EVALUATOR MANUAL TRANSMITTAL SHEET

Distribution:	Transmittal No. 07APX-03
____ All Child Care Evaluator Manual Holders _X_ All Residential Care Evaluator Manual Holders ____ All Evaluator Manual Holders	Date Issued July 2007

Subject:

Community Care Facilities (CCF) Act of 2007

Reason For Change:

To incorporate into the Evaluator Manual all additions and amendments to Health and Safety Code that were made during the 2006 Legislative Session.

Please note 1) Underlined text indicates additions or changes in 2006.

2) *** designates something was deleted in 2006.

Filing Instructions:

REMOVE – 2006 CCF Act from Appendix B

INSERT – 2007 CCF Act into Appendix B

Approved:

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CHAPTER 3. California Community Care Facilities Act
ARTICLE 1. General Provisions

§ 1500. Citation of chapter

This chapter shall be known and may be cited as the California Community Care Facilities Act.

§ 1501. Legislative intent and declarations

(a) The Legislature hereby finds and declares that there is an urgent need to establish a coordinated and comprehensive statewide service system of quality community care for mentally ill, developmentally and physically disabled, and children and adults who require care or services by a facility or organization issued a license or special permit pursuant to this chapter.

(b) Therefore, the Legislature declares it is the intent of the state to develop policies and programs designed to:

(1) insure a level of care and services in the community which is equal to or better than that provided by the state hospitals; hospitals;

(2) assure that all people who require them are provided with the appropriate range of social rehabilitative, habilitative and treatment services, including residential and nonresidential programs tailored to their needs;

(3) protect the legal and human rights of a person in or receiving services from a community care facility;

(4) insure continuity of care between the medical-health elements and the supportive care-rehabilitation elements of California's health systems;

(5) insure that facilities providing community care are adequate, safe and sanitary;

(6) assure that rehabilitative and treatment services are provided at a reasonable cost;

(7) assure that state payments for community care services are based on a flexible rate schedule varying according to type and cost of care and services provided;

(8) encourage the utilization of personnel from state hospitals and the development of training programs to improve the quality of staff in community care facilities; and

(9) insure the quality of community care facilities by evaluating the care and services provided and furnishing incentives to upgrade their quality.

§ 1501.1 Placement of Children in residential care facilities; policy of state

(a) It is the policy of the state to facilitate the proper placement of every child in residential care facilities where the placement is in the best interests of the child. A county may require placement or licensing agencies, or both placement and licensing agencies, to actively seek out-of-home care facilities capable of meeting the varied needs of the child. Therefore, in placing children in out-of-home care, particular attention should be given to the individual child's needs, the ability of the facility to meet those needs, the needs of other children in the facility, the licensing requirements of the facility as determined by the licensing agency, and the impact of the placement on the family reunification plan.

(b) Pursuant to this section, children with varying designations and varying needs, except as provided by statute, may be placed in the same facility provided the facility is

licensed, complies with all licensing requirements relevant to the protection of the child, and has a special permit, if necessary, to meet the needs of each child so placed. A facility may not require, as a condition of placement, that a child be identified as an individual with exceptional needs as defined by Section 56026 of the Education Code.

(c) Neither the requirement for any license nor any regulation shall restrict the implementation of the provisions of this section. Implementation of this section does not obviate the requirement for a facility to be licensed by the department.

(d) Pursuant to this section, children with varying designations and varying needs, except as provided by statute, may be placed in the same licensed foster family home or with a foster family agency for subsequent placement in a certified family home. Children with developmental disabilities, mental disorders, or physical disabilities may be placed in licensed foster family homes or certified family homes, provided that an appraisal of the child's needs and the ability of the receiving home to meet those needs is made jointly by the placement agency and the licensee in the case of licensed foster family homes or the placement agency and the foster family agency in the case of certified family homes, and is followed by written confirmation prior to placement. The appraisal shall confirm that the placement poses no threat to any child in the home.

For purposes of this chapter, the placing of children by foster family agencies shall be referred to as "subsequent placement" to distinguish the activity from the placing by public agencies.

§ 1502. Definitions

(a) "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day program" means any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

(3) "Therapeutic day services facility" means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) "Foster family agency" means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2.

(6) "Small family home" means any residential facility, in the licensee's family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) "Social rehabilitation facility" means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) "Community treatment facility" means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

(11) "Transitional shelter care facility" means any group care facility that provides for 24-

hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Program components shall be subject to program standards developed by the State Department of Social Services pursuant to Section 1502.3.

(12) "Transitional housing placement facility" means a community care facility licensed by the department pursuant to Section 1559.110 to provide transitional housing opportunities to persons at least 17 years of age, and not more than 18 years of age unless the requirements of Section 11403 of the Welfare and Institutions Code are met, who are in out-of-home placement under the supervision of the county department of social services or the county probation department, and who are participating in an independent living program.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

§ 1502.2. Repealed by Stats. 2002, c.773 (S.B.1982) section 3

§ 1502.3. Community care facility and Transitional Shelter Care Facility

For purposes of this chapter, a "community care facility," pursuant to Section 1502, includes a transitional shelter care facility. A "transitional shelter care facility" means a short-term residential care program that meets all of the following requirements:

(a) It is owned by the county, and operated by the county or by a private nonprofit organization under contract to the county.

(b) It is a group care facility that provides for 24-hour nonmedical care of persons, under 18 years of age, who are in need of personal services, supervision, or assistance that is essential for sustaining the activities of daily living, or for the protection of the individual on a short-term basis. As used in this section, "short-term" means up to 90 days from the date of admission.

(c) It is for the sole purpose of providing care for children who have been removed from their homes as a result of abuse or neglect, or both; for children who have been adjudged wards of the court; and, for children who are seriously emotionally disturbed children. For purposes of this subdivision, "abuse or neglect" means the same as defined in Section 300 of the Welfare and Institutions Code. For purposes of this subdivision, "wards of the court" means the same as defined in Section 602 of the Welfare and Institutions Code. For purposes of this subdivision, "seriously emotionally disturbed children" means the same as defined in subdivision (a) of Section 5600.3 of the Welfare and Institutions Code.

(d) It primarily serves children who have previously been placed in a community care facility and are awaiting placement into a different community care facility that is appropriate to their needs. Children residing in transitional shelter care facilities may include children who are very difficult to place in appropriate community care facilities because of factors which may be present in combination, including: threatening, aggressive, suicide, runaway or destructive behaviors and behaviors as defined in Section 5600.3 of the Welfare and Institutions Code.

(e) Based upon an agreement with the county, the licensee shall agree to accept, for placement into its transitional shelter care program, all children referred by the county.

(f) The licensee shall not discharge any child without the permission of the county, except when a child:

(1) Commits an unlawful act and the child must be detained in a juvenile institution.

(2) Requires either of the following:

(A) Physical health care in an acute care hospital.

(B) Mental health services in an acute psychiatric hospital.

(g) The licensee shall provide a program that is designed to be flexible enough to care for a highly variable population size and shall allow for the special needs of sibling groups.

§ 1502.4. Group homes for children; placement of seriously emotionally disturbed children; Definitions; immunity from liability

(a)(1) A community care facility licensed as a group home for children pursuant to this chapter may accept for placement, and provide care and supervision to, a child assessed as seriously emotionally disturbed as long as the child does not need inpatient care in a licensed health facility.

(2) For the purpose of this chapter, the following definitions shall apply:

(A) "Inpatient care in a licensed health facility" means care and supervision at a level greater than incidental medical services as specified in Section 1507.

(B) "Seriously emotionally disturbed" means the same as paragraph (2) of subdivision (a) of Section 5600.3 of the Welfare and Institutions Code.

(b) If a child described in subdivision (a) is placed into a group home program classified at rate classification level 13 or rate classification level 14 pursuant to Section 11462.01 of the Welfare and Institutions Code, the licensee shall meet both of the following requirements:

(1) The licensee shall agree to accept, for placement into its group home program, only children who have been assessed as seriously emotionally disturbed by either of the following:

(A) An interagency placement committee, as described in Section 4096 of the Welfare and Institutions Code or by a licensed mental health professional, as defined in Sections 629 to 633, inclusive, of Title 9 of the California Code of Regulations.

(B) A licensed mental health professional pursuant to paragraph (3) of subdivision (i), or subdivision (j), of section 11462.01 Section 11462.01 of the Welfare and Institutions Code if the child is privately placed or only county funded.

(2) The program is certified by the State Department of Mental Health, pursuant to Section 4096.5 of the Welfare and Institutions Code, as a program that provides mental health treatment services for seriously emotionally disturbed children.

(c) The department shall not evaluate, or have any responsibility or liability with regard to the evaluation of, the mental health treatment services provided pursuant to this section and paragraph (3) of subdivision (f) of Section 11462.01 of the Welfare and Institutions Code.

§ 1502.6. Private Adoption Agency; executive director or supervisor qualifications

The department shall deny a private adoption agency license, or revoke an existing private adoption agency license, unless the applicant or licensee demonstrates that they currently and continuously employ either an executive director or a supervisor who has had at least five years of full-time social work employment in the field of child welfare as described in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9 of the Welfare and Institutions Code or Division 13 (commencing with Section 8500) of the Family Code, two years of which shall have been spent performing adoption social work services in either the department or a licensed California adoption agency.

§ 1503. License

As used in this chapter, "license" means a basic permit to operate a community care facility.

A license shall not be transferable.

§ 1503.5. Unlicensed community care facility; definition; operation prohibited; procedure upon discovery

(a) A facility shall be deemed to be an "unlicensed community care facility" and "maintained and operated to provide nonmedical care" if it is unlicensed and not exempt from licensure and any one of the following conditions is satisfied:

(1) The facility is providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(2) The facility is held out as or represented as providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(3) The facility accepts or retains residents who demonstrate the need for care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.

(4) The facility represents itself as a licensed community care facility.

(5) The facility is performing any of the functions of a foster family agency or holding itself out as a foster family agency.

(6) The facility is performing any of the functions of an adoption agency or holding itself out as performing any of the functions of an adoption agency as specified in paragraph (9) of subdivision (a) of Section 1502.

(b) No unlicensed community care facility, as defined in subdivision (a), shall operate in this state.

(c) Upon discovery of an unlicensed community care facility, the department shall refer residents to the appropriate local or state ombudsman, or placement, adult protective services, or child protective services agency if either of the following conditions exist:

(1) There is an immediate threat to the clients' health and safety.

(2) The facility will not cooperate with the licensing agency to apply for a license, meet licensing standards, and obtain a valid license.

§ 1504. Special permit

As used in this chapter, "special permit" means a permit issued by the state department authorizing a community care facility to offer specialized services as designated by the director in regulations.

A special permit shall not be transferable.

§ 1504.5 Application of chapter; legislative intent, findings and declarations concerning independent living of persons with disabilities; contracts providing for living or assistance living in own home

(a)(1) This chapter does not apply to any independent living arrangement or supportive housing, described in paragraph (2) of subdivision (c), for individuals with disabilities who are receiving community living support services, as described in paragraph (1) of subdivision (c).

(2) This section does not affect the provisions of Section 1503.5 or 1505.

(3) Community living support services described in paragraph (1) of subdivision (c) do not constitute care or supervision.

(b)(1) The Legislature finds and declares that there is an urgent need to increase the access to supportive housing, as described in paragraph (2) of subdivision (c), and to foster community living support services, as described in paragraph (1) of subdivision (c), as an effective and cost-efficient method of serving persons with disabilities who wish to live independently.

(2) It is the intent of the Legislature that persons with disabilities be permitted to do both of the following:

(A) Receive one or more community living support services in the least restrictive setting possible, such as in a person's private home or supportive housing residence.

(B) Voluntarily choose to receive support services in obtaining and maintaining supportive housing.

(3) It is the intent of the Legislature that community living support services, as described in paragraph (1) of subdivision (c), enable persons with disabilities to live more independently in the community for long periods of time.

(c)(1) "Community living support services," for purposes of this section, are voluntary and chosen by persons with disabilities in accordance with their preferences and goals for independent living. "Community living support services" may include, but are not limited to, any of the following:

(A) Supports that are designed to develop and improve independent living and problem solving skills.

(B) Education and training in meal planning and shopping, budgeting and managing finances, medication self-management, transportation, vocational and educational development, and the appropriate use of community resources and leisure activities.

(C) Assistance with arrangements to meet the individual's basic needs such as financial benefits, food, clothing, household goods, and housing, and locating and scheduling for appropriate medical, dental, and vision benefits and care.

(2) "Supportive housing," for purposes of this section, is rental housing that has all of the following characteristics:

(A) It is affordable to people with disabilities.

(B) It is independent housing in which each tenant meets all of the following conditions:

(i) Holds a lease or rental agreement in his or her own name and is responsible for paying his or her own rent.

(ii) Has his or her own room or apartment and is individually responsible for arranging any shared tenancy.

(C) It is permanent, wherein each tenant may stay as long as he or she pays his or her share of rent and complies with the terms of his or her lease.

(D) It is tenancy housing under which supportive housing providers are required to comply with applicable state and federal laws governing the landlord-tenant relationship.

(E) Participation in services or any particular type of service is not required as a condition of tenancy.

(d) Counties may contract with agencies or individuals to assist persons with disabilities in securing their own homes and to provide persons with disabilities with the supports needed to live in their own homes, including supportive housing.

(e) For purposes of this section and notwithstanding any other provision of law, an individual with disabilities may contract for the provision of any of the community support services specified in paragraph (1) of subdivision (c) in the individual's own home including supportive housing, as part of that individual's service, care, or independent living plan, only through a government funded program or a private health or disability insurance plan.

(f) An individual's receipt of community living support services as defined in paragraph (1) of subdivision (c) shall not be construed to mean that the individual requires care or supervision or is receiving care or supervision.

§ 1505. Exempt facilities and arrangements

This chapter does not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.

(d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.

(e) Any child day care facility, as defined in Section 1596.750.

(f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of the church or denomination.

(g) Any school dormitory or similar facility determined by the department.

(h) Any house, institution, hotel, homeless shelter, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the director.

(i) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care or supervision.

(j) Any alcoholism or drug abuse recovery or treatment facility as defined by Section 11834.11.

(k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the department. For purposes of this chapter, arrangements for the receiving and care of persons by a relative shall include relatives of the child for the purpose of keeping sibling groups together.

(l)(1) Any home of a relative caregiver of children who are placed by the juvenile court, supervised by the county welfare or probation department, and the placement of whom is approved according to subdivision (d) of section 309 of the Welfare and Institutions Code.

(2) Any home of a nonrelative extended family member, as described in Section 362.7 of the Welfare and Institutions Code, providing care to children who are placed by a juvenile court, supervised by the county welfare or probation department, and the placement of whom is approved according to subdivision (d) of Section 309 of the Welfare and Institutions Code.

(m) Any supported living arrangement for individuals with developmental disabilities

as defined in Section 4689 of the Welfare and Institutions Code.

(n)(1) Any family home agency, family home, or family teaching home as defined in Section 4689.1 of the Welfare and Institutions Code, that is vendored by the State Department of Developmental Services and that does any of the following:

(A) As a family home approved by a family home agency, provides 24-hour care for one or two adults with developmental disabilities in the residence of the family home provider or providers and the family home provider or providers' family, and the provider is not licensed by the State Department of Social Services or the State Department of Health Services or certified by a licensee of the State Department of Social Services or the State Department of Health Services.

(B) As a family teaching home approved by a family home agency, provides 24-hour care for a maximum of three adults with developmental disabilities in independent residences, whether contiguous or attached, and the provider is not licensed by the State Department of Social Services or the State Department of Health Services or certified by a licensee of the State Department of Social Services or the State Department of Health Services.

(C) As a family home agency, engages in recruiting, approving, and providing support to family homes.

(2) No part of this subdivision shall be construed as establishing by implication either a family home agency or family home licensing category.

(o) Any facility in which only Indian children who are eligible under the federal Indian Child Welfare Act, Chapter 21 (commencing with Section 1901) of Title 25 of the United States Code are placed and that is one of the following:

(1) An extended family member of the Indian child, as defined in Section 1903 of Title 25 of the United States Code.

(2) A foster home that is licensed, approved, or specified by the Indian child's tribe pursuant to Section 1915 of Title 25 of the United States Code.

(p) Any housing for elderly or disabled persons, or both, that is approved and operated pursuant to Section 202 of Public Law 86-372 (12 U.S.C.A. Sec. 1701g), or Section 811 of Public Law 101-625 (42 U.S.C.A. Sec. 8013), or whose mortgage is insured pursuant to Section 236 of Public Law 90-448 (12 U.S.C.A. Sec. 1715z), or that receives mortgage assistance pursuant to Section 221d (3) of Public Law 87-70 (12 U.S.C.A. Sec. 17151), where supportive services are made available to residents at their option, as long as the project owner or operator does not contract for or provide the supportive services. The project owner or operator may coordinate, or help residents gain access to, the supportive services, either directly, or through a service coordinator.

(q) Any similar facility determined by the director.

§ 1505.2. Sibling Care in Foster Homes; authority to provide 24-hour care for groups of eight or more; conditions

A licensing agency may authorize a foster family home to provide 24-hour care for up to eight foster children, for the purpose of placing siblings or half siblings together in foster care. This authorization may be granted only if all of the following conditions are met:

(a) The foster family home is not a specialized foster care home as defined in subdivision (i) of Section 17710 of the Welfare and Institutions Code.

(b) The home is sufficient in size to accommodate the needs of all children in the home.

(c) For each child to be placed, the child's placement social worker has determined that

the child's needs will be met and has documented that determination.

The licensing agency may authorize a foster family home to provide 24-hour care for more than eight children only if the foster family home specializes in the care of sibling groups, that placement is solely for the purpose of placing together one sibling group that exceeds eight children, and all of the above listed conditions are met.

§ 1505.5. Regulations authorizing temporary respite care for frail elderly persons, etc.

The director shall adopt regulations authorizing residential facilities, as defined in Section 1502, to fill unused capacity on a short-term, time-limited basis to provide temporary respite care for frail elderly persons, functionally impaired adults, or mentally disordered persons who need 24-hour supervision and who are being cared for by a caretaker or caretakers. The regulations shall address provisions for liability coverage and the level of facility responsibility for routine medical care and medication management, and may require screening of persons to determine the level of care required, a physical history completed by the person's personal physician, and other alternative admission criteria to protect the health and safety of persons applying for respite care. The regulations shall permit these facilities to charge a fee for services provided, which shall include, but not be limited to, supervision, room, leisure activities, and meals.

No facility shall accept persons in need of care beyond the level of care for which that facility is licensed.

§ 1506. Placement of children in certified family homes or licensed foster family homes; "Certified family home"; Education requirements for social work personnel for foster family agency

(a)(1) Any holder of a valid license issued by the department that authorizes the licensee to engage in any foster family agency functions, may use only a certified family home that has been certified by that agency or a licensed foster family home approved for this use by the licensing county pursuant to Section 1506.5.

(2) Any home selected and certified for the reception and care of children by that licensee shall not, during the time it is certified and used only by that agency for these placements or care, be subject to Section 1508. A certified family home may not be concurrently licensed as a foster family home or as any other licensed residential facility.

(3) A child with a developmental disability who is placed in a certified family home by a foster family agency that is operating under agreement with the regional center responsible for that child may remain in the certified family home after the age of 18 years. The determination regarding whether and how long he or she may remain as a resident after the age of 18 years shall be made through the agreement of all parties involved, including the resident, the foster parent, the foster family agency social worker, the resident's regional center case manager, and the resident's parent, legal guardian, or conservator, as appropriate. This determination shall include a needs and service plan that contains an assessment of the child's needs to ensure continued compatibility with the other children in placement. The needs and service plan shall be completed no more than six months prior to the child's eighteenth birthday. The assessment shall be documented and maintained in the child's file with the foster family agency.

(b)(1) A foster family agency shall certify to the department that the home has met the department's licensing standards. A foster family agency may require a family home to meet additional standards or be compatible with its treatment approach.

(2) The foster family agency shall issue a certificate of approval to the certified family home upon its determination that it has met the standards established by the department and before the placement of any child in the home. The certificate shall be valid for a period not to exceed one year. The annual recertification shall require a certified family home to complete at least 12 hours of structured applicable training or continuing education. At least one hour of training during the first six months following initial certification shall be dedicated to meeting the requirements of paragraph (1) of subdivision (b) of Section 11174.1 of the Penal Code.

(3) If the agency determines that the home no longer meets the standards, it shall notify the department and the local placing agency.

(c) The department shall develop licensing regulations differentiating between foster family agencies that provide treatment of children in foster families and those that provide nontreatment services.

(d) As used in this chapter, "certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(e)(1) Requirements for social work personnel for a foster family agency shall be a master's degree from an accredited or state approved graduate school in social work or social welfare, or equivalent education and experience, as determined by the state department.

(2) Persons who possess a master's degree from an accredited or state approved graduate school in any of the following areas, or equivalent education and experience, as determined by the state department, shall be considered to be qualified to perform social work activities in a foster family agency:

(A) Marriage, family, and child counseling.

(B) Child psychology.

(C) Child development.

(D) Counseling psychology.

(E) Social psychology.

(F) Clinical psychology.

(G) Educational psychology, consistent with the scope of practice as described in Section 4986.10 of the Business and Professions Code.

(H) Education, with emphasis on counseling.

(f)(1) In addition to the degree specifications in subdivision (e), all of the following coursework and field practice or experience, as defined in departmental regulations, shall be required of all new hires for the position of social work personnel effective January 1, 1995:

(A) At least three semester units of field practice at the master's level or six months' full-time equivalent experience in a public or private social service agency setting.

(B) At least nine semester units of coursework related to human development or human behavior, or, within the first year of employment, experience working with children and families as a major responsibility of the position under the supervision of a supervising social worker.

(C) At least three semester units in working with minority populations or six months of experience in working with minority populations or training in cultural competency and working with minority populations within the first six months of employment as a condition of employment.

(D) At least three semester units in child welfare or at least six months of experience in

a public or private child welfare social services setting for a nonsupervisory social worker. A supervising social worker shall have two years' experience in a public or private child welfare social services setting.

(2)(A) Persons who do not meet the requirements specified in subdivision (e) or (f) may apply for an exception as provided for in subdivisions (g) and (h).

(B) Exceptions granted by the department prior to January 1, 1995, shall remain in effect.

(3)(A) Persons who are hired as social work personnel on or after January 1, 1995, who do not meet the requirements listed in this subdivision shall be required to successfully meet those requirements in order to be employed as social work personnel in a foster family agency.

(B) Employees who were hired prior to January 1, 1995, shall not be required to meet the requirements of this subdivision in order to remain employed as social work personnel in a foster family agency.

(4) Coursework and field practice or experience completed to fulfill the degree requirements of subdivision (e) may be used to satisfy the requirements of this subdivision.

(g) Individuals seeking an exception to the requirements of subdivision (e) or (f) based on completion of equivalent education and experience shall apply to the department by the process established by the department.

(h) The State Department of Social Services shall be required to complete the process for the exception to minimum education and experience requirements described in subdivisions (e) and (f) within 30 days of receiving the exception application of social work personnel or supervising social worker qualifications from the foster family agency.

(i) The department shall review the feasibility of instituting a licensure category to cover foster homes that are established specifically to care for and supervise adults with developmental disabilities, as defined in subdivision (a) of Section 4512 of the Welfare and Institutions Code, to prevent the institutionalization of those individuals.

(j) For purposes of this section, "social work personnel" means supervising social workers as well as nonsupervisory social workers.

§ 1506.5. Foster family agencies; use of foster homes licensed by the county; approval responsibility for care

(a) Foster family agencies shall not use foster family homes licensed by a county without the approval of the licensing county. When approval is granted, a written agreement between the foster family agency and the county shall specify the nature of administrative control and case management responsibility and the nature and number of the children to be served in the home.

(b) Before a foster family agency may use a licensed foster family home it shall review and, with the exception of a new fingerprint clearance, qualify the home in accordance with Section 1506.

(c) When approval is given, and for the duration of the agreement permitting the foster family agency use of its licensed foster family home, no child shall be placed in that home except through the foster family agency.

(d) Nothing in this section shall transfer or eliminate the responsibility of the placing agency for the care, custody, or control of the child. Nothing in this section shall relieve a foster family agency of its responsibilities for or on behalf of a child placed with it.

(e)(1) If an application to a foster family agency for a certificate of approval indicates, or

the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the foster family agency shall cease any further review of the application until two years have elapsed from the date of the revocation.

(2) If an application to a foster family agency for a certificate of approval indicates, or the department determines during the application review process, that the applicant previously was issued a certificate of approval by a foster family agency that was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the foster family agency shall cease any further review of the application until two years have elapsed from the date of the revocation.

(3) If an application to a foster family agency for a certificate of approval indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, the foster family agency shall cease any further review of the application unless the excluded person has been reinstated pursuant to Section 11522 of the Government Code by the department.

(4) The cessation of review shall not constitute a denial of the application for purposes of subdivision (b) of Section 1534 or any other law.

(f)(1) If an application to a foster family agency for a certificate of approval indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (e) and the application was denied within the last year, the foster family agency shall cease further review of the application as follows:

(A) In cases where the applicant petitioned for a hearing, the foster family agency shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(B) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the foster family agency shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(2) The foster family agency may continue to review the application if the department has determined that the reasons for the denial of the application were due to circumstances and a condition that either have been corrected or are no longer in existence.

(3) The cessation of review shall not constitute a denial of the application for purposes of subdivision (b) of Section 1534 or any other law.

(g)(1) If an application to a foster family agency for a certificate of approval indicates, or the department determines during the application review process, that the applicant had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the foster family agency shall cease further review of the application as follows:

(A) In cases where the applicant petitioned for a hearing, the foster family agency shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(B) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the foster family agency shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(2) The foster family agency may continue to review the application if the department has determined that the reasons for the denial of the application were due to circumstances and conditions that either have been corrected or are no longer in existence.

(3) The cessation of review shall not constitute a denial of the application for purposes of subdivision (b) of Section 1534 or any other law.

§ 1506.6. Family homes; certification by foster family agency and licensee by department or county; forfeiture

It is the intent of the Legislature that public and private efforts to recruit foster parents not be competitive and that the total number of foster parents be increased. A foster family agency shall not certify a family home which is licensed by the department or a county. A licensed foster family home shall forfeit its license, pursuant to subdivision (b) of Section 1524, concurrent with final certification by the foster family agency. The department or a county shall not license a family home that is certified by a foster family agency. A certified family home shall forfeit its certificate concurrent with final licensing by the department or a county.

§ 1506.7. Family homes applying for certification for foster care; application form; notice to check references; signatures

(a) A foster family agency shall require the owner or operator of a family home applying for certification to sign an application that shall contain, but shall not be limited to, the following information:

(1) Whether the applicant has been certified, and by which foster family agency.

