

# OLMSTEAD ADVISORY COMMITTEE LEGISLATION WATCH LIST

2015-16 Legislative Session

November 4, 2015

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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.

## **Signed/Enacted**

### **AB 449 (Irwin - D)**

**Status:** 10/11/15: Chaptered (Chapter 774, Statutes of 2015)

**Amended:** 9/3/2015

**Income taxation: savings plans: Qualified ABLE Program.** Current federal law, the Stephen Beck Jr., Achieving a Better Life Experience Act of 2014 (ABLE Act), for taxable years beginning on or after January 1, 2015, encourages and assists individuals and families to save private funds for the purpose of supporting persons with disabilities to maintain their health, independence, and quality of life by excluding from gross income distributions used for qualified disability expenses by a beneficiary of a Qualified ABLE Program established and maintained by a state. This bill would, for taxable years beginning on or after January 1, 2016, conform to these federal income tax law provisions relating to the ABLE Act under the Corporation Tax Law.

### **AB 662 (Bonilla - D)**

**Status:** 10/10/15: Chaptered (Chapter 742, Statutes of 2015)

**Amended:** 9/3/2015

**Public accommodation: disabled adults: changing facilities.** Would require a person, private firm, organization, or corporation that owns or manages a commercial place of public amusement constructed on or after January 1, 2020, or renovated on or after January 1, 2025, to install and maintain at least one adult changing station for a person with a physical disability. The bill would require a facility to ensure that the entrance to each adult changing station has conspicuous signage indicating its location, and, if the facility has a central directory, ensure that the central directory indicates the location of the adult changing station.

**AB 664 (Dodd - D)**

**Status:** 9/30/15: Chaptered (Chapter 367, Statutes of 2015)

**Amended:** 8/31/2015

**Medi-Cal: universal assessment tool report.** Current law, until July 1, 2017, requires the State Department of Health Care Services, the State Department of Social Services, and the California Department of Aging to establish a stakeholder workgroup to develop a universal assessment process, including a universal assessment tool, to be used for home- and community-based services. This bill would require the State Department of Health Care Services, the State Department of Social Services, and the California Department of Aging to report to the Legislature on the stakeholder workgroup's progress no later than December 1, 2016.

**AB 918 (Stone - D)**

**Status:** 9/28/15: Chaptered (Chapter 340, Statutes of 2015)

**Amended** 8/26/15

**Seclusion and restraint: developmental services: health facilities.** Would require the State Department of Developmental Services to ensure the consistent, timely, and public reporting of data it receives from regional centers and other specified facilities regarding the use of physical or chemical restraint and to publish that information on its Internet Web site. This bill contains other related provisions and other existing laws.

**AB 1436 (Burke - D)**

**Status:** 10/9/15: Chaptered (Chapter 707, Statutes of 2015)

**Amended** 9/4/15

**In-home supportive services: authorized representative.** Would authorize an applicant for, or recipient of, in-home supportive services to designate an individual to act as his or her authorized representative for purposes of the IHSS program. The bill would define "authorized representative" to mean an individual who is designated in writing, on a form developed by the State Department of Social Services, by an applicant or recipient to accompany, assist, and represent the applicant or recipient for specified purposes related to the program.

**AB 1521 (Committee on Judiciary)**

**Status:** 10/10/15: Chaptered (Chapter 755, Statutes of 2015)

**Amended:** 9/4/15

**Disability access: construction-related accessibility claims.** Current law requires an attorney to provide a written advisory with each demand letter or complaint sent to or served upon a defendant or potential defendant for any construction-related accessibility claim. This bill would require the above-described advisory to include additional information regarding the rights and obligations of business owners and commercial tenants. In addition to the written advisory, the bill would require an attorney to provide a defendant or potential defendant of a construction-related accessibility claim with a verified answer form developed by the Judicial Council, which would allow a defendant to respond in the event a complaint is filed.

**ABx2 15 (Eggman - D)**

**Status:** 10/5/15: Chaptered (Chapter 1, Statutes of 2015-16 Second Extraordinary Session)

**Amended:** 9/3/15

**End of life.** Would, until January 1, 2026, enact the End of Life Option Act authorizing an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal disease to make a request for a drug prescribed pursuant to these provisions for the purpose of ending his or her life. The bill would establish the procedures for making these requests.

