

OLMSTEAD ADVISORY COMMITTEE LEGISLATION WATCH LIST

November 9, 2016

The California Health and Human Services Agency (CHHS) compiles and updates a Legislation Watch List related to Olmstead implementation activities. The list is developed based on Olmstead Advisory Committee input.

Committee Members are asked to submit information on bills that have a substantial impact on Olmstead implementation—whether advancing or impeding implementation—that should be included on the list.

The following Legislation Watch List helps to flag bills for the Secretary of CHHS as well as guide discussion at Committee meetings.

Assembly Bills

[AB 1051](#) ([Maienschein](#) R) Denti-Cal program: reimbursement rates.

Status: 8/12/2016-Failed Deadline pursuant to Joint Rule 61(b)(14). (Last location was APPR. on 8/11/2016)

Summary: Would require the State Department of Health Care Services to increase Denti-Cal provider reimbursement rates for the 15 most common prevention, treatment, and oral evaluation services to the regional average commercial rates, effective January 1, 2017.

[AB 1114](#) ([Eggman](#) D) Medi-Cal: pharmacist services.

Status: 9/25/2016-Chaptered by Secretary of State - Chapter 602, Statutes of 2016.

Summary: Current law provides for a schedule of benefits covered by the Medi-Cal program, including the purchase of prescribed drugs subject to the Medi-Cal list of contract drugs and utilization controls. Current law requires a pharmacy provider under the Medi-Cal program to submit his or her usual and customary charge, as defined, when billing the Medi-Cal program for prescribed drugs. The Pharmacy Law specifies the functions a pharmacist is authorized to perform, including furnishing nicotine replacement products and administering immunizations, as specified. This bill would add to the schedule of benefits pharmacist services, as specified, subject to department protocols and utilization controls.

[AB 1584](#) ([Brown](#) D) Public social services: SSI/SSP.

Status: 9/25/2016-Vetoed by the Governor

Summary: Current law provides for the State Supplementary Program for the Aged, Blind and Disabled (SSP), which requires the State Department of Social Services to contract with the United States Secretary of Health and Human Services to make payments to SSP recipients to supplement Supplemental Security Income (SSI) payments made available pursuant to the federal Social Security Act. Current law prohibits, for each calendar year, commencing with the 2011 calendar year, any cost-of-living adjustment from being made to the maximum benefit payment unless otherwise specified by statute, except for the pass along of any cost-of-living increase in the federal SSI benefits. This bill would reinstate the cost-of-living adjustment beginning January 1 of the 2018 calendar year. By reinstating the cost-of-living adjustment, this bill would make an appropriation.

Governor's Message: I am returning the following five bills without my signature: Assembly Bill 492 Assembly Bill 885 Assembly Bill 1584 Assembly Bill 1770 Assembly Bill 1838 Each of these bills make changes to a worthy program that results in increased funding, a few of which received increases in this year's budget. These bills are an end run of the budget process, and would commit us to spending an additional \$240 million every year. The budget process allows for all spending proposals to be weighed equally through public hearings, negotiations and, finally, approval of a balanced budget. This is the best way to evaluate and prioritize all new spending proposals, including those that increase the cost of existing programs. This process is even more important when the state's budget is precariously balanced. The budget process begins again on January 10, 2017, which is the appropriate time to discuss these proposals. Sincerely, Edmund G. Brown Jr.

[AB 1797](#) ([Lackey](#) R) In-home supportive services: application.

Status: 9/21/2016-Chaptered by Secretary of State - Chapter 402, Statutes of 2016.

Summary: Current law provides for the county-administered In-Home Supportive Services program, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. This bill would require the county, upon receipt of an application for in-home supportive services, to provide the applicant with a confirmation number, as specified. By creating additional duties for counties, this bill would impose a state-mandated local program.

[AB 1836](#) ([Maienschein](#) R) Mental health: referral of conservatees.

Status: 9/29/2016-Chaptered by Secretary of State - Chapter 819, Statutes of 2016.

Summary: Would authorize the court, if a conservatorship has already been established under the Probate Code, to refer the conservatee for an assessment by the local mental health system or plan to determine if the conservatee has a treatable mental illness, including whether the conservatee is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism, and is unwilling to accept, or is incapable of accepting, treatment voluntarily. The bill would also require the court to appoint counsel to a conservatee if he or she cannot afford counsel.

[AB 1930](#) ([Lackey](#) R) In-home supportive services: family caregivers: advisory committee.