(2) Whether the applicant has been decertified, and by which foster family agency.

(3) Whether a placement hold has been placed on the applicant by a foster family agency, and by which foster family agency.

(4) Whether the applicant has been a foster home licensed by a county or by the state and, if so, by which county or state, or whether the applicant has been approved for relative placement by a county and, if so, by which county.

(b)(1) The application form signed by the owner or operator of the family home applying for certification shall contain notice to the applicant for certification that the foster family agency is required to check references of all foster family agencies that have previously certified the applicant and of all state or county licensing offices that have licensed the applicant as a foster parent, and that the signing of the application constitutes the authorization of the applicant for the foster family agency to conduct its check of references.

(2) The application form signed by the owner or operator of the family home applying for certification shall be signed with a declaration by the applicant that the information submitted is true, correct, and contains no material omissions of fact to the best knowledge and belief of the applicant. Any person who declares as true any material matter pursuant to this section that he or she knows to be false is guilty of a misdemeanor. The application shall include a statement that submitting false information is a violation of law punishable by incarceration, a fine, or both incarceration and a fine.

§ 1506.8. Reference checks

Before certifying a family home, a foster family agency shall contact any foster family agencies by whom an applicant has been previously certified and any state or county licensing offices that have licensed the applicant as a foster parent, and shall conduct a reference check as to the applicant.

§ 1506.9. Civil liability for providing department with information

(a) No person shall incur civil liability as a result of providing the department with any of the following:

(1) The foster family agency providing to the department a log of family homes certified and decertified.

(2) The foster family agency notifying the department of its determination to decertify a certified family home due to any of the following actions by the certified family parent:

(A) Violating licensing rules and regulations.

(B) Aiding, abetting, or permitting the violation of licensing rules and regulations.

(C) Conducting oneself in a way that is inimical to the health, morals, welfare, or safety of a child placed in that certified family home.

(D) Being convicted of a crime while a certified family parent.

(E) Knowingly allowing any child to have illegal drugs or alcohol.

(F) Committing an act of child abuse or neglect or an act of violence against another person.

(b) Neither the department, a foster family agency, or a county shall incur civil liability for providing a county or a foster family agency with information if the communication is for the purpose of aiding in the evaluation of an application for certification of a family home by a foster family agency or for licensure as a foster home or approval of a relative placement by a county or by the department.

§ 1507. Incidental medical services; community care facilities; limited services on enumerated conditions; emergency regulations

(a) Notwithstanding any other provision of law, incidental medical services may be provided in a community care facility. If the medical services constitute a substantial component of the services provided by the community care facility as defined by the director in regulations, the medical services component shall be approved as set forth in Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

(b) Notwithstanding any other provision of law, if the requirements of subdivision (c) are met, the department shall permit incidental medical services to be provided in community care facilities for adults by facility staff who are not licensed health care professionals but who are trained by a licensed health care professional and supervised according to the client's individualized health care plan prepared pursuant to subdivision (c). Incidental medical services provided by trained facility staff for the following conditions shall be limited as follows:

(1) Colostomy and ileostomy: changing bags and cleaning stoma.

(2) Urinary catheter: emptying bags in day care facilities; emptying and changing bags in residential facilities.

(3) Gastrostomy: feeding, hydration, cleaning stoma, and adding medication per physician's or nurse practitioner's orders for the routine medication of patients with chronic, stable conditions.

(c) Facility staff may provide incidental medical services if the following conditions have been met:

(1) For regional center clients the following shall apply:

(A) An individualized health care plan, which may be part of a client's individual program plan, shall be prepared for each client by a health care team that shall include the client or his or her designee if the client is not able to participate in planning his or her health care, the client's primary care physician or nurse practitioner or other health care professional designated by the physician or nurse practitioner, the licensee or licensee's designee, any involved social worker or regional center worker, and any health care professional designated to monitor the client's individualized health care plan.

(B) The client's individualized health care plan shall be reassessed at least every 12 months or more frequently as determined by the client's physician or nurse practitioner during the time the client receives incidental medical services in the facility.

(C) The client's regional center, primary care physician or nurse practitioner, or other health care professional designated by the physician or nurse practitioner shall identify the health care professional who shall be responsible for training facility staff in the provision of incidental medical services.

(D) Facility staff shall be trained by the identified health care professional practicing within his or her scope of practice who shall monitor, according to the individualized health care plan, the staff's ability to provide incidental medical services and who shall review, correct, or update facility staff training as the health care professional deems necessary.

(E) The regional center or placing agency shall evaluate, monitor, and have responsibility for oversight of the incidental medical services provided in the facility by facility staff. However, nothing in this section shall preclude the department from taking an administrative action against a licensee or facility staff member for failure or refusal to carry out, or negligence in carrying out, his or her duties in providing these incidental medical services.

(2) For persons who are not regional center clients, the following shall apply:

(A) An individualized health care plan shall be prepared that includes the physician's or nurse practitioner's order for services to be provided during the time the client is in the day care facility. The plan shall be prepared by a team that includes the client or his or her designee if the client is not able to participate in planning his or her care, the client's social worker, conservator, or legal guardian, as appropriate, a licensed health care professional, and the licensee or the licensee's designee.

(B) The client's individualized health care plan shall be reassessed at least every 12 months or more frequently as determined by the client's physician or nurse practitioner during the time the client receives incidental medical services in the facility.

(C) A licensed health care professional practicing within his or her scope of practice shall train the staff of the facility on procedures for caring for clients who require incidental medical services and shall periodically review, correct, or update facility staff training as the health care professional deems necessary.

(d) Facilities providing incidental medical services shall remain in substantial compliance with all other applicable regulations of the department.

(e) The department shall adopt emergency regulations for community care facilities for

adults by February 1, 1997, to do all of the following:

(1) Specify incidental medical services that may be provided. These incidental medical services shall include, but need not be limited to, any of the following: gastrostomy, colostomy, ileostomy, and urinary catheters.

(2) Specify the conditions under which incidental medical services may be provided.

(3) Specify the medical services that, due to the level of care required, are prohibited services.

(f) The department shall consult with the State Department of Developmental Services, the State Department of Mental Health, the Association of Regional Center Agencies, and provider associations in the development of the regulations required by subdivision (e).

§ 1507.1. Home health agency provision of incidental medical services in adult community care facility; conditions

(a) An adult community care facility may permit incidental medical services to be provided through a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) when all of the following conditions are met:

(1) The facility, in the judgment of the department, has the ability to provide the supporting care and supervision appropriate to meet the needs of the client receiving care from a home health agency.

(2) The home health agency has been advised of the regulations pertaining to adult community care facilities and the requirements related to incidental medical services being provided in the facility.

(3) There is evidence of an agreed-upon protocol between the home health agency and the adult community care facility. The protocol shall address areas of responsibility of the home health agency and the adult community care facility and the need for communication and the sharing of client information related to the home health care plan. Client information may be shared between the home health agency and the adult community care facility relative to the client's medical condition and the care and treatment provided to the client by the home health agency, including, but not limited to, medical information defined by the Confidentiality of Medical Information Act, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code.

(4) There is ongoing communication between the home health agency and the adult community care facility about the services provided to the client by the home health agency and the frequency and duration of care to be provided.

(b) Nothing in this section is intended to expand the scope of care and supervision for an adult community care facility, as prescribed by this chapter.

(c) Nothing in this section shall require any care or supervision to be provided by the adult community care facility beyond that which is permitted in this chapter.

(d) The department shall not be responsible for the evaluation of medical services provided to the client of the adult community care facility by the home health agency.

(e) Any regulations, policies, or procedures related to sharing client information and development of protocols, established by the department pursuant to this section, shall be developed in consultation with the State Department of Health Services and persons representing home health agencies and adult community care facilities.

§ 1507.2. Children with special health care needs; acceptance into specialized foster

care home

Notwithstanding any other provision of this chapter, a child with special health care needs, as defined in subdivision (a) of Section 17710 of the Welfare and Institutions Code, may be accepted in a specialized foster care home, as defined in subdivision (i) of Section 17710 of the Welfare and Institutions Code, or retained beyond the age of 18, in accordance with Part 5.5 (commencing with Section 17700) of Division 9 of the Welfare and Institutions Code, relating to children with special health care needs. If the facility accepts a child with special health care needs, or retains a child with special health care needs beyond the age of 18 years, the facility shall maintain all documents required as evidence of compliance with Part 5.5 (commencing with Section 17700) of Division 9 of the Welfare and Institutions Code in the files of the facility that are available for inspection by the certifying or licensing agency.

§ 1507.25. Foster children with special health care needs; emergency medical assistance and injections for severe diabetic hypoglycemia and anaphylactic shock; persons authorized to administer medical assistance.

(a)(1) Notwithstanding any other provision of law, a person described in paragraph (2), who is not a licensed health care professional, but who is trained to administer injections by a licensed health care professional practicing within his or her scope of practice, may administer emergency medical assistance and injections for severe diabetic hypoglycemia and anaphylactic shock to a foster child in placement.

(2) The following individuals shall be authorized to administer emergency medical assistance and injections in accordance with this subdivision:

(A) A relative caregiver.

(B) A nonrelative extended family member.

(C) A foster family home parent.

(D) A small family home parent.

(E) A certified parent of a foster family agency.

(F) A substitute caregiver of a foster family home or a certified family home.

(G) A direct care staff member of a small family home or a group home.

(3) The licensed health care professional shall periodically review, correct, or update training provided pursuant to this section as he or she deems necessary and appropriate.

(b)(1) Notwithstanding any other provision of law, a person described in paragraph (2), who is not a licensed health care professional, but who is trained to administer injections by a licensed health care professional practicing within his or her scope of practice, may administer subcutaneous injections of other medications, including insulin, as prescribed by the child's physician, to a foster child in placement.

(2) The following individuals shall be authorized to give prescribed injections including insulin in accordance with this subdivision:

(A) A relative caregiver.

(B) A nonrelative extended family member.

(C) A foster family home parent.

(D) A small family home parent.

(E) A certified parent of a foster family agency.

(F) In the absence of a foster parent, a designated substitute caregiver in a foster family

home or certified family home.

(3) The licensed health care professional shall periodically review, correct, or update training provided pursuant to this section as he or she deems necessary and appropriate.

(c) For purposes of this section, administration of an insulin injection shall include all necessary supportive activities related to the preparation and administration of injection, including glucose testing and monitoring.

(d) Notwithstanding Part 5.5 (commencing with Section 17700) of Division 9 of, and particularly subdivision (g) of Section 17710 of, the Welfare and Institutions Code, a child's need to receive injections pursuant to this section shall not be the sole basis for determining that the child has a medical condition requiring specialized in-home health care.

(e) This section does not supersede the requirements of Section 369.5 of the Welfare and Institutions Code, with respect to the administration of psychotropic medication to a dependent child of the court.

§ 1507.3. Terminally ill residents; waivers to remain in residential facilities; transfer

(a) A residential facility that provides care to adults may obtain a waiver from the department for the purpose of allowing a resident who has been diagnosed as terminally ill by his or her physician or surgeon to remain in the facility, or allowing a person who has been diagnosed as terminally ill by his or her physician and surgeon to become a resident of the facility if that person is already receiving hospice services and would continue to receive hospice services without disruption if he or she became a resident, when all of the following conditions are met:

(1) The facility agrees to retain the terminally ill resident, or accept as a resident the terminally ill person, and to seek a waiver on behalf of the individual, provided the individual has requested the waiver and is capable of deciding to obtain hospice services.

(2) The terminally ill resident, or the terminally ill person to be accepted as a resident, has obtained the services of a hospice certified in accordance with federal medicare conditions of participation and licensed pursuant to Chapter 8 (commencing with Section 1725) or Chapter 8.5 (commencing with Section 1745).

(3) The facility, in the judgment of the department, has the ability to provide care and supervision appropriate to meet the needs of the terminally ill resident, or the terminally ill person to be accepted as a resident, and is in substantial compliance with regulations governing the operation of residential facilities that provide care to adults.

(4) The hospice has agreed to design and provide for care, services, and necessary medical intervention related to the terminal illness as necessary to supplement the care and supervision provided by the facility.

(5) An agreement has been executed between the facility and the hospice regarding the care plan for the resident. The care plan shall designate the primary caregiver, identify other caregivers, and outline the tasks the facility is responsible for performing and the approximate frequency with which they shall be performed. The care plan shall specifically limit the facility's role for care and supervision to those tasks authorized for a residential facility under this chapter.

(6) The facility has obtained the agreement of those residents who share the same room with the terminally ill resident, or any resident who will share a room with the terminally ill person to be accepted as a resident, to allow the hospice caregivers into their residence.

(b) At any time that the licensed hospice, the facility, or the terminally ill resident

determines that the resident's condition has changed so that continued residence in the facility will pose a threat to the health and safety of the terminally ill resident or any other resident, the facility may initiate procedures for a transfer.

(c) A facility that has obtained a hospice waiver from the department pursuant to this section, or an Adult Residential Facility for Persons with Special Health Care Needs (ARFPSHN) licensed pursuant to Article 9 (commencing with Section 1567.50), need not call emergency response services at the time of a life-threatening emergency if the hospice agency is notified instead and all the following conditions are met:

(1) The resident is receiving hospice services from a licensed hospice agency.

(2) The resident has completed an advance directive, as defined in Section 4605 of the Probate Code, requesting to forego resuscitative measures.

(3) The facility has documented that facility staff have received training from the hospice agency on the expected course of the resident’s illness and the symptoms of impending death.

(d) Nothing in this section is intended to expand the scope of care and supervision for a residential facility, as defined in this chapter, that provides care to adults nor shall a facility be required to alter or extend its license in order to retain a terminally ill resident, or allow a terminally ill person to become a resident of the facility, as authorized by this section.

(e) Nothing in this section shall require any care or supervision to be provided by the residential facility beyond that which is permitted in this chapter.

(f) Nothing in this section is intended to expand the scope of life care contracts or the contractual obligation of continuing care retirement communities as defined in Section 1771.

(g) The department shall not be responsible for the evaluation of medical services provided to the resident by the hospice and shall have no liability for the independent acts of the hospice.

(h) The department, in consultation with the State Fire Marshal, shall develop and expedite implementation of regulations related to residents who have been diagnosed as terminally ill who remain in the facility and who are nonambulatory that ensure resident safety but also provide flexibility to allow residents to remain in the least restrictive environment.

(i) Nothing in this section shall be construed to relieve a licensed residential facility that provides care to adults of its responsibility, for purposes of allowing a resident who has been diagnosed as terminally ill to remain in the facility, to do both of the following:

(1) With regard to any resident who is bedridden, as defined in subdivision (a) of Section 1566.45, to, within 48 hours of the resident's retention in the facility, notify the local fire authority with jurisdiction in the bedridden resident's location of the estimated length of time the resident will retain his or her bedridden status in the facility.

(2) Secure a fire clearance approval from the city or county fire department, fire district, or any other local agency providing fire protection services, or the State Fire Marshal, whichever has primary fire protection jurisdiction.

(j) The requirement in paragraph (1) of subdivision (a) to obtain a waiver, and the requirement in paragraph (1) of subdivision (i) to notify the local fire authority, shall not apply to a facility licensed as an ARFPSHN pursuant to Article 9 (commencing with Section 1567.50.

§ 1507.5. In-home medical care and home and community based services; children with special needs; foster family homes; evaluation

(a) In-home medical care and home and community-based services, as described in subdivisions (t) and (u) of Section 14132 of the Welfare and Institutions Code, may, when

deemed medically appropriate by the State Department of Health Services, be provided by a licensed home health agency to children with special medical needs, as defined by the State Department of Health Services, in foster family homes. For children described in this section, these medical services shall not be considered as a substantial component of the services provided by the licensee for the purposes of Section 1507. To be eligible under this section for placement in a foster home, a child shall be receiving medical supervision and medical case management by an agent designated by the State Department of Health Services.

(b) No more than two children eligible for services under this section may be placed in a single licensed foster family home at one time.

(c) The State Department of Social Services and its agents shall not evaluate or have any responsibility or liability for the evaluation of the medical services described in this section.

§ 1507.6. Mental health services; liability

Mental health services, as deemed necessary by the placing agency, may be provided to children in a group home. Except for the physical safety and direct care and supervision of children so placed, the State Department of Social Services and its agents shall not evaluate or have responsibility or liability for the evaluation of mental health services provided in those homes. Supervision of mental health treatment services provided to a child in a group home shall be a case management responsibility of the placing agency.

§ 1508. Necessity of license; special permit; community care facility; local public agency defined

No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a community care facility in this state, without a current valid license therefor as provided in this chapter.

No person, firm, partnership, association, or corporation within the state and no state or local public agency shall provide specialized services within a community care facility in this state, without a current valid special permit therefor as provided in this chapter.

Except for a juvenile hall operated by a county, or a public recreation program, this section applies to community care facilities directly operated by a state or local public agency. Each community care facility operated by a state or local public agency shall comply with the standards established by the director for community care facilities.

As used in this chapter, "local public agency" means a city, county, special district, school district, community college district, chartered city, or chartered city and county.

§ 1509. Inspection, licensure and approval

The state department shall inspect and license community care facilities, except as otherwise provided in Section 1508. The state department shall inspect and issue a special permit to a community care facility to provide specialized services.

§ 1509.5. Application for additional license; possession of current license; provisional license; expedited procedures

(a) The department and the licensing agencies with which it contracts for licensing shall

review and make a final determination within 60 days of an applicant's submission of a complete application on all applications for a license to operate a community care facility if the applicant possesses a current valid license to operate a community care facility at another site. Applicants shall note on the application, or in a cover letter to the application, that they possess a current valid license at another site, and the number of that license.

(b) The department shall request a fire safety clearance from the appropriate fire marshal within five days of receipt of an application described in subdivision (a). The applicant shall be responsible for requesting and obtaining the required criminal record clearances.

(c) If the department for any reason is unable to comply with subdivision (a), it shall, within 60 days of receipt of the application described in subdivision (a), grant a provisional license to the applicant to operate for a period not to exceed six months, except as provided in subdivision (d). While the provisional license is in effect, the department shall continue its investigation and make a final determination on the application before the provisional license expires. The provisional license shall be granted, provided the department knows of no life safety risks, the criminal records clearances, if applicable, are complete, and the fire safety clearance is complete. The director may extend the term of a provisional license for an additional six months at the time of the application, if the director determines that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant, and if all other requirements for a license have been met.

(d) If the department does not issue a provisional license pursuant to subdivision (c), the department shall issue a notice to the applicant identifying whether the provisional license has not been issued due to the existence of a life safety risk, lack of a fire safety clearance, lack of a criminal records clearance, failure to complete the application, or any combination of these reasons. If a life safety risk is identified, the risk preventing the issuance of the provisional license shall be clearly explained. If a lack of the fire safety clearance is identified, the notice shall include the dates on which the department requested the clearance and the current status of that request, and the fire marshal's name and telephone number to whom a fire safety clearance request was sent. The department shall identify the names of individuals for whom criminal records clearances are lacking. If failure to complete the application is identified, the notice shall list all of the forms or attachments that are missing or incorrect. This notice shall be sent to the applicant no later than 60 days after the applicant filed the application. If the reasons identified in the notice are corrected, the department shall issue the provisional license within five days after the corrections are made.

(e) The department shall, immediately after January 1, 1993, develop expedited procedures necessary to implement subdivisions (a), (b), (c), and (d).

(f) The department shall, immediately after January 1, 1993, develop an appeal procedure for applicants under this section for both denial of licenses and delay in processing applications.

§ 1510. Consulting services

The state department may provide consulting services upon request to any community care facility to assist in the identification or correction of deficiencies and in the upgrading of the quality of care provided by such community care facility.

§ 1511. Contracts with public agencies for assumption of certain responsibilities;

reimbursement; federal grants-in-aid

The state department may contract for state, county, or other public agencies to assume specified licensing, approval, or consultation responsibilities. In exercising the authority so delegated, such agencies shall conform to the requirements of this chapter and to the rules, regulations, and standards of the state department. The state department shall reimburse agencies for services performed pursuant to this section, and such payments shall not exceed actual cost.

If any grants-in-aid are made by the federal government for the support of any inspection or consultation service approved by the state department, the amount of the federal grant shall first be applied to defer the cost of the service before state reimbursement is made.

§ 1512. Residential community care facility; policy concerning family visits and communication with resident clients; posting notice

Each residential community care facility shall state, on its client information form or admission agreement, and on its patient's rights form, the facility's policy concerning family visits and other communication with resident clients and shall, except as otherwise provided in this section, promptly post notice of its visiting policy at a location in the facility that is accessible to residents and families. The requirement that a facility post notice of the facility's visiting policy does not apply to any facility serving six or fewer clients.

The community care facility's policy concerning family visits and communication shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility.

§ 1512.5. Family councils

(a) No residential facility may prohibit the formation of a family council, and, when requested by a member of the resident's family or the resident's responsible party, the family council shall be allowed to meet in a common meeting room of the facility during mutually agreed upon hours.

(b) Facility policies on family councils shall in no way limit the right of residents and family members to meet independently with outside persons, including members of nonprofit or government organizations or with facility personnel during nonworking hours.

(c) "Family council" for the purpose of this section means a meeting of family members, friends, responsible parties, or agents as defined in Section 14110.8 of the Welfare and Institutions Code of two or more patients to confer in private without facility staff.

(d) Family councils shall also be provided adequate space on a prominent bulletin board or other posting area for the display of meeting notices, minutes, and newsletters.

§ 1513. Valuation of license or permit; prohibition against sale or exchange for commercial purpose

No license or special permit issued pursuant to the provisions of this chapter shall have any property value for sale or exchange purposes and no person, including any owner, agent, or broker, shall sell or exchange any license or special permit for any commercial purpose.

§ 1514. License number; use in advertisements, publications, or announcements

(a) Each residential care facility licensed under this chapter shall reveal its license number in all advertisements, publications, or announcements made with the intent to attract clients or residents.

(b) Advertisements, publications, or announcements subject to the requirements of subdivision (a) shall include, but are not limited to, those contained in the following:

(1) Newspaper or magazine.

(2) Consumer report.

(3) Announcement of intent to commence business.

(4) Telephone directory yellow pages.

(5) Professional or service directory.

(6) Radio or television commercial.

§ 1515. Recruitment programs

The department shall authorize county welfare departments to undertake comprehensive recruitment programs, including but not limited to media advertising, public awareness campaigns and public speaking engagements to ensure an adequate number of foster homes are available to meet the child welfare placement needs in each county.

In counties in which the county has contracted with the state to license foster parents, if the county undertakes a recruitment program, it shall be done by the placement agency. The state shall not be required to perform any acts in connection with a recruitment program.

§ 1516. Crisis nurseries; definition; voluntary placement or temporary emergency care; county placements; maximum licensed capacity; monthly reports; day care services

(a) For purposes of this chapter, "crisis nursery" means a facility licensed by the department pursuant to subdivision (j) to provide short-term, 24-hour nonmedical residential care and supervision for children under six years of age, who are either voluntarily placed for temporary care by a parent or legal guardian due to a family crisis or a stressful situation, for no more than 30 days or, except as provided in subdivision (e), who are temporarily placed by a county child welfare service agency for no more than 14 days.

(b) Crisis nurseries shall be organized and operated on a nonprofit basis by private nonprofit corporations or nonprofit public benefit corporations.

(c) "Voluntary placement," for purposes of this section, means a child, who is not receiving Aid to Families with Dependent Children-Foster Care, placed by a parent or legal guardian who retains physical custody of, and remains responsible for, the care of his or her children who are placed for temporary emergency care, as described in subdivision (a).

(d) A crisis nursery may also provide temporary emergency care to children under six years of age who have been taken into the protective custody of, or are placed directly by, the county child welfare services system that has assumed responsibility for the care of the children.

(e) County placements, as described in subdivision (d), shall be limited to no more than one-third of a crisis nursery's licensed capacity. The length of stay for a county-placed child shall not exceed 14 days unless the State Department of Social Services issues

an exception.

(f)(1) Except as provided in paragraph (2), the maximum licensed capacity for crisis nursery programs shall be 14.

(2) Any facility licensed on or before January 1, 2004, as a group home for children under the age of six years with a licensed capacity greater than 14, but less than 21, that provides crisis nursery services shall be allowed to retain its capacity if issued a crisis nursery license until the time there is a change in the licensee's program, location, or client population.

(g) Facilities licensed as crisis nurseries shall be required to submit, in a format specified by the department, a monthly report indicating the total number of children placed in the program, designating whether each child is voluntarily placed by the parents or legal guardians or placed directly by county child welfare services and the length of stay for each child.

(h) Notwithstanding Section 1596.80, a crisis nursery may provide child day care services for children under the age of six years at the same site as the crisis nursery. A child may not receive child day care services at a crisis nursery for more than 30 calendar days in a six-month period unless the department issues an exception. A child who is receiving child day care services shall be counted in the licensed capacity. A child who is receiving child day care services, and who is a county placement, as described in subdivision (d), shall be counted in the limitation on county placements specified in subdivision (e).

(i) Exceptions to group home licensing regulations pursuant to subdivision (c) of Section 84200 of Title 22 of the California Code of Regulations, in effect on August 1, 2004, for county-operated or county-contracted emergency shelter care facilities that care for children under the age of six years for no more than 30 days, shall be contained in regulations for crisis nurseries.

(j) The department may issue a license pursuant to this section only to a facility that meets one of the following conditions:

(1) The facility is operating, or has an application on file with the department to operate as of September 1, 2004, as a group home for children under six years of age in any of the following counties:

(A) Contra Costa.

(B) Nevada.

(C) Placer.

(D) Sacramento.

(E) San Joaquin.

(F) Stanislaus.

(G) Yolo.

(2) The facility, pursuant to standards developed by the department by regulation, meets an urgent, significant, and unmet need for temporary respite care of children under the age of six years.

(3) The facility offers temporary emergency shelter and services only to children under the age of six years who are voluntarily placed by a parent or guardian, as set forth in subdivision (c), and the facility does not accept county placements, as set forth in subdivision (d).

(k) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

§ 1518. Rent control; exception

(a) Nothing in this chapter shall authorize the imposition of rent regulations or controls for licensed community care facilities.(b) Licensed community care facilities shall not be subject to controls on rent imposed by any state or local agency or other local government or entity.

§ 1519. Repealed by Stats.2004, c.193 (S.B.111), section 67

ARTICLE 2. Administration

§ 1520. Applications for issuance of license; contents

Any person desiring issuance of a license for a community care facility or a special permit for specialized services under this chapter shall file with the department, pursuant to regulations, an application on forms furnished by the department, which shall include, but not be limited to:

(a) Evidence satisfactory to the department of the ability of the applicant to comply with this chapter and of rules and regulations promulgated under this chapter by the department.

(b) Evidence satisfactory to the department that the applicant is of reputable and responsible character. The evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1522, employment history, and character references. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders thereof, and the person in charge of the community care facility for which application for issuance of license or special permit is made.

