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## EVALUATOR MANUAL TRANSMITTAL SHEET

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<b><u>Distribution:</u></b>  <input checked="" type="checkbox"/> <b>All Child Care Evaluator Manual Holders</b> <input type="checkbox"/> <b>All Residential Care Evaluator Manual Holders</b> <input type="checkbox"/> <b>All Evaluator Manual Holders</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;"><b><u>Transmittal No.</u></b> 09APX-04</td> </tr> <tr> <td style="padding: 2px;"><b><u>Date Issued</u></b> February 2009</td> </tr> </table>	<b><u>Transmittal No.</u></b> 09APX-04	<b><u>Date Issued</u></b> February 2009
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**Subject:****2008 Chaptered Legislation****Appendix A****Child Care Centers and Family Child Care Homes****Reason For Change:**

This transmits summaries of legislation chaptered in 2008 affecting Child Care Centers and Family Child Care Homes. The summaries are divided into two sections as follows:

1. Immediate Action Required – Interim instructions are provided.
2. Information Only – No action required by the Community Care Licensing Division.

An index is attached to assist staff in locating specific bills.

**Filing Instructions:**

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

**Approved:***Linda Inglett**2/9/09*


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**SUMMARY AND IMPLEMENTATION PLANS  
2008 CHAPTERED LEGISLATION**

**CHILD CARE CENTERS  
AND FAMILY CHILD CARE HOMES**

**BILL NUMBER                      SUBJECT** **Page**

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**ACTION REQUIRED**

AB 978/Benoit	Immediate Civil Penalties; California Department of Social Services' (CDSS) use of civil penalty moneys; unannounced facility visits; Plans Of Correction; licensing report requirements	1
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**INFORMATION ONLY – NO ACTION REQUIRED**

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**Unless otherwise noted, all new legislation becomes effective on January 1, 2009. When conducting visits, LPAs should ensure that providers are aware of any new requirements. However, regardless of whether this information is provided, it is the licensee's responsibility to be aware of any new requirements affecting their program.**

## **ACTION REQUIRED**

### **AB 978 (Benoit), CHAPTER 291, STATUTES OF 2008**

**Affects:** All Community Care Facilities, Residential Care Facilities for the Elderly (RCFE), Residential Care Facilities for the Chronically Ill (RCFCI), and all Child Care Facilities.

**Subject:** Immediate civil penalties; CDSS' use of civil penalty moneys; unannounced facility visits; Plan of Correction (POC); licensing report requirements.

**Summary:** AB 978, amends Health and Safety Code Sections 1523.2 (Community Care Facilities), 1530.5 (Foster Homes, Certified Homes and Foster Family Agencies (FFA)), 1534 (Community Care Facilities), 1546 (Community Care Facilities), 1548 (Community Care Facilities), 1568.07 (RCFCI), 1568.0822 (RCFCI), 1569.33 (RCFE), 1569.49 (RCFE), 1596.98 (Child Care Centers (CCC)), 1596.99 (CCC), 1597.56 (Family Child Care Homes (FCCH)) and 1597.62 (FCCH) and adds Sections 1534.1 (Community Care Facilities), 1550.7 (Community Care Facilities), 1558.3 (Community Care Facilities), 1568.0715 (RCFCI), 1568.0825 (RCFCI), 1568.094 (RCFCI), 1569.351 (RCFE), 1569.510 (RCFE), 1569.595 (RCFE), 1596.818 (Child Care Facilities), 1596.8867 (Child Care Facilities), 1596.8899 (Child Care Facilities) and 1597.58 (FCCH) and amends Welfare and Institutions Code Section 18285,

AB 978 requires the assessment of an immediate civil penalty for designated serious violations at community care facilities, including Foster Family Homes, RCFCIs, RCFEs and child care facilities (CCCs and FCCHs).

AB 978 requires the moneys derived from civil penalties imposed on child care facilities be deposited into the Child Health and Safety Fund (CHSF) and be expended exclusively for the technical assistance, orientation, training and education of child day care facility providers. Revenues received by CDSS from payment of civil penalties imposed on all other licensed facility types shall be deposited into the Technical Assistance Fund and expended exclusively for the technical assistance, training and education of licensees.

AB 978 mandates unannounced follow-up visits within 30 days after the effective date of a temporary license suspension or revocation, or within 30 days after service of an order of exclusion or removal of a person from a facility.

AB 978 requires CDSS to ensure that a licensee's POC is measurable and verifiable. The plan shall specify what evidence is acceptable to establish that a deficiency has been corrected.

AB 978 requires CDSS to specify in its licensing reports all violations that, if not corrected, will have a direct and immediate risk to the health, safety, or personal rights of clients or children in care.

The bill requires CDSS to complete all complaint investigations and place a note of final conclusion in the file, regardless of surrender.

