
Olmstead-related Legislation:**SECOND YEAR OF 2005-06 LEGISLATIVE SESSION**

The following bills are two-year bills introduced in the first year of session, as well as bills introduced the beginning of this legislative year. The deadline for bill introduction is February 24, 2006

AB 10 (Daucher): Inappropriate Placement of Persons with Disabilities

AB 298 (Berg): Personal Income Tax: Caregivers Tax Credit

AB 651 (Berg): California Compassionate Choices Act

AB 1258 (Daucher): Adult Day Health Care

AB 1326 (Vargas): IHSS: Health Benefits

AB 1363 (Jones): Omnibus Conservatorship and Guardianship Reform Act of 2006

AB 1379 (Lieber): Agnews Developmental Center: Closure

AB 1478 (Frommer): Developmental Services: Autism Spectrum Disorders

AB 1643 (Jones): Long Term Care Insurance

AB 1929 (Berg): Area Agencies on Aging: Electronic Transfer of Funds

AB 1930 (Berg): Medi-Cal Drug Benefits: Long-Term Care Facilities

AB 2014 (Berg): Programs for the Seniors and Independent Adults

AB 2607 (De La Torre): Medi-Cal: managed care: persons with disabilities.

AB 2979 (Richman): Managed Care Plans

AB 3019 (Daucher): Assessment

SB 481 (Chesbro): Self-Directed Services Program

SB 526 (Alquist): Long Term Health Care

SB 642 (Chesbro): Adult Day Health Care Program

SB 855 (Poochigian): Special Access: Liability

SB 912 (Ducheny): Repeal of 5% Rate Cut

SB 1116 (Scott): Conservatorships

SB 1212 (Torlakson): Continuing Care Retirement Communities: Advisory Committee Memberships and Provider Financial Requirements

SB 1233 (Perata): Medi-Cal: Prescription Drug Benefit

SB 1283 (Chesbro): Area Boards on Developmental Disabilities

- **AB 10 (Daucher): Inappropriate Placement of Persons with Disabilities**

This bill would require the Department of Health Services to adopt, by July 1, 2007, a statewide uniform documentation tool, as defined, for discharge placement or facility placement evaluation of persons with disabilities and the elderly in compliance with Olmstead.

This bill would require the State Department of Health Services to select 3 voluntary pilot programs to be allowed to charge a fee for long-term care navigation services. The fee would be voluntary and would be charged to non-Medi-Cal seniors and persons with disabilities 18 years of age or older who are at risk for nursing home placement and who would like long-term care navigation services. The bill would declare that, upon appropriation by the Legislature, the fee revenue would serve as matching federal targeted case management dollars to provide funding for Medi-Cal eligible seniors and persons with disabilities at risk of nursing home placement to receive the same long-term care navigation services as persons who utilize the private pay method.

Status: Senate Appropriations Committee

- **AB 298 (Berg): Personal Income Tax: Caregivers Tax Credit**

The Personal Income Tax Law allows a credit for taxable years beginning on or after January 1, 2000, and before January 1, 2005, in an amount equal to \$500 in caregiver tax credits. This bill extends the existing \$500 tax credit to 2011.

Status: Senate Revenue and Taxation Committee

- **AB 651 (Berg): California Compassionate Choices Act**

Existing law authorizes an adult to give an individual health care instruction and to appoint an attorney to make health care decisions for that individual in the event of his or her incapacity pursuant to a power of attorney for health care. This bill would enact the California Compassionate Choices Act, which would authorize an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal disease, as defined, to make a request for medication for

the purpose of ending his or her life in a humane and dignified manner. The bill would establish procedures for making these requests. This bill contains other related provisions.

Status: Judiciary Committee

- **AB 1258 (Daucher, Administration Sponsored): Adult Day Health Care**

This bill authorizes DHS to revise its State Plan or develop a waiver to bring ADHC services under the Medi-Cal program into compliance with federal laws and regulations. In addition, this bill specifies some of the terms of the State Plan Amendment (SPA) or waiver, including the restructuring of the interagency agreement with CDA, clarification and expansion of certification requirements, and a cleanup of the ADHC licensing statutes. The bill includes a restructure of the ADHC program under a SPA or waiver, including per service billing and reimbursement in place of the current bundled billing, the establishment of new medical necessity criteria that must be met for prior authorization of ADHC services, and the expansion of audit procedures to ensure compliance with licensing and certification requirements.

