residential treatment facilities*  
8 *no later than January 1, 2022.*

9 SEC. 3. Section 1562.03 of the Health and Safety Code is  
10 amended to read:

11 1562.03. (a) The department shall establish regulations for  
12 short-term residential therapeutic programs that are operated as  
13 children’s crisis residential programs. *psychiatric residential*  
14 *treatment facilities.* At a minimum, the regulations shall include  
15 all of the following:

16 (1) Therapeutic programming shall be provided seven days a  
17 week, including weekends and holidays, with sufficient mental  
18 health professional and paraprofessional staff, as required by the  
19 facility’s children’s crisis residential mental health program  
20 approval in accordance with the standards and procedures  
21 established pursuant to Section 11462.011 of the Welfare and  
22 Institutions Code, to maintain an appropriate treatment setting and  
23 services, based on individual children’s needs.

24 (2) The program shall be staffed with sufficient personnel to  
25 accept children 24 hours per day, seven days a week and to admit  
26 children, at a minimum, from 7 a.m. to 11 p.m., seven days a week,  
27 365 days per year. The program shall be sufficiently staffed to  
28 discharge children, as appropriate, seven days a week, 365 days  
29 per year.

30 (3) Facilities shall be limited to fewer than 16 beds, with at least  
31 50 percent of those beds in single-occupancy rooms.

32 (4) Facilities shall include ample physical space for  
33 accommodating individuals who provide daily emotional and  
34 physical supports to each child and for integrating family members  
35 into the day-to-day care of the youth.

36 (5) The program shall collaborate with each child’s existing  
37 mental health team, if applicable, child and family team, if  
38 applicable, and other formal and natural supports within 24 hours  
39 of intake and throughout the course of care and treatment as  
40 appropriate.

1 (6) The program shall create and assist with the implementation  
2 of a plan for transitioning each admitted child from the program  
3 to ~~his or her~~ *their* home and community, including the  
4 establishment of a mental health or child and family team if there  
5 is not one already.

6 (b) The program shall annually provide the department with all  
7 of the following data as it pertains to children in foster care and  
8 children not in foster care in conjunction with its application for  
9 licensure renewal:

10 (1) Age and gender of clients served.

11 (2) Duration of stay.

12 (3) Professional classification of staff and contracted staff.

13 (4) Type of placement the client was discharged to.

14 SEC. 4. Section 11462.01 of the Welfare and Institutions Code  
15 is amended to read:

16 11462.01. (a) (1) If a program will admit Medi-Cal  
17 beneficiaries, no later than 12 months following the date of initial  
18 licensure, a short-term residential therapeutic program, as defined  
19 in subdivision (ad) of Section 11400 of this code and paragraph  
20 (18) of subdivision (a) of Section 1502 of the Health and Safety  
21 Code, shall obtain a contract, subject to an agreement on rates and  
22 terms and conditions, with a county mental health plan to provide  
23 specialty mental health services and demonstrate the ability to  
24 meet the therapeutic needs of each child, as identified in any of  
25 the following:

26 (A) A mental health assessment.

27 (B) The child's case plan.

28 (C) The child's needs and services plan.

29 (D) Other documentation demonstrating the child has a mental  
30 health need.

31 (2) A short-term residential therapeutic program shall comply  
32 with any other mental health program approvals required by the  
33 State Department of Health Care Services or by a county mental  
34 health plan to which mental health program approval authority has  
35 been delegated.

36 (b) A short-term residential therapeutic program, except as  
37 specified in subdivision (c), may accept for placement a child who  
38 meets both of the criteria in paragraphs (1) and (2) and at least one  
39 of the conditions in paragraph (3).