(c) Evidence satisfactory to the department that the applicant has sufficient financial resources to maintain the standards of service required by regulations adopted pursuant to this chapter.

(d) Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in, any community care facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

(e) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in subdivision (d).

(f) A signed statement that the person desiring issuance of a license or special permit has read and understood the community care facility licensure statute and regulations that pertain to the applicant's category of licensure.

(g) Any other information that may be required by the department for the proper administration and enforcement of this chapter.

(h) In implementing this section, the department shall give due consideration to the functions of each separate licensing category.

(i) Failure of the applicant to cooperate with the licensing agency in the completion of the application shall result in the denial of the application. Failure to cooperate means that the information described in this section and in regulations of the department has not been provided, or not provided in the form requested by the licensing agency, or both.

§ 1520.1. Applicants for group home facility license; additional requirements

In addition to Section 1520, applicants for a group home facility license shall meet the following requirements:

(a)(1) During the first 12 months of operation, the facility shall operate with a provisional license. After eight months of operation, the department shall conduct a comprehensive review of the facility for compliance with all applicable laws and regulations and help develop a plan of correction with the provisional licensee, if appropriate. By the end of the 12th month of operation, the department shall determine if the permanent license should be issued.

(2) If the department determines that the group home is in substantial compliance with licensing standards, notwithstanding Section 1525.5, the department may extend the provisional license for up to an additional six months for either of the following reasons:

(A) The group home requires additional time to be in full compliance with licensing standards.

(B) After 12 months of operation, the group home is not operating at 50 percent of its licensed capacity.

(3) By no later than the first business day of the 17th month of operation, the department shall conduct an additional review of a facility for which a provisional license is extended pursuant to paragraph (2), in order to determine whether a permanent license should be issued.

(4) The department may deny a group home license application at any time during the term of the provisional license to protect the health and safety of clients. If the department denies the application, the group home shall cease operation immediately. Continued operation of the facility after the department denies the application or the provisional license expires shall constitute unlicensed operation.

(5) When the department notifies a city or county planning authority pursuant to subdivision (c) of Section 1520.5, the department shall briefly describe the provisional licensing process and the timelines provided for under that process, as well as provide the name, address, and telephone number of the district office licensing the facility where a complaint or comment about the group home's operation may be filed.

(b)(1) After the production of the booklet provided for in paragraph (2), every member of the group home's board of directors shall, prior to becoming a member of the board of directors sign a statement that the board member understands his or her legal duties and obligations as a member of the board of directors and that the group home's operation is governed by laws and regulations that are enforced by the department, as set forth in the booklet. The applicant, provisional licensee, and licensee shall have this statement available for inspection by the department. For members of the board of directors when the booklet is produced, the licensee shall obtain this statement by the next scheduled meeting of the board of directors. Compliance with this paragraph shall be a condition of licensure.

(2) No later than May 1, 1999, the department, in cooperation with the Department of Justice and in consultation with group home providers, shall develop and distribute to every group home provider detailed information designed to educate members of the group home provider's board of directors of their roles and responsibilities as board members of a public benefit corporation under the laws of this state. The information shall be included in a booklet, which shall include, but not be limited to, all of the following:

(A) The financial responsibilities of a member of the board of directors.

(B) Disclosure requirements for self-dealing transactions.

(C) Legal requirements pertaining to articles of incorporation, bylaws, length of board member terms, voting procedures, board meetings, quorums, minutes of board meetings, and, as provided for in subdivision (f), board member duties.

(D) A general overview of the laws and regulations governing the group home's operation that are enforced by the department.

(c) All financial records submitted by a facility to the department, or that are submitted as part of an audit of the facility, including, but not limited to, employee timecards and timesheets, shall be signed and dated by the employee and by the group home representative who is responsible for ensuring the accuracy of the information contained in the record, and shall contain an affirmative statement that the signatories understand that the information contained in the document is correct to the best of their knowledge and that submission of false or misleading information may be prosecuted as a crime.

(d) An applicant, provisional licensee, or licensee shall maintain, submit, and sign financial documents to verify the legitimacy and accuracy of these documents. These documents include, but are not limited to, the group home application, any financial documents and plans of corrections submitted to the department, and time sheets.

(e)(1) It is the intent of the Legislature that a group home have either representatives on its board of directors, as listed in paragraph (2), or a community advisory board, that meets at least annually.

(2) The representatives on the board of directors or the community advisory board members should consist of at least the following persons:

(A) A member of the facility's board of directors.

(B) Members of the community where the facility is located.

(C) Neighbors of the facility.

(D) Current or former clients of the facility.

(E) A representative from a local law enforcement or other city or county representative.

(f) Each group home provider shall schedule and conduct quarterly meetings of its board of directors. During these quarterly meetings, the board of directors shall review and discuss licensing reports, financial and program audit reports of its group home operations, special incident reports, and any administrative action against the licensee or its employees. The minutes shall reflect the board's discussion of these documents and the group home's operation. The licensee shall make available the minutes of group home board of directors meetings to the department.

§ 1520.11. Corporate applicants; directors and officers; related facilities; license issuance and revocation

(a) A corporation that applies for licensure with the department shall list the facilities that any member of the board of directors, an executive director, or any officer has been licensed to operate, been employed in, or served as a member of the board of directors, the executive director, or an officer.

(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer, who is not eligible for licensure pursuant to Section 1520.3 or Section 1558.1.

(c) The department may revoke the license of any corporate licensee that has a member of the board of directors, an executive director, or an officer, who is not eligible for

licensure pursuant to Section 1520.3 or Section 1558.1.

(d) Prior to instituting an administrative action pursuant to either subdivision (b) or (c), the department shall notify the applicant or licensee of the person's ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee. The licensee shall remove the person from that position within 15 days or, if the person has client contact, he or she shall be removed immediately upon notification.

§ 1520.2. Resident-oriented facility councils

(a) Every licensed community care facility, at the request of a majority of its residents, shall assist its residents in establishing and maintaining a resident-oriented facility council. The council shall be composed of residents of the facility and may include family members of residents of the facility. The council may, among other things, make recommendations to facility administrators to improve the quality of daily living in the facility and may negotiate to protect residents' rights with facility administrators.

(b) A violation of subdivision (a) shall not be subject to the provisions of Section 1540 but shall be subject to the provisions of Section 1534 and any other provisions of this chapter.

(c) This section shall not apply to a community care facility as defined in paragraphs (3), (5), and (6) of subdivision (a) of Section 1502, or to a community care facility licensed to provide care for six or fewer individuals.

§ 1520.3. Applications submitted within two years of revocation of prior license; cessation of Review

(a)(1) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.

(2) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a certificate of approval by a foster family agency that was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation.

(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Sections 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.

(b) If an application for a license or special permit indicates, or the department

determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall cease further review of the application as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence.

(c) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall cease further review of the application as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions that either have been corrected or are no longer in existence.

(d) The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other law.

§ 1520.5. Overconcentration of residential care facilities; license denial; ownership change; facilities considered

(a) The Legislature hereby declares it to be the policy of the state to prevent overconcentrations of residential care facilities that impair the integrity of residential neighborhoods. Therefore, the director shall deny an application for a new residential care facility license if the director determines that the location is in a proximity to an existing residential care facility that would result in overconcentration.

(b) As used in this section, "overconcentration" means that if a new license is issued, there will be residential care facilities that are separated by a distance of 300 feet or less, as measured from any point upon the outside walls of the structures housing those facilities. Based on special local needs and conditions, the director may approve a separation distance of less than 300 feet with the approval of the city or county in which the proposed facility will be located.

(c) At least 45 days prior to approving any application for a new residential care facility,

the director, or county licensing agency, shall notify, in writing, the *** planning agency of the city, if the facility is to be located in the city, or the planning agency of the county, if the facility is to be located in an unincorporated area, of the proposed location of the facility.

(d) Any city or county may request denial of the license applied for on the basis of overconcentration of residential care facilities.

(e) Nothing in this section authorizes the director, on the basis of overconcentration, to refuse to grant a license upon a change of ownership of an existing residential care facility where there is no change in the location of the facility.

(f) Foster family homes and residential care facilities for the elderly shall not be considered in determining overconcentration of residential care facilities, and license applications for those facilities shall not be denied upon the basis of overconcentration.

(g) Any transitional shelter care facility as defined in paragraph (11) of subdivision (a) of Section 1502 shall not be considered in determining overconcentration of residential care facilities, and license applications for those facilities shall not be denied upon the basis of overconcentration.

§ 1520.6. (Operative term contingent) Overconcentration of group homes; Conditions (Repealed by Stats.1992, c. 1153 (S.B. 1573), sec 2, effective on or before 1-1-94)

§ 1520.65. Repealed by Stats.2004, c. 193 (S.B. 111), section 68

§ 1521. Facilities with medical and nursing services; compliance with health planning requirements

Any person desiring a license for a community care facility under the provisions of this chapter which is required by other code provisions or rules or regulations of the state department pursuant to other code provisions to have a medical director, organized medical staff, or resident medical staff or to provide professional nursing services by a registered nurse or supervision of nursing services by a licensed registered nurse, a graduate nurse, a licensed vocational nurse, or a certified psychiatric technician shall comply with the health planning requirements contained in Part 1.5 (commencing with Section 437) of Division 1.

All other community care facilities shall be exempt from the health planning requirements contained in Part 1.5 (commencing with Section 437) of Division 1.

§ 1521.5. Pre-license in home interviews; prospective foster parents; licensing records

(a) The county welfare director shall, prior to the issuance of any foster family home license, ensure that the county licensing staff, or the placement staff, conducts one or more in-home interviews with the prospective foster parent sufficient to collect information on caregiver qualifications that may be used by the placement agency to evaluate the ability, willingness, and readiness of the prospective foster parent to meet the varying needs of children. The inability of a prospective foster parent to meet the varying needs of children shall not, in and of itself, preclude a prospective foster parent from obtaining a foster family home license.

(b) All home interviews required by this section shall be on an in person basis.

(c) If the in-home interview is conducted by the licensing agency, it shall be a part of the licensing record, and shall be shared with the county welfare director or the placement agency

pursuant to subdivision (e) of Section 1798.24 of the Civil Code.

(d) The in-home interview required by this section shall be completed no later than 120 days following notification by the licensing agency.

(e) No license shall be issued unless an in-home interview has been conducted as required by this section.

§ 1521.6. Legislative intent; foster homes; development and implementation of comprehensive licensing process

(a) The Legislature recognizes the importance of ensuring that prospective foster family homes meet specified health and safety requirements. Moreover, the Legislature acknowledges that there is a further need to evaluate a licensed foster parent's ability, readiness, and willingness to meet the varying needs of children, including hard-to-place children, in order to ensure competent placement resources. Therefore, it is the intent of the Legislature that the State Department of Social Services, in consultation with county placement agencies, foster care providers, and other interested parties, develop and implement through regulations, a comprehensive home study process that integrates the decision outcome of the home study developed pursuant to Section 16518 of the Welfare and Institutions Code, as a criteria for placement.

(b) This section shall become inoperative on the date the regulations adopted pursuant to this section are filed with the Secretary of State.

§ 1522. Fingerprints and criminal records; exemptions; criminal record clearances

The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a community care facility, foster family home, or a certified family home of a licensed foster family agency. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients health and safety. <u>An individual shall be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a community care facility.</u>

(a)(1) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the State Department of Social Services shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, of the Penal Code, subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) Except during the 2003-04, 2004-05, *** 2005-06, 2006-07 and 2007-08 fiscal years, neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section.

(4) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services shall cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (g).

(E) An applicant and any other person specified in subdivision (b) shall submit *** fingerprint images and related information to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision(b) meet all of the conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal *** offender record information search response for the applicant or any of the persons described in subdivision (b), the department may issue a license if the applicant and each person described in subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or any other person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

(F) The State Department of Social Services shall develop procedures to provide the individual's state and federal criminal history information with the written notification of his or her exemption denial or revocation based on the criminal record. Receipt of the criminal history information shall be optional on the part of the individual, as set forth in the agency's procedures. The procedure shall protect the confidentiality and privacy of the individual's record, and the criminal history information shall not be made available to the employer.

(G) Notwithstanding any other provision of law, the department is authorized to provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of

Justice and shall be provided to the address specified by the individual in their written request. The department shall retain a copy of the individual's written request and the response and date provided.

(b)(1) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the community care facility. The facility shall maintain the copy of the certification on file as long as care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Section 1558.

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(2) The following persons are exempt from the requirements applicable under paragraph (1):

(A) A medical professional as defined in department regulations who holds a valid license or certification from the person's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee if all of the following apply:

(i) The criminal record of the person has been cleared as a condition of licensure or certification by the person's governing California medical care regulatory entity.

(ii) The person is providing time-limited specialized clinical care or services.

(iii) The person is providing care or services within the person's scope of practice.

(iv) The person is not a community care facility licensee or an employee of the facility.

(B) A third-party repair person or similar retained contractor if all of the following apply:

(i) The person is hired for a defined, time-limited job.

(ii) The person is not left alone with clients.

(iii) When clients are present in the room in which the repair person or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(C) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client or resident of the facility and are in the facility at the request of that client or resident's legal decisionmaker. The exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(D) Clergy and other spiritual caregivers who are performing services in common areas

of the community care facility or who are advising an individual client at the request of, or with the permission of, the client or legal decision maker, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care licensee or employee of the facility.

(E) Members of fraternal, service, or similar organizations who conduct group activities for clients if all of the following apply:

(i) Members are not left alone with clients.

(ii) Members do not transport clients off the facility premises.

(iii) The same organization does not conduct group activities for clients more often than defined by the department's regulations.

(3) In addition to the exemptions in paragraph (2), the following persons in foster family homes, certified family homes, and small family homes are exempt from the requirements applicable under paragraph (1):

(A) Adult friends and family of the licensed or certified foster parent, who come into the home to visit for a length of time no longer than defined by the department in regulations, provided that the adult friends and family of the licensee are not left alone with the foster children. However, the licensee, acting as a reasonable and prudent parent, as defined in paragraph (2) of subdivision (a) of Section 362.04 of the Welfare and Institutions Code, may allow his or her adult friends and family to provide short-term care to the foster child and act as an appropriate occasional short-term babysitter for the child.

(B) Parents of a foster child's friends when the foster child is visiting the friend's home and the friend, licensed or certified foster parent, or both are also present. However, the licensee, acting as a reasonable and prudent parent, may allow the parent of the foster child’s friends to act as an appropriate short-term babysitter for the child without the friend being present.

(C) Individuals who are engaged by any licensed or certified foster parent to provide short-term care to the child for periods not to exceed 24 hours. Caregivers shall use a reasonable and prudent parent standard in selecting appropriate individuals to act as appropriate occasional short-term babysitters.

(4) In addition to the exemptions specified in paragraph (2), the following persons in adult day care and adult day support centers are exempt from the requirements applicable under paragraph (1):

(A) Unless contraindicated by the client's individualized program plan (IPP) or needs and service plan, a spouse, significant other, relative, or close friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to the client.

(B) A volunteer if all of the following applies:

(i) The volunteer is supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(ii) The volunteer is never left alone with clients.

(iii) The volunteer does not provide any client assistance with dressing, grooming, bathing, or personal hygiene other than washing of hands.

(5)(A) In addition to the exemptions specified in paragraph (2), the following persons in adult residential and social rehabilitation facilities, unless contraindicated by the client's individualized program plan (IPP) or needs and services plan, are exempt from the requirements applicable under paragraph (1): a spouse, significant other, relative, or close

friend of a client, or an attendant or a facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained, or contracted by the licensee. This exemption applies only if the person is visiting the client or providing direct care and supervision to that client.

(B) Nothing in this subdivision shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

(6) Any person similar to those described in this subdivision, as defined by the department in regulations.

(c)(1) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit *** fingerprint images and related information to the Department of Justice *** and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, or to comply with paragraph (1) of subdivision (h), prior to the person's employment, residence, or initial presence in the community care facility. These *** fingerprint images and related information shall be sent by electronic transmission in a manner approved by the State Department of Social Services *** and the Department of Justice for the purpose of obtaining a permanent set of fingerprints, and shall be submitted to the Department of Justice by the licensee. A licensee's failure to submit fingerprint images and related information to the Department of Justice for the purpose of obtaining a permanent set of fingerprints, and shall be submitted to the Department of Justice by the licensee.

A licensee's failure to submit fingerprints to the Department of Justice or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency and the immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation, per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548. The *** fingerprint images and related information shall then be submitted to the *** Department of *** Justice for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 14 calendar days of the receipt of the *** fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the *** fingerprint images. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. If new *** fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible ***, the Department of Justice shall notify the State Department of Social Services, as required by *** Section 1522.04 , and shall also notify the licensee by mail, within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history recorded. A violation of the regulations adopted pursuant to Section 1522.04 shall

result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation, per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the *** fingerprint images and related information submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (g). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (A) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (B) seek an exemption pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall be grounds for disciplining the licensee pursuant to Section 1550.

(4) The department may issue an exemption on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (g). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d)(1) Before issuing a license, special permit, or certificate of approval to any person or persons to operate or manage a foster family home or certified family home as described in Section 1506, the State Department of Social Services or other approving authority shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

(2) The criminal history information shall include the full criminal record, if any, of those persons.

(3) Neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant.

(4) The following shall apply to the criminal record information:

(A) If the applicant or other persons specified in subdivision (b) have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied.

(B) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services or other approving authority may cease processing the application until the conclusion of the trial.

(C) For the purposes of this subdivision, a criminal record clearance provided under Section 8712 of the Family Code may be used by the department or other approving agency.

(D) An applicant for a foster family home license or for certification as a family home, and any other person specified in subdivision (b), shall submit a set of ***fingerprint images and related information to the Department of Justice *** and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the criminal records search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and all persons described in subdivision (b), the department may issue a license, or the foster family agency may issue a certificate of approval, if the applicant, and each person described in subdivision (b), has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure or certification, the department determines that the licensee, certified foster parent, or any person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550 and the certificate of approval revoked pursuant to subdivision (b) of Section 1534. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

(5) Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions or arrests for any crime against a child, spousal or cohabitant abuse or, any crime for which the department cannot grant an exemption if the person was convicted and shall submit these fingerprints to the licensing agency or other approving authority.

(6)(A) The foster family agency shall obtain *** fingerprint images and related information from certified home applicants and from persons specified in subdivision (b) and shall submit them directly to the Department of Justice *** by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice. A foster family home licensee or foster family agency shall submit these *** fingerprint images and related information to the Department of Justice *** and the Federal Bureau of Investigation, through the Department of Justice for a state and federal level criminal offender record information search or to comply with paragraph (1) of subdivision (b) prior to the person's employment, residence, or initial presence in the foster family home or certified family home. A foster family agency's failure to submit *** fingerprint images and related information to the Department of Justice, or comply with paragraph (1) of subdivision (h), as required in this section, shall result in a citation of a deficiency, and the immediate civil penalties of one

hundred dollars ($100) per violation, per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. A violation of the regulation adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred ($100) per violation, per day for a maximum of vie days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars ($100) per violation for a maximum of 30 days, and shall be grounds for disciplining the foster family agency pursuant to Section 1550. A licensee's failure to submit *** fingerprint images and related information to the Department of Justice, or comply with paragraph (1) of subdivision (h), as required in this section, may result in a citation of a deficiency and immediate civil penalties of one hundred dollars ($100) per violation. A licensee's violation of regulations adopted pursuant to Section 1522.04 may result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars ($100) per violation. The State Department of Social Services may assess penalties for continued violations, as permitted by Section 1548. The *** fingerprint images shall then be submitted to the *** Department of *** Justice for processing.

(B) Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the Department of Justice shall verify receipt of the fingerprints. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If no arrests or convictions are recorded, the Department of Justice shall provide the foster family home licensee or the foster family agency with a statement of that fact concurrent with providing the information to the State Department of Social Services.

(7) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(8) If the State Department of Social Services finds after licensure or the granting of the certificate of approval that the licensee, certified foster parent, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license or certificate of approval may be revoked by the department or the foster family agency, whichever is applicable, unless the director grants an exemption pursuant to subdivision (g). A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by paragraph (3) of subdivision (c) shall be grounds for disciplining the licensee pursuant to Section 1550.

(e) The State Department of Social Services may not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f)(1) For purposes of this section or any other provision of this chapter, a conviction

means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the State Department of Social Services is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(g)(1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4) and (5) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption may not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A)(i) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (a) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) Notwithstanding clause (i), the director may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

(2) The department may not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest

information unless the department complies with the requirements of Section 1558.

(h)(1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the State Department of Social Services, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed envelope for this purpose, the State Department of Social Services shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(3) The following shall apply to a criminal record clearance or exemption from the department or a county office with department delegated licensing authority:

(A) A county office with department-delegated licensing authority may accept a clearance or exemption from the department.

(B) The department may accept a clearance or exemption from any county office with department-delegated licensing authority.

(C) A county office with department delegated licensing authority may accept a clearance or exemption from any other county office with department-delegated licensing authority.

(4) With respect to notifications issued by the Department of Justice pursuant to Section 11105.2 of the Penal Code concerning an individual whose criminal record clearance was originally processed by the department or a county office with department-delegated licensing authority, all of the following shall apply:

(A) The Department of Justice shall process a request from the department or a county office with department-delegated licensing authority to receive the notice only if all of the following conditions are met:

(i) The request shall be submitted to the Department of Justice by the agency to be substituted to receive the notification.

(ii) The request shall be for the same applicant type as the type for which the original clearance was obtained.

(iii) The request shall contain all prescribed data elements and format protocols pursuant to a written agreement between the department and the Department of Justice.

(B)(i) On or before January 7, 2005, the department shall notify the Department of Justice of all county offices that have department-delegated licensing authority.

(ii) The department shall notify the Department of Justice within 15 calendar days of the date on which a new county office receives department-delegated licensing authority or a county's delegated licensing authority is rescinded.

(C) The Department of Justice shall charge the department or a county office with department-delegated licensing authority a fee for each time a request to substitute the recipient agency is received for purposes of this paragraph. This fee shall not exceed the cost of providing the service.

(i) The full criminal record obtained for purposes of this section may be used by the

department or by a licensed adoption agency as a clearance required for adoption purposes.

(j) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(k) ***The State Department of Social Services may charge a fee for the costs of processing *** electronic fingerprint images and related information.

***

(l) Amendments to this section made in the 1999 portion of the 1999-2000 Regular Session shall be implemented commencing 60 days after the effective date of the act amending this section in the 1999 portion of the 1999-2000 Regular Session, except that those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation shall be implemented 90 days after the effective date of that act.

§ 1522.01. Registration as sex offender; disclosure by community care facility client; operator disclosure; improper use; criminal and civil penalties

(a) Any person required to be registered as a sex offender under Section 290 of the Penal Code shall disclose this fact to the licensee of a community care facility before becoming a client of that facility. A community care facility client who fails to disclose to the licensee his or her status as a registered sex offender shall be guilty of a misdemeanor punishable pursuant to subdivision (a) of Section 1540. The community care facility licensee shall not be liable if the client who is required to register as a sex offender fails to disclose this fact to the community care facility licensee. However, this immunity does not apply if the community care facility licensee knew that the client was required to register as a sex offender.

(b) Any person or persons operating, pursuant to this chapter, a community care facility that accepts as a client an individual who is required to be registered as a sex offender under Section 290 of the Penal Code, shall confirm or deny whether any client of the facility is a registered sex offender in response to any person who inquires whether any client of the facility is a registered sex offender and who meets any of the following criteria:

(1) The person is the parent, family member, or guardian of a child residing within a one-mile radius of the facility.

(2) The person occupies a personal residence within a one-mile radius of the facility.

(3) The person operates a business within a one-mile radius of the facility.

(4) The person is currently a client within the facility or a family member of a client within the facility.

(5) The person is applying for placement in the facility or placement of a family member in the facility.

(6) The person is arranging for a client to be placed in the facility.

(7) The person is a law enforcement officer.

If the community care facility licensee indicates a client is a registered sex offender, the interested person may describe physical characteristics of a client and the facility shall disclose that client's name upon request, if the physical description matches the client. The facility shall also advise the interested person that information about registered sex offenders is available to the public via the Internet Web site maintained by the Department of Justice pursuant to Section 290.46 of the Penal Code.

(c) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to, any other punishment, by a five-year term of imprisonment in the state prison.

(d) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000).

(e) Except as authorized under another provision of law, or to protect a child, use of any of the information disclosed pursuant to this section for the purpose of applying for, obtaining, or denying any of the following, is prohibited:

(1) Health insurance.

(2) Insurance.

(3) Loans.

(4) Credit.

(5) Employment.

(6) Education, scholarships, or fellowships.

(7) Benefits, privileges, or services provided by any business establishment.

(8) Housing or accommodations.

(f) Any use of information disclosed pursuant to this section for purposes other than those provided by subdivisions (a) and (b) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars ($250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars ($25,000).

(g) Whenever there is reasonable cause to believe that any person or group, of persons is engaged in a pattern or practice of misuse of the information disclosed pursuant to this section, the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse of that information is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(h) The civil and criminal penalty moneys collected pursuant to this section shall be transferred to the Community Care Licensing Division of the State Department of Social Services, upon appropriation by the Legislature.

§ 1522.02. Substitute employee registries; regulations; substituted child care employee registry pilot program

(a)The department may adopt regulations to create substitute employee registries for persons working at more than one facility licensed pursuant to this chapter, Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1569.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30), in order to permit these registries to submit fingerprint cards, and child abuse index information for child care registries so that these facilities have available cleared care staff.

(b) The department may operate a substitute child care employee registry pilot program for the purposes of subdivision (a) and may charge participating registry facilities an administrative fee. The pilot program is subject to all of the following:

(1) The pilot program shall be limited to screening employees for facilities licensed as child care facilities.

(2) Registries shall not hire any child care worker for employment at a child care facility who requires an exemption from the criminal background clearance requirements of law.

(3) The department shall only guarantee the authenticity of criminal background and child abuse index information that registries provide to child care facilities. Any other information provided by registries may be verified by child care facility operators.

(4) The department may limit the operation of the pilot program to the Counties of Alameda, Contra Costa, Monterey, San Benito, San Francisco, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, San Mateo, and Ventura.

§ 1522.03. Criminal Record Information; Department of Justice Fee

The Department of Justice may charge a fee sufficient to cover its cost in providing services in accordance with Section 1522 to comply with the 14-day requirement for provision to the department of the criminal record information, as contained in subdivision (c) of Section 1522.

