



DEPARTMENT OF DEVELOPMENTAL SERVICES

PROGRAM SERVICES BRANCH PROGRAM ADVISORY

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WHY ARE SUPPORTED LIVING SERVICE HOMES NOT LICENSED?

Background

This program advisory has been prepared in response to concerns about what are, essentially, unlicensed facilities that call themselves Supported Living Service (SLS) homes, and to provide a guide to the differences among Community Care Facilities, Independent Living, and Supported Living arrangements. Section 1505(l) of the California Health & Safety Code exempts "any supported living arrangement...as defined in Section 4689 of the Welfare and Institutions Code" from Community Care Licensing (CCL) requirements. What is it about the homes of SLS consumers that justifies this exemption?

The Consumer Controls the Home

The licensing exemption exists because *the SLS consumer exercises legal and functional control of the premises*. This is the fundamental distinction between SLS and licensed community living options. In light of this fact, there can be no more justification for licensing a consumer's private home than for licensing the homes and apartments of people without disabilities. Both the law and regulations make this clear.

What the Lanterman Act Says

Section 4689 of the Lanterman Act refers to "homes that [SLS consumers] *own or lease*"; "opportunities for adults to live in *their own homes*"; and "living arrangements which are *typical of those in which persons without disabilities reside*." [Italics added.] This intended meaning of "their own homes" is clarified by further requirements that the consumer must 1) guide decisions about where and with whom

to live; 2) control the home environment; and 3) not have to move when changes in services and supports occur. This describes a "home" that is under both the legal and operational control of the consumer, in every sense that would apply to any independent adult without disabilities.

The SLS "Home" in the Title 17 Regulations

In implementing the intent of the Lanterman Act, the Department of Developmental Services' Title 17 Supported Living Service Regulations define the term "home" as a place "which is neither a community care facility, health facility, nor a family home certified by a Family Home Agency, and in which no parent or conservator of the consumer resides, and which a consumer chooses, owns or rents, controls, and occupies as a principal place of residence." As does the law, the regulatory definition focuses on the consumer's control as both legal in form ("owns or rents") and operational ("controls") in content.

Summary: Assuring the SLS Home's Integrity

Regional centers have primary responsibility to assure that the homes of SLS consumers comply with the intention in statute and regulations, and are not in reality, facilities operating without a license. The absence of CCL jurisdiction over Supported Living Arrangements heightens the responsibility to assure that consumers have not only a formal right of control, but a functional management right that is exercised over the home in daily practice.

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**The Essential Supported Living Arrangement Home:
A Checklist of Similarities and Differences Among Service Types**

Criterion	Service Type		
	Supported Living	Independent Living	Residential Facility
Regulatory Requirements	Department of Developmental Services, Chapter 3, Subchapter 19.	Department of Developmental Services, Chapter 3, Subchapter 5.	Set by Department of Social Services (Licensing) and Department of Developmental Services, Chapter 3, Subchapter 4.
Service Definition	<p>"Supported Living Service(s)(SLS) " means those services and supports...which are provided by a SLS vendor, paid for by the regional center, and support consumers' efforts to: (A) Live in their own homes, as defined in Title 17, Section 58601(a)(3) ; (B) Participate in community activities to the extent appropriate to each consumer's interests and capacity; and (C) Realize their individualized potential to live lives that are integrated, productive, and normal; --Title 17, §54302(a)(66)</p> <p>[Service Code: 896]</p>	<p>"Independent Living Program" means a community-based day program that provides to adult consumers the functional skills training necessary to secure a self-sustaining, independent living situation in the community and/or may provide the support necessary to maintain those skills. Independent living programs focus on functional skills training for adult consumers who generally have acquired basic self-help skills and who, because of their physical disabilities, do not possess basic self-help skills, but who employ and supervise aides to assist them in meeting their personal needs...." --Title 17, §54302(a)(31)</p> <p>[Service Code 520]</p>	<p>"Facility" means a licensed community care facility as defined in Health and Safety Code section 1502(a)(1), (4), (5) or (6); or a licensed residential care facility for the elderly as defined in Health and Safety Code section 1569.2(k), which has been vendorized as a residential facility by a regional center pursuant to the requirements of Title 17, California Code of Regulations, Division 2, Chapter 3, Subchapter 2." --Title 17, §56002(a)(15)</p> <p>[Service Code Owner Operated - 905] [Service Code Staff Operated - 915]:</p>
Community Care Facility Licensing	Specifically exempted from Community Care Licensing pursuant to Health and Safety Code Section 1505(l).	No licensing required. Considered a community-based day program that does not use a facility for its activities or training.	Licensing and monitoring by Department of Social Services and subject to Community Care Licensing regulations.
Relationship between Services and Housing	No connection between delivery of services and control of housing. Consumer may change providers without having to move from residence.	Varies from integral relationship to no relationship, depending on whether consumer lives in provider-controlled housing or in family home or own home. Consumer may or may not have to change residence if desiring to change provider.	Integral relationship. Facility license is issued to owner/operator who is accountable for providing care and supervision. Consumer must move from facility to receive services of a different provider, unless ownership of facility changes.
Extent of Consumer Control over Residence	Same as exercised over a home by a homeowner or renter without disabilities.	Varies, according to provider relationship to housing, and whether housing is consumer's family home or own home.	The licensee must meet certain regulatory requirements that may include some restrictions on consumer's alteration and personalization of space, roommate choice, and control over entry to the facility.
Consumer vendorization for own service provision	Allowed if consumer meets vendorization requirements.	Prohibited.	Prohibited.