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## EVALUATOR MANUAL TRANSMITTAL SHEET

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<p><b><u>Distribution:</u></b></p> <p>_____ All Child Care Evaluator Manual Holders</p> <p><u>X</u> All Residential Care Evaluator Manual Holders</p> <p>_____ All Evaluator Manual Holders</p>	<p><b><u>Transmittal No.</u></b> <b>06APX-19</b></p> <hr/> <p><b><u>Date Issued</u></b> <b>December 2006</b></p>
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**Subject:**

**2006 Chaptered Legislation**

**Appendix A**

**Community Care Facilities (Children's Residential)**

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**Reason For Change:**

This transmits summaries of legislation chaptered in 2006 affecting Community Care Facilities (Children's Residential). The summaries are divided into two sections as follows:

1. Immediate Action Required – Interim instructions are provided.
2. Information Only – No action required by CCLD.

An index is attached to assist staff in locating specific bills. Statutes referenced in this document become operative on January 1, 2007.

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**Filing Instructions:**

Insert the attached pages into Appendix A. Do not remove similar documents from the previous years.

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**Approved:**

*Thomas Stahl, Chief*

*12/26/06*

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# SUMMARY AND IMPLEMENTATION PLANS 2006 CHAPTERED LEGISLATION

## CHILDREN'S RESIDENTIAL FACILITIES

GROUP HOMES	CERTIFIED FAMILY HOMES
FOSTER FAMILY HOMES	SMALL FAMILY HOMES
FOSTER FAMILY AGENCIES	CRISIS NURSERIES
COMMUNITY TREATMENT FACILITIES	ADOPTION AGENCIES
TRANSITIONAL HOUSING PLACEMENT PROGRAM	

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### **ACTION REQUIRED**

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**Unless otherwise noted, all new legislation becomes effective on January 1, 2007. When conducting licensing visits, LPAs should, to the extent practical, make sure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.**

# ACTION REQUIRED

## AB 2675 (Strickland), CHAPTER 421, STATUTES OF 2006

**Affects:** Group Homes (GHs), Adult Residential Facilities (ARFs), and Residential Care Facilities for the Elderly (RCFEs)

**Subject:** Community Care Facilities (and RCFEs): Continuing Education: Online Courses for Administrator Certification Training

**Summary:** AB 2675 amends Health and Safety Code Sections 1522.41 (pertaining to GHs), 1562.3 (pertaining to ARFs), and 1569.616 (pertaining to RCFEs) relating to continuing education for administrators.

**For GHs and ARFs**, AB 2675 adds the following provisions to statute, which mirror existing RCFE statutory provisions:

- Up to one-half of the required 40 hours of continuing education for administrators may now be satisfied through an online course(s). (Previously, all of the required 40 hours had to be classroom hours.)
- Licensing representatives may inspect certification training programs and continuing education courses, including online courses, *at no charge to the Department*. In other words, a vendor cannot charge a licensing representative(s) who attends a course(s) for the purpose of ensuring that the course(s) complies with regulations.
- A vendor of online programs for continuing education must ensure that each online course meets the following criteria:
  - Contains an interactive portion.
  - Requires the use of a personal identification number or personal identification information.
  - Has a final screen displaying a printable statement, to be signed by the participant, certifying that the participant completed the course. Vendors must keep a copy of the signed statement of completion for three years and make it available to the Department upon demand. Any person who certifies information that he/she knows to be false is guilty of a misdemeanor.

**For GHs, ARFs and RCFEs**, this legislation clarifies that *all other continuing education hours for administrators must be completed in a classroom setting*.

**Implementation:** These provisions have an effective date of January 1, 2007. These provisions are self-implementing; however, regulations may be developed.

# ACTION REQUIRED

## SB 1759 (Ashburn), CHAPTER 902, STATUTES OF 2006

**Affects:** Residential Care Facilities for the Elderly (RCFEs), Residential Care Facilities for the Chronically Ill (RCFCIs), Community Care Facilities (CCFs) except Foster Family Homes (FFHs)

**Subject:** Post-Licensing Visits

**Summary:** This bill amends Health and Safety (H&S) Code Sections 1526.5 (pertaining to CCFs), 1568.07 (pertaining to RCFCIs), and 1569.24 (pertaining to RCFEs) to require that post-licensing inspections of RCFEs, RCFCIs, and CCFs (except FFHs) be conducted within 90 days after a facility accepts its first client or resident. (Previously, post-licensing visits had to be conducted within 90 days after the date the license was issued.) This bill also requires the licensee to notify the Department, within five business days after a facility accepts its first client or resident that the facility is operating.