§ 1522.04 Fingerprint live-scan technology; legislative intent

(a) The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a community care facility, or a residential care facility, child day care facility, or foster family agency, licensed by the department pursuant to this chapter, Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30), or certified family home. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice, for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII) to be used for applicant fingerprints. Therefore, when live-scan technology is operational, individuals shall be required to obtain either a criminal record clearance from the Department of Justice or a criminal record exemption from the State Department of Social Services, before their initial presence in a community care facility. The regulations shall also cover the submission of fingerprint information to the Federal Bureau of Investigation.

(b) Upon implementation of an electronic fingerprinting system with terminals located statewide and managed by the Department of Justice, the Department of Justice shall ascertain the criminal history information required pursuant to subdivision (a) of Section 1522.04. If the Department of Justice cannot ascertain the information required pursuant to that subdivision within three working days, the Department of Justice shall notify the State Department of Social Services, or county licensing agencies, either by telephone and by subsequent confirmation in writing by first-class mail, or by electronic or facsimile transmission. At its discretion, the Department of Justice may forward one copy of the fingerprint cards to

any other bureau of investigation it may deem necessary in order to verify any record of previous arrests or convictions of the fingerprinted individual.

(c) For purposes of this section, live-scan technology is operational when the Department of Justice and the district offices of the Community Care Licensing Division of the department live-scan sites are operational and the department is receiving 95 percent of its total responses indicating either no evidence of recorded criminal information or evidence of recorded criminal information, from the Department of Justice within three business days.

§ 1522.05. Criminal record clearance prior to placement of child in family home; placement pending receipt of record

(a) A foster family agency shall not place a child in a certified family home until the foster family agency has received a criminal record clearance from the department, except as provided in subdivisions (b) and (c).

(b) Any peace officer, or other category of person approved by the department subject to criminal record clearance as a condition of employment, and who has submitted fingerprints and executed a declaration regarding criminal convictions, may receive a child in placement pending the receipt of a criminal record clearance when the certified family home has met all other licensing requirements.

(c) Any person currently licensed pursuant to this chapter by the department or a county, when the certified family home has met all other licensing requirements, and who has submitted fingerprints and executed a declaration regarding criminal convictions, may receive, or continue, a child in placement pending the receipt of a criminal record clearance.

§ 1522.06. Community care facilities; placement with relatives. (Repealed by Stats. 2000, c.421 (S.B. 2161), sec 2, effective 9-13-00)

§ 1522.06. Volunteer Candidates for mentoring children in foster care settings; Criminal background investigation (Added by Stats. 2006)

(a) Individuals who are volunteer candidates for mentoring children in foster care settings, as defined by the department, shall be subject to a criminal background investigation prior to having unsupervised contact with the children. The criminal background check shall be initiated and conducted pursuant to either Sections 1522 and 1522.1 or Section 1596.603, as applicable. Sections 1522 and 1522.1 may be utilized by a county social services agency in cooperation with, or as a component of, a licensed foster family agency.

(b)(1) The Department of Justice shall not charge a processing fee with respect to any individual to whom subdivision (a) applies for a state-level criminal offender record information search pursuant to Section 1522.

(2) The State Department of Social Services shall not charge a fee for the cost of a criminal background investigation under Section 1522 with respect to any individual to whom subdivision (a) applies.

§ 1522.07. Submission of foster parent applicant fingerprints; card; notice of criminal record information

(a) Notwithstanding subdivision (d) of Section 1522, foster family agencies shall submit

fingerprints of their certified foster parent applicants to the Department of Justice using a card provided by the State Department of Social Services for that purpose.

(b) Within 30 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided in subdivision (a) of Section 1522. If no criminal record information has been recorded, the Department of Justice shall provide the foster family agency and the State Department of Social Services with a statement of that fact within 15 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 15 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

§ 1522.08. Sharing information about disciplinary actions between departments within California Health and Human Services Agency: centralized system for the monitoring and tracking of administrative disciplinary actions; Implementation; fees

Text of section as added by Stats. 2006, c. 75 (AB .1808), § 11, eff. July 12, 2006

a) In order to protect the health and safety of persons receiving care or services from individuals or facilities licensed or certified by the state, departments under the jurisdiction of the California Health and Human Services Agency may share information between departments within the agency with respect to applicants, licensees, certificants, or individuals who have been the subject of any disciplinary action resulting in the denial, suspension, probation, or revocation of a license, permit, or certificate, or in the exclusion of any person from a facility, as otherwise provided by law. The State Department of Social Services shall maintain a centralized system for the monitoring and tracking of administrative disciplinary actions, to be used by all departments under the jurisdiction of the California Health and Human Services Agency as a part of the background check process.

b) The State Department of Social Services, in consultation with the other departments under the jurisdiction of the California Health and Human Services Agency, may adopt regulations to implement this section.

c) The State Department of Social Services may charge a fee to departments under the jurisdiction of the California Health and Human Services Agency sufficient to cover the cost of providing those departments with the disciplinary record information specified in subdivision (a).

§ 1522.08. Sharing information about disciplinary actions between specified departments; centralized system for the monitoring and tracking of administrative disciplinary actions; Implementation fees; administrative action defined

Text of section as added by stats.2006, c. 902 (SB. 1759) § 7.

(a) In order to protect the health and safety of persons receiving care or services from individuals or facilities licensed or certified by the state, the California Department of Aging, State Department of Health Services, State Department of Alcohol and Drug Programs, State Department of Mental Health, State Department of Social Services, and the Emergency Medical Services Authority may share information with respect to applicants, licensees, certificates, or individuals who have been the subject of any administrative action resulting in

the denial, suspension, probation, or revocation of a license, permit, or certificate, or in the exclusion of any person from a facility who is subject to a background check, as otherwise provided by law.

(b) The State Department of Social Services shall maintain a centralized system for the monitoring and tracking of final administrative actions, to be used by the California Department of Aging, State Department of Health Services, State Department of Alcohol and Drug Programs, State Department of Mental Health, State Department of Social Services, and the Emergency Medical Services Authority as a part of the background check process. The State Department of Social Services may charge a fee to departments under the jurisdiction of the California Health and Human Services Agency sufficient to cover the cost of providing those departments with the final administrative action specified in subdivision (a). To the extent that additional funds are needed for this purpose, implementation of this subdivision shall be contingent upon a specific appropriation provided for this purpose in the annual Budget Act.

(c) The State Department of Social Services, in consultation with the other departments under the jurisdiction of the California Health and Human Services Agency, may adopt regulations to implement this section.

(d) For the purposes of this section and Section 1499, "administrative action" means any proceeding initiated by the California Department of Aging, State Department of Health Services, State Department of Alcohol and Drug Programs, State Department of Mental Health, State Department of Social Services, and the Emergency Medical Services Authority to determine the rights and duties of an applicant, licensee, or other individual or entity over which the department has jurisdiction. "Administrative action" may include, but is not limited to, action involving the denial of an application for, or the suspension or revocation of, any license, special permit, administrator certificate, criminal record clearance, or exemption.

§ 1522.1. Child abuse registry check prior to licensing or approving person to care for children

Prior to granting a license to, or otherwise approving, any individual to care for children, the department shall check the Child Abuse *** Central Index pursuant to paragraph (4) of subdivision (b) of Section 11170 of the Penal Code. The Department of Justice shall maintain and continually update an index of reports of child abuse by providers and shall inform the department of subsequent reports received from the child abuse index pursuant to Section 11170 of the Penal Code and the criminal history. The department shall investigate any reports received from the Child Abuse *** Central Index. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse *** Central Index unless child abuse is substantiated.

§ 1522.2. Employees charged with abuse not under detention; notice to licensee

If a local law enforcement agency, a probation officer, or a local department or agency that provides social services becomes aware that an employee of a community treatment facility, a day treatment facility, a group home, or a foster family agency has been arrested for child abuse, as defined in Section 11165.6 of the Penal Code, after determining that the potential for abuse is present and that the employee is free to return to the facility where

children are present, the local law enforcement agency, probation officer, or local department or agency shall notify the licensee of the charge of abuse.

§ 1522.4. Children; facilities providing 24-hour care; facility managers; conflict of interests

(a) In addition to any other requirements of this chapter and except for foster family homes, small family homes, and certified family homes of foster family agencies, all of the following apply to any community care facility providing 24-hour care for children:

(1) The facility shall have one or more facility managers. "Facility manager," as used in this section, means a person on the premises with the authority and responsibility necessary to manage and control the day-to-day operation of a community care facility and supervise the clients. The facility manager, licensee, and administrator, or any combination thereof, may be the same person provided he or she meets all applicable requirements. If the administrator is also the facility manager for the same facility, this person shall be limited to the administration and management of only one facility.

(2) The facility manager shall have at least one year of experience working with the client group served, or equivalent education or experience, as determined by the department.

(3) A facility manager shall be at the facility at all times when one or more clients are present. To ensure adequate supervision of clients when clients are at the facility outside of their normal schedule, a current telephone number where the facility manager can be reached shall be provided to the clients, licensing agency, school, and any other agency or person as the department determines is necessary. The facility manager shall instruct these agencies and individuals to notify him or her when clients will be returning to the facility outside of the normal hours.

(4) The Legislature intends to upgrade the quality of care in licensed facilities. For the purposes of Sections 1533 and 1534, the licensed facility shall be inspected and evaluated for quality of care at least once each year, without advance notice and as often as necessary, without advance notice, to ensure the quality of care being provided.

Paragraphs (1), (2), and (3) shall apply only to new facilities licensed for six or fewer children which apply for a license after January 1, 1985, and all other new facilities licensed for seven or more children which apply for a license after January 1, 1988. Existing facilities licensed for seven or more children shall comply by January 1, 1989.

(b) No employee of the state or county employed in the administration of this chapter or employed in a position that is in any way concerned with facilities licensed under this chapter shall hold a license or have a direct or indirect financial interest in a facility described in subdivision (a).

The department, by regulation, shall make the determination pursuant to the purposes of this section and chapter, as to what employment is in the administration of this chapter or in any way concerned with facilities licensed under this chapter and what financial interest is direct or indirect.

This subdivision does not prohibit the state or county from securing a license for, or operating, a facility that is otherwise required to be licensed under this chapter.

(c)(1) No group home or foster family agency licensee, or employee, member of the board of directors, or officer of a group home or foster family agency licensee, shall offer gifts or other remuneration of any type to any employee of the State Department of Social Services or placement agency that exceeds the monetary limits for gifts to employees of the State of

California pursuant to Title 9 (commencing with Section 81000) of the Government Code and regulations adopted thereunder by the Fair Political Practices Commission.

(2) No employee of the department or a placement agency shall accept any gift or other remuneration of any type from a group home or foster family agency licensee or employee, member of the board of directors, or officer of a group home or foster family agency licensee that exceeds the monetary limits for gifts to employees of the State of California in Title 9 (commencing with Section 81000) of the Government Code and regulations adopted thereunder by the Fair Political Practices Commission.

(3) Violation of this subdivision is punishable as a misdemeanor.

§ 1522.41. Certification program; training of group home facilities administrators

(a) The director, in consultation and collaboration with county placement officials, group home provider organizations, the Director of Mental Health and the Director of Developmental Services, shall develop and establish a certification program to ensure that administrators of group home facilities have appropriate training to provide the care and services for which a license or certificate is issued.

(b)(1) In addition to any other requirements or qualifications required by the department, an administrator of a group home facility shall successfully complete a department-approved certification program pursuant to subdivision (c) prior to employment. An administrator employed in a group home on the effective date of this section shall meet the requirements of paragraph (2) of subdivision (c).

(2) In those cases where the individual is both the licensee and the administrator of a facility, the individual shall comply with all of the licensee and administrator requirements of this section.

(3) Failure to comply with this section shall constitute cause for revocation of the license of the facility.

(4) The licensee shall notify the department within 10 days of any change in administrators.

(c)(1) The administrator certification programs shall require a minimum of 40 hours of classroom instruction that provides training on a uniform core of knowledge in each of the following areas:

(A) Laws, regulations, and policies and procedural standards that impact the operations of the type of facility for which the applicant will be an administrator.

(B) Business operations.

(C) Management and supervision of staff.

(D) Psychosocial and educational needs of the facility residents.

(E) Community and support services.

(F) Physical needs for facility residents.

(G) Administration, storage, misuse, and interaction of medication used by facility residents.

(H) Resident admission, retention, and assessment procedures, including the right of a foster child to have a fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(I) Nonviolent emergency intervention and reporting requirements.

(2) The department shall adopt separate program requirements for initial certification for persons who are employed as group home administrators on the effective date of this section. A person employed as an administrator of a group home facility on the effective date of this section, shall obtain a certificate by completing the training and testing requirements imposed by the department within 12 months of the effective date of the regulations implementing this section. After the effective date of this section, these administrators shall meet the requirements imposed by the department on all other group home administrators for certificate renewal.

(3) Individuals applying for certification under this section shall successfully complete an approved certification program, pass a written test administered by the department within 60 days of completing the program, and submit to the department the documentation required by subdivision (d) within 30 days after being notified of having passed the test. The department may extend these time deadlines for good cause. The department shall notify the applicant of his or her test results within 30 days of administering the test.

(d) The department shall not begin the process of issuing a certificate until receipt of all of the following:

(1) A certificate of completion of the administrator training required pursuant to this chapter.

(2) The fee required for issuance of the certificate. A fee of one hundred dollars ($100) shall be charged by the department to cover the costs of processing the application for certification.

(3) Documentation from the applicant that he or she has passed the written test.

(4) Submission of fingerprints pursuant to Section 1522. The department may waive the submission for those persons who have a current clearance on file.

(5) That person is at least 21 years of age.

(e) It shall be unlawful for any person not certified under this section to hold himself or herself out as a certified administrator of a group home facility. Any person willfully making any false representation as being a certified administrator or facility manager is guilty of a misdemeanor.

(f)(1) Certificates issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 *** hours of continuing education related to the core of knowledge specified in subdivision (c). <u>No more than one half of the required 40 hours of continuing education necessary to renew the certificate may be satisfied through online courses. All other continuing education hours shall be completed in a classroom setting.</u> For purposes of this section, an individual who is a group home facility administrator and who is required to complete the continuing education hours required by the regulations of the State Department of Developmental Services, and approved by the regional center, may have up to 24 of the required continuing education course hours credited toward the 40-hour continuing education requirement of this section. Community college course hours approved by the regional centers shall be accepted by the department for certification.

(2) Every administrator of a group home facility shall complete the continuing education requirements of this subdivision.

(3) Certificates issued under this section shall expire every two years on the anniversary date of the initial issuance of the certificate, except that any administrator receiving his or her initial certification on or after July 1, 1999, shall make an irrevocable election to have his or her recertification date for any subsequent recertification either on the date two years from the date

of issuance of the certificate or on the individual's birthday during the second calendar year following certification. The department shall send a renewal notice to the certificate holder 90 days prior to the expiration date of the certificate. If the certificate is not renewed prior to its expiration date, reinstatement shall only be permitted after the certificate holder has paid a delinquency fee equal to three times the renewal fee and has provided evidence of completion of the continuing education required.

(4) To renew a certificate, the certificate holder shall, on or before the certificate expiration date, request renewal by submitting to the department documentation of completion of the required continuing education courses and pay the renewal fee of one hundred dollars ($100), irrespective of receipt of the department's notification of the renewal. A renewal request postmarked on or before the expiration of the certificate shall be proof of compliance with this paragraph.

(5) A suspended or revoked certificate shall be subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall submit proof of compliance with paragraphs (1) and (2) of subdivision (f), and shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension. Delinquency fees, if any, accrued subsequent to the time of its revocation or suspension and prior to an order for reinstatement, shall be waived for a period of 12 months to allow the individual sufficient time to complete the required continuing education units and to submit the required documentation. Individuals whose certificates will expire within 90 days after the order for reinstatement may be granted a three-month extension to renew their certificates during which time the delinquency fees shall not accrue.

(6) A certificate that is not renewed within four years after its expiration shall not be renewed, restored, reissued, or reinstated except upon completion of a certification training program, passing any test that may be required of an applicant for a new certificate at that time, and paying the appropriate fees provided for in this section.

(7) A fee of twenty-five dollars ($25) shall be charged for the reassurance of a lost certificate.

(8) A certificate holder shall inform the department of his or her employment status and change of mailing address within 30 days of any change.

(g) Unless otherwise ordered by the department, the certificate shall be considered forfeited under either of the following conditions:

(1) The department has revoked any license held by the administrator after the department issued the certificate.

(2) The department has issued an exclusion order against the administrator pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897, after the department issued the certificate, and the administrator did not appeal the exclusion order or, after the appeal, the department issued a decision and order that upheld the exclusion order.

(h)(1) The department, in consultation and collaboration with county placement officials, provider organizations, the State Department of Mental Health, and the State Department of Developmental Services, shall establish, by regulation, the program content, the testing instrument, the process for approving certification training programs, and criteria to be used in authorizing individuals, organizations, or educational institutions to conduct certification training programs and continuing education courses. The department may also grant continuing education hours for continuing courses offered by accredited educational institutions that are consistent with the requirements in this section. The department may deny vendor approval to

any agency or person in any of the following circumstances:

(A) The applicant has not provided the department with evidence satisfactory to the department of the ability of the applicant to satisfy the requirements of vendorization set out in the regulations adopted by the department pursuant to subdivision (j).

(B) The applicant person or agency has a conflict of interest in that the person or agency places its clients in group home facilities.

(C) The applicant public or private agency has a conflict of interest in that the agency is mandated to place clients in group homes and to pay directly for the services. The department may deny vendorization to this type of agency only as long as there are other vendor programs available to conduct the certification training programs and conduct education courses.

(2) The department may authorize vendors to conduct the administrator's certification training program pursuant to this section. The department shall conduct the written test pursuant to regulations adopted by the department.

(3) The department shall prepare and maintain an updated list of approved training vendors.

(4) The department may inspect certification training programs and continuing education courses, <u>including online courses at no charge to the department</u>, to determine if content and teaching methods comply with regulations. If the department determines that any vendor is not complying with the requirements of this section, the department shall take appropriate action to bring the program into compliance, which may include removing the vendor from the approved list.

(5) The department shall establish reasonable procedures and timeframes not to exceed 30 days for the approval of vendor training programs.

(6) The department may charge a reasonable fee, not to exceed one hundred fifty dollars ($150) every two years, to certification program vendors for review and approval of the initial 40-hour training program pursuant to subdivision (c). The department may also charge the vendor a fee, not to exceed one hundred dollars ($100) every two years, for the review and approval of the continuing education courses needed for recertification pursuant to this subdivision.

<u>(7)(A) A vendor of online programs for continuing education shall ensure that each online course contains all of the following:</u>

<u>(i) An interactive portion in which the participant receives feedback, through online communication, based on input from the participant.</u>

<u>(ii) Required use of a personal identification number or personal identification information to confirm the identity of the participant.</u>

<u>(iii) A final screen displaying a printable statement, to be signed by the participant, certifying that the identified participant completed the course. The vendor shall obtain a copy of the final screen statement with the original signature of the participant prior to the issuance of a certificate of completion. The signed statement of completion shall be maintained by the vendor for a period of three years and be available to the department upon demand. Any person who certifies as true any material matter pursuant to this clause that he or she knows to be false is guilty of a misdemeanor.</u>

<u>(B) Nothing in this subdivision shall prohibit the department from approving online programs for continuing education that do not meet the requirements of subparagraph (A) if the vendor demonstrates to the department's satisfaction that, through advanced technology, the course and the course delivery meet the requirements of this section.</u>

(i) The department shall establish a registry for holders of certificates that shall include,

at a minimum, information on employment status and criminal record clearance.

(j) Subdivisions (b) to (i), inclusive, shall be implemented upon regulations being adopted by the department, by January 1, 2000.

(k) Notwithstanding any provision of law to the contrary, vendors approved by the department who exclusively provide either initial or continuing education courses for certification of administrators of a group home facility as defined by regulations of the department, an adult residential facility as defined by regulations of the department, or a residential care facility for the elderly as defined in subdivision (k) of Section 1569.2, shall be regulated solely by the department pursuant to this chapter. No other state or local governmental entity shall be responsible for regulating the activity of those vendors.

§ 1522.42. Standardized training and continuing education curricula for facility managers and direct child care workers; regulations

(a) The department, in consultation and collaboration with county placement officials, provider organizations, the State Department of Mental Health, and the State Department of Developmental Services, shall adopt regulations that establish standardized training and continuing education curricula for facility managers and direct child care workers in group homes.

(b) The regulations required by subdivision (a) shall specify the date by which new and current employees shall be required to meet the standardized training and continuing education requirements. For persons employed as child care staff and facility managers on the effective date of the regulations, the department shall provide adequate time for these persons to comply with the regulatory requirements.

§ 1522.43. Plan of operation; inclusion of time spent on additional duties and method of completion; review; daily schedule

(a)(1) For the duties the department imposes on a group home facility administrator in this chapter and in regulations adopted by the department, every group home shall state in its plan of operation, the number of hours per week that the administrator shall spend completing those duties and how the group home administrator shall accomplish those duties, including use of support personnel.

(2) For initial applicants, the information in paragraph (1) shall be contained in the plan of operation submitted to the department in the application.

(3) For current licensees, the licensee shall submit an amended plan of operation that contains the information required by paragraph (1) within six months of the effective date of this section. For changes in the group home administrator duties imposed by the department in this chapter or in regulations, a current licensee shall have six months after the effective date of those duties to submit an amended plan of operation to reflect the new administrator duties.

(b)(1) The department may review a group home's plan of operation to determine if the plan of operation is sufficient to ensure that the facility will operate in compliance with applicable licensing laws and regulations. As part of the review, the department may request that a peer review panel review the plan of operation.

(2) The peer review panel shall consist of two representatives from the department, a qualified group home administrator, an experienced group home provider, and a member or members from the placement agency or agencies that place children in group homes.

(c) A group home shall develop a daily schedule of activities for the children at the facility. The facility shall have this schedule available for inspection by the department. The activities in which the children are scheduled to participate shall be designed to meet the needs of the individual child, and shall be based on that child's needs and services plan.

§ 1522.5. Facilities providing services to children and child day care facilities; expedited fingerprint clearances

The State Department of Social Services, in processing fingerprint clearances, shall give expeditious treatment to employees of, and applicants for employment with, community care facilities, as defined in Section 1502, which provide services to children, and child day care facilities, as defined in Section 1596.750.

§ 1522.6. Repealed by Stats. 2004, c. 193 (S.B. 111) section 70

§ 1523.1. Fees or taxes on licenses or special permits; exemptions; use of revenues collected; denial or forfeiture

(a) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license. The fees are for the purpose of financing the activities specified in this chapter. Fees shall be assessed as follows:

Fee Schedule

Facility Type	Capacity	Initial Application	Annual
Adoption Agencies		$2,500	$1,250
Adult Day Programs	1-15	$150	$75
	16-30	$250	$125
	31-60	$500	$250
	61-75	$626	$313
	76-90	$750	$375
	91-120	$1,000	$500
	121 +	$1,250	$625
Other Community Care Facilities	1-3	$375	$375
	4-6	$750	$375
	7-15	$1,126	$563
	16-30	$1,500	$750
	31-49	$1,876	$938
	50-74	$2,252	$1,126
	75-100	$2,628	$1,314
	101-150	$3,004	$1,502
	151-200	$3,502	$1,751

201-250	$4,000	$2,000
251-300	$4,500	$2,250
301-350	$5,000	$2,500
351-400	$5,500	$2,750
401-500	$6,500	$3,250
501-600	$7,500	$3,750
601-700	$8,500	$4,250
701+	$10,000	$5,000

(b)(1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars ($25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars ($50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the annual fee, in addition to the annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established annual fee when any licensee fails to pay the annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars ($200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

(2) Foster family homes shall be exempt from the fees imposed pursuant to this subdivision.

(3) Foster family agencies shall be annually assessed eighty dollars ($80) for each home certified by the agency.

(4) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.

(c)(1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department for the purpose of ensuring the health and safety of all individuals provided care and supervision by licensees and to support activities of the licensing program, including, but not limited to, monitoring facilities for compliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the Budget Act in support of the licensing program.

(2) The department shall not utilize any portion of these revenues sooner than 30 days

after notification in writing of the purpose and use of this revenue, as approved by the Director of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. The department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.

(d) A facility may use a bona fide business check to pay the license fee required under this section.

(e) The failure of an applicant or licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license.

§ 1523.2. Technical assistance fund; excess fees

(a) Beginning with the 1996-97 fiscal year, there is hereby created in the State Treasury the Technical Assistance Fund, from which money, upon appropriation by the Legislature in the Budget Act, shall be expended by the department to fund administrative and other activities in support of the licensing program.

(b) In each fiscal year, fees collected by the department pursuant to Sections 1523.1, 1568.05, 1569.185, and 1596.803 shall be expended by the department for the purpose of ensuring the health and safety of all individuals provided care and supervision by licensees and to support activities of the licensing program, including, but not limited to, monitoring facilities for compliance with applicable laws and regulations.

§ 1523.5. Transitional shelter care facilities; exemption from fees

Transitional shelter care facilities, as defined in Section 1502.3, shall be exempt from the fees imposed pursuant to subdivision (a) of Section 1523.

§ 1524. Forfeiture by operation of law

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when the transfer of stock does not constitute a majority change of ownership.

(b) The licensee surrenders the license to the department.

(c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(d) The licensee is convicted of an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

(e) The licensee dies. If an adult relative notifies the department of his or her desire to continue operation of the facility and submits an application, the department shall expedite the application. The department shall promulgate regulations for expediting applications submitted pursuant to this subdivision.

(f) The licensee abandons the facility.

(g) When the certification issued by the State Department of Developmental Services to a licensee of an Adult Residential Facility for Persons with Special Health Care Needs, licensed pursuant to Article 9 (commencing with Section 1567.50), is rescinded.

§ 1524.1. Sale of licensed community care facility resulting in issuance of new license; conditions; exemptions

(a) Notwithstanding Section 1524, in the event of a sale of a licensed community care facility, except foster family homes and small family homes, where the sale will result in a new license being issued, the sale and transfer of property and business shall be subject to both of the following:

(1) The licensee shall provide written notice to the department and to each resident or client or his or her legal representative of the licensee's intent to sell the facility at least 60 days prior to the transfer of property or business, or at the time that a bona fide offer is made, whichever period is longer.

(2) The licensee shall, prior to entering into an admission agreement, inform all residents/clients, or their legal representatives, admitted to the facility after notification to the department, of the licensee's intent to sell the property or business.

(b) Except as provided in subdivision (e), the property and business shall not be transferred until the buyer qualifies for a license or provisional license pursuant to this chapter.

(1) The seller shall notify, in writing, a prospective buyer of the necessity to obtain a license, as required by this chapter, if the buyer's intent is to continue operating the facility as a community care facility. The seller shall send a copy of this written notice to the licensing agency.

(2) The prospective buyer shall submit an application for a license, as specified in Section 1520, within five days of the acceptance of the offer by the seller.