1 (1) The child does not require inpatient care in a licensed health  
2 facility. *For purposes of this paragraph, “inpatient care in a*  
3 *licensed health facility” does not include care provided in a*  
4 *children’s crisis psychiatric residential treatment facility.*

5 (2) The child has been assessed as requiring the level of services  
6 provided in a short-term residential therapeutic program in order  
7 to maintain the safety and well-being of the child or others due to  
8 behaviors, including those resulting from traumas, that render the  
9 child or those around the child unsafe or at risk of harm, or that  
10 prevent the effective delivery of needed services and supports  
11 provided in the child’s own home or in other family settings, such  
12 as with a relative, guardian, foster family, resource family, or  
13 adoptive family. The assessment shall ensure the child has needs  
14 in common with other children or youth in the care of the facility,  
15 consistent with subdivision (c) of Section 16514.

16 (3) The child meets at least one of the following conditions:

17 (A) The child has been assessed, pursuant to Section 4096, as  
18 meeting the medical necessity criteria for Medi-Cal specialty  
19 mental health services, as provided for in Section 1830.205 or  
20 1830.210 of Title 9 of the California Code of Regulations.

21 (B) The child has been assessed, pursuant to Section 4096, as  
22 seriously emotionally disturbed, as defined in subdivision (a) of  
23 Section 5600.3.

24 (C) The child requires emergency placement pursuant to  
25 paragraph (3) of subdivision (h).

26 (D) The child has been assessed, pursuant to Section 4096, as  
27 requiring the level of services provided by the short-term residential  
28 therapeutic program in order to meet ~~his or her~~ *the child’s*  
29 behavioral or therapeutic needs.

30 (4) Subject to the requirements of this subdivision, a short-term  
31 residential therapeutic program may have a specialized program  
32 to serve a child, including, but not limited to, the following:

33 (A) A commercially sexually exploited child.

34 (B) A private voluntary placement, if the youth exhibits status  
35 offender behavior, the parents or other relatives feel they cannot  
36 control the child’s behavior, and short-term intervention is needed  
37 to transition the child back into the home.

38 (C) A juvenile sex offender.

39 (D) A child who is affiliated with, or impacted by, a gang.

1 (c) (1) A short-term residential therapeutic program that is  
2 operating as a children’s crisis ~~residential program~~, *psychiatric*  
3 *residential treatment facility*, as defined in Section 1502 of the  
4 Health and Safety Code, may accept for admission any child who  
5 meets all of the requirements set forth in paragraph (3) of  
6 subdivision (c) of Section 11462.011.

7 (2) The primary function of a children’s crisis ~~residential~~  
8 ~~program~~ *psychiatric residential treatment facility* is to provide  
9 short-term crisis stabilization, therapeutic intervention, and  
10 specialized programming in an unlocked, staff-secured setting with  
11 a high degree of supervision and structure and the goal of  
12 supporting the rapid and successful transition of the child back to  
13 the community.

14 (d) A foster family agency that is certified as a Medi-Cal  
15 specialty mental health provider pursuant to Section 1810.435 of  
16 Title 9 of the California Code of Regulations by the State  
17 Department of Health Care Services, or by a county mental health  
18 plan to which the department has delegated certification authority,  
19 and which has entered into a contract with a county mental health  
20 plan pursuant to Section 1810.436 of Title 9 of the California Code  
21 of Regulations, shall provide, or provide access to, specialty mental  
22 health services to children under its care who do not require  
23 inpatient care in a licensed health facility and who meet the medical  
24 necessity criteria for Medi-Cal specialty mental health services  
25 provided for in Section 1830.205 or 1830.210 of Title 9 of the  
26 California Code of Regulations.

27 (e) A foster family agency that is not certified as a Medi-Cal  
28 specialty mental health provider shall provide access to specialty  
29 and non-specialty mental health services in that program for  
30 children who do not require inpatient care in a licensed health  
31 facility and who meet any of the conditions in paragraph (3) of  
32 subdivision (b). In this situation the foster family agency shall do  
33 the following:

34 (1) In the case of a child who is a Medi-Cal beneficiary, arrange  
35 for specialty mental health services from the county mental health  
36 plan.