**ACR 38 (Brown - D)**

**Status:** 9/25/15: Chaptered (Chapter 200, Statutes of 2015)

**Amended:** 9/2/2015

**California Task Force on Family Caregiving.** This measure would establish the California Task Force on Family Caregiving, to meet, if a nonstate organization agrees to provide administrative support to the task force, to examine issues relative to the challenges faced by family caregivers and opportunities to improve caregiver support, review the current network and the services and supports available to caregivers, and make policy recommendations to the Legislature. The task force would be required to submit an interim report to the Legislature no later than January 1, 2017, and a final report no later than July 1, 2018.

**AJR 8 (Brown - D)**

**Status:** 6/2/15: Chaptered by the Secretary of State (Chapter 53, Statutes of 2015)

**Amended:** 5/7/2015

**Older Americans Act of 1965.** This measure would recognize the 50th anniversary of the Older Americans Act of 1965, affirm the Legislature's continuing support for the goals of the act, and memorialize the United States House of Representatives and United States Senate to reauthorize the act.

**SB 36 (Hernandez - D)**

**Status:** 10/10/15: Chaptered (Chapter 759, Statutes of 2015)

**Amended:** 9/4/2015

**Medi-Cal: demonstration project.** Current law provides for a demonstration project under the Medi-Cal program until October 31, 2015, to implement specific objectives. This bill would authorize the Director of Health Care Services, if the State Department of Health Care Services has not received adequate assurances from the federal Centers for Medicare and Medicaid Services before November 1, 2015, that the department's application for a subsequent demonstration project is likely to be approved with an effective date of November 1, 2015, to request one or more temporary extensions until the approved effective date of the subsequent demonstration project.

**SB 324 (Pavley - D)**

**Status:** 10/11/15: Chaptered (Chapter 796, Statutes of 2015)

**Amended:** 9/4/2015

**Income taxation: savings plans: Qualified ABLE Program.** Would create the ABLE Act Board and would require the board provide an annual listing of distributions to individuals that have an interest in an ABLE account to the Franchise Tax Board.

**SB 613 (Allen - D)**

**Status:** 10/7/15: Chaptered (Chapter 577, Statutes of 2015)

**Amended:** 7/6/2015

**State Department of Public Health: dementia guidelines: workgroup.** Current law establishes the State Department of Public Health, which oversees various public health programs, including programs relating to genetic diseases such as Alzheimer's disease. This bill would require the department to convene a workgroup to update the Guidelines for Alzheimer's Disease Management in California to address changes in the health care system, including changes in the federal Patient Protection and Affordable Care Act, Medicaid, and Medicare.

**SB 675 (Liu - D)**

**Status:** 10/4/15: Chaptered (Chapter 494, Statutes 2015)

**Amended:** 7/16/2015

**Hospitals: family caregivers.** Would require a hospital to take specified actions relating to family caregivers, including, among others, notifying the family caregiver of the patient's discharge or transfer to another facility and providing information and counseling regarding the posthospital care needs of the patient, if the patient has consented to the disclosure of this information. By expanding the scope of a crime, this bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws.

**Vetoed****AB 97 (Weber - D)**

**Status:** 10/9/15: Vetoed by the Governor

**Amended:** 8/31/2015

**In-home supportive services: provider wages.** Would require the State Department of Social Services to program its Case Management Information and Payroll System to be able to receive payments from managed care health plans for these personal care service and related domestic service hours, to issue a payroll check to providers of personal care service hours and related domestic service hours, which shall not include payment of wages for service hours provided pursuant to other specified provisions, and to track and differentiate between the two types of authorized hours.

**Veto Message:** I am returning Assembly Bill 97 without my signature. This bill would require the California Department of Social Services to reprogram the In-Home Supportive Services (IHSS) payroll system so that paychecks issued by the system would include payment for home care service hours authorized by both IHSS and managed health care plans. While I support streamlining the payment system for home

care service workers, we have yet to find a permanent fund source to restore the seven percent reduction in recipients' authorized hours. When that fiscal uncertainty has been resolved, I would be open to reconsidering the policy in this bill. Sincerely, Edmund G. Brown Jr.