(c) No transfer of the property or business shall be permitted until 60 days have elapsed from the date when notice has been provided to the department pursuant to paragraph (1) of subdivision (a).

(d) The department shall give priority to applications for licensure that are submitted pursuant to this section in order to ensure timely transfer of the property and business. The department shall make a decision within 60 days after a complete application is submitted on whether to issue a license pursuant to Section 1520.

(e) If the parties involved in the transfer of the property and business fully comply with this section, then the transfer may be completed and the buyer shall not be considered to be operating an unlicensed facility while the department makes a final determination on the application for licensure.

§ 1524.5. Residential care facilities for six or fewer persons; family home exceptions; incidents and complaints; response procedure

(a) In addition to any other requirements of this chapter, any community care facility providing residential care for six or fewer persons, except family homes certified by foster family agencies, foster family homes, and small family homes, shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated

by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a written response of action taken or a reason why no action needs to be taken.

(b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility, except family homes certified by foster family agencies, foster family homes, and small family homes, shall establish a fixed time on a weekly basis when the owner, licensee, or person designated by the owner or licensee will be present.

(c) Facilities shall establish procedures to comply with the requirements of this section on or before July 1, 1996.

§ 1524.6. Procedure for response to incidents and complaints

(a) In addition to any other requirement of this chapter, any group home facility, as defined by regulations of the department, providing care for any number of persons, that is not already subject to the requirements of Section 1524.5, shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints, as defined by regulations of the department. This procedure shall include a method of ensuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident or complaint, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a written response, within 30 days of receiving the complaint, of action taken, or a reason why no action needs to be taken.

(b) In order to ensure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet neighborhood residents and learn of problems in the neighborhood, any group home facility shall establish a fixed time on a periodic basis when the owner, licensee, or person designated by the owner or licensee will be present. At this fixed time, information shall be provided to neighborhood residents of the complaint procedure pursuant to Section 1538.

(c) Facilities shall establish procedures to comply with the requirements of this section on or before July 1, 2005.

(d) This section shall not apply to family homes certified by foster family agencies, foster family homes, and small family homes. It is not the intent of the Legislature that this section be applied in a way that is contrary to the child’s best interests.

§ 1524.7. Telephone Services and equipment; notice to residents of availability

The State Department of Social Services shall provide to residential care facilities a form, which the residential care facility shall attach to each resident admission agreement, notifying the resident that he or she is entitled to obtain services and equipment from the telephone company. The form shall include the following information:

"Any hearing or speech impaired, or otherwise disabled resident of any residential care facility is entitled to equipment and service by the telephone company, pursuant to Section

2881 of the Public Utilities Code, to improve the quality of their telecommunications. Any resident who has a declaration from a licensed professional or a state or federal agency pursuant to Section 2881 of the Public Utilities Code that he or she is hearing or speech impaired, or otherwise disabled should contact the local telephone company and ask for assistance in obtaining this equipment and service."

This section shall not be construed to require, in any way, the licensee to provide a separate telephone line for any resident.

§ 1525. Issuance or denial of license, or special permit

Upon the filing of the application for issuance of a license or for a special permit and substantial compliance with the provisions of this chapter and the rules and regulations of the department, the director shall issue to the applicant the license or special permit. If the director finds that the applicant is not in compliance with the laws or regulations of this chapter, the director shall deny the applicant a license or special permit.

§ 1525.25. Foster family homes; change in licensing or certification status; evaluation of needs of child

(a) It is the intent of the Legislature to provide for proper case management and orderly transition in placement when family home licensing or family home certification changes occur. Placing, licensing, and foster family agencies shall be advised in a timely manner that a licensed foster family home or certified home intends to change its licensing or certification status.

(b) Upon receiving notification that a licensed foster family home is forfeiting its license, the county shall evaluate the needs of any child still placed in the home and determine whether the child requires the level of care to be provided when the home has been certified by a foster family agency. Any child not requiring that level of care shall be moved to a home that provides the appropriate level of care.

§ 1525.3. Orientation outline

Prior to the issuance of any new license or special permit pursuant to this chapter, the applicant shall attend an orientation given by the department. The orientation given by the department shall outline all of the following:

(a) The rules and regulations of the department applicable to a community care facility.

(b) The scope of operation of a community care facility.

(c) The responsibility entailed in operating a community care facility.

§ 1525.5. Provisional licenses

(a) The director may issue provisional licenses to operate community care facilities for facilities which the director determines are in substantial compliance with the provisions of this chapter and the rules and regulations adopted pursuant thereto, provided, that no life safety risks are involved, as determined by the director. In determining whether any life safety risks are involved, the director shall require completion of all applicable fire clearances and criminal record clearances as otherwise required by the department's rules and regulations. The

provisional license shall expire six months from the date of issuance, or at any earlier time as the director may determine, and may not be renewed. However, the director may extend the term of a provisional license for an additional six months at time of application, if it is determined that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant, provided all other requirements for a license have been met.

(b) This section shall not apply to foster family homes.

§ 1526. Denial of application; notice; hearing

Immediately upon the denial of any application for a license or for a special permit, the state department shall notify the applicant in writing. Within 15 days after the state department mails the notice, the applicant may present his written petition for a hearing to the state department. Upon receipt by the state department of the petition in proper form, such petition shall be set for hearing. The proceeding shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department has all the powers granted therein.

§ 1526.5. Inspection of facility; exemption

(a) Within 90 days after *** <u>a facility accepts its first client for placement following the</u> issuance of a license or special permit pursuant to Section 1525, the department shall *** <u>inspect</u> the facility ***. <u>The licensee shall within five business days after accepting its first client for placement notify the department that the facility has commenced operating</u>. Foster family homes are exempt from the provisions of this subdivision.

(b) *** The inspection required by subdivision (a) *** <u>shall be conducted</u> to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The department may take appropriate remedial action as authorized by this chapter.

§ 1526.75. Notice of noncompliance; opportunity to correct

(a) It is the intent of the Legislature to maintain quality resources for children needing placement away from their families. If, during a periodic inspection or an inspection pursuant to Section 1526.5, a facility is found out of compliance with one or more of the licensing standards of the department, the department shall, unless an ongoing investigation precludes it, advise the provider of the noncompliance as soon as possible. The provider shall be given the opportunity to correct the deficiency.

(b) The department shall implement a procedure whereby citations for noncompliance may be appealed and reviewed.

(c) Nothing in this section shall preclude the department from taking any action it may deem necessary to ensure the safety of children and adults placed in any facility.

§ 1526.8 Crisis nurseries; staffing levels and requirements; conditions for use of volunteers

(a) It is the intent of the Legislature that the department develop modified staffing levels

and requirements for crisis nurseries, provided that the health, safety, and well-being of the children in care are protected and maintained.

(b) The department shall allow the use of fully trained and qualified volunteers as caregivers in a crisis nursery, subject to the following conditions:

(1) Volunteers shall be fingerprinted for the purpose of conducting a criminal record review as specified in subdivision (b) of Section 1522.

(2) Volunteers shall complete a child abuse central index check as specified in Section 1522.1

(3) Volunteers shall be in good physical health and be tested for tuberculosis not more than one year prior to, or seven days after, initial presence in the facility.

(4) Prior to assuming the duties and responsibilities of a crisis caregiver or being counted in the staff-to-child ratio, volunteers shall complete at least eight hours of initial training divided as follows:

(A) Four hours of crisis nursery job shadowing.

(B) Two hours of review of community care licensing regulations.

(C) Two hours of review of the crisis nursery program, including the facility mission statement, goals and objectives, and special needs of the client population they serve.

(5) Within 90 days, volunteers who are included in the staff-to-child rations shall complete at least 20 hours of training divided as follows:

(A) Twelve hours of pediatric first aid and pediatric cardiopulmonary resuscitation.

(B) Eight hours of child care health and safety issues.

(6) Volunteers who meet the requirements of paragraphs (1), (2), and (3), but who have not completed the training specified in paragraph (4) or (5) may assist a fully trained and qualified staff person in performing child care duties. However, these volunteers shall not be left alone with children, shall always be under the direct supervision and observation of a fully trained and qualified staff person, and shall not be counted in meeting the minimum staff-to-child ratio requirements.

(c) The department shall allow the use of fully trained and qualified volunteers to be counted in the staff-to-child ration in a crisis nursery subject to the following conditions:

(1) The volunteers have fulfilled the requirements in paragraphs (1) to (4), inclusive, of subdivision (b).

(2) There shall be at least one fully qualified and employed staff person on site at all times.

(3)(A) There shall be at least one employed staff or volunteer caregiver for each group of three children, or fraction thereof, from 7 a.m. to 7 p.m.

(B) There shall be at least one paid caregiver or volunteer caregiver for each group of four children, or fraction thereof, from 7 p.m. to 7 a.m.

(C) There shall be at least one employed staff person present for every volunteer caregiver used by the crisis nursery for the purpose of meeting the minimum caregiver staffing requirements.

(d) There shall be at least one staff person or volunteer caregiver awake at all times from 7 p.m. to 7 a.m.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

ARTICLE 2.5. Foster Home and Small Family Home Insurance Fund

§ 1527. Definitions

As used in this article:

(a) "Aircraft" includes, but is not limited to, any airplane, glider, or hot air balloon.

(b) "Bodily injury" means any bodily injury, sickness, or disease sustained by any person including death at any time resulting therefrom.

(c) "Foster child" means a person under 19 years old who has been placed in the care and supervision of licensed foster parents.

(d) "Foster parent" means the person, and including his or her spouse if the spouse is a resident of the same household, providing care, custody, and control of a foster child in a licensed foster family home or licensed small family home, as defined in Section 1502 of the Health and Safety Code.

(e) "Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or personal injury neither expected nor intended by the foster parent.

(f) "Motor vehicle" means an automobile, motorcycle, moped, midget automobile, including the type commonly referred to as a kart, go-kart, speedmobile, or by a comparable name whether commercially built or otherwise, trailer or semitrailer designed for travel on public roads, including any machinery or apparatus attached thereto, or snowmobile.

(g) "Personal injury" means any injury to the feelings or reputation of any person or organization arising out of libel, slander, defamation, or disparagement, wrongful eviction, or entry.

(h) "Property damage" means any physical injury to, or destruction of, tangible property, including the loss of use thereof at any time resulting therefrom.

(i) "Watercraft" includes, but is not limited to, any boat, ship, raft, or canoe, whether motorized or not.

§ 1527.1. Establishment of fund; operation; purpose

There is hereby established the Foster Family Home and Small Family Home Insurance Fund within the State Department of Social Services. The fund shall consist of all moneys appropriated by the Legislature. The department may contract with another state agency to set up and operate the fund and perform such other administrative functions as may be necessary to carry out the intentions of this article. The purpose of the fund is to pay, on behalf of foster family homes and small family homes, as defined in Section 1502, claims of foster children, their parents, guardians, or guardians ad item resulting from occurrences peculiar to the foster-care relationship and the provision of foster-care services. The fund may sue and be sued.

§ 1527.2. Damages; payments or reimbursements

The fund, subject to this article, shall pay, on behalf of foster family homes and small family homes, any claims of foster children, their parents, guardians, or guardians ad item for damages arising from, and peculiar to, the foster-care relationship and the provision of foster-care services, or shall reimburse foster family homes and small family homes for those damages.

§ 1527.3. Liability of fund

The fund shall not be liable for any of the following:

(a) Any loss arising out of a dishonest, fraudulent, criminal, or intentional act.

(b) Any occurrence which does not arise from the foster-care relationship.

(c) Any bodily injury arising out of the operation or use of any motor vehicle, aircraft, or watercraft owned or operated by, or rented or loaned to, any foster parent.

(d) Any loss arising out of licentious, immoral, or sexual behavior on the part of a foster parent intended to lead to, or culminating in, any sexual act.

(e) Any allegation of alienation of affection against a foster parent.

(f) Any loss or damage arising out of occurrences prior to October 1, 1986.

(g) Exemplary damages.

(h) Any liability of a foster parent which is uninsured due solely to the foster parent's failure to obtain insurance specified in Section 676.2 of the Insurance Code. Nothing in this subdivision shall be construed to expand the liability of the fund with respect to insured foster parents.

§ 1527.4. Limitation on liability for damages

Notwithstanding any other provision of this article, the fund shall not be liable for damages in excess of three hundred thousand dollars ($300,000) for any single foster family home or small family home for all claims arising due to one or more occurrences during a single calendar year.

§ 1527.5. Payments of claims on behalf of each licensed foster family home or small family home

The fund shall be liable, if a claim is approved, to pay on behalf of each licensed foster family home or small family home, all sums which the foster family home or small family home is obligated to pay as a result of a valid claim of bodily injury or personal injury arising out of the activities of a foster parent or foster parents, which occurs while the foster child resides in the foster family home or small family home. Claims specified in this section of a foster child or a parent, guardian, or guardian ad item of a foster child shall be the sole responsibility of the fund.

§ 1527.6. Claims against the fund; procedure; period of limitations; approval; condition precedent

(a) Any claim against the fund shall be filed with the fund in accordance with claims procedures and on forms prescribed by the State Department of Social Services or its designated contract agency.

(b) Any claim against the fund filed by a foster parent or a third party shall be submitted to the fund within the applicable period of limitations for the appropriate civil action underlying the claim, subject to subdivision (a) of Section 352 of the Code of Civil Procedure as that section applies to a minor. If a claim is not submitted to the fund within the applicable time, there shall be no recourse against the fund.

(c) The department shall approve or reject a claim within 180 days after it is presented.

(d) No person may bring a civil action against a foster parent for which the fund is liable unless that person has first filed a claim against the fund and the claim has been rejected, or the claim has been filed, approved, and paid, and damages in excess of the payment are claimed.

§ 1527.7. Processing of decisions, reports, payments, and other administrative actions

All processing of decisions and reports, payment of claims, and other administrative actions relating to the fund shall be conducted by the State Department of Social Services or its designated contract agency.

§ 1527.8. Legislative intent; maintenance of fund at adequate Level

It is the intent of the Legislature to maintain the fund established pursuant to Section 1527.1 at an adequate level to meet anticipated liabilities.

§ 1527.9. Repealed by Stats.2004, c. 193 (S.B.111), section 71

ARTICLE 2.7. Foster Parent Training

§ 1529.1. Legislative intent

It is the intent of the Legislature that persons desiring to become, or to continue being, foster parents shall receive training in order to assist them in being effective substitute caregivers and to enhance the safety and growth of children placed with them. There is a need to develop a basic curriculum, a program for continuing education, and specialized training for parents caring for children with unique needs.

§ 1529.2. Programs to supplement community college training; preplacement and postplacement training; waivers

(a) In addition to the foster parent training provided by community colleges, foster family agencies shall provide a program of training for their certified foster families.

(b)(1) Every licensed foster parent shall complete a minimum of 12 hours of foster parent training, as prescribed in paragraph (3), before the placement of any foster children with the foster parent. In addition, a foster parent shall complete a minimum of eight hours of foster parent training annually as prescribed in paragraph (4). No child shall be placed in a foster family home unless these requirements are met by the persons in the home who are serving as the foster parents.

(2)(A) Upon the request of the foster parent for a hardship waiver from the postplacement training requirement or a request for an extension of the deadline, the county may, at its option, on a case-by-case basis, waive the postplacement training requirement or extend any established deadline for a period not to exceed one year, if the postplacement training requirement presents a severe and unavoidable obstacle to continuing as a foster parent. Obstacles for which a county may grant a hardship waiver or extension are:

(i) Lack of access to training due to the cost or travel required.

(ii) Family emergency.

(B) Before a waiver or extension may be granted, the foster parent should explore the opportunity of receiving training by video or written materials.

(3) The initial preplacement training shall include, but not be limited to, training courses that cover all of the following:

(A) An overview of the child protective system.

(B) The effects of child abuse and neglect on child development.

(C) Positive discipline and the importance of self-esteem.

(D) Health issues in foster care.

(E) Accessing education and health services available to foster children.

(F) The right of a foster child to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(4) The postplacement annual training shall include, but not be limited to, training courses that cover all of the following:

(A) Age-appropriate child development.

(B) Health issues in foster care.

(C) Positive discipline and the importance of self-esteem.

(D) Emancipation and independent living skills if a foster parent is caring for youth.

(E) The right of a foster child to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(5) Foster parent training may be attained through a variety of sources, including community colleges, counties, hospitals, foster parent associations, the California State Foster Parent Association's Conference, adult schools, and certified foster parent instructors.

(6) A candidate for placement of foster children shall submit a certificate of training to document completion of the training requirements. The certificate shall be submitted with the initial consideration for placements and provided at the time of the annual visit by the licensing agency thereafter.

(c) Nothing in this section shall preclude a county from requiring county-provided preplacement or postplacement foster parent training in excess of the requirements in this section.

§ 1529.3. Repealed by Stats.2004, c.193 (S.B.111), section 72

ARTICLE 3. Regulations

§ 1530. Rules and regulations

The state department shall adopt, amend, or repeal, in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules, regulations, and standards as may be necessary or proper to carry out

the purposes and intent of this chapter and to enable the state department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any of the provisions of any statute of this state.

Such regulations shall designate separate categories of licensure under which community care facilities shall be licensed pursuant to this chapter, which shall include a separate license category for residential care facilities for the elderly. Such regulations shall also designate the specialized services which community care facilities may be approved to provide pursuant to this chapter.

§ 1530.1. Adult Day Programs

(a) The department shall adopt regulations, in consultation with providers, consumers, and other interested parties, to combine adult day care and adult day support centers licensing categories into one category, which shall be designated adult day programs.

(b) The consolidated regulations shall take into account the diversity of consumers and their caregivers, and the role of licensing in promoting consumer choice, health and safety, independence, and inclusion in the community.

(c) The department shall also take into account the diversity of existing programs designed to meet unique consumer needs, including, but not limited to, programs serving elders with cognitive or physical impairments, non-facility-based programs serving persons with developmental disabilities, respite-only programs, and other programs serving a unique population.

§ 1530.3. Report on progress of children's residential regulation review workgroup; contents

The director shall report to the Legislature during the 2007-08 budget hearings on the progress of the department's children' s residential regulation review workgroup. The report shall include all of the following:

(a) A summary of the activities of the workgroup up to the date of the report.

(b) The timeline for completion of the workgroup's activities.

(c) Any recommendations being considered for statutory, regulatory, and policy changes, and any workplan for the implementation of those recommendations.

§ 1530.5. Regulations for homes

(a) The state department, in establishing regulations, including provisions for periodic inspections, under this chapter for foster family homes and certified family homes of foster family agencies, shall consider these homes as private residences, and shall establish regulations for these foster family homes and certified family homes of foster family agencies as an entirely separate regulation package from regulations for all other community care facilities. These foster family homes and certified family homes of foster family agencies shall not be subject to civil penalties pursuant to Section 1548. The department, in adopting and amending regulations for these foster family homes and certified family homes of foster family agencies, shall consult with foster parent and foster family agency organizations in order to ensure compliance with the requirement of this section.

(b) This section shall not apply to small family homes or foster family agencies as

defined in Section 1502.

§ 1530.6. Persons providing residential foster care; authority to give same legal consent as parent; exceptions; rules and regulations

Notwithstanding any other provision of law, persons licensed pursuant to this chapter to provide residential foster care to a child either placed with them pursuant to order of the juvenile court or voluntarily placed with them by the person or persons having legal custody of such child, may give the same legal consent for that child as a parent except for the following: (1) marriage; (2) entry into the armed forces; (3) medical and dental treatment, except that consent may be given for ordinary medical and dental treatment for such child, including, but not limited to, immunizations, physical examinations, and X-rays; and (4) if the child is voluntarily placed by the parent or parents, those items as are agreed to in writing by the parties to the placement.

To this effect, the state department shall prescribe rules and regulations to carry out the intent of this section.

This section does not apply to any situation in which a juvenile court order expressly reserves the right to consent to those activities to the court.

§ 1530.7. Adoption of regulations for licensed therapeutic day services facilities (Repealed by Stats. 1990,c. 1139 (S.B.2039), sec 2, operative 7-1-95)

§ 1530.8. Licensed group homes; temporary shelter care facilities that care for children

(a)(1) The department shall adopt regulations for community care facilities licensed as group homes, and for temporary shelter care facilities as defined in subdivision (c), that care for dependent children, children placed by a regional center, or voluntary placements, who are younger than 6 years of age. The department shall adopt these regulations after assessing the needs of this population and developing standards pursuant to Section 11467.1 of the Welfare and Institutions Code.

(2) The department shall adopt regulations under this section that apply to mother and infant programs serving children younger than six years of age who reside in a group home with a minor parent who is the primary caregiver of the child that shall be subject to the requirements of subdivision (d).

(b) The regulations shall include physical environment standards, including staffing and health and safety requirements that meet or exceed state child care standards under Title 5 and Title 22 of the California Code of Regulations.

(c) For purposes of this section, a "temporary shelter care facility" means any residential facility that meets all of the following requirements:

(1) It is owned and operated by the county.

(2) It is a 24-hour facility that provides short-term residential care and supervision for dependent children under 18 years of age who have been removed from their homes as a result of abuse or neglect, as defined in Section 300 of the Welfare and Institutions Code, or both.

(d)(1) By September 1, 1999, the department shall submit for public comment regulations specific to mother and infant programs serving children younger than six years of

age who are dependents of the court and reside in a group home with a minor child who is the primary caregiver of the child.

(2) The regulations shall include provisions that when the minor parent is absent and the facility is providing direct care to children younger than six years of age who are dependents of the court, there shall be one child care staff person for every four children of minor parents.

(3) In developing these proposed regulations, the department shall issue the proposed regulations for public comment, and shall refer to existing national standards for mother and infant programs as a guideline, where applicable.

(4) Prior to preparing the proposed regulations, the department shall consult with interested parties by convening a meeting by February 28, 1999, that shall include, but not be limited to, representatives from a public interest law firm specializing in children's issues and provider organizations.

§ 1530.9. Regulations for licensed community treatment facilities; program certification and standards enforcement

(a) The department shall, with the advice and assistance of the State Department of Mental Health, counties, parent and children's advocacy groups, and group home providers, adopt regulations for the licensing of licensed community treatment facilities at the earliest possible date, but no later than December 31, 1994.

(b) The regulations adopted pursuant to this section shall specify requirements for facility operation and maintenance.

(c) Program certification and standards enforcement shall be the responsibility of the State Department of Mental Health, pursuant to Section 4094 of the Welfare and Institutions Code. The State Department of Social Services shall not issue a community treatment facility license unless the applicant has obtained certification of compliance from the State Department of Mental Health.

§ 1530.91 Orientation for school-aged children and their representatives by care provider that provides foster care; foster care facility with six or more children to post rights
(**Added by stats.2001, c.683 (A.B.899), sec 1.5.)**

(a) Except as provided in subdivision (b) any care provider that provides foster care for children pursuant to this chapter shall provide each schoolage child and his or her authorized representative, as defined in regulations adopted by the department, who is placed in foster care, with an age and developmentally appropriate orientation that includes an explanation of the rights of the child, as specified in Section 16001.9 of he Welfare and Institutions Code, and addresses the child’s questions and concerns.

(b) Any facility licensed to provide foster care for six or more children pursuant to this chapter shall post a listing of a foster child’s rights specified in Section 16001.9 of the Welfare and Institutions Code. The office of the State Foster Care Ombudsperson shall design posters and provide the posters to each facility subject to this subdivision. The posters shall include the telephone number of the State Foster Care Ombudsperson.

§ 1531. Standards for licenses and special permits

The regulations for a license shall prescribe standards of safety and sanitation for the physical plant and standards for basic personal care, supervision, and services based upon the category of licensure.

The regulations for a special permit shall prescribe standards for the quality of specialized services, including, but not limited to, staffing with duly qualified personnel which take into account the age, physical and mental capabilities, and the needs of the persons to be served.

The state department's regulations shall allow for the development of new and innovative community programs.

§ 1531.1. Residential facilities with persons having developmental disabilities; delayed egress devices; qualification for residency; staff and facility requirements

(a) A residential facility licensed as an adult residential facility, group home, small family home, foster family home, or a family home certified by a foster family agency may install and utilize delayed egress devices of the time delay type.

(b) As used in this section, "delayed egress device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any resident's departure from the facility for longer than 30 seconds.

(c) Within the 30 seconds of delay, facility staff may attempt to redirect a resident who attempts to leave the facility.

(d) Any person accepted by a residential facility or family home certified by a foster family agency utilizing delayed egress devices shall meet all of the following conditions:

(1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.

(2) The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code.

(3) An interdisciplinary team, through the Individual Program Plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined that the person lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with delayed egress devices, and that but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive state hospital or state developmental center placement.

(e) The facility shall be subject to all fire and building codes, regulations, and standards applicable to residential care facilities for the elderly utilizing delayed egress devices, and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed delayed egress devices.

(f) The facility shall provide staff training regarding the use and operation of the egress control devices utilized by the facility, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

(g) The facility shall develop a plan of operation approved by the State Department of Social Services that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143 *** .

(h) The plan shall include, but shall not be limited to, all of the following:

(1) A description of how the facility will provide training for staff regarding the use and operation of the egress control devices utilized by the facility.

(2) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.

(3) A description of how the facility will manage the person's lack of hazard awareness and impulse control behavior.

(4) A description of the facility's emergency evacuation procedures.

(i) Delayed egress devices shall not substitute for adequate staff. The capacity of the facility shall not exceed six residents.

(j) Emergency fire and earthquake drills shall be conducted at least once every three months on each shift, and shall include all facility staff providing resident care and supervision on each shift.

§ 1531.2. Fire clearance approval; condition for licensure; notice to prospective applicants (one of two sections)

A prospective applicant for licensure shall be notified at the time of the initial request for information regarding application for licensure that, prior to obtaining licensure, the facility shall secure and maintain a fire clearance approval from the local fire enforcing agency, as defined in Section 13244, or the State Fire Marshal, whichever has primary fire protection jurisdiction. The prospective applicant shall be notified of the provisions of Section 13235, relating to the fire safety clearance application. The prospective applicant for licensure shall be notified that the fire clearance shall be in accordance with state and local fire safety regulations.

§ 1531.2. Facilities for Alzheimer or dementia patients; installation of secured perimeter fences or egress control devices; emergency evacuation procedures (second of two sections)

(a) Upon the filing by the department of emergency regulations with the Secretary of State, an adult day program, as defined in Division 6 of Title 22 of the California Code of Regulations, or Section 1502, that provides care and supervision for adults with Alzheimer's disease and other dementias may install for the safety and security of these persons secured perimeter fences or egress control devices of the time-delay type on exit doors if they meet all of the requirements for additional safeguards required by those regulations. The initial adoption of new emergency regulations on and after January 1, 1999, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(b) As used in this section, "egress control device" means a device that precludes the use of exits for a predetermined period of time. An egress control device shall not delay any client's departure from the facility for longer than 30 seconds. Facility staff may attempt to redirect a client who attempts to leave the facility.