In addition, this bill makes significant changes to the background check processes of the departments of Health Services, Developmental Services, Mental Health, and the Emergency Medical Services Authority. This bill also amends Section 9719 of the Welfare and Institutions Code (pertaining to long term care facilities) to require CDSS to conduct criminal record clearances for ombudsmen, contingent upon budgetary allowance. These provisions do not affect facilities licensed by the Community Care Licensing Division.

### **Implementation:**

**Note:** These statutory requirements are effective January 1, 2007. Regulations are not needed, but may be amended to reference these changes under Inspection Authority. If a facility is not in compliance with the provisions of this law, cite either H&S Code Section 1526.5, 1568.07, or 1569.24.

### Process:

1. The need to inform new applicants:
  - During the Component III session of the new applicant orientation, the Department shall inform applicants of the following:

***Beginning January 1, 2007, the Department shall conduct post-licensing visits within 90 days after a newly licensed facility accepts its first client or resident for placement.***

***Beginning January 1, 2007, a licensee of a newly licensed facility must notify the Department, within five business days after the facility accepts its first client or resident for placement, that the facility has started operating. Such notification should be made to the LPA either by***

***telephone, fax or email. The Department then prepares to conduct an unannounced post-licensing visit.***

2. The need for procedural changes:

Currently, the automated system generates a monthly LIS 867 Visit-Due Report stating when a post-licensing visit is due. This visit can only be conducted after a newly licensed facility has accepted its first client or resident for placement. If, at the time the Visit-Due Report is generated, the Department has not been notified of the acceptance of any client or resident for placement, the following procedures should be implemented:

- The LPA should place a telephone call to the facility to determine whether any client or resident has been placed.
- If at any time after licensure the LPA has reason to believe that the facility has accepted a client or resident they should follow-up to verify the information.
- If the information from the telephone contact indicates that the facility has accepted a new client or resident, the LPA should document this information on the LIC 185 Contact Sheet. The LPA shall determine the date of placement of the new client/resident and shall conduct a post-licensing visit within 90 days of this date of placement.
- If the licensee sends an email, letter or fax to the LPA stating they have accepted their first client/resident, a copy shall be placed in the facility file. If the licensee contacts the LPA via telephone stating they have accepted their first client/resident, the contact should be documented on the LIC 185 Contact Sheet.
- If the facility has failed to comply with the five-day notification requirement, the LPA shall issue a Type A citation per H&S Code Sections 1526.5, 1568.07, or 1569.24 during the post-licensing visit.
- If the information from the telephone contact indicates that the facility has not accepted a new client or resident, the LPA should document this information using the LIC 185 Contact Sheet. The LPA should continue to contact the facility at 90-day intervals until notified of the date of the first client or resident placement. This is the date from which the LPA has 90 days to conduct the post-licensing visit.

Note:

1. The Department may exercise discretion as to how often to continue the contacts to the facility at subsequent 90-day intervals.
2. The Department has the authority to conduct case management visits at any time.

3. **For the licensee who completed the Component III session of the orientation prior to January 1, 2007**, the LPA shall notify the licensee at the time the Visit-Due Report is generated and advise him/her of the five-day notification requirement. The LPA should document this information using the LIC 185 Contact Sheet. If the licensee has accepted residents/clients prior to the LPA notification, no citation shall be issued.
4. All information related to LPA and Licensee contacts should be documented on an LIC 185 Contact Sheet with paper copies placed in the facility file.

## **INFORMATION ONLY – NO ACTION REQUIRED**

### **AB 2776 (Yee) CHAPTER 796, STATUTES of 2006**

**Affects:** Community Treatment Facilities (CTF)

**Subject:** Seclusion and Restraints

**Summary:** Extends the sunset date from 01/01/2007 to 01/01/2010 of AB 1370 (Yee) Chapter 575, Statutes of 2003. This bill prohibits the Department of Mental Health (DMH) from requiring 24-hour onsite nursing staff at community treatment facilities that do not use mechanical restraints; and only admit youths that do not require 24 hour nursing coverage at the point of admission.

CTF's provide residential care and mental health treatment services to children in a group setting. They have the capacity to provide secure containment in lieu of placement in a state hospital or acute care institution.