**AB 332 (Calderon - D)**

**Status:** 10/11/15: Vetoed by the Governor

**Amended:** 8/24/15

**Long-term care insurance.** Would establish the Long Term Care Insurance Task Force in the Department of Insurance, chaired by the Insurance Commissioner or his or her designee, and composed of specified stakeholders and representatives of government agencies to examine the components necessary to design and implement a statewide long-term care insurance program. The bill would require the task force to recommend options for establishing this program and to comment on their respective degrees of feasibility in a report submitted to the commissioner, the Governor, and the Legislature by July 1, 2017.

**Veto Message:** I am returning Assembly Bill 332 without my signature. This bill would establish a nine-member task force to explore the design and implementation of a statewide long-term care insurance program. Since the federal government and a number of private organizations have undertaken essentially the same task, I don't think that this bill is necessary. Moreover, I'm hesitant to start down a path that may lead to a large and potentially costly new mandate. Sincerely, Edmund G. Brown Jr.

**AB 1231 (Wood - D)**

**Status:** 10/10/15: Vetoed by the Governor

**Amended** 9/4/15

**Medi-Cal: nonmedical transportation.** Current law provides for a schedule of benefits under the Medi-Cal program, which includes medical transportation services, subject to utilization controls. This bill would add to the schedule of benefits nonmedical transportation subject to utilization controls and federally permissible time and distance standards, for a beneficiary to obtain covered Medi-Cal services. The bill would specify that these provisions shall not be interpreted to add a new benefit to the Medi-Cal program.

**Veto Message:** I am returning the following six bills without my signature; Assembly Bill 50 Assembly Bill 858 Assembly Bill 1162 Assembly Bill 1231 Assembly Bill 1261 Senate Bill 610. These bills unnecessarily codify certain existing health care benefits or require the expansion or development of new benefits and procedures in the Medi-Cal program. Taken together, these bills would require new spending at a time when there is considerable uncertainty in the funding of this program. Until the fiscal outlook for Medi-Cal is stabilized, I cannot support any of these measures. Sincerely, Edmund G. Brown Jr.

**AB 1261 (Burke - D)**

**Status:** 10/10/15: Vetoed by the Governor

**Amended:** 9/4/2015

**Community-based adult services: adult day health care centers.** Would establish the Community-Based Adult Services (CBAS) program as a Medi-Cal benefit and would require CBAS to be available as a covered service in contracts with managed health care plans. The bill would specify eligibility requirements for participation in the CBAS program. The bill would require that CBAS providers be licensed as ADHC centers and certified by the California Department of Aging as CBAS providers. The bill would require CBAS providers to meet specified licensing requirements and to provide care in accordance with specified regulations. The bill would require that these provisions be implemented only if federal financial participation is available.

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**AB 1526 (Committee on Aging and Long-Term Care)**

**Status:** 10/7/15: Vetoed by the Governor

**Amended:** 9/4/2015

**Behavioral Risk Factor Surveillance System survey: caregiver module.** Current law creates the State Department of Public Health and requires it to carry out various duties related to public health programs. This bill would require, by January 1, 2017, the State Department of Public Health to include the federal Centers for Disease Control and Prevention's Caregiver Module on at least one track in the annual Behavioral Risk Factor Surveillance System survey.

**Veto Message:** I am returning Assembly Bill 1526 without my signature. This bill would require the California Department of Public Health to include questions from the federal Centers for Disease Control and Prevention's Caregiver Module in its annual public health survey. The department already has a process to determine the questions to be included in the survey each year. This law bypassed that process, and for that reason I am vetoing it. Sincerely, Edmund G. Brown Jr.

**SB 199 (Hall - D)**

**Status:** 10/9/15: Vetoed by the Governor

**Amended:** 8/28/2015

**In-home supportive services: reading services for blind and visually impaired recipients.** Would, commencing January 1, 2017, include within the definition of supportive services up to 2 hours per month of assistance in reading and completing financial and other documents for a recipient of services under the IHSS program who is blind. By expanding the scope of available services under the IHSS program, this bill

would impose a state-mandated local program. The bill would also require the Director of Health Care Services to seek any federal approvals necessary to ensure that Medicaid funds may be used in implementing this provision.

**Veto Message:** I am returning Senate Bill 199 without my signature. This bill would authorize, for blind In-Home Supportive Services recipients, up to two hours per month of assistance in completing financial documents. Before considering any expansion in this program, the state must find a permanent funding source to support the hours and activities that are authorized under current law. Sincerely, Edmund G. Brown Jr.