37 (2) In all other cases, arrange for the child to receive mental  
38 health services.

39 (f) All short-term residential therapeutic programs shall maintain  
40 the level of care and services necessary to meet the needs of the

1 children and youth in their care and shall maintain and have in  
2 good standing the appropriate mental health program approval. If  
3 a program will admit Medi-Cal beneficiaries, the mental health  
4 program approval shall include a certification to provide Medi-Cal  
5 specialty mental health services issued by the State Department  
6 of Health Care Services or a county mental health plan to which  
7 the department has delegated mental health program approval  
8 authority, pursuant to Section 4096.5 of this code or Section  
9 1810.435 or 1810.436 of Title 9 of the California Code of  
10 Regulations. All foster family agencies that are certified as a  
11 Medi-Cal specialty mental health provider pursuant to Section  
12 1810.435 of Title 9 of the California Code of Regulations shall  
13 maintain the level of care and services necessary to meet the needs  
14 of children and youth in their care and shall maintain and have in  
15 good standing the Medi-Cal specialty mental health provider  
16 certification issued by the State Department of Health Care  
17 Services or a county mental health plan to which the department  
18 has delegated certification authority.

19 (g) The assessments described in subparagraphs (A), (B), (C),  
20 and (D) of paragraph (3) of subdivision (b) shall ensure the child's  
21 individual behavioral or treatment needs are consistent with, and  
22 can be met by, the facility and shall be made by one of the  
23 following, as applicable:

24 (1) An interagency placement committee, as described in Section  
25 4096, considering the recommendations from the child and family  
26 team, if any are available. If the short-term residential therapeutic  
27 program serves children who are placed by county child welfare  
28 agencies and children who are placed by probation departments,  
29 the interagency placement committee shall also ensure the  
30 requirements of subdivision (c) of Section 16514 have been met  
31 with respect to commonality of need.

32 (2) A licensed mental health professional as defined in  
33 subdivision (g) of Section 4096.

34 (3) An individualized education program team. For the purposes  
35 of this section, an AFDC-FC funded child with an individualized  
36 education program developed pursuant to Article 2 (commencing  
37 with Section 56320) of Chapter 4 of Part 30 of Division 4 of Title  
38 2 of the Education Code that assesses the child as seriously  
39 emotionally disturbed, as defined in, and subject to, this section  
40 and recommends out-of-home placement at the level of care

1 provided by the provider, shall be deemed to have met the  
 2 assessment requirement.

3 (4) The placing agency, with input from the child and family  
 4 team. The assessment described in subparagraph (D) of paragraph  
 5 (3) of subdivision (b) shall be made pursuant to subdivision (b) of  
 6 Section 706.6 or paragraph (2) of subdivision (d) of Section  
 7 16501.1.

8 (h) (1) The provider shall ensure that AFDC-FC funded  
 9 children, assessed pursuant to subparagraphs (A) and (B) of  
 10 paragraph (3) of subdivision (b), who are accepted for placement  
 11 have been approved for placement by an interagency placement  
 12 committee, as described in Section 4096, except as provided for  
 13 in paragraphs (3) and (4) of subdivision (g).

14 (2) The approval shall be in writing and shall indicate that the  
 15 interagency placement committee has determined one of the  
 16 following:

17 (A) The child meets the medical necessity criteria for Medi-Cal  
 18 specialty mental health services, as provided for in Section  
 19 1830.205 or 1830.210 of Title 9 of the California Code of  
 20 Regulations.

21 (B) The child is seriously emotionally disturbed, as described  
 22 in subdivision (a) of Section 5600.3.