Under existing law, the Department of Mental Health is required to adopt regulations establishing program standards for any facility licensed as a CTF. This legislation prohibits the DMH from requiring 24-hour onsite nursing staff at a CTF that does not use mechanical restraints.

At the point of admission, the initial assessment by a licensed primary care provider must conclude that the child does not require medical services that would also require 24-hour nursing coverage. Other medical or nursing staff shall be available on call to provide appropriate services, when necessary, within one hour.

There are no changes to existing regulations.

### **AB 2977 (Mullin), CHAPTER 478, STATUTES OF 2006**

**Affects:** Single Family Homes; Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically Ill, Community Care Facilities, and Child Care Facilities

**Subject:** Swimming Pool and Spa Safety

**Summary:** AB 2977 states that, effective January 1, 2007, one of seven drowning prevention measures must be followed before a building permit may be issued for a new pool or spa.

These are:

- Pool enclosure
- Safety pool cover
- Exit alarms on doors providing direct access to the pool or spa

- Self-closing, self-latching doors with direct access to the pool or spa
- Other means equal or better than the previous items.
- Removable mesh fencing meeting ASTM standards- (new for 2007)
- Pool alarms meeting ASTM standards- (new for 2007)

Also, any modification to an existing pool or spa must include an upgrade to anti-entrapment suction outlet standards as set for the ASTM.

State Department of Health Services is to have this information on its web site by January 1, 2007.

Local building officials shall inspect drowning safety prevention devices on pools and spas and give final approval when standards are met.

**Implementation of AB 2977:**

No Action Necessary. This bill does not change the requirements currently established in regulations.

**SB 144 (Runner), CHAPTER 23, STATUTES OF 2006**

**Affects:** The following are exempt until appropriations are made available to develop new food service regulations: Residential Care Facilities for the Elderly, Residential Care Facilities for the Chronically Ill, Community Care Facilities, and Child Care Facilities

**Subject:** Safety of Food in Retail Food Facilities

**Summary:** This new law repeals the California Uniform Retail Food Facilities Law (CURFFL) in the Health and Safety Code (Part 7, beginning with Section 113700 of Division 104) and, in the place of CURFFL, creates the California Retail Food Code (CRFC) to improve the safety of food in retail food facilities. This law exempts facilities (from the CRFC) that are licensed by the California Department of Social Services (CDSS), including residential care facilities for the elderly, residential care facilities for the chronically ill, community care facilities, and child care facilities. However, it requires the CDSS to develop new food service regulations that would carry out the intent of the CRFC, if and when a specific appropriation is made available for that purpose.

**SB 1641 (Soto) CHAPTER 388, STATUTES of 2006**

**Affects:** Foster Family Homes, Foster Family Agencies, Small Family Homes and Group Homes

**Subject:** Children's Residential Regulations Review (CRRR) Workgroup and Placement Criteria

**Summary:** This legislation requires the Department to report to the Legislature during the fiscal year 2007-08 budget hearings on the progress of its CRRR Workgroup. It also establishes criteria which foster care placement agencies would be required to meet to ensure a child is placed in a home that best meets the needs of the child.

This legislation adds Section 1530.3 to the Health and Safety Code to require the Director of the Department to report to the Legislature during the 2007-08 budget hearings on the progress of the CRRR Workgroup. The report shall include the following:

- An up-to-date summary of the workgroup's activities.
- A timeline for completion of the workgroup's activities.
- Any recommendations being considered for statutory, regulatory, and policy changes, and any work plan for implementation of the recommendations.

This legislation also amends Section 1536.2 of the Health and Safety (H&S) Code to require the Foster Family Agency (FFA) to ensure a home that "best meets the needs of the child" satisfies all of the following criteria:

- The child's caregiver is able to meet the health, safety, and well-being needs of the child.
- The child's caregiver is permitted to maintain the least restrictive and most family-like environment that serves the needs of the child.
- The child is permitted to engage in reasonable, age-appropriate, day-to-day activities that promote the most family-like environment for the foster child.
- The foster child's caregiver shall use a reasonable and prudent parent standard as defined in paragraph (2) of subdivision (a) of Section 362.04 of the Welfare and Institutions (W&I) Code, to determine activities that are age-appropriate and meet the needs of the child. Nothing in this section shall be construed to permit a child's caregiver to permit the child to engage in activities that carry an unreasonable risk of harm, or subject the child to abuse or neglect.

This legislation also makes similar changes to Section 361.2 of the W&I Code with regard to placements made by the county placement agencies.