## **2-year bills**

### **AB 211 (Gomez - D)**

**Status:** 9/12/15: 2-year bill

**Introduced:** 2/2/2015

**In-home supportive services.** Current law requires the California In-Home Supportive Services Authority (Statewide Authority), no sooner than March 1, 2013, to assume specified responsibilities in a county upon notification by the Director of Health Care Services that the enrollment of eligible Medi-Cal beneficiaries described in specified provisions of law has been completed in that county. Under current law, the date of assumption of these responsibilities by the Statewide Authority is known as the county implementation date. This bill would, instead, make the implementation date January 1, 2016, would delete the reference to the "county" implementation date, and would make conforming changes.

### **AB 348 (Brown - D)**

**Status:** 8/28/15: 2-year bill

**Amended:** 7/8/2015

**Long-term health care facilities: complaints: investigations.** Current law establishes procedures to be followed when the State Department of Public Health receives a written or oral complaint about a long-term health care facility. Current law establishes the time period for which an investigation of a complaint is required to be completed, and authorizes an extension of that time period under extenuating circumstances. This bill would require the department to apply the existing time periods for the investigation, inspection, and issuance of a citation under these provisions to a report from the facility of an alleged violation of applicable requirements of state or federal law or any alleged facts that might constitute a violation of those requirements.

### **AB 366 (Bonta - D)**

**Status:** 8/28/15: 2-year bill

**Amended:** 7/7/2015

**Medi-Cal: annual access monitoring report.** Would require the State Department of Health Care Services, by March 15, 2016, and annually thereafter by February 1, to submit to the Legislature, and post on the department's Internet Web site, a Medi-Cal access monitoring report providing an assessment of access to care in Medi-Cal and identifying a basis to evaluate the adequacy of Medi-Cal reimbursement rates and the existence of other barriers to access to care. The bill would require the department to hold a public meeting to present and discuss the access monitoring report at least once

annually, and would require the department to accept public comment from stakeholders at the public meeting.

**AB 563 (Lopez - D)**

**Status:** 7/17/15: 2-year bill

**Amended:** 6/11/2015

**Developmental services.** Would require the State Department of Developmental Services and the California Department of Aging develop guidelines and protocols establishing best practices for providing services and supports to aging consumers with developmental and intellectual disabilities

**AB 763 (Burke - D)**

**Status:** 5/29/15: 2-year bill

**Introduced:** 2/25/2015

**Medi-Cal: program for aged and disabled persons.** Current law requires the State Department of Health Care Services to exercise its option under federal law to implement a program for aged and disabled persons, as described. Current law requires an individual under these provisions to satisfy certain financial eligibility requirements. This bill would increase income disregard amounts to \$369 for an individual, or \$498 in the case of a couple, and require that the income disregards be adjusted annually. The bill would provide, however, that the income standard determined may not be less than the SSI/SSP payment level the individual or couple, as applicable, receives or would receive as a disabled or blind individual or couple.

**AB 782 (Dababneh - D)**

**Status:** 5/29/15: 2-year bill

**Amended:** 5/14/2015

**Home Care Services Consumer Protection Act.** Would make the provisions of the Home Care Services Consumer Protection Act applicable to home care aide domestic referral agencies, including licensure, fees, enforcement and fines, and regulation of registered home care aides having agreements with those agencies. The bill would require a home care aide domestic referral agency to provide specified information to a person to whom a home care aide is referred, including specified information about the person's potential employer responsibilities.

**AB 1235 (Gipson - D)**

**Status:** 8/28/15: 2-year bill

**Amended:** 7/7/2015

**Medi-Cal: beneficiary maintenance needs: home upkeep allowances: transitional personal needs funds.** Would establish eligibility and other requirements for providing the home upkeep allowance or transitional personal needs fund, to Medi-Cal patients residing in a long-term care facility. The bill would prescribe general requirements as well as specific requirements both for facility residents who intend to leave the facility and return to an existing home, who would receive the home upkeep allowance, and residents who intend to leave the facility and establish a new home, who would



establish a transitional personal needs fund, as part of the personal needs allowance provided to the resident.