(c) A facility that installs an egress control device pursuant to this section shall meet all of the following requirements:

(1) The facility shall be subject to all fire and building codes, regulations, and standards applicable to adult day programs using egress control devices or secured perimeter fences and before using an egress control device shall receive a fire clearance from the fire authority having jurisdiction for the egress control devices.

(2) The facility shall require any client entering the facility to provide documentation of a diagnosis by a physician of Alzheimer's disease or other dementias, if such a diagnosis has been made. For purposes of this section, Alzheimer's disease shall include dementia and related disorders that increase the tendency to wander, decrease hazard awareness, and decrease the ability to communicate.

(3) The facility shall provide staff training regarding the use and operation of the egress control devices used by the facility, the protection of clients' personal rights, wandering behavior and acceptable methods of redirection, and emergency evacuation procedures for persons with dementia.

(4) All admissions to the facility shall continue to be voluntary on the part of the client or with the lawful consent of the client's conservator or a person who has the authority to act on behalf of the client. Persons who have the authority to act on behalf of a client may include the client's spouse, relative or relatives, or designated care giver or care givers.

(5) Any client entering a facility pursuant to this section who does not have a conservator or does not have a person with the authority to act on his or her behalf shall sign a statement of voluntary entry. The facility shall retain the original statement in the client's file at the facility.

(6) The use of egress control devices or secured perimeter fences shall not substitute for adequate staff. Staffing ratios shall at all times meet the requirements of applicable regulations.

(7) Emergency fire and earthquake drills shall be conducted at least once every three months, or more frequently as required by a county or city fire department or local fire prevention district. The drills shall include all facility staff and volunteers providing client care and supervision.

(8) The facility shall develop a plan of operation approved by the department that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143. The plan shall include, but not be limited to, all of the following:

(A) A description of how the facility will provide training to staff regarding the use and operation of the egress control device utilized by the facility.

(B) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.

(C) A description of the facility's emergency evacuation procedures for persons with Alzheimer's disease and other dementias.

(d) This section does not require an adult day program to use secured perimeters or egress control devices in providing care for persons with Alzheimer's disease or other dementias.

(e) The department shall adopt regulations to implement this section in accordance with those provisions of the Administrative Procedure Act contained in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The State Fire Marshal may also adopt regulations to implement this section.

§ 1531.3. Fire and panic safety standards and criteria; license criteria

The State Fire Marshal shall establish separate fire and panic safety standards and criteria for the evaluation of each category of license described in subdivision (a) of Section 1502. The State Fire Marshal shall take into consideration the characteristics of the

persons served by each facility in establishing these standards and criteria.

§ 1531.4. Security window installation

On and after January 1, 1999, no security window bars may be installed or maintained on any community care facility unless the security window bars meet current state and local requirements, as applicable, for security window bars and safety release devices.

§ 1531.5. Corporal punishment by parent; standards for licenses for foster family homes

(a) The State Department of Social Services shall not deny a license for a foster family home solely on the basis that the applicant is a parent who has administered corporal punishment not constituting child abuse, or will continue to administer such corporal punishment, to his or her own children.

(b) Nothing in this section shall be construed to prevent the state department from denying a license for a foster care home where the applicant has been found by the state department to have engaged in child abuse.

(c) As used in this section, "child abuse" means a situation in which a child suffers from any one or more of the following:

(1) Serious physical injury inflicted upon the child by other than accidental means.

(2) Harm by reason of intentional neglect or malnutrition or sexual abuse.

(3) Going without necessary and basic physical care.

(4) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.

(5) Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

(d) Nothing in this section shall be construed to permit a foster parent to administer any corporal punishment to a foster child.

§ 1532. Committee on community care facilities; duties; members

The Committee on Community Care Facilities of the State Social Services Advisory Board shall advise the director regarding regulations, policy, and administrative practices pertaining to community care facilities. The committee shall review proposed regulations for community care facilities, and submit its written comments to the director prior to the adoption of these regulations.

The committee shall be solely advisory in character and shall not be delegated any administrative authority or responsibility. Committee members shall be selected from concerned interests, including representatives of professional associations, providers and employees of care and services, and consumers of community care facility services.

§ 1533. Inspection by department

Except as otherwise provided in this section, any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

Foster family homes which are considered private residences for the purposes of Section 1530.5 shall not be subject to inspection by the department or its officers without advance notice, except in response to a complaint.

The unannounced visits shall not constitute the annual evaluation visit required by Section 1534. Inspection visits to foster family homes shall be made during normal business hours, unless the serious nature of a complaint requires otherwise.

"Normal business hours," as used in this section, means from 8 a.m. to 5 p.m., inclusive, of each day from Monday to Friday, inclusive, other than state holidays.

§ 1534. Periodic Inspection and Evaluation; notification of deficiencies; compliance; reports; actions upon noncompliance

(a)(1) Every licensed community care facility shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care being provided.

(A) The department shall conduct an annual unannounced visit to a facility under any of the following circumstances.

(i) When a license is on probation.

(ii) When the terms of agreement in a facility compliance plan require an annual evaluation.

(iii) When an accusation against a licensee is pending.

(iv) When a facility requires an annual visit as a condition of receiving federal financial participation.

(v) In order to verify that a person who has been ordered out a facility by the department is no longer at the facility.

(B) The department shall conduct annual unannounced visits to no less than 20 percent of facilities not subject to an evaluation under subparagraph (A). These unannounced visits shall be conducted based on a random sampling methodology developed by the department. If the total citations issued by the department exceed the previous year's total by 10 percent, the following year the department shall increase the random sample by an additional 10 percent of the facilities not subject to an evaluation under subparagraph (A). The department may request additional resources to increase the random sample by 10 percent.

(C) Under no circumstances shall the department visit a community care facility less often than once every five years.

(D) In order to facilitate direct contact with group home clients, the department may interview children who are clients of group homes at any public agency or private agency at which the client may be found including, but not limited to, a juvenile hall, recreation or vocational program, or a nonpublic school. The department shall respect the rights of the child while conducting the interview, including informing the child that he or she has the right not to be interviewed and the right to have another adult present during the interview.

(2) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted

pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(3) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

(b)(1) Nothing in this section shall limit the authority of the department to inspect or evaluate a licensed foster family agency, a certified family home, or any aspect of a program where a licensed community care facility is certifying compliance with licensing requirements.

(2) Upon a finding of noncompliance by the department, the department may require a foster family agency to deny or revoke the certificate of approval of a certified family home, or take other action the department may deem necessary for the protection of a child placed with the family home. The family home shall be afforded the due process provided pursuant to this chapter.

(3) If the department requires a foster family agency to deny or revoke the certificate of approval, the department shall serve an order of denial or revocation upon the certified or prospective foster parent and foster family agency that shall notify the certified or prospective foster parent of the basis of the department's action and of the certified or prospective foster parent's right to a hearing.

(4) Within 15 days after the department serves an order of denial or revocation, the certified or prospective foster parent may file a written appeal of the department's decision with the department. The department's action shall be final if the certified or prospective foster parent does not file a written appeal within 15 days after the department serves the denial or revocation order.

(5) The department's order of the denial or revocation of the certificate of approval shall remain in effect until the hearing is completed and the director has made a final determination on the merits.

(6) A certified or prospective foster parent who files a written appeal of the department's order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The certified or prospective foster parent shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(7) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. In all proceedings conducted in accordance with this section the standard of proof shall be by a preponderance of the evidence.

(8) The department may institute or continue a disciplinary proceeding against a certified or prospective foster parent upon any ground provided by this section, enter an order denying or revoking the certificate of approval, or otherwise take disciplinary action against the certified or prospective foster parent, notwithstanding any resignation, withdrawal of application, surrender of the certificate of approval, or denial or revocation of the certificate of approval by the foster family agency.

(9) A foster family agency's failure to comply with the department's order to deny or revoke the certificate of employment by placing or retaining children in care shall be grounds for disciplining the licensee pursuant to Section 1550.

§ 1534.5. Copies of inspection reports to be provided upon request

The state department shall provide the office, as defined in subdivision (c) of Section 9701 of the Welfare and Institutions Code, with copies of inspection reports for community care facilities upon request.

§ 1535. Consumer guideline brochure

(a) On or before January 1, 1986, the state department shall publish a comprehensive consumer guideline brochure to assist persons in the evaluation and selection of a licensed community care facility. The department shall develop the brochure for publication with the advice and assistance of the Advisory Committee on Community Care Facilities, the State Department of Aging, the State Department of Mental Health, and the State Department of Alcohol and Drug Programs.

(b) The consumer guideline brochure shall include, but not be limited to, guidelines highlighting resident health and safety issues to be considered in the selection of a community care facility, locations of the licensing offices of the State Department of Social Services where facility records may be reviewed, types of local organizations which may have additional information on specific facilities, and a list of recommended inquiries to be made in the selection of a community care facility.

(c) Upon publication, the consumer guideline brochures shall be distributed to statewide community care facility resident advocacy groups, statewide consumer advocacy groups, state and local ombudsmen, and all licensed community care facilities. The brochure shall be made available on request to all other interested persons.

§ 1536. List of licensed facilities and their services; publication; foster family home identifying information; privacy

(a) At least annually, the director shall publish and make available to interested persons a list or lists covering all licensed community care facilities, other than foster family homes and certified family homes of foster family agencies providing 24-hour care for six or fewer foster children, and the services for which each facility has been licensed or issued a special permit.

(b) Subject to subdivision (c), to encourage the recruitment of foster family homes and certified family homes of foster family agencies, protect their personal privacy, and to preserve the security and confidentiality of the placements in the homes, the names, addresses, and other identifying information of facilities licensed as foster family homes and certified family homes of foster family agencies providing 24-hour care for six or fewer children shall be considered personal information for purposes of the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). This information shall not be disclosed by any state or local agency pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) except as necessary for administering the licensing program, facilitating the placement of children in these facilities, and providing names and addresses only to bona fide professional foster parent organizations upon request.

(c) Notwithstanding subdivision (b), the department, a county, or a foster family agency may request information from, or divulge information to, the department, a county, or a foster family agency, regarding a prospective certified parent, foster parent, or relative caregiver for the purpose of, and as necessary to, conduct a reference check to determine whether it is safe

and appropriate to license, certify, or approve an applicant to be a certified parent, foster parent, or relative caregiver.

(d) The department may issue a citation and, after the issuance of that citation, may assess a civil penalty of fifty dollars ($50) per day for each instance of a foster family agency's failure to provide the department with the information required by subdivision (h) of Section 88061 of Title 22 of the California Code of Regulations.

(e) The legislature encourages the department, when funds are available for this purpose, to develop a database that would include all of the following information:

(1) Monthly reports by a foster family agency regarding family homes.

(2) A log of family homes certified and decertified, provided by a foster family agency to the department

(3) Notification by a foster family agency to the department informing the department of a foster family agency's determination to decertify a certified family home due to any of the following actions by the certified family parent:

(A) Violating licensing rules and regulations.

(B) Aiding, abetting, or permitting the violation of licensing rules and regulations.

(C) Conducting oneself in a way that is inimical to the health, morals, welfare, or safety of a child placed in that certified family home.

(D) Being convicted of a crime while a certified family parent.

(E) Knowingly allowing any child to have illegal drugs or alcohol.

(F) Committing an act of child abuse or neglect or an act of violence against another person.

§ 1536.1. Placement agencies; placement and other duties relating to licensed facilities

(a) "Placement agency" means any county probation department, county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities, which is engaged in finding homes or other places for placement of persons of any age for temporary or permanent care.

(b) A placement agency shall place individuals only in licensed community care facilities, facilities which are exempt from licensing under Section 1505 or if the facility satisfies subdivision (c) of Section 362 of the Welfare and Institutions Code, or with a foster family agency.

(c) No employee of a placement agency shall place, refer, or recommend placement of a person in a facility operating without a license, unless the facility is exempt from licensing under Section 1505 or unless the facility satisfies subdivision (c) of Section 362 of the Welfare and Institutions Code. Violation of this subdivision is a misdemeanor.

(d) Any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. Failure to report as required by this subdivision is a misdemeanor.

(e) The department shall investigate any report filed under subdivision (d). If the

department has probable cause to believe that the facility which is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.

(f) A placement agency shall notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a community care facility. Reportable incidents include, but are not limited to, all of the following:

(1) Incidents of physical abuse.

(2) Any violation of personal rights.

(3) Any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.

(4) Any situation in which a facility has insufficient personnel or incompetent personnel on duty.

(5) Any situation in which residents experience mental or verbal abuse.

§ 1536.2. Placement which best meets needs of child

(a) When a placement agency has placed a child with a foster family agency for subsequent placement in a certified family home, the foster family agency shall *** ensure placement of the child in a home *** that best meets the needs of the child.

(b) A home that best meets the needs of the child shall satisfy all of the following criteria:

(1) The child's caregiver is able to meet the health, safety, and well-being needs of the child.

(2) The child's caregiver is permitted to maintain the least restrictive and most family-like environment that serves the needs of the child.

(3) 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.

(4) 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 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.

§ 1536.3. Placement in residential care facility; consideration of compatibility with other residents

A public agency social worker shall, in determining whether to refer an individual to an adult residential care facility, take into account the compatibility of the individual with the other residents in light of any medical diagnoses or behavioral problems.

§ 1537. Contracts for inspection or consultation

The director shall have the authority to contract for personal services as required in order to perform inspections of, or consultation with, community care facilities.

§ 1538. Inspection request; notice of alleged violation; complaint; action by department; proposed course of action

(a) Any person may request an inspection of any community care facility or certified family home in accordance with this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter the facility pursuant to Section 9701 of the Welfare and Institutions Code. A complaint may be made either orally or in writing.

(b) The substance of the complaint shall be provided to the licensee or certified family home and foster family agency no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee or certified family home and foster family agency nor any copy of the complaint or any record published, released, or otherwise made available to the licensee or certified family home and foster family agency shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this chapter.

(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility or certified family home, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection of the community care facility or certified family home within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

If the department determines that the complaint is intended to harass, is without a reasonable basis, or, after a site inspection, is unfounded, then the complaint and any documents related to it shall be marked confidential and shall not be disclosed to the public. If the complaint investigation included a site visit, the licensee or certified family home and foster family agency shall be notified in writing within 30 days of the dismissal that the complaint has been dismissed.

(d) Upon receipt of a complaint alleging denial of a statutory right of access to a community care facility or certified family home, the state department shall review the complaint. The complainant shall be notified promptly of the state department's proposed course of action.

(e) The department shall commence performance of complaint inspections of certified family homes upon the employment of sufficient personnel to carry out this function, and by no later than June 30, 1999. Upon implementation, the department shall notify all licensed foster family agencies.

(f) Upon receipt of a complaint concerning the care of a client in an Adult Residential Facility for Persons with Special Health Care Needs licensed pursuant to Article 9 (commencing with Section 1567.50), the department shall notify the appropriate regional center and the State Department of Developmental Services for the purposes of investigating the complaint.

(g) Upon receipt of a complaint concerning the vendorization of an Adult Residential Facility for Persons with Special Health Care Needs, the department shall notify the State Department of Developmental Services for purposes of investigating the complaint.

§ 1538.2. Automated license information system

The director shall establish an automated license information system on licensees and former licensees of licensed community care facilities. The system shall maintain a record of any information that may be pertinent, as determined by the director, for licensure under this chapter and Chapter 3.6 (commencing with Section 1597.30). This information may include, but is not limited to, the licensees' addresses, telephone numbers, violations of any laws related to the care of clients in a community care facility, licenses, revocation of any licenses and, to the extent permitted by federal law, social security numbers.

§ 1538.3. Automated complaint record system; cooperative agreement

A county may develop a cooperative agreement with the department to access disclosable, public record information from an automated system, other than the system described in Section 1538.2, concerning substantiated complaints for all group home facilities, as defined by regulations of the department, located within that county. Access to the database may be accomplished through a secure online transaction protocol.

§ 1538.5. Notice of substantiated complaints; transmittal to specified persons; proof of transmittals; penalty action upon failure to comply

(a)(1) Not less than 30 days prior to the anniversary of the effective date of any residential community care facility license, except licensed foster family homes, the department may transmit a copy to the board members of the licensed facility, parents, legal guardians, conservators, clients' rights advocates, or placement agencies, as designated in each resident's placement agreement, of all inspection reports given to the facility by the department during the past year as a result of a substantiated complaint regarding a violation of this chapter relating to resident abuse and neglect, food, sanitation, incidental medical care, and residential supervision. During that one-year period the copy of the notices transmitted and the proof of the transmittal shall be open for public inspection.

(2) The department may transmit copies of the inspection reports referred to in paragraph (1) concerning group homes, as defined by regulations of the department, to the county in which a group home facility is located, if requested by that county.

(3) A group home facility shall maintain, at the facility, a copy of all licensing reports for the past three years that would be accessible to the public through the department, for inspection by placement officials, current and prospective facility clients, and these clients' family members who visit the facility.

(b) The facility operator, at the expense of the facility, shall transmit a copy of all substantiated complaints, by certified mail, to those persons described pursuant to paragraph (1) of subdivision (a) in the following cases:

(1) In the case of any substantiated complaint relating to resident physical or sexual abuse, the facility shall have three days, from the date the facility receives the licensing report from the state department to comply.

(2) In any case in which a facility has received three or more substantiated complaints relating to the same violation during the past 12 months, the facility shall have five days from the date the facility receives the licensing report to comply.

(c) Each residential facility shall retain a copy of the notices transmitted pursuant to subdivision (c) and proof of their transmittal by certified mail for a period of one year after their transmittal.

(d) If any residential facility to which this section applies fails to comply with this section, as determined by the department, the department shall initiate civil penalty action against the facility in accordance with Article 3 (commencing with Section 1530) and the related rules and regulations.

(e) Not less than 30 days prior to the anniversary of the effective date of the license of any group home facility, as defined by regulations of the department, at the request of the county in which the group home facility is located, a group home facility shall transmit to the county a copy of all incident reports prepared by the group home facility and transmitted to a placement agency in a county other than the county in which the group home facility is located, as described in subdivision (f) of Section 1536.1, that involved a response by local law enforcement or emergency services personnel. The county shall designate an official for the receipt of the incident reports and shall so notify the group home. Prior to transmitting copies of incident reports to the county, the group home facility shall redact the name of any child referenced in the incident reports, and any other identifying information regarding any child referenced in the reports, and the identity and location of the placement agency of any child referenced in the reports. The county may review the incident reports to ensure that the group home facilities have taken appropriate action to ensure the health and safety of the residents of the facility.

(f) The department shall notify the residential community care facility of its obligation when it is required to comply with this section.

§ 1538.55. Events requiring reports by licensee; notice of findings

(a) The licensee of an Adult Residential Facility for Persons with Special Health Care Needs (ARFPSHN), licensed pursuant to Article 9 (commencing with Section, 1567.50), shall report to the department's Community Care Licensing Division, within the department's next working day and to the regional center with whom the ARFPSHN contracts, and the State Department of Developmental Services, within 24 hours upon the occurrence of any of the following events:

(1) The death of any client from any cause.

(2) The use of an automated external defibrillator.

(3) Any injury to any client that requires medical treatment.

(4) Any unusual incident that threatens the physical or emotional health or safety of any client.

(5) Any suspected physical or psychological abuse of any client.

(6) Epidemic outbreaks.

(7) Poisonings.

(8) Catastrophes.

(9) Fires or explosions that occur in or on the premises.

(b) The licensee additionally shall submit a written report to the department's Community Care Licensing Division, the regional center with whom the ARFPSHN contracts, and the State Department of Developmental Services within seven days following any event set forth in subdivision (a), and shall include the following:

(1) Client's name, age, sex, and date of admission.

(2) The date and nature of the event.

(3) The attending physician's name, findings, and treatment, if any.

(4) The disposition of the case.

(c) The department's Community Care Licensing Division shall notify the State Department of Developmental Services upon its findings of any deficiencies or of possible actions to exclude, pursuant to Section 1558, any individual from an ARFPSHN.

§ 1538.6. Action based on record review

(a) When the department periodically reviews the record of substantiated complaints against each group home facility, pursuant to its oversight role as prescribed by Section 1534, to determine whether the nature, number, and severity of incidents upon which complaints were based constitute a basis for concern as to whether the provider is capable of effectively and efficiently operating the program, and if the department determines that there is cause for concern, it may contact the county in which a group home facility is located and placement agencies in other counties using the group home facility, and request their recommendations as to what action, if any, the department should take with regard to the provider's status as a licensed group home provider.

(b) It is the intent of the Legislature that the department makes every effort to communicate with the county in which a group home facility is located when the department has concerns about group home facilities within that county.

§ 1538.7. Group Home Complaint Procedure Written Notice, San Bernardino County, (Repealed by Stats.1997, c. 561 (A.B.323) sec 4, effective 1-1-01)

§ 1539. Discrimination or retaliation against persons receiving services or employees of facility

No licensee shall discriminate or retaliate in any manner against any person receiving the services of such licensee's community care facility, or against any employee of such licensee's facility, on the basis, or for the reason that, such person or employee or any other person has initiated or participated in an inspection pursuant to Section 1538.

ARTICLE 4. Offenses

§ 1540. Violation of chapter or regulations; misdemeanor; punishment; operation of community care facility without license; summons

(a) Any person who violates this chapter, or who willfully or repeatedly violates any rule or regulation promulgated under this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($ 1,000) or by imprisonment in the county jail for a period not to exceed 180 days, or by both such fine and imprisonment.

(b) Operation of a community care facility without a license shall be subject to a summons to appear in court.

§ 1540.1. Community care facilities; violations; penalties; notice

Upon a finding by the licensing authority that a facility is in operation without a license, a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of

the Penal Code, may enforce Section 1503.5, or Section 1508, or both sections by utilizing the procedures set forth in Chapter 5 (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. A facility violating Section 1503.5 or 1508, or both, is guilty of an infraction punishable by a fine of two hundred dollars ($ 200) for each day of violation. Upon a determination that a community care facility is in violation of Section 1503.5 or 1508, or both, and after a citation has been issued, the peace officer shall immediately notify the licensing authority in the department.

§ 1540.2. Informing facility of impending and unannounced site visit; misdemeanor

Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a community care facility, of an impending and unannounced site visit to that facility by personnel of the department is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($ 1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

§ 1541. Injunctions

The director may bring an action to enjoin the violation or threatened violation of Section 1503.5 or 1508, or both, in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under the provisions of this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. Upon a finding by the director that the violations threaten the health or safety of persons in, or served by, a community care facility, the agency contracted with pursuant to Section 1511 may bring an action to enjoin the violation, threatened violation, or continued violation by any community care facility which is located in an area for which it is responsible pursuant to the terms of the contract.

With respect to any and all actions brought pursuant to this section alleging actual violation of Section 1503.5 or 1508, or both, the court shall, if it finds the allegations to be true, issue its order enjoining the community care facility from continuance of the violation.

§ 1542. Actions pending at the time of sale or transfer of facility; abatement

Any action brought by the director against a community care facility shall not abate by reason of a sale or other transfer of ownership of the community care facility which is a party to the action except with express written consent of the director.

§ 1543. District attorney or city attorney; institution and prosecution of actions

Notwithstanding any other provision of this chapter, the district attorney of every county, and city attorneys in those cities which have city attorneys who have jurisdiction to prosecute misdemeanors pursuant to section 72193 of the Government Code, shall, upon their own initiative or upon application by the state department or its authorized representative, institute and conduct the prosecution of any action for violation within his or her county of any

provisions of this chapter.

§ 1546. Emergency resident relocation; fund

The department may require 50 percent of each penalty assessed pursuant to Section 1548 to be transmitted to the department for use by the Community Care Licensing Division of the state department to establish an emergency resident relocation fund to be utilized for the relocation and care of residents when a facility's license is revoked or temporarily suspended, when appropriated by the Legislature. The money in the fund shall cover costs, including but not limited to, transportation expenses, expenses incurred in notifying family members, and any other costs directly associated with providing continuous care to the residents. The department shall seek the advice of providers in developing a state plan for emergency resident relocation.

§ 1547. Violation of sections 1503.5 or 1508; civil penalty; appeal

(a) Notwithstanding any other provision of this chapter, any person who violates Section 1503.5 or 1508, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars ($ 200) per day of the violation.

(b) The civil penalty authorized in subdivision (a) shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed facility, unless other remedies available to the department, including criminal prosecution, are deemed more effective by the department.

(c) An operator may appeal the assessment to the director. The department shall adopt regulations setting forth the appeal procedure.

§ 1548. Civil Penalties

(a) In addition to suspension or revocation of a license issued under this chapter, the department may levy a civil penalty in addition to the penalties of suspension or revocation.

(b) The amount of the civil penalty shall not be less than twenty-five dollars ($ 25) or more than fifty dollars ($ 50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars ($ 150) per day.

(c) Notwithstanding Section 1534, any facility that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars ($ 150) and fifty dollars ($ 50) for each day the violation continues until the deficiency is corrected.

(d) Any facility that is assessed a civil penalty pursuant to subdivision (c) which repeats the same violation of this chapter within 12 months of the violation subject to subdivision (c) is subject to an immediate civil penalty of one hundred fifty dollars ($ 150) for each day the violation continues until the deficiency is corrected.

(e) The department shall adopt regulations implementing this section.

(f) As provided in Section 11466.31 of the Welfare and Institutions Code, the department may offset civil penalties owed by a group home against moneys to be paid by a

county for the care of minors after the group home has exhausted its appeal of the civil penalty assessment. The department shall provide the group home a reasonable opportunity to pay the civil penalty before instituting the offset provision.

§ 1549. Remedies not exclusive

The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.

ARTICLE 5. Suspension and Revocation

§ 1550. Licenses or administrator certificates; suspension, revocation or denial of application; grounds

The department may deny an application for, or suspend or revoke, any license, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

§ 1550.5. Procedure for Temporary Suspension of License; notice; hearings

The director may temporarily suspend any license prior to any hearing when, in the opinion of the director, the action is urgent to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall serve the licensee with the temporary suspension order, a copy of available discovery and other relevant evidence in the possession of the department, including, but not limited to, affidavits, declarations, and any other evidence upon which the director relied in issuing the temporary suspension order, the names of the department's witnesses, and the effective date of the temporary suspension and at the same time shall serve the licensee with an accusation.

(a)(1) The department shall notify the licensee, upon service of an order of temporary license suspension, of the licensee's right to an interim hearing on the order. The department shall also provide the licensee with a form and appropriate information for the licensee's use in

requesting an interim hearing. The department shall also notify the licensee, upon service, of the licensee's independent right to seek review of the order by the superior court pursuant to Section 1085 of the Code of Civil Procedure.