23 (3) (A) ~~Nothing in subdivisions (a) to (g), inclusive, or this~~  
 24 ~~subdivision shall.~~ *This subdivision and subdivisions (a) to (g),*  
 25 *inclusive, do not* prevent an emergency placement of a child or  
 26 youth into a certified short-term residential therapeutic program  
 27 prior to the determination by the interagency placement committee,  
 28 but only if a licensed mental health professional, as defined in  
 29 subdivision (g) of Section 4096, has made a written determination  
 30 within 72 hours of the child’s or youth’s placement, that the child  
 31 or youth requires the level of services and supervision provided  
 32 by the short-term residential therapeutic program in order to meet  
 33 ~~his or her~~ *their* behavioral or therapeutic needs. If the short-term  
 34 residential therapeutic program serves children placed by county  
 35 child welfare agencies and children placed by probation  
 36 departments, the interagency placement committee shall also ensure  
 37 the requirements of subdivision (c) of Section 16514 have been  
 38 met with respect to commonality of need.

39 (i) The interagency placement committee, as appropriate, shall,  
 40 within 30 days of placement, make the determinations, with

1 recommendations from the child and family team, required by this  
2 subdivision.

3 (ii) If it determines the placement is appropriate, the interagency  
4 placement committee, with recommendations from the child and  
5 family team, shall transmit the approval, in writing, to the county  
6 placing agency and the short-term residential therapeutic program.

7 (iii) If it determines the placement is not appropriate, the  
8 interagency placement committee shall respond pursuant to  
9 subparagraph (B).

10 (B) (i) If the interagency placement committee determines at  
11 any time that the placement is not appropriate, it shall, with  
12 recommendations from the child and family team, transmit the  
13 disapproval, in writing, to the county placing agency and the  
14 short-term residential therapeutic program and shall include a  
15 recommendation as to the child's appropriate level of care and  
16 placement to meet ~~his or her~~ *their* service needs. The necessary  
17 interagency placement committee representative or representatives  
18 shall participate in any child and family team meetings to refer the  
19 child or youth to an appropriate placement, as specified in this  
20 section.

21 (ii) The child may remain in the placement for the amount of  
22 time necessary to identify and transition the child to an alternative,  
23 suitable placement.

24 (iii) Notwithstanding clause (ii), if the interagency placement  
25 committee determined the placement was not appropriate due to  
26 a health and safety concern, immediate arrangements for the child  
27 to transition to an appropriate placement shall occur.

28 (i) Commencing January 1, 2017, for AFDC-FC funded children  
29 or youth, only those children or youth who are approved for  
30 placement, as set forth in this section, may be accepted by a  
31 short-term residential therapeutic program.

32 (j) The department shall, through regulation, establish  
33 consequences for the failure of a short-term residential therapeutic  
34 program to obtain written approval for placement of an AFDC-FC  
35 funded child or youth pursuant to this section.

36 (k) The department shall not establish a rate for a short-term  
37 residential therapeutic program unless the provider submits a  
38 recommendation from the host county or the primary placing  
39 county that the program is needed and that the provider is willing  
40 and capable of operating the program at the level sought. For

1 purposes of this subdivision, “host county,” and “primary placing  
2 county,” mean the same as defined in the department’s AFDC-FC  
3 ratesetting regulations.

4 (l) Any certified short-term residential therapeutic program  
5 shall be reclassified and paid at the appropriate program rate for  
6 which it is qualified if either of the following occurs:

7 (1) (A) It fails to maintain the level of care and services  
8 necessary to meet the needs of the children and youth in care, as  
9 required by subdivision (a). The determination shall be made  
10 consistent with the department’s AFDC-FC ratesetting regulations  
11 developed pursuant to Section 11462 and shall take into  
12 consideration the highest level of care and associated rates for  
13 which the program may be eligible if granted an extension pursuant  
14 to Section 11462.04 or any reduction in rate associated with a  
15 provisional or probationary rate granted or imposed under Section  
16 11466.01.

17 (B) In the event of a determination under this paragraph, the  
18 short-term residential therapeutic program may appeal the finding  
19 or submit a corrective action plan. The appeal process specified  
20 in Section 11466.6 shall be available to a short-term residential  
21 therapeutic program that provides intensive and therapeutic  
22 treatment. During any appeal, the short-term residential therapeutic  
23 program that provides intensive and therapeutic treatment shall  
24 maintain the appropriate level of care.