**AB 1518 (Committee on Aging and Long-Term Care)**

**Status:** 9/11/15: 2-year bill

**Amended:** 9/1/2015

**Medi-cal: nursing facilities.** Would authorize the State Department of Health Care Services to seek additional increases in the scope of the home- and community-based Nursing Facility/Acute Hospital Waiver. The bill would require the department to, by February 1, 2016, apply for an additional 5,000 slots, to be added in the 2016-17 fiscal year, beyond those currently authorized for the waiver. The bill would, for each fiscal year after the 2016-17 fiscal year, require that the department consider specified factors, consult with stakeholders, calculate the need for additional slots, and seek federal approval to add those slots to the waiver.

**SB 128 (Wolk - D)**

**Status:** 7/17/15: 2-year bill (see ABX2 15)

**Amended:** 6/16/2015

**End of Life.** Would enact the End of Life Option Act authorizing an adult who meets certain qualifications, and who has been determined by his or her attending physician to be suffering from a terminal disease, to make a request for a drug prescribed pursuant to specified provisions for the purpose of ending his or her life.

**SB 492 (Liu - D)**

**Status:** 9/11/15: 2-year bill

**Amended:** 6/25/2015

**Coordinated Care Initiative: consumer educational and informational guide.** Would make legislative findings and declarations relating to the Coordinated Care Initiative (CCI) and the availability of consumer protections for beneficiaries. The bill would require, no later than July 1, 2016, the Department of Health Care Services to develop and post on the department's Internet Web site, an educational and informational guide to assist consumers and patients in understanding the rights afforded to them under the CCI and how to effectively exercise those rights.

**SB 547 (Liu - D)**

**Status:** 5/1/15: 2-year bill

**Introduced:** 2/26/2015

**Long-term care: Assistant Secretary of Aging and Long-term Care: Department of Community Living.** Would establish the Department of Community Living within the California Health and Human Services Agency. The department would, among other duties, serve as the single state-level contact on issues of aging and long-term care, oversee statewide long-term care service delivery, promote coordinated long-term care service delivery and access to home and community-based services at the local and regional level, and serve as the organizational unit designated to oversee all long-term care programs in the state and to consolidate all long-term care programs administered throughout all departments of the agency.

**SB 571 (Liu - D)****Status:** 5/29/15: 2-year bill**Amended:** 4/21/2015

**Long-term care: CalCareNet.** Would require the California Health and Human Services Agency to update the standards for a CalCareNet Internet Web site and create a CalCareNet Internet Web site that, in addition to specified provisions, provides information to consumers, caregivers, and health and social service providers on how to effectively navigate long-term care services and that assists consumers, caregivers, and health and social service providers in making informed decisions relating to long-term care services. The bill would delete the requirement that the agency take these actions with the recommendations from the Long-Term Care Council.

**SB 614 (Leno - D)****Status:** 9/11/15: 2-year bill**Amended:** 8/31/2015

**Medi-Cal: mental health services: peer, parent, transition age, and family support specialist certification.** Would require the State Department of Health Care Services to establish, by July 1, 2017, a statewide peer, parent, transition-age, and family support specialist certification program, as a part of the state's comprehensive mental health and substance use disorder delivery system and the Medi-Cal program. The bill would include 4 certification categories: adult peer support specialists, transition-age youth peer support specialists, family peer support specialists, and parent peer support specialists.

**SB 638 (Stone - R)****Status:** 5/29/15: 2-year bill**Amended:** 4/21/2015

**Developmental services: funding.** Would require the State Department of Developmental Services to submit a plan to the Legislature by August 1, 2016, to ensure the sustainability, quality, and transparency of community-based services for individuals with developmental disabilities. The bill would require the department to regularly consult with stakeholders in developing the plan and would require the plan to address specified topics, including, among others, recommendations for a comprehensive approach to funding regional center operations in a sustainable and transparent manner that provides incentives for regional centers to deliver high-quality services to consumers.

**SB 639 (Stone - R)****Status:** 5/1/15: 2-year bill**Introduced:** 2/27/2015

**Developmental centers: closure.** Would require the State Department of Developmental Services to submit a plan to the Legislature by April 1, 2016, to close the Sonoma Developmental Center and the Fairview Developmental Center. The bill would require the plan to meet existing requirements for closing a developmental center and to additionally include specified components, including a closure plan that will result in each of the 2 developmental centers closing no later than December 31, 2018.