(2)(A) The licensee may request an interim hearing by mailing or delivering a written request to the Office of Administrative Hearings. The licensee shall mail or deliver the request to the address or location specified on the request form served with the order. The licensee shall mail or deliver the request within five days after service of the order. Upon receipt of a timely request for an interim hearing, the Office of Administrative Hearings shall set a hearing date and time which shall be within 10 working days of the office's receipt of the request. The Office of Administrative Hearings shall promptly notify the licensee of the date, time, and place of the hearing. The licensee's request for an interim hearing shall not stay the operation of the order.

(B) Nothing in this section precludes a licensee from proceeding directly to a full evidentiary hearing or from seeking review of the temporary suspension order by the superior court without first requesting an interim hearing. Nothing in this section requires resolution of the interim hearing prior to review of the temporary suspension order by the superior court. The relief that may be ordered is a stay of the temporary suspension order.

(3)(A) An interim hearing shall be held before an administrative law judge of the Office of Administrative Hearings. The interim hearing shall be held at the regional office of the Office of Administrative Hearings having jurisdiction over the location of the facility.

(B) For purposes of the interim hearing conducted pursuant to this section, the licensee and department shall, at a minimum, have the following rights:

(i) To be represented by counsel.

(ii) To have a record made of the proceedings, copies of which may be obtained by the licensee upon payment of reasonable charges associated with the record.

(iii) To present written evidence in the form of relevant declarations, affidavits, and documents. No later than five working days prior to the interim hearing, the department and the respondent shall serve the opposing party, by overnight delivery or facsimile transmission, with any additional available pertinent discovery that the department or respondent will present at the hearing and that was not provided to the licensee at the time the temporary suspension order was issued. The additional discovery shall include, but not be limited to, affidavits, declarations, and the names of witnesses who will testify at the full evidentiary hearing. The department and the respondent shall have a continuing obligation to exchange discovery as described in this section, up to and including the day of the interim hearing. There shall be no oral testimony at the interim hearing.

(iv) In lieu of an affidavit by an alleged victim named in the accusation, the department and the respondent shall be permitted, at the discretion of the administrative law judge, to introduce at the interim hearing hearsay evidence as to any statement made by the alleged victim as if the alleged victim executed an affidavit. In deciding whether the hearsay statement should be admitted as evidence in the interim hearing, the administrative law judge shall consider the circumstances that would indicate the trustworthiness of the statement.

(v) To present oral argument.

(C) Consistent with the standards of proof applicable to a preliminary injunction entered under Section 527 of the Code of Civil Procedure, the administrative law judge shall vacate the temporary suspension order where, in the exercise of discretion, the administrative law judge concludes both of the following:

(i) There is a reasonable probability that the licensee will prevail in the underlying action.

(ii) The likelihood of physical or mental abuse, abandonment, or other substantial threat to the health or safety of residents or clients in not sustaining the order does not outweigh the likelihood of injury to the licensee in sustaining the order.

(D) The interim hearing shall be reported or recorded pursuant to subdivision (d) of Section 11512 of the Government Code.

(4) The administrative law judge shall issue a verbal interim decision at the conclusion of the interim hearing which sustains or vacates the order. The administrative law judge shall issue a written interim decision within five working days following the conclusion of the interim hearing. The written interim decision shall include findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

(5) The interim decision shall be subject to review only pursuant to Section 1094.5 of the Code of Civil Procedure. The department or the licensee may file a petition for that review. A petition for review under Section 1094.5 of the Code of Civil Procedure shall be heard by the court within 10 days of its filing and the court shall issue its judgment on the petition within 10 days of the conclusion of the hearing.

(6) The department may proceed with the accusation as otherwise provided by this section and Section 1551 notwithstanding an interim decision by the administrative law judge that vacates the order of temporary license suspension.

(b) Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for a full evidentiary hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the merits, unless it is earlier vacated by interim decision of the administrative law judge or a superior court judge. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

§ 1551. License, registration, special permit, or Administrator Certificate; suspension, revocation, or denial proceedings; law governing; standard of proof; hearings; continuances

(a) Proceedings for the suspension, revocation, or denial of a license, registration, special permit, or any administrator certificate under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by those provisions. In the event of conflict between this chapter and the Government Code, the Government Code shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) If the license is not temporarily suspended pursuant to Section 1550, the hearing shall be held within 90 calendar days after receipt of the notice of defense, unless a continuance of the hearing is granted by the department or the administrative law judge. When the matter has been set for hearing only the administrative law judge may grant a continuance of the hearing. The administrative law judge may, but need not, grant a continuance of the hearing only upon finding the existence of one or more of the following:

(1) The death or incapacitating illness of a party, a representative or attorney of a party, a witness to an essential fact, or of the parent, child, or member of the household of such

person, when it is not feasible to substitute another representative, attorney, or witness because of the proximity of the hearing date.

(2) Lack of notice of hearing as provided in Section 11509 of the Government Code.

(3) A material change in the status of the case where a change in the parties or pleadings requires postponement, or an executed settlement or stipulated findings of fact obviate the need for hearing. A partial amendment of the pleadings shall not be good cause for continuance to the extent that the unamended portion of the pleadings is ready to be heard.

(4) A stipulation for continuance signed by all parties or their authorized representatives, including, but not limited to, a representative, which is communicated with the request for continuance to the administrative law judge no later than 25 business days before the hearing.

(5) The substitution of the representative or attorney of a party upon showing that the substitution is required.

(6) The unavailability of a party, representative, or attorney of a party, or witness to an essential fact due to a conflicting and required appearance in a judicial matter if when the hearing date was set, the person did not know and could neither anticipate nor at any time avoid the conflict, and the conflict with request for continuance is immediately communicated to the administrative law judge.

(7) The unavailability of a party, a representative or attorney of a party, or a material witness due to an unavoidable emergency.

(8) Failure by a party to comply with a timely discovery request if the continuance request is made by the party who requested the discovery.

§ 1551.1. Hearing; testimony of child or similarly vulnerable witness outside the presence of the respondent; conditions; closed circuit television; clearing of hearing room

(a) The administrative law judge conducting a hearing under this article may permit the testimony of a child witness, or a similarly vulnerable witness, including a witness who is developmentally disabled, to be taken outside the presence of the respondent or respondents if all of the following conditions exist:

(1) The administrative law judge determines that taking the witness's testimony outside the presence of the respondent or respondents is necessary to ensure truthful testimony.

(2) The witness is likely to be intimidated by the presence of the respondent or respondents.

(3) The witness is afraid to testify in front of the respondent or respondents.

(b) If the testimony of the witness is taken outside of the presence of the respondent or respondents, the department shall provide for the use of one-way closed-circuit television so the respondent or respondents can observe the testimony of the witness. Nothing in this section shall limit a respondent's right of cross-examination.

(c) The administrative law judge conducting a hearing under this section may clear the hearing room of any persons who are not a party to the action in order to protect any witness from intimidation or other harm, taking into account the rights of all persons.

§ 1551.2. Witnesses under age of 12; hearsay testimony

(a)(1) An out-of-court statement made by a minor under 12 years of age who is the subject or victim of an allegation at issue is admissible evidence at an administrative hearing

conducted pursuant to this article. The out-of-court statement may be used to support a finding of fact unless an objection is timely made and the objecting party establishes that the statement is unreliable because it was the product of fraud, deceit, or undue influence. However, the out-of-court statement may not be the sole basis for the finding of fact, unless the adjudicator finds that the time, content, and circumstances of the statement provide sufficient indicia of reliability.

(2) The proponent of the statement shall give reasonable notice to all parties of the intended introduction of the statement at the hearing.

(3) For purposes of this subdivision, an objection is timely if it identifies with reasonable specificity the disputed out-of-court statement and it gives the proponent of the evidence a reasonable period of time to prepare a response to the objection prior to the hearing.

(b) This section shall not be construed to limit the right of any party to the administrative hearing to subpoena a witness whose statement is admitted as evidence or to introduce admissible evidence relevant to the weight of the hearsay evidence or the credibility of the hearsay declarant.

§ 1551.5. Witness fees and mileage; payment of expenses

Notwithstanding Section 11510 of the Government Code, witnesses subpoenaed at the request of the department for a hearing conducted pursuant to this article who attend a hearing may be paid by the department witness fees and mileage as provided by Section 68093 of the Government Code. In addition, the department may pay actual, necessary, and reasonable expenses in an amount not to exceed the per diem allowance payable to a nonrepresented state employee on travel status. The department may pay witness expenses pursuant to this section in advance of the hearing.

§ 1553. Withdrawal of application; disciplinary actions following suspension, expiration or forfeiture

The withdrawal of an application for a license or a special permit after it has been filed with the state department shall not, unless the state department consents in writing to such withdrawal, deprive the state department of its authority to institute or continue a proceeding against the applicant for the denial of the license or a special permit upon any ground provided by law or to enter an order denying the license or special permit upon any such ground.

The suspension, expiration, or forfeiture by operation of law of a license or a special permit issued by the state department, or its suspension, forfeiture, or cancellation by order of the state department or by order of a court of law, or its surrender without the written consent of the state department, shall not deprive the state department of its authority to institute or continue a disciplinary proceeding against the licensee or holder of a special permit upon any ground provided by law or to enter an order suspending or revoking the license or special permit or otherwise taking disciplinary action against the licensee or holder of a special permit on any such ground.

§ 1554. Reinstatement of revoked license, registration, or special permit

Any license, registration, or special permit suspended pursuant to this chapter, and any special permit revoked pursuant to this chapter, may be reinstated pursuant to the provisions

of Section 11522 of the Government Code.

§ 1555. Written notice to local social services director and county probation officer

Whenever a license, registration, or special permit issued under this chapter for a community care facility is suspended, revoked, temporarily suspended, forfeited, canceled, or expires, the department shall provide written notice of that occurrence within 10 days to the local director of social services and the probation officer of the county in which the community care facility is located.

§ 1556. Community care facilities; temporary suspension of licenses; transfer of residents or clients

(a) If the director determines that it is necessary to temporarily suspend any license or special permit of a community care facility in order to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall make every effort to minimize transfer trauma for the residents or clients.

(b) The department shall contact any local agency that may have placement or advocacy responsibility for the residents or clients of a facility after a decision is made to temporarily suspend the license or special permit of the facility and prior to its implementation. The department shall work with these agencies to locate alternative placement sites and to contact relatives responsible for the care of these clients or residents.

(c) In any case where the department alleges that a client or resident has a health condition or health conditions which cannot be cared for within the limits of the license or special permit, or requires inpatient care in a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), the department shall do all of the following:

(1) Consult with physicians and surgeons about when the client or resident should be removed from the facility and how transfer trauma can be minimized.

(2) If the department temporarily suspends the license or special permit of a facility, use physicians and surgeons or other medical personnel deemed appropriate by the department to provide onsite evaluation of the clients or residents.

(3) If the department does not suspend the license or special permit of a facility, order the licensee to remove only those clients or residents who have health conditions which cannot be cared for within the limits of the license or special permit or require inpatient care in a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), as determined by the department, if the department determines that other clients or residents are not in physical danger.

(d) In any case where the department orders the licensee, or holder of a special permit, to remove a client or resident who has a health condition or health conditions which cannot be cared for within the limits of the license or special permit or requires inpatient care in a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), the licensee or holder of a special permit shall do all of the following:

(1) Prepare and submit to the department a written plan for relocation of the client or resident, in a form acceptable to the department.

(2) Comply with all terms and conditions of the approved relocation plan.

(3) Provide any other information as may be required by the department for the proper

administration and enforcement of this section.

§ 1557. Repealed by Stats.2004, c.193 (S.B.111), section 73

§ 1557.5. Records of licensed facilities

Each facility required to be licensed shall keep a current record of all of the following:

(a) Clients in the facility, including each client's name and ambulatory status.

(b) The name, address, and telephone number of each client's physician.

(c) The name, address, and telephone number of any person or agency responsible for the care of a client.

The facility shall respect the privacy and confidentiality of this information.

ARTICLE 5.5 Employee Actions

§ 1558. Persons prohibited from employment; dismissal or removal; appeal

(a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

(2) Engaged in conduct that is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1522.

(4) Engaged in any other conduct that would constitute a basis for disciplining a licensee.

(5) Engaged in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department’s action shall be final.

(c)(1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of

directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order of immediate exclusion upon the excluded person that shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense pursuant to Section 11506 of the Government Code by the excluded person to conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a written appeal with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section *** . The department may enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or prohibiting the excluded person's employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1550.

(h)(1)(A) In cases where the excluded person appealed the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2)(A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the

person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

§ 1558.1 Exclusion of certain persons from licensed facilities

(a)(1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the

department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1558 or any other law.

(e) The department may determine not to exclude the person from, or remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances and conditions that either have been corrected or are no longer in existence.

ARTICLE 5.7 Out-of-Home Placement Pilot Program

§ 1559.110. Transitional housing placement programs; licensing; services; exemptions; regulations

(a) Except as provided in subdivision (e), the State Department of Social Services shall license community care facilities participating in transitional housing placement programs, as designated in Sections 11400 and 16522 of the Welfare and Institutions Code.

(b) Transitional housing placement programs shall provide supervised housing services to persons who are at least 16 years of age and not more than 18 years of age, except as provided in Section 11403 of the Welfare and Institutions Code, and who meet all of the following conditions:

(1) Meet the requirements of Section 11401 of the Welfare and Institutions Code.

(2) Are in out-of-home placement under the supervision of the county department of social services or the county probation department.

(3) Are participating in, or have successfully completed, an independent living program.

(c) A transitional housing placement program may also serve any person less than 21 years of age pursuant to paragraph (2) of subdivision (a) of Section 11403.2 of the Welfare and Institutions Code.

(d) Transitional housing placement program services shall include any of the following:

(1) Programs in which one or more participants in the program live in an apartment, single family dwelling, or condominium with an adult employee of the provider.

(2) Programs in which a participant lives independently in an apartment, single family dwelling, or condominium rented or leased by the provider located in a building in which one or more adult employees of the provider reside and provide supervision.

(3) Programs in which a participant lives independently in an apartment, single family

dwelling or condominium rented or leased by a provider under the supervision of the provider if the State Department of Social Services provides approval.

(e) A transitional housing placement facility that serves only youth over 18 years of age who have emancipated from the foster care system shall not be subject to subdivision (a), provided the facility has been certified to provide transitional housing services by the appropriate county social services or probation department , and has obtained a local fire clearance. No later than June 30, 2002, the department shall establish certification standards and procedures in consultation with the County Welfare Directors Association, the California Youth Connection, the county probation departments, and provider representatives. The certification standards shall include, but not be limited to, a criminal background check of transitional housing providers and staff.

(f)(1) The department shall adopt regulations to govern transitional housing placement facilities licensed pursuant to this section.

(2) The regulations shall be age-appropriate and recognize that youth who are about to emancipate from the foster care system should be subject to fewer restrictions than those who are younger. At a minimum, the regulations shall provide for both of the following:

(A) Require programs that serve youth who are both in and out of the foster care system to have separate rules and program design, as appropriate, for these two groups of youth.

(B) Allow youth who have emancipated from the foster care system to have the greatest amount of freedom possible in order to prepare them for self-sufficiency.

§ 1559.115. License: Issuance

No applicant shall be issued a license pursuant to this article unless the county department of social services or the county probation department, in the county where the license will be issued, has certified the program as described in Section 16522.1 of the Welfare and Institutions Code.

ARTICLE 6. Other Provisions

§ 1560. Bond

(a) The director shall require as a condition precedent to the issuance of any license or special permit for a community care facility, if the licensee or holder of a special permit handles or will handle any money of a person within the community care facility, that the applicant for the license or special permit file or have on file with the state department a bond issued by a surety company admitted to do business in this state in a sum to be fixed by the state department based upon the magnitude of the operations of the applicant, but which sum shall not be less than one thousand dollars ($ 1,000), running to the State of California and conditioned upon his or her faithful and honest handling of the money of persons within the facility.

(b) The failure of any licensee under this chapter to maintain on file with the state department a bond in the amount prescribed by the director or who embezzles the trust funds of a person in the facility shall constitute cause for the revocation of the license.

(c) The provisions of this section shall not apply if the licensee meets both of the following requirements:

(1) The licensee operates a community care facility which is licensed to care for children

including, but not limited to, a foster family home.

(2) The licensee handles moneys of persons within the community care facility in amounts less than fifty dollars ($ 50) per person and less than five hundred dollars ($ 500) for all persons in any month.

§ 1561. Variance from bonding requirements

The director may grant a partial or total variance from the bonding requirements of Section 1560 for any community care facility if he finds that compliance with them is so onerous that a community care facility will cease to operate, and if he also finds that money of the persons received or cared for in the community care facility has been, or will be, deposited in a bank in this state, in a trust company authorized to transact a trust business in this state, or in a savings and loan association in this state, upon condition that such money may not be withdrawn except on authorization of the guardian or conservator of such person.

§ 1562. Training of operators and staff

The director shall ensure that operators and staffs of community care facilities have appropriate training to provide the care and services for which a license or certificate is issued. The section shall not apply to a facility licensed as an Adult Residential Facility for Persons with Special Health Care Needs pursuant to Article 9 (commencing with Section 1567.50).

§ 1562.3. Adult residential facilities; operator and staff training programs; administrator certification; penalties; registry of certificate holders

(a) The Director of Social Services, in consultation with the Director of Mental Health and the State Director of Developmental Services, shall establish a training program to ensure that licensees, operators, and staffs of adult residential facilities, as defined in paragraph (1) of subdivision (a) of Section 1502, have appropriate training to provide the care and services for which a license or certificate is issued. The training program shall be developed in consultation with provider organizations.

(b)(1) An administrator of an adult residential care facility, as defined in paragraph (1) of subdivision (a) of Section 1502, shall successfully complete a department approved certification program pursuant to subdivision (c) prior to employment.

(2) In those cases where the individual is both the licensee and the administrator of a facility, the individual shall comply with both the licensee and administrator requirements of this section.

(3) Failure to comply with this section shall constitute cause for revocation of the license of the facility.

(4) The licensee shall notify the department within 30 days of any change in administrators.

(c)(1) The administrator certification program shall require a minimum of 35 hours of classroom instruction that provides training on a uniform core of knowledge in each of the following areas:

(A) Laws, regulations, and policies and procedural standards that impact the operations of the type of facility for which the applicant will be an administrator.

(B) Business operations.

(C) Management and supervision of staff.
(D) Psychosocial needs of the facility residents.
(E) Community and support services.
(F) Physical needs for facility residents.
(G) Use, misuse, and interaction of medication commonly used by facility residents.
(H) Resident admission, retention, and assessment procedures.
(I) Nonviolent crisis intervention for administrators.

(2) The requirement for 35 hours of classroom instruction pursuant to this subdivision shall not apply to persons who were employed as administrators prior to July 1, 1996. A person holding the position of administrator of an adult residential facility on June 30, 1996, shall file a completed application for certification with the department on or before April 1, 1998. In order to be exempt from the 35-hour training program and the test component, the application shall include documentation showing proof of continuous employment as the administrator of an adult residential facility between, at a minimum, June 30, 1994, and June 30, 1996. An administrator of an adult residential facility who became certified as a result of passing the department-administered challenge test, that was offered between October 1, 1996, and December 23, 1996, shall be deemed to have fulfilled the requirements of this paragraph.

(3) Unless an extension is granted to the applicant by the department, an applicant for an administrator's certificate shall, within 60 days of the applicant's completion of classroom instruction, pass the written test provided in this section.

(d) The department shall not begin the process of issuing a certificate until receipt of all of the following:

(1) A certificate of completion of the administrator training required pursuant to this chapter.

(2) The fee required for issuance of the certificate. A fee of one hundred dollars ($100) shall be charged by the department to cover the costs of processing the application for certification.

(3) Documentation from the applicant that he or she has passed the written test.

(4) Submission of fingerprints. The department and the Department of Justice shall expedite the criminal record clearance for holders of certificates of completion. The department may waive the submission for those persons who have a current clearance on file.

(e) It shall be unlawful for any person not certified under this section to hold himself or herself out as a certified administrator of an adult residential facility. Any person willfully making any false representation as being a certified administrator is guilty of a misdemeanor.

(f)(1) Certificates issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 hours of continuing education related to the core of knowledge specified in subdivision (c). <u>No more than one-half of the required 40 hours of continuing education necessary to renew the certificate may be satisfied through online courses. All other continuing education hours shall be completed in a classroom setting.</u> For purposes of this section, an individual who is an adult residential facility administrator and who is required to complete the continuing education hours required by the regulations of the State Department of Developmental Services, and approved by the regional center, shall be permitted to have up to 24 of the required continuing education course hours credited toward the 40-hour continuing education requirement of this section. Community college course hours approved by the regional centers shall be accepted by the department for certification.

(2) Every licensee and administrator of an adult residential facility is required to complete the continuing education requirements of this subdivision.

(3) Certificates issued under this section shall expire every two years, on the anniversary date of the initial issuance of the certificate, except that any administrator receiving his or her initial certification on or after January 1, 1999, shall make an irrevocable election to have his or her recertification date for any subsequent recertification either on the date two years from the date of issuance of the certificate or on the individual's birthday during the second calendar year following certification. The department shall send a renewal notice to the certificate holder 90 days prior to the expiration date of the certificate. If the certificate is not renewed prior to its expiration date, reinstatement shall only be permitted after the certificate holder has paid a delinquency fee equal to three times the renewal fee and has provided evidence of completion of the continuing education required.

(4) To renew a certificate, the certificate holder shall, on or before the certificate expiration date, request renewal by submitting to the department documentation of completion of the required continuing education courses and pay the renewal fee of one hundred dollars ($100), irrespective of receipt of the department's notification of the renewal. A renewal request postmarked on or before the expiration of the certificate is proof of compliance with this paragraph.

(5) A suspended or revoked certificate is subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall submit proof of compliance with paragraphs (1) and (2) of subdivision (f) and shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension. Delinquency fees, if any, accrued subsequent to the time of its revocation or suspension and prior to an order for reinstatement, shall be waived for one year to allow the individual sufficient time to complete the required continuing education units and to submit the required documentation. Individuals whose certificates will expire within 90 days after the order for reinstatement may be granted a three-month extension to renew their certificates during which time the delinquency fees shall not accrue.

(6) A certificate that is not renewed within four years after its expiration shall not be renewed, restored, reissued, or reinstated except upon completion of a certification training program, passing any test that may be required of an applicant for a new certificate at that time, and paying the appropriate fees provided for in this section.

(7) A fee of twenty-five dollars ($25) shall be charged for the reissuance of a lost certificate.

(8) A certificate holder shall inform the department of his or her employment status within 30 days of any change.

(g) The certificate shall be considered forfeited under the following conditions:

(1) The administrator has had a license revoked, suspended, or denied as authorized under Section 1550.

(2) The administrator has been denied employment, residence, or presence in a facility based on action resulting from an administrative hearing pursuant to Section 1522 or Section 1558.

(h)(1) The department, in consultation with the State Department of Mental Health and the State Department of Developmental Services, shall establish, by regulation, the program content, the testing instrument, the process for approving certification training programs, and criteria to be used in authorizing individuals, organizations, or educational institutions to

conduct certification training programs and continuing education courses. These regulations shall be developed in consultation with provider organizations, and shall be made available at least six months prior to the deadline required for certification. The department may deny vendor approval to any agency or person in any of the following circumstances:

(A) The applicant has not provided the department with evidence satisfactory to the department of the ability of the applicant to satisfy the requirements of vendorization set out in the regulations adopted by the department pursuant to subdivision (i).

(B) The applicant person or agency has a conflict of interest in that the person or agency places its clients in adult residential facilities.

(C) The applicant public or private agency has a conflict of interest in that the agency is mandated to place clients in adult residential facilities and to pay directly for the services. The department may deny vendorization to this type of agency only as long as there are other vendor programs available to conduct the certification training programs and conduct education courses.

(2) The department may authorize vendors to conduct the administrator's certification training program pursuant to provisions set forth in this section. The department shall conduct the written test pursuant to regulations adopted by the department.

(3) The department shall prepare and maintain an updated list of approved training vendors.

(4) The department may inspect certification training programs and continuing education courses, <u>including online courses, at no charge to the department</u>, to determine if content and teaching methods comply with regulations. If the department determines that any vendor is not complying with the intent of this section, the department shall take appropriate action to bring the program into compliance, which may include removing the vendor from the approved list.

(5) The department shall establish reasonable procedures and timeframes not to exceed 30 days for the approval of vendor training programs.

(6) The department may charge a reasonable fee, not to exceed one hundred fifty dollars ($150) every two years to certification program vendors for review and approval of the initial 35-hour training program pursuant to subdivision (c). The department may also charge the vendor a fee not to exceed one hundred dollars ($100) every two years for the review and approval of the continuing education courses needed for recertification pursuant to this subdivision.

<u>(7)(A) A vendor of online programs for continuing education shall ensure that each online course contains all of the following:</u>

<u>(i) An interactive portion in which the participant receives feedback, through online communication, based on input from the participant.</u>

<u>(ii) Required use of a personal identification number or personal identification information to confirm the identity of the participant.</u>

<u>(iii) A final screen displaying a printable statement, to be signed by the participant, certifying that the identified participant completed the course. The vendor shall obtain a copy of the final screen statement with the original signature of the participant prior to the issuance of a certificate of completion. The signed statement of completion shall be maintained by the vendor for a period of three years and be available to the department upon demand. Any person who certifies as true any material matter pursuant to this clause that he or she knows to be false is guilty of a misdemeanor.</u>

<u>(B) Nothing in this subdivision shall prohibit the department from approving online programs for continuing education that do not meet the requirements of subparagraph (A) if</u>

the vendor demonstrates to the department's satisfaction that, through advanced technology, the course and the course delivery meet the requirements of this section.

(i) This section shall be operative upon regulations being adopted by the department, no later than July 1, 1996, to implement the administrator certification program as provided for in this section. If regulations are not adopted by the department, or are adopted after July 1, 1996, this section shall not become operative.

(j) The department shall establish a registry for holders of certificates that shall include, at a minimum, information on employment status and criminal record clearance.

§ 1562.35. Department as sole regulatory authority

Notwithstanding any provision of law to the contrary, including, but not limited to Section 1562.3, vendors approved by the department who exclusively provide either initial or continuing education courses for certification of administrators of an adult residential facility as defined by regulations of the department, a group home facility as defined by regulations of the department, or a residential care facility for the elderly as defined in subdivision (k) of Section 1569.2, shall be regulated solely by the department pursuant to this chapter. No other state or local governmental entity shall be responsible for regulating the activity of those vendors.

§ 1562.4. Adult residential facilities; administrators; qualifications

Any person who becomes an administrator of an adult residential facility, as defined in paragraph (1) of subdivision (a) of Section 1502, on or after July 1, 1996, shall, at a minimum, fulfill all of the following requirements:

(a) Be at least 21 years of age.