Status: Assembly Health Committee

- **AB 1326 (Vargas): In Home Supportive Services- Health Benefits**

This bill would authorize a recipient who receives In-Home Supportive Services through a Long-Term Care Integration Pilot Project/Acute and Long Term Care Integration Project to select his or her own service provider, subject to program requirements.

Status: Senate Inactive File

- **AB 1363 (Jones): Omnibus Conservatorship and Guardianship Reform Act of 2006**

This bill would enact the Omnibus Conservatorship and Guardianship Reform Act of 2006. The act would require professional conservators and guardians to be licensed and would prohibit a court from appointing nonlicensed professional conservators and guardians. The bill would

require the Department of Consumer Affairs to establish and administer a licensing program for professional conservators and guardians, as defined. The bill would establish educational and training criteria for applicants for licensure. The bill would require the department to establish a licensing board to administer the program and to draft a fiduciaries' code of ethics. The bill would also remove conservators and guardians from the provisions governing registry, and require that the Department of Consumer Affairs, rather than the Department of Justice, maintain the registry for trustees. The bill would require the Judicial Council to adopt specified rules of court relating to conservatorships and guardianships and to enact educational programs for nonlicensed conservators and guardians. The bill would also require the Judicial Council to establish qualifications and educational classes for probate court attorneys and investigators, to require educational classes for probate judges and public guardians, to establish conservatorship accountability measures, and to develop a form to provide notice regarding free assistance provided by the court to conservators. The bill would also make various changes to provisions governing conservatorship. The bill would establish in the California Department of Aging the Office of Conservatorship Ombudsman to collect and analyze data relative to complaints about conservatorships and to investigate and resolve complaints and concerns communicated by or on behalf of conservatees.

Status: Committees on Business and Professions, and Judiciary.

- **AB 1379 (Lieber): Agnews Developmental Center: Closure**

This bill requires that Agnews Developmental Center property be subject to certain conditions. Specifically, this bill prohibits classification of property at Agnews as surplus property absent express legislative authorization. The bill establishes the Agnews Developmental Center Campus Advisory Group to provide the Legislature with recommendations regarding the disposition of land at Agnews and requires the group to report recommendations to the Legislature by June 30, 2006. The bill requires the recommendations preserve the land, or its value for people with developmental disabilities under the Lanterman Act.

Status: Assembly Appropriations Committee

- **AB 1478 (Frommer): Developmental Services: Autism Spectrum Disorders**

Existing law, the Lanterman Developmental Disabilities Services Act, establishes the State Department of Developmental Services and sets forth its duties and responsibilities, including, but not limited to, the administration and oversight of the state developmental centers and programs relating to persons with developmental disabilities. Existing law requires the department to allocate funds to private nonprofit regional centers for the provision of community services and support for persons with developmental disabilities and their families. This bill would require the department to develop a blueprint for the treatment of autism spectrum disorders and to disseminate the information to parents.

Status: Committee on Human Services

- **AB 1643 (Jones): PERS Long Term Care Insurance**

The Public Employees' Long-Term Care Act provides long term care insurance coverage for members of CalPERS. The coverage of the Act has been expanded over time to include persons covered by various retirement systems and to extend eligibility to parents, siblings, and parents of siblings of covered individuals. However, persons with disabilities who do not meet the underwriting criteria cannot get coverage in PERS LTC Insurance. This bill requires the PERS board to conduct a study regarding the following:

- Expected costs of providing LTC Insurance coverage without underwriting criteria;
- The feasibility and desirability of various options including, charging increased premiums for enrollees not subject to underwriting and imposing increased waiting periods for those not subject to underwriting;
- A proposal for a LTC Insurance program that would maintain the financial stability of the plan while balancing the need to cover the maximum number of individuals with the fewest restrictions on coverage; and
- Other options for ensuring that persons now excluded from the long-term care insurance plan are able to obtain long-term services when needed and are not discouraged from seeking employment in order to continue receiving public benefits.