25 (2) It fails to maintain a certified mental health treatment  
26 program as required by subdivision (f).

27 (m) In addition to any other review required by law, the child  
28 and family team as defined in paragraph (4) of subdivision (a) of  
29 Section 16501 may periodically review the placement of the child  
30 or youth. If the child and family team make a recommendation  
31 that the child or youth no longer needs, or is not benefiting from,  
32 placement in a short-term residential therapeutic program, the team  
33 shall transmit the disapproval, in writing, to the county placing  
34 agency to consider a more appropriate placement.

35 (n) The department shall develop a process to address  
36 placements when, subsequent to the child’s or youth’s placement,  
37 a determination is made by the interagency placement team and  
38 shall consider the recommendations of the child and family team,  
39 either that the child or youth is not in need of the care and services



1 provided by the certified program. The process shall include, but  
2 not be limited to:

3 (1) Notice of the determination in writing to both the county  
4 placing agency and the short-term residential therapeutic program  
5 or foster family agency that provides intensive and therapeutic  
6 treatment.

7 (2) Notice of the county’s plan, and a timeframe, for removal  
8 of the child or youth in writing to the short-term residential  
9 therapeutic program that provides intensive and therapeutic  
10 treatment.

11 (3) Referral to an appropriate placement.

12 (4) Actions to be taken if a child or youth is not timely removed  
13 from the short-term residential therapeutic program that provides  
14 intensive and therapeutic treatment or placed in an appropriate  
15 placement.

16 (o) (1) ~~Nothing in this section shall~~ *This section does not*  
17 prohibit a short-term residential therapeutic program from  
18 accepting private admissions of children or youth.

19 (2) When a referral is not from a public agency and public  
20 funding is not involved, there is no requirement for public agency  
21 review or determination of need.

22 (3) Children and youth subject to paragraphs (1) and (2) shall  
23 have been determined to be seriously emotionally disturbed, as  
24 described in subdivision (a) of Section 5600.3, and subject to  
25 Section 1502.4 of the Health and Safety Code, by a licensed mental  
26 health professional, as defined in subdivision (g) of Section 4096.

27 SEC. 5. Section 11462.011 of the Welfare and Institutions  
28 Code is amended to read:

29 11462.011. (a) The State Department of Health Care Services  
30 shall, in consultation with the Department of Managed Health  
31 Care, the State Department of Social Services, the County  
32 Behavioral Health Directors Association of California, the County  
33 Welfare Directors Association of California, the Chief Probation  
34 Officers of California, provider representatives, and other relevant  
35 stakeholders, establish program standards and procedures for  
36 oversight, enforcement, and issuance of children’s crisis-residential  
37 ~~mental health program approvals~~, *psychiatric residential treatment*  
38 *facility certifications*, including provisional ~~approvals~~ *certifications*  
39 that are effective for a period of less than one year. The State  
40 Department of Health Care Services shall also establish due process

1 protections related to the children’s crisis residential mental health  
2 program approval process.

3 (b) The State Department of Health Care Services shall, in  
4 collaboration with the department, the County Behavioral Health  
5 Directors Association of California, provider representatives, and  
6 other relevant stakeholders, provide guidance to counties for the  
7 provision of children’s crisis residential services, including funding  
8 for children who are Medi-Cal beneficiaries and who are admitted  
9 to a children’s crisis ~~residential program~~ *psychiatric residential*  
10 *treatment facility*. This subdivision shall only be implemented to  
11 the extent that any necessary federal approvals are obtained and  
12 federal financial participation is available and is not otherwise  
13 jeopardized.

14 (c) (1) The children’s crisis ~~residential program~~ *psychiatric*  
15 *residential treatment facility* shall be used only as a diversion to  
16 admittance to a psychiatric hospital.