(b) Provide documentation of having successfully completed a certification program approved by the department and successfully passing the state examination.

(c) Have a high school diploma or pass a general educational development test as described in Article 3 (commencing with Section 51420) of Chapter 3 of Part 28 of the Education Code.

(d) Obtain a criminal record clearance as provided for in Sections 1522 and 1522.03.

§ 1562.5. Human immunodeficiency virus (HIV) and tuberculosis training for administrator of adult residential facility and program director of social rehabilitation facility

(a) The director shall ensure that within six months of obtaining licensure, an administrator of an adult residential facility and a program director of a social rehabilitation facility shall receive four hours of training on the needs of residents who may be infected with the human immunodeficiency virus (HIV), and on basic information about tuberculosis. Administrators and program directors shall attend update trainings every two years after satisfactorily completing the initial training to ensure that information received on HIV and tuberculosis remains current. The training shall consist of three hours on HIV and one hour on tuberculosis.

(b) The training shall consist of all of the following:

(1) Universal blood and body fluid precautions.

(2) Basic AIDS and HIV information, including modes of transmission.

(3) Legal protections for persons with HIV or AIDS.

(4) Referral information to local government, community-based, and other organizations that provide social, support or health services and social services to people with HIV or AIDS.

(5) Information about the residential care needs of people living with HIV or AIDS, including nutritional needs.

(6) Recognition of the signs and symptoms of tuberculosis.

(7) Tuberculosis testing requirements for staff, volunteers, and residents.

(8) Tuberculosis prevention.

(9) Tuberculosis treatment.

(c) The department shall ensure compliance with this section. In the event of noncompliance, the director shall develop and implement a plan of correction requiring that the training take place within six months of the violation.

(d) All administrators of adult residential and program directors of social rehabilitation facilities licensed on or before January 1, 1994, shall complete the training by December 31, 1994, and every two years thereafter. Newly employed administrators and program directors shall complete training within six months of commencing employment.

(e) Eligible providers of training and study courses shall be limited to any of the following:

(1) County and city health departments.

(2) American Lung Association affiliates.

(3) Any agency with a contract to provide HIV, AIDS, or tuberculosis education with either the State Department of Health Services, or the federal Centers for Disease Control.

(4) The California Association of AIDS Agencies.

(5) Any providers approved by the State Department of Social Services for training of personnel employed in residential care facilities for the elderly, adult residential facilities, or residential care facilities for the chronically ill.

(f) Providers shall use HIV, AIDS, and tuberculosis materials produced, approved, or distributed by any of the following:

(1) The federal Centers for Disease Control.

(2) The American Lung Association.

(3) The University of California.

(4) The California Association of AIDS Agencies.

(5) The California AIDS Clearinghouse.

(6) County and city health departments.

(g) In the event that an administrator or program director demonstrates to the department a significant difficulty accessing training, the administrators and program directors of these facilities shall have the option of fulfilling these training requirements through a study course consisting of written and/or video educational materials.

(h) Successful completion of the training or study course by administrators and program directors and the biannual update described in this section shall be verified with the department during the annual review of the facility pursuant to subdivision (a) of Section 1534. Trained administrators and program directors shall disseminate the HIV, AIDS, and tuberculosis materials to facility personnel.

§ 1562.6. Mentally ill residents; intake assessment; state inspections of facilities; compliance reports

(a) The administrator of an adult residential care facility that provides services for residents who have mental illness shall ensure that a written intake assessment is prepared by a licensed mental health professional prior to acceptance of the client. This assessment may be provided by a student intern if the work is supervised by a properly licensed mental health professional. Facility administrators may utilize placement agencies, including, but not limited to, county clinics for referrals and assessments.

(b) Within 30 days after an inspection of an adult residential care facility the State Department of Social Services shall provide the licensee with a copy of the licensing report verifying compliance or noncompliance by the facility with applicable licensing provisions. This report shall not include confidential client information, and copies of reports within the last 24 months shall be provided by the facility to the public upon request.

§ 1563. Training of licensing personnel

(a) The director shall ensure that licensing personnel at the department have appropriate training to properly carry out this chapter.

(b) The director shall institute a staff development and training program to develop among departmental staff the knowledge and understanding necessary to successfully carry out this chapter. Specifically, the program shall do all of the following:

(1) Provide staff with 36 hours of training per year that reflects the needs of persons served by community care facilities. This training shall, where appropriate, include specialized instruction in the needs of foster children, persons with mental disorders, or developmental or physical disabilities, or other groups served by specialized community care facilities.

(2) Give priority to applications for employment from persons with experience as care providers to persons served by community care facilities.

(3) Provide new staff with comprehensive training within the first six months of employment. This comprehensive training shall, at a minimum, include the following core areas: administrative action process, client populations, conducting facility visits, cultural awareness, documentation skills, facility operations, human relation skills, interviewing techniques, investigation processes, and regulation administration.

(c) In addition to the requirements in subdivision (b), group home and foster family agency licensing personnel shall receive a minimum of 24 hours of training per year to increase their understanding of children in group homes, certified homes, and foster family homes. The training shall cover, but not be limited to, all of the following topics:

(1) The types and characteristics of emotionally troubled children.

(2) The high-risk behaviors they exhibit.

(3) The biological, psychological, interpersonal, and social contributors to these behaviors.

(4) The range of management and treatment interventions utilized for these children, including, but not limited to, nonviolent, emergency intervention techniques.

(5) The right of a foster child to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability or HIV status.

§ 1564. Residence in facility within one mile of elementary school by person

convicted of sex offense against minor prohibited

(a) No individual who has ever been convicted of a sex offense against a minor shall reside in a community care facility that is within one mile of an elementary school.

(b) Any community care facility which is located within one mile of an elementary school shall obtain from each individual who is a resident of the facility on the effective date of this section a signed statement that the resident or applicant for residence has never been convicted of a sex offense against a minor.

(c) If on January 1, 1983, a person who has been convicted of a sex offense against a minor is residing in a community care facility that is within one mile of a school, the operator shall notify the appropriate placement agency. Continued residence in the facility shall extend no longer than six months.

(d) Prior to placement in a community care facility which is located within one mile of an elementary school, the placement agency shall obtain, from the client to be placed, a signed statement that he or she has never been convicted of a sex offense against a minor. Any placement agent who knowingly places a person who has been convicted of a sex offense against a minor in a facility which is located within one mile of an elementary school shall be guilty of a misdemeanor.

Where there is no placement agency involved, the community care facility shall obtain from any applicant a signed statement that he or she has never been convicted of a sex offense against a minor.

(e) Any resident or applicant for residence who makes a false statement as to a conviction for a prior sex offense against a minor is guilty of a misdemeanor.

(f) For purposes of this section, "sex offense" means any one or more of the following offenses:

(1) Any offense defined in Section 220, 261, 261.5, 266, 266e, 266f, 266i, 266j, 267, 273f as it pertains to houses of prostitution, 273g, 285, 286, 288, 288a, 289, 290, 311, 311.2, 311.4, 313.1, 318, subdivision (a) or (d) of Section 647, 647a, 650 1/2 as it relates to lewd or lascivious behavior, 653f, or 653m of the Penal Code.

(2) Any offense defined in subdivision (5) of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in subdivision (2) of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961, if the offense defined in such sections was committed prior to September 15, 1961.

(3) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(4) Any offense defined in subdivision (1) of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.

(5) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(6) Any offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961, if such offense was committed prior to September 15, 1961.

(7) Any offense defined in Section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975-76 Regular Session of the Legislature committed prior to the effective date of the amendment.

(8) Any attempt or conspiracy to commit any of the above-mentioned offenses.

(9) Any federal sex offense or any sex offense committed or attempted in any other state which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses.

(g) This section shall not apply to residential care facilities for the elderly or to any person receiving community supervision and treatment pursuant to Title 15 (commencing with Section 1600) of Part 2 of the Penal Code.

§ 1565. Task Force on Accreditation of Services for Children

(a) The Health and Welfare Agency shall establish the Task Force on Accreditation of Services for Children and shall convene a meeting of that body on or before January 1, 1993.

(b) Membership of the Task Force on Accreditation of Services for Children shall include, but not be limited to, all of the following:

(1) Two providers of residential services for children.

(2) Representatives from the California Association of Children's Homes, California Association of Private Specialized Education and Services, the California Association of Services for Children, the California Probation Parole and Correctional Officers Association, the County Mental Health Directors Association, and the County Welfare Directors Association.

(3) Representatives from the State Department of Social Services, the State Department of Mental Health, the Youth Authority, the State Department of Developmental Services, and the State Department of Education.

(4) Two representatives from university research schools with expertise in children's services, specifically standards of care.

(5) One representative with experience in the accreditation of agencies servicing children.

(6) Two legislative representatives of policy committees dealing with social service issues pertaining to children.

(c) The goals of the task force shall be the development of a plan for voluntary accreditation of all facilities for children in out-of-home care, including group homes, foster family agencies, foster family homes, and community treatment facilities, in order to encourage the maximum quality of residential services for children.

(d) It is the intent of the Legislature that accreditation be voluntary and differ from, but complement, community care licensing that is a governmental activity focused upon the enforcement of minimum standards for health and safety.

(e) The task force may consult with additional persons, advisory entities, and governmental agencies, as the task force determines necessary.

(f) Members of the task force shall not receive any compensation related to their service on the task force that goes above or beyond any compensation that they may already receive from other public or private sources.

(g) The plan shall include, but not be limited to, all of the following:

(1) Proof that the development of standards for accreditation have been written with the participation of a diverse group of service providers, advocacy organizations, and placement agency personnel.

(2) A draft of accreditation standards that are comprehensive and detailed, concerned with optimal achievement rather than minimal quality, and that provide for continuing and objective evaluation of services through a process that allows for self-appraisal and self-education.

(3) A recommended schedule for implementation of accreditation of a percentage of residential facilities for children in every county, and a fiscal incentive strategy for programs that become accredited.

(4) Proposed financial incentive plan for county welfare departments to participate in and encourage accreditation activities, including, but not limited to, a reduction in county administrative oversight responsibilities.

(5) Recommendations on what type of organization or entity should be responsible for carrying out the accreditation functions.

(6) A recommended fee schedule for the support of voluntary accreditation activities.

(7) A proposed method of providing an initial orientation and ongoing technical assistance to enable and support those desiring accreditation to become accredited.

(8) Recommendations for encouraging minority involvement in accreditation activities, including outreach and technical assistance targeted to agencies that are culturally and ethnically sensitive to the population served, as determined by the task force.

(h) The Legislature finds and declares that the necessary expertise for development of an accreditation plan is most available through peers and colleagues. Therefore, it is the intent of the Legislature that the accreditation plan may be developed by utilizing private or public resources, and may be funded through revenues generated by private fees, public or private grants, or public funds provided by federal, state, county, or other governmental entities.

ARTICLE 7. LOCAL REGULATION

§ 1566. State policy; encouragement of residential care facilities; application of article; definition

The Legislature hereby declares that it is the policy of this state that each county and city shall permit and encourage the development of sufficient numbers and types of residential care facilities as are commensurate with local need.

The provisions of this article shall apply equally to any chartered city, general law city, county, city and county, district, and any other local public entity.

For the purposes of this article, "six or fewer persons" does not include the licensee or members of the licensee's family or persons employed as facility staff.

§ 1566.1. Enforcement of article; suit to invoke provisions

Any person licensed under the provisions of this chapter who operates, or proposes to operate a residential facility, the department or other public agency authorized to license such a facility, or any public or private agency which uses or may use the services of the facility to place its clients, may invoke the provisions of this article.

This section shall not be construed to prohibit any interested party from bringing suit to invoke the provisions of this article.

§ 1566.2. Taxes, fees, charges and assessments; residential facilities serving six or fewer persons

A residential facility, which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other family

dwellings of the same type in the same zone are not likewise subject. Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section 1566.3, local bond assessments, and other fees, charges, and assessments to which other family dwellings of the same type in the same zone are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to residential facilities which serve six or fewer persons.

For the purposes of this section, "family dwellings," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobile homes, including mobile homes located in mobile home parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

§ 1566.25. Reimbursement of county placement by county of residence

If a county of residence agrees to pay a placement county the costs of providing services to a minor pursuant to subdivision (a) of Section 740 of the Welfare and Institutions Code, all of the following shall apply:

(a) The county of residence shall agree to pay the placement county the actual costs of providing services to a child placed in a community care facility outside his or her county of residence by a placement agency, as defined in Section 1536.1, that are incurred by the probation department, social services department, health department, or mental health department of the placement county for which the placement county is not otherwise reimbursed.

(b) Claims made by the county of placement to the county of residency pursuant to subdivision (a) shall include documentation and shall be paid within 30 days of submission of these claims.

(c) For the purposes of this section, the county from where the child was placed in the community care facility shall be considered the county of residency.

§ 1566.3. Ordinances; residential facilities serving six or fewer persons considered residential use of property; residents and operators considered a family

(a) Whether or not unrelated persons are living together, a residential facility that serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of such a facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property pursuant to this article.

(b) For the purpose of all local ordinances, a residential facility that serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of minors, the aged, or the mentally infirm, foster care home, guest home, rest home, sanitarium, mental hygiene home, or other similar term which implies that the residential facility is a business run for profit or differs in any other way from a family dwelling.

(c) This section shall not be construed to prohibit any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of

signs of a residential facility which serves six or fewer persons as long as such restrictions are identical to those applied to other family dwellings of the same type in the same zone.

(d) This section shall not be construed to prohibit the application to a residential care facility of any local ordinance that deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities which serve six or fewer persons from other family dwellings of the same type in the same zone *** and if the ordinance does not distinguish residents of the residential care facilities from persons who reside in other family dwellings of the same type in the same zone. Nothing in this section shall be construed to limit the ability of a local public entity to fully enforce a local ordinance, including but not limited to, the imposition of fines and other penalties associated with violations of local ordinances covered by this section.

No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential facility which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.

Use of a family dwelling for purposes of a residential facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent such sections are applicable to residential facilities providing care for six or fewer residents.

For the purposes of this section, "family dwelling," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobile homes, including mobile homes located in mobile home parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

§ 1566.4. Failure to comply with ordinance by exempt facility; denial of clearance permit or similar authorization prohibited

No fire inspection clearance or other permit, license, clearance, or similar authorization shall be denied to a residential facility because of a failure to comply with local ordinances from which such facilities are exempt under Section 1566.3, provided that the applicant otherwise qualifies for such fire clearance, license, permit, or similar authorization.

§ 1566.45. Bedridden; defined

(a)(1) For purposes of this section, "bedridden" means either requiring assistance in turning and repositioning in bed, or being unable to independently transfer to and from bed, except in facilities with appropriate and sufficient care staff, mechanical devices if necessary, and safety precautions, as determined by the director in regulations.

(2) In developing the regulations for child residential facilities, the department shall take into consideration the size and weight of the child.

(3) For purposes of this section, the status of being bedridden shall not include having any illness that persists for 14 days or less.

(4) The determination of the bedridden status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated

representative, after consulting the resident's individual safety plan. The determination of the bedridden status of all other persons with disabilities who are not developmentally disabled shall be made by the Director of Social Services, or his or her designated representative.

(b) Bedridden persons may be admitted to, and remain in, residential facilities that secure and maintain an appropriate fire clearance. A fire clearance shall be issued to a facility in which a bedridden person resides if either of the following conditions are met:

(1) The fire safety requirements are met.

(2) Alternative methods of protection are approved.

(c)(1) The department and the Office of the State Fire Marshal, in consultation with the State Department of Developmental Services, shall each promulgate regulations that meet all of the following conditions:

(A) Are consistent with subdivision (a).

(B) Are applicable to facilities regulated under this chapter, consistent with the regulatory requirements of the California Building Standards Code for fire and life safety for the respective occupancy classifications into which the State Department of Social Services' community care licensing classifications fall.

(C) Permit residents to remain in home-like settings.

(2) At a minimum, these regulations shall do both of the following with regard to a residential care facility that provides care for six or fewer residents, at least one of whom is bedridden:

(A) Clarify the fire and life safety requirements for a fire clearance for the facility.

(B) Identify procedures for requesting the approval of alternative means of providing equivalent levels of fire and life safety protection. Either the facility, the resident or resident's representative, or local fire official may request from the Office of the State Fire Marshal a written opinion concerning the interpretation of the regulations promulgated by the State Fire Marshal pursuant to this section for a particular factual dispute. The State Fire Marshall shall issue the written opinion within 45 days following the request.

(d) For facilities that care for six or fewer clients, a local fire official shall not impose fire safety requirements stricter than the fire safety regulations promulgated for the particular type of facility by the Office of the State Fire Marshal or the local fire safety requirements imposed on any other single family dwelling, whichever is more strict.

(e) This section and any regulations promulgated thereunder shall be interpreted in a manner that provides flexibility to allow bedridden persons to avoid institutionalization and be admitted to, and safely remain in, community-based residential care facilities.

§ 1566.5. Contracts, deeds, or covenants for transfer of real property; residential facilities serving six or fewer persons considered residential use of property and use of property by family

For the purposes of any contract, deed, or covenant for the transfer of real property executed on or after January 1, 1979, a residential facility which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.

§ 1566.6. List of community care facilities; quarterly update specifying newly licensed facilities

The department shall annually prepare, with a quarterly update commencing July 1, 1979, specifying newly licensed facilities, a list or lists of all licensed community care facilities in the state, other than foster family homes, which shall include the information required by Section 1536 and shall additionally specify as to each such facility the licensed capacity of the facility and whether it is licensed by the state department or by another public agency pursuant to Section 1511. Compliance with this section shall also constitute compliance with Section 1536.

§ 1566.7. Violations and appeals; notice to placement agencies

The department shall notify affected placement agencies and the Office of the State Long-Term Care Ombudsman, as defined in subdivision (c) of Section 9701 of the Health and Safety Code, whenever the department substantiates that a violation has occurred which poses a serious threat to the health and safety of any resident when the violation results in the assessment of any penalty or causes an accusation to be filed for the revocation of a license. If the violation is appealed by the facility within 10 days, the department shall only notify placement agencies of the violation when the appeal has been exhausted. If the appeal process has not been completed within 60 days, the placement agency shall be notified with a notation which indicates that the case is still under appeal. The notice to each placement agency shall be updated monthly for the following 24-month period and shall include the name and location of the facility, the amount of the fine, the nature of the violation, the corrective action taken, the status of the revocation, and the resolution of the complaint. At any time during which a facility is found to have one or more of the following serious deficiencies, the director shall provide an immediate notice of not to exceed five working days to the placement agency:

(a) Discovery that an employee of the facility has a criminal record which would affect the facility's compliance with Section 1522.

(b) Discovery that a serious incident which resulted in physical or emotional trauma of a resident has occurred in a facility.

§ 1566.75 Memoranda of understanding between department's Community Care Licensing Division and participating local mental health departments

(a) By January 1, 2006, the department's Community Care Licensing Division shall enter into memoranda of understanding with up to 10 local mental health departments that volunteer to participate. Each memorandum of understanding shall outline a formal protocol to address shared responsibilities, monitoring responsibilities, facility closures, training, and a process for mediation of disputes between the local mental health authority and the department's local licensing office relating to adult residential facilities and social rehabilitation facilities.

(b) On or before January 31, 2006, the department shall transmit a copy of each memorandum of understanding that has been signed to the Legislature.

§ 1566.8. Mobile home parks; licensed foster family home

Notwithstanding any other provision of law, if according to the rules and regulations of a mobile home park, the park is designated as a family park or a section of a mixed mobile home

park is designated as a family section, no rule, regulation, rental agreement, or any other provision in existence on the effective date of this section shall, directly or indirectly, prohibit a person from operating in any mobile home in a family park or designated family section, a licensed foster family home.

ARTICLE 8. Community Care Facilities for Wards of the Juvenile Court

§ 1567. Legislative intent

It is the intent of the Legislature that each county be encouraged to provide, in the county, a number and variety of licensed community care facilities, as defined in Sections 1502 and 1503 of the Health and Safety Code, commensurate to the needs of minors adjudged wards of the juvenile court pursuant to Section 601 or 602 of the Welfare and Institutions Code, hereinafter in this article referred to as wards of the juvenile court, who are residents of the county.

§ 1567.1. Legislative intent; Removal of zoning restrictions

It is further the intent of the Legislature that, where city or county zoning restrictions unreasonably impair the ability of a county to serve the needs of its residents who are wards of the juvenile court, the removal of these restrictions is hereby encouraged and is a matter of high state interest.

§ 1567.2. Wards of the juvenile court defined; Encouragement of placement in county of residence

As used in this article, the term "wards of the juvenile court" shall include minors who have been found by the juvenile court to be described by Section 601 or 602 of the Welfare and Institutions Code, as well as minors who are described by Section 601 or 602 of the Welfare and Institutions Code who have been diverted from formal juvenile court proceedings. It is further the intent of the Legislature to encourage that wards of the juvenile court be placed in licensed community care facilities within their county of residence, unless an individual ward has identifiable needs requiring specialized care which cannot be provided in a local facility, or unless the needs of the individual ward dictate physical separation from his family.

§ 1567.3. Out-of-county placements; notice to probation officer

(a) No licensed community care facility may receive a ward of the juvenile court as described in Section 602 of the Welfare and Institutions Code until the probation officer of the county in which the community care facility is located has received written notice of the placement, as prescribed in Section 740 of the Welfare and Institutions Code, including the name of the ward, the juvenile record of the ward, including any known prior offenses, and the ward's county of residence, from the probation officer of the county making the placement, or in the case of a Youth Authority ward, the parole officer in charge of the case.

(b) The probation officer of a county making an out-of-county placement of a ward of the juvenile court as described in Section 602 of the Welfare and Institutions Code shall notify the probation officer of the county in which the community care facility is located within 24 hours of

receipt of the ward by the licensed community care facility. If the ward is received on a weekend or holiday, notification shall be made by the end of the next business day.

§ 1567.4. Roster; furnishing quarterly to counties and cities

The State Department of Social Services shall provide, at cost, quarterly to each county and to each city, upon the request of the county or city, and to the chief probation officer of each county and city and county, a roster of all community care facilities licensed as small family homes or group homes located in the county, which provide services to wards of the juvenile court, including information as to whether each facility is licensed by the state or the county, the type of facility, and the licensed bed capacity of each such facility. Information concerning the facility shall be limited to that available through the computer system of the State Department of Social Services.

§ 1567.50. Community care facility pilot project; licensing; duration of article; implementation of article

(a) Notwithstanding that a community care facility means a place that provides nonmedical care under subdivision (a) of Section 1502, pursuant to Article 3.5 (commencing with Section 4684.50) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code, the department shall jointly implement with the State Department of Developmental Services a pilot project to test the effectiveness of providing special health care and intensive support services to adults in homelike community settings.

(b) The State Department of Social Services may license, subject to the following conditions, an Adult Residential Facility for Persons with Special Health Care Needs to provide 24-hour services to up to five adults with developmental disabilities who have special health care and intensive support needs, as defined in subdivisions (f) and (g) of Section 4684.50 of the Welfare and Institutions Code.

(1) The State Department of Developmental Services shall be responsible for granting the certificate of program approval for an Adult Residential Facility for Persons with Special Health Care Needs (ARFPSHN). The State Department of Social Services shall not issue a license unless the applicant has obtained a certification of program approval from the State Department of Developmental Services.

(2) The State Department of Social Services shall ensure that the ARFPSN meets the administration requirements under Article 2 (commencing with Section 1520) including, but not limited to, requirements relating to fingerprinting and criminal records under Section 1522.

(3) The State Department of Social Services shall administer employee actions under Article 5.5 (commencing with Section 1558).

(4) The regional center shall monitor and enforce compliance of the program and health and safety requirements, including monitoring and evaluating the quality of care and intensive support services. The State Department of Developmental Services shall ensure that the regional center performs these functions.

(5) The State Department of Developmental Services may decertify any ARFPSHN that does not comply with program requirements. When the State Department of Developmental Services determines that urgent action is necessary to protect clients of the ARFPSHN from physical or mental abuse, abandonment, or any other substantial threat to their health and safety, the State Department of Developmental Services may request the regional center or

centers to remove the clients from the ARFPSHN or direct the regional center or centers to obtain alternative services for the consumers within 24 hours.

(6) The State Department of Social Services may initiate proceedings for temporary suspension of the license pursuant to Section 1550.5.

(7) The State Department of Developmental Services, upon its decertification, shall inform the State Department of Social Services of the licensee's decertification, with its recommendation concerning revocation of the license, for which the State Department of Social Services may initiate proceedings pursuant to Section 1550.

(8) The State Department of Developmental Services and the regional centers shall provide the State Department of Social Services all available documentation and evidentiary support necessary for any enforcement proceedings to suspend the license pursuant to Section 1550.5, to revoke or deny a license pursuant to Section 1551, or to exclude an individual pursuant to Section 1558.

(9) The State Department of Social Services Community Care Licensing Division shall enter into a memorandum of understanding with the State Department of Developmental Services to outline a formal protocol to address shared responsibilities, including monitoring responsibilities, complaint investigations, administrative actions, and closures.

(10) The licensee shall provide documentation that, in addition to the administrator requirements set forth under paragraph (4) of subdivision (a) of Section 4684.63 of the Welfare and Institutions Code, the administrator, prior to employment, has completed a minimum of 35 hours of initial training in the general laws, regulations and policies and procedural standards applicable to facilities licensed by the State Department of Social Services under Article 2 (commencing with Section 1520). Thereafter, the licensee shall provide documentation every two years that the administrator has completed 40 hours of continuing education in the general laws, regulations and policies and procedural standards applicable to adult residential facilities. The training specified in this section shall be provided by a vendor approved by the State Department of Social Services and the cost of the training shall be borne by the administrator or licensee.

(c) The article shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute extends or deletes that date.

(d) This article shall only be implemented to the extent that funds are made available through an appropriation in the annual Budget Act.

§ 1567.7. Inapplicability of this article to existing facilities with prior zoning approval

This article shall not apply to existing community care facilities for wards of the juvenile court which have received city or county zoning approval prior to the effective date of this article.

§ 1567.8. Exemption from business taxes, local registration fees or other fees

A community care facility for wards of the juvenile court, which serves six or fewer persons shall not be subject to any business taxes, local registration fees, use permit fees, or other fees to which other single family dwellings are not likewise subject. Nothing in this section shall be construed to forbid the imposition of local property taxes, fees for water service and garbage collection, fees for inspections not prohibited by Section 1567.9, local bond assessments, and other fees, charges, and assessments to which other single family

dwellings are likewise subject. Neither the State Fire Marshal nor any local public entity shall charge any fee for enforcing fire inspection regulations pursuant to state law or regulation or local ordinance, with respect to community care facilities for wards of the juvenile court which serve six or fewer persons.