Status: 9/30/2016-Vetoed by the Governor

Summary: Would, until January 1, 2019, establish the In-Home Supportive Services Family Caregiver Benefits Advisory Committee within the State Department of Social Services, as specified, for the purpose of describing the availability of, and barriers to accessing, employment-based supports and protections, as specified, and studying the impact of the lack of access to these supports and protections on individuals who provide supportive services to a spouse or as the parent of a recipient child. The bill would require the advisory committee to submit a peer-reviewed report to the Legislature, as specified, on or before January 1, 2018.

Governor's Message: I am returning Assembly Bill 1930 without my signature. This bill establishes an advisory committee within the Department of Social Services to study and report to the Legislature on issues related to employee contributions to Social Security benefits, Medicare and unemployment benefits for In-Home Supportive Services family providers. The In-Home Supportive Services Stakeholder Advisory Committee, with its composition of consumers, providers, labor representatives and advocates, has the ability

and expertise to examine these issues and produce information necessary to advise the departments involved as well as the Legislature on this topic. Sincerely, Edmund G. Brown Jr.

[AB 2079](#) ([Calderon](#) D) Skilled nursing facilities: staffing.

Status: 8/31/2016-Failed Deadline pursuant to Joint Rule 61(b)(17). (Last location was INACTIVE FILE on 8/25/2016)

Summary: Current law requires that the staff-to-patient ratios in skilled nursing facilities to include separate licensed nurse staff-to-patient ratios in addition to the ratios established for other direct caregivers. Current law also requires every skilled nursing facility to post information about staffing levels in the manner specified by federal requirements. This bill would replace the requirement for staff-to-patient ratios in skilled nursing facilities with a requirement for direct care service hours per patient day, as defined, which, commencing January 1, 2018, except as specified, would increase from 3.2 to 4.1 hours on a specified incremental basis by January 1, 2020.

[AB 2207](#) ([Wood](#) D) Medi-Cal: dental program.

Status: 9/25/2016-Chaptered by Secretary of State - Chapter 613, Statutes of 2016.

Summary: Would require the State Department of Health Care Services to undertake specified activities for the purpose of improving the Medi-Cal Dental Program, such as expediting provider enrollment and monitoring dental service access and utilization. The bill would require a Medi-Cal managed care health plan to provide dental health screenings for eligible beneficiaries and refer them to appropriate Medi-Cal dental providers. This bill would provide that those provisions shall only be implemented to the extent that the department obtains any necessary federal approvals and federal matching funds.

[AB 2231](#) ([Calderon](#) D) Care facilities: civil penalties.

Status: 9/29/2016-Chaptered by Secretary of State - Chapter 823, Statutes of 2016.

Summary: Current law establishes the State Department of Social Services and sets forth its powers and duties, including, but not limited to, the licensure and regulation of community care facilities, residential care facilities for persons with chronic life-threatening illnesses, residential care facilities for the elderly, day care centers, and family day care homes. Current law authorizes the department to impose various civil penalties for a licensing violation under those provisions. This bill would, commencing July 1, 2017, increase the amount of civil penalties to be imposed for a licensing violation under those provisions, and would impose civil penalties for a repeat violation of those provisions, as specified.

[AB 2565](#) ([Salas](#) D) Independent Living Centers: state funding.

Status: 8/12/2016-Failed Deadline pursuant to Joint Rule 61(b)(14). (Last location was APPR. on 8/11/2016)

Summary: Current law provides for the operation of independent living centers, which are private, nonprofit organizations that provide specified services to individuals with disabilities. Under current law, each independent living center, except those centers which have been both established and maintained using specified federal funding as a base funding, is required to receive, to the extent funds are appropriated by the Legislature, at

least \$235,000 in base grant funds allocated by the Department of Rehabilitation. This bill would delete the above provisions excluding the centers that were previously established and maintained with federal funding and would instead require each independent living center to receive at least \$235,000 in base grant funds allocated by the department, to the extent funds are appropriated by the Legislature and allocated by the department to the independent living centers from reimbursements under the federal programs.

[AB 2809](#) ([Rodriguez](#) D) Developmental services: regional centers.

Status: 8/31/2016-Failed Deadline pursuant to Joint Rule 61(b)(17). (Last location was INACTIVE FILE on 8/22/2016)

Summary: Under current law, the State Department of Developmental Services contracts with regional centers to provide services and supports to persons with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements. This bill would require regional centers to provide certain information, including a statement of services and supports purchased and information about the appeal and complaint process, to a consumer or his or her parents, legal guardian, conservator, or authorized representative, or both, in threshold languages, as defined.

[AB 2821](#) ([Chiu](#) D) Housing for a Healthy California Program.