17 (2) (A) The length of the initial authorization for admission to  
18 a children’s crisis ~~residential program~~ *psychiatric residential*  
19 *treatment facility* shall be limited to 10 consecutive days.

20 (B) If a determination is made by a health care professional that  
21 a children’s crisis ~~residential program~~ *psychiatric residential*  
22 *treatment facility* is medically necessary and is the appropriate  
23 continued level of care, either of the following shall occur:

24 (i) In the case of a Medi-Cal beneficiary, the children’s crisis  
25 ~~residential program~~ *psychiatric residential treatment facility* shall  
26 notify the county mental health plan authorizing those services  
27 before extending the length of stay beyond 10 consecutive days.

28 (ii) In the case of non-Medi-Cal beneficiaries, reauthorizations  
29 for admission shall be obtained using the process established by  
30 the entity providing coverage.

31 (C) With the exception of clause (ii) of subparagraph (B), this  
32 paragraph shall be implemented only to the extent that any  
33 necessary federal approvals are obtained and the State Department  
34 of Health Care Services determines, in its sole discretion, that  
35 federal financial participation is not jeopardized.

36 (3) A children’s crisis ~~residential program~~ *psychiatric residential*  
37 *treatment facility* may accept for admission any child who meets  
38 all of the following requirements:

39 (A) The child is referred by a parent or guardian, physician, or  
40 licensed mental health professional, or by the representative of a

1 public or private entity, including, but not limited to, the county  
2 probation agency or child welfare services agency with  
3 responsibility for the placement of a child in foster care, that has  
4 the right to make these decisions on behalf of a child who is in  
5 mental health crisis.

6 (B) The child is under 19, 20, or 21 years of age, depending on  
7 a program's licensing requirements.

8 (C) The child has a serious behavioral health disorder.

9 (D) The child requires a 24-hours-a-day, seven-days-a-week,  
10 staff-secured, unlocked treatment setting.

11 (d) A children's crisis ~~residential mental health program~~  
12 ~~approval~~ *psychiatric residential treatment facility certification*  
13 issued by the State Department of Health Care Services, or a county  
14 mental health plan to which the department has delegated approval  
15 authority, shall be a condition of continued licensure for a  
16 short-term residential therapeutic program operating as a children's  
17 crisis ~~residential program~~. *psychiatric residential treatment facility*.

18 (e) The State Department of Health Care Services, or a county  
19 mental health plan to which the department has delegated approval  
20 authority, may enforce the children's crisis ~~residential mental~~  
21 ~~health program approval~~ *psychiatric residential treatment facility*  
22 *certification* standards by taking any of the following actions  
23 against a noncompliant children's crisis ~~residential program~~:  
24 *psychiatric residential treatment facility*:

25 (1) Suspend or revoke a children's crisis ~~residential mental~~  
26 ~~health program approval~~. *psychiatric residential treatment facility*  
27 *certification*.

28 (2) Impose monetary penalties.

29 (3) Place a children's crisis ~~residential mental health program~~  
30 *psychiatric residential treatment facility* on probation.

31 (4) Require a children's crisis ~~residential mental health program~~  
32 *psychiatric residential treatment facility* to prepare and comply  
33 with a corrective action plan.

34 (f) The State Department of Health Care Services, or a county  
35 mental health plan to which the department has delegated approval  
36 authority, shall provide a children's crisis ~~residential mental health~~  
37 ~~program~~ *psychiatric residential treatment facility* with due process  
38 protections when taking any of the actions described in subdivision  
39 (e).

1 (g) Contingent upon an appropriation in the annual Budget Act  
2 for these purposes, the department shall begin implementation of  
3 this section no later than July 1, 2018, and shall commence the  
4 operation of the approval process for children’s crisis-residential  
5 mental health program approvals *psychiatric residential treatment*  
6 *facility* no later than January 1, ~~2019~~- 2022.

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