Status: Senate Appropriations Committee

- **AB 1929 (Berg): Area Agencies on Aging: Electronic Transfer of Funds**

Existing law declares the mission of the California Department of Aging to provide leadership to the area agencies on aging in developing systems of home and community-based services to maintain individuals in their own homes or in the least restrictive homelike environments and distributes funds to the area agencies on aging. This bill would require the department, in consultation with the Controller, by August 1, 2007, to develop and implement a procedure for the electronic transfer of funds from the department to the area agencies on aging, for the programs and services administered by the area agencies on aging.

Status: Assembly on Aging and Long-Term Care Committee

- **AB 1930 (Berg): Medi-Cal: Drug Benefits: Long-Term Care Facilities**

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits, including, for certain beneficiaries, prescription drug benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. This bill would require the department to provide coverage, including retroactive coverage, for drug benefits during any period in which drugs are provided to a resident of a long-term care facility if that resident applies for, and is determined to be eligible for, full benefits under the Medi-Cal program for the period in which the drugs are provided. The bill would require the department to provide this coverage regardless of whether federal financial participation is available, and would specify that these provisions shall not apply if the resident of the long-term care facility is enrolled in, and has active drug benefits under, a prescription drug plan under the Medicare Program for the period in which the drugs are provided.

Status: Committee on Health

- **AB 2014 (Berg): Programs for the Seniors and Independent Adults**

Existing law provides various services to persons with disabilities and seniors, which are overseen by the State Department of Social Services, including the In-Home Supportive Services Program and the development of guidelines in the implementation of local adult protective services programs, to assist them in living in the community instead of being placed in a facility. Existing law also vests in the Department of Rehabilitation the responsibility and authority for the encouragement of the planning, development, and funding of independent living centers. Existing law also establishes various programs under the jurisdiction of the California Department of Aging. This bill would rename the California Department of Aging the California Department of Adult and Aging Services and would transfer responsibility for specified programs to the California Department of Adult and Aging Services.

Status: Assembly on Aging and Long-Term Care Committee

- **AB 2607 (De La Torre): Managed Care Plans**

This bill would state the intent of the Legislature to enact legislation to authorize the establishment of a demonstration project to expand Medi-Cal managed care to persons with disabilities in 2-plan model counties.

Status: Assembly First Reading

AB 2979 (Richman): Managed Care Plans

This bill would authorize the Department of Health Services to establish a pilot program, commencing April 1, 2008, in up to 2 counties, that would require that certain eligible seniors and persons with disabilities shall be assigned as mandatory enrollees into new or existing Medi-Cal managed care health plans. This bill would also, until January 1, 2013, authorize the department to implement the Access Plus plan as a pilot program to enable eligible individuals in selected counties to receive a continuum of services in selected participating counties, to explore more flexible managed care models that include services authorized under the federal Medicaid Program and the federal Medicare Program.

This bill would also, until January 1, 2013, authorize the department to implement the Access Plus Community Choices plan to enable eligible individuals in selected counties to receive a continuum of services that maximizes community living.

Status: Assembly First Reading.

- **AB 3019 (Daucher): Community Options and Assessment Protocol**

This bill would authorize the department to develop and test the Community Options and Assessment Protocol to minimize duplication and redundancy of multiple assessments for home- and community-based services and connect consumers under the Medi-Cal program.

Status: Assembly First Reading.

- **SB 481 (Chesbro): Self-Directed Services Program**

This bill expands the Self-Directed Services Program to a statewide program. Self-Directed Services is a service delivery model that allows participants to control a budget to purchase services and supports identified in their Individual Placement Plan (IPP).

Status: Assembly Human Services Committee

- **SB 526 (Alquist): Long Term Health Care**

This bill would require the State Department of Health Services to establish dedicated complaint response units in each district office of the Licensing and Certification Division of the Department of Health Services (DHS) by January 1, 2007 following a study of unanticipated costs, require DHS to issue a Class "A" citation when a nursing home resident is sexually assaulted by an employee of the facility, add to the list of resident rights for long-term health care facilities, including changes to requirements regarding transfer and discharge of patients, create requirements for skilled nursing facilities for the admission of patients covered by the Medi-Cal program, and require nursing home operators to document labor costs by submitting payroll records to DHS on a quarterly basis.