Status: 9/27/2016-Vetoed by the Governor

Summary: Would require the Department of Housing and Community Development to, on or before October 1, 2017, establish the Housing for a Healthy California Program and on or before April 1, 2018, and every year thereafter, subject to appropriation by the Legislature, award grants on a competitive basis to eligible grant applicants based on guidelines that HCD would draft, as prescribed, and other requirements. This bill contains other related provisions.

Governor's Message: I am returning Assembly Bill 2821 without my signature. This bill establishes a new program to provide rental assistance to homeless Medi-Cal beneficiaries. While the goal of this bill is laudable and the policy could lead to savings in the health care system, codifying a program without an identified funding source raises false expectations. This grant program, like any new expenditure, is best left to budget discussions. Sincerely, Edmund G. Brown Jr.

Senate Bills

[SB 503](#) ([Hernandez](#) D) Long-term health facilities: informed consent.

Status: 8/31/2016-Failed Deadline pursuant to Joint Rule 61(b)(17). (Last location was HEALTH on 8/1/2016)

Summary: Current law requires the attending physician of a resident in a skilled nursing facility or intermediate care facility that prescribes or orders a medical intervention of a resident that requires the informed consent of a patient who lacks the capacity to provide that consent, as specified, to inform the skilled nursing facility or intermediate care facility. Current law requires the facility to conduct an interdisciplinary team review of the prescribed medical intervention prior to the administration of the medical intervention, subject to specified proceedings. This bill would expand the above-described process, as specified, and would impose additional duties on a physician who prescribes a medical intervention under these provisions and on skilled nursing facilities and intermediate care

facilities, as defined, under these provisions.

[SB 547](#)

([Liu](#) D) Aging and long-term care services, supports, and program coordination.

Status: 9/22/2016-Vetoed by the Governor

Summary: Current law sets forth legislative findings and declarations regarding long-term care services, including that consumers of those services experience great differences in service levels, eligibility criteria, and service availability that often result in inappropriate and expensive care that is not responsive to individual needs. Those findings and declarations also state that the laws governing long-term care facilities have established an uncoordinated array of long-term care services that are funded and administered by a state structure that lacks necessary integration and focus. This bill, among other things, would create the Statewide Aging and Long-Term Care Services Coordinating Council, chaired by the Secretary of California Health and Human Services, and would consist of the heads, or their designated representative, of specified departments and offices.

Governor's Message: I am returning Senate Bill 547 without my signature. This bill establishes the Statewide Aging and Long-Term Care Services Coordinating Council and requires it to develop a strategic plan that addresses California's aging population. These are important issues, but I'm not convinced that creating such an unwieldy state council would advance the goals we both share. Sincerely, Edmund G. Brown Jr.

[SB 648](#)

([Mendoza](#) D) Health and care facilities: referral agencies.

Status: 9/30/2016-Vetoed by the Governor

Summary: Would require a referral agency to obtain a license from the State Department of Social Services in order to refer a person to a residential care facility for the elderly. The bill would prohibit an extended care facility, skilled nursing home, intermediate care facility, or residential care facility for the elderly from paying a commission or fee to a referral agency that is not licensed, as specified. The bill would prohibit a referral agency from holding any power of attorney or any other property of a person receiving referral services, or from disclosing any personal information of a person receiving services, unless authorized to do so.

Governor's Message: I am returning Senate Bill 648 without my signature. This bill creates an expansive and costly licensing scheme for agencies that make referrals to residential care facilities for the elderly. The proponents of this measure have not made a convincing case for this new licensing structure. Sincerely, Edmund G. Brown Jr.

[SB 780](#)

([Mendoza](#) D) Psychiatric technicians and psychiatric technician assistants: overtime.

Status: 8/31/2016-Failed Deadline pursuant to Joint Rule 61(b)(17). (Last location was DESK on 8/31/2016)

Summary: Would prohibit a PT or psychiatric technician assistant (PTA) employed by the State of California in a specified type of facility from being compelled to work in excess of the regularly scheduled workweek or work shift, except under certain circumstances. The bill would authorize a PT or PTA to volunteer or agree to work hours in addition to his or her regularly scheduled workweek or work shift, but the refusal to accept those additional hours would not constitute patient abandonment or neglect or be grounds for discrimination, dismissal, discharge, or any other penalty or employment decision adverse to the PT or PTA.

- [SB 938](#) ([Jackson](#) D) Conservatorships: psychotropic medications and secured perimeter facilities.
Status: 8/31/2016-Failed Deadline pursuant to Joint Rule 61(b)(17). (Last location was INACTIVE FILE on 8/29/2016)
Summary: Current law authorizes a conservator to place a conservatee in a secured perimeter residential care facility for the elderly, as specified, or to authorize the administration of certain prescribed medications upon a court's finding that among other things, the conservatee has dementia and a functional impairment. Current law requires certain findings to be made by the court for each type of authority sought by the conservator and requires a petition for authority to be supported by a declaration of a licensed physician or psychologist, as specified, regarding these findings. This bill would replace references to the term dementia in these provisions with major neurocognitive disorders (MNCDS), as defined.
- [SB 955](#) ([Beall](#) D) State hospital commitment: compassionate release.
Status: 9/27/2016-Chaptered by Secretary of State - Chapter 715, Statutes of 2016.
Summary: Current law, subject to exceptions, authorizes the release of a prisoner from state prison if the court finds that the prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within 6 months, as determined by a physician employed by the department, and that conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety. This bill would establish similar compassionate release provisions for a defendant who has been committed to a state hospital because, among other reasons, the defendant is incompetent to stand trial or to be adjudged to punishment, or the defendant is a mentally disordered offender, including a person who has been found not guilty by reason of insanity.
- [SB 982](#) ([McGuire](#) D) State Department of Developmental Services: developmental centers.
Status: 9/24/2016-Chaptered by Secretary of State - Chapter 586, Statutes of 2016.
Summary: Would require the State Department of Developmental Services to seek to modify the contract in existence on January 1, 2017, for the conduct of a movers longitudinal study to include specified requirements, including, among others, a requirement that at least 250 individuals who meet certain criteria participate in the study. The bill would require the department to annually submit interim reports to the Legislature regarding the study. The bill would require, upon the completion of the study, the department to submit the study to the Legislature, as specified.
- [SB 1135](#) ([Monning](#) D) Health care coverage: notice of timely access to care.
Status: 9/23/2016-Chaptered by Secretary of State - Chapter 500, Statutes of 2016.
Summary: Would require a health care service plan contract or a health insurance policy that provides benefits through contracts with providers for alternative rates that is issued, renewed, or amended on or after July 1, 2017, to provide information to enrollees and insureds regarding the standards for timely access to health care services and other specified health care access information, including information related to receipt of interpreter services in a timely manner, no less than annually, and would make these provisions applicable to Medi-Cal managed care plans.

[SB 1226](#) ([Beall](#) D) Regional centers: audits and reviews.
Status: 9/21/2016-Chaptered by Secretary of State - Chapter 429, Statutes of 2016.
Summary: Current law requires an entity that receives payments from one or more regional centers to obtain an independent audit or independent review report of its financial statements based upon the amount it receives from the regional center or regional centers during the entity's fiscal year. This bill would, commencing January 1, 2018, instead require the entity to obtain an independent review report of an independent audit of its financial statements based upon the amount it receives from the regional center or regional centers during each state fiscal year.

[SB 1339](#) ([Monning](#) D) Public social services: intercounty transfers.
Status: 9/29/2016-Chaptered by Secretary of State - Chapter 801, Statutes of 2016.
Summary: Current law requires the county where an applicant of a public assistance program lives to be responsible for paying for the aid and requires transfer of the responsibility to pay, when that person moves to another county, to the 2nd county as soon as administratively possible, but not later than the first day of the month following 30 days after notification to the 2nd county. This bill would, commencing June 1, 2017, require the responsibility for payment of aid to transfer to the 2nd county as soon as administratively possible, as specified.

[SB 1384](#) ([Liu](#) D) California Partnership for Long-Term Care Program.
Status: 9/22/2016-Chaptered by Secretary of State - Chapter 487, Statutes of 2016.
Summary: Current law establishes the California Partnership for Long-Term Care Program administered by the State Department of Health Care Services. This bill would require the department to adopt regulations requiring that a long-term care insurance policy or health care service plan contract that includes long-term care services include nursing and residential care facility coverage only, home care and community-based care coverage only, or comprehensive coverage.

[SB 1427](#) ([Pavley](#) D) Workforce development: developmentally disabled individuals.
Status: 8/12/2016-Failed Deadline pursuant to Joint Rule 61(b)(14). (Last location was APPR. on 8/11/2016)
Summary: Would require, on or before July 1, 2017, the State Department of Developmental Services to establish a Work Transition Project with a process for regional centers to allow well coordinated forms of integrated services using allowable services under existing state and federal law and to assist in the state's efforts to reach compliance with the federal Home and Community-Based Services Waiver regulations. The bill would authorize the department to waive certain regulations through the use of modifications that maintain the purpose of the regulation while allowing flexibility to expand activities and choices in service program settings.