Status: Senate Health Committee

- **SB 642 (Chesbro): Adult Day Health Care Program**

This bill makes various changes to the Adult Day Health Care (ADHC) Program and requires the Department of Health Services (DHS) to take all appropriate action to obtain approval for a State Plan Amendment that would conform the ADHC program to requirements of federal law and include specific requirements. The bill would provide that no provision of the ADHC state plan amendment shall be implemented unless and until DHS has obtained full approval for that amendment from the federal Centers for Medicare and Medicaid Services, and the plan can be implemented by DHS.

Status: Senate Inactive File

- **SB 855 (Poochigian): Special Access: Liability**

This bill would impose pre-litigation procedural requirements upon the filing of any claim under the state's civil rights and equal access to public or housing accommodation laws, including claims of violations of the Americans with Disabilities Act in state-owned facilities.

Status: Senate Judiciary Committee

- **SB 912 (Ducheny): Medi-Cal: Provider Reimbursement**

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits. Existing law requires the Director of Health Services, until January 1, 2007, to reduce by 5% Medi-Cal provider payments for Medi-Cal program services for dates of service on and after January 1, 2004. However, existing law makes this reduction inapplicable to Medi-Cal program services provided between January 1, 2004, and December 31, 2005. Existing law also requires the director to make reductions in other specified programs, including payments made to managed health care plans.

This bill would eliminate the above reductions with respect to Medi-Cal program services for dates of service commencing 14 days after the effective date of the bill and ending on January 1, 2007, to the extent that

federal financial participation is available for the increase provided for in these provisions. The bill would exempt from elimination the reduction in payments to managed health care plans.

Status: 2/17/06 – Signed by the Governor

- **SB 1116 (Scott): Conservatorships**

Existing law authorizes a conservator to fix the residence of a conservatee within the state without permission of the court and that sales of real or personal property of the estate of a conservatee be subject to authorization, confirmation, or direction from the court. This bill would require a conservator, prior to sale of real property of a conservatee and placement of the conservatee in a residential care facility, to obtain from a licensed realtor at least two market valuations of the conservatee's real property proposed for sale, and submit it to the court for review and authorization. This bill expands the provision of personal property of the estate to apply to all of the conservatee's real property.

Status: Senate Judiciary Committee

- **SB 1212 (Torlakson): Continuing Care Retirement Communities: Advisory Committee Memberships and Provider Financial Requirements**

Existing law provides for the regulation by the State Department of Social Services of activities relating to continuing care contracts that govern care provided to an elderly resident in a continuing care retirement community for the duration of the resident's life or a term in excess of one year. Existing law establishes that the Continuing Care Advisory Committee of the department shall act in an advisory capacity to the department on matters relating to continuing care contracts. This bill would revise the membership and administrative operating procedures of the committee.

Status: Senate on Human Services Committee

- **SB 1233 (Perata): Medi-Cal: Prescription Drug Benefit**

Existing law requires the Department of Health Services, beginning on January 12, 2006, to provide drug benefits to a Medicare-eligible person

who is also eligible for Medi-Cal prescription drug benefits and who is not able to obtain drug benefits from his or her prescription drug plan under the Medicare Program through February 15, 2006. This would allow the Governor, after that date, and upon notice to the Joint Legislative Budget Committee, to extend coverage for those drug benefits for coverage periods of up to 30 days each, but in no event beyond May 16, 2006.

Status: Chaptered by Secretary of State. Chapter 7, Statutes of 2006.

- **SB 1283 (Chesbro): Area Boards on Developmental Disabilities**

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to allocate funds to private nonprofit regional centers for the provision of community services and support for persons with developmental disabilities and their families, and sets forth the duties of the regional centers, including, but not limited to, development of individual program plans and the monitoring of services. This bill would require the Governor to appoint members to the area boards upon the recommendation of the executive director of the council, rather than upon recommendation of the council. The bill would require the council to request information from regional centers regarding available and needed services and supports at least once every 5 years rather than every 3 years, and would require the request to be made in conjunction with the area boards.

Status: Committee on Human Services