The bill specifically addresses the following for licensed child care facilities (CCCs and FCCHs):

1. Moneys for the CHSF created in the State Treasury are derived from the license plate program (Have a Heart, Be a Star) and from civil penalties on child care facility providers. Moneys derived from civil penalties imposed on child care facility providers shall be made available, upon appropriation, to CDSS exclusively for the technical assistance, orientation, training, and education of licensed child care facility providers.
2. Requires CDSS to ensure that a licensee's POC is verifiable and measurable. The POC shall specify what evidence is acceptable to establish that a deficiency has been corrected. This evidence shall be included in CDSS' facility file.
3. Requires that licensing reports specify all violations that, if not corrected, will have a direct and immediate risk to the health, safety, or personal rights of children in care.
4. Requires CDSS to conduct unannounced facility visits within 30 days after the effective date of a temporary license suspension or revocation of a license to ensure that the facility is nonoperational (unless previously verified) and within 30 days after CDSS serves an order of immediate exclusion or removal from the facility.
5. For CCCs only: defines violations warranting an immediate civil penalty assessment of \$150 per day, per violation, as follows:
  - a. Fire clearance violations, including: overcapacity, inoperable smoke alarms, and inoperable fire alarm systems;
  - b. Absence of supervision, including: a child left unattended, supervision of a child by a person under 18 years of age, and lack of supervision resulting in a child wandering away;
  - c. Accessible bodies of water;
  - d. Accessible firearms, ammunition or both;
  - e. Refused entry to a facility or any part of a facility;
  - f. Presence of an excluded person on the premises.
6. For CCCs cited for repeating the same violation within 12 months of the first violation: the facility is subject to an immediate civil penalty of \$150 for each day the violation continues until the deficiency is corrected. Repeating the same violation again within 12 months, the facility shall be assessed an immediate civil penalty of \$150 for each day until the deficiency is corrected.
7. For CCCs: leaves in place existing law that provides the amount of civil penalty shall not be less than \$25, nor more than \$50, per day for each violation of this Chapter, except where the nature, seriousness or frequency of the violation warrants a higher or immediate civil penalty or both. The civil penalty

assessment is capped at \$150 per day per violation. In addition, the bill leaves in place existing regulatory requirement in Section 101195(c) that states an immediate civil penalty of \$150 per day shall be assessed if a child becomes sick, is injured or dies as a result of a deficiency.

8. For FCCHs only: defines violations warranting an immediate civil penalty assessment of \$150 per day, per violation, as follows:
  - a. Any violation that results in the injury, illness, or death of a child;
  - b. Absence of supervision, including: a child left unattended, supervision of a child by a person under 18 years of age, and lack of supervision resulting in a child wandering away;
  - c. Accessible bodies of water;
  - d. Accessible firearms, ammunition or both;
  - e. Refused entry to a facility or any part of a facility;
  - f. Presence of an excluded person on the premises.
9. For FCCHs: adds language to provide the amount of civil penalty shall not be less than \$25, nor more than \$50, per day for each violation of this Chapter, except where the nature, seriousness or frequency of the violation warrants a higher or immediate civil penalty or both. The civil penalty assessment is capped at \$150 per day per violation.
10. For FCCHs cited for repeating the same violation within 12 months of the first violation: the facility is subject to an immediate civil penalty assessment of up to \$150, and may be assessed up to \$50 for each day the violation continues until the deficiency is corrected. Repeating the same violation again within 12 months, the facility shall be assessed an immediate civil penalty up to \$150, and may be assessed up to \$150 for each day the violation continues until the deficiency is corrected. (**NOTE:** Regulations are required for implementation.)
11. For FCCHs: authorizes CDSS to assess civil penalties of not less than \$25, and not more than \$50, per day per violation for uncorrected violations that present an immediate or potential risk to the health and safety of children in care. This Section shall be implemented only to the extent that funds are available in accordance with the license plate program. (**NOTE:** Regulations are required for implementation.)

AB 978 became effective September 25, 2008.

### **Implementation:**

Modifications to the Evaluator Manual and licensing forms will be required to implement these new requirements. An Information Release will be released in early 2009 that will provide implementation instructions to licensing staff.

Where noted, regulations are required for implementation.

Licensing Program Analysts shall advise licensees during comprehensive inspections that this new law is now effective and recommend that licensees become familiar with these new requirements.

## INFORMATION ONLY – NO ACTION REQUIRED

### **AB 2327 (Caballero), CHAPTER 361, STATUTES OF 2008**

**Affects:** All Community Care Licensing Staff and Facilities

**Subject:** Emergency Services: Humanitarian and Relief Services

**Summary:** AB 2327 amends Section 8596 of the Government Code relating to emergency services. This new law affects every state agency. It recognizes that persons fleeing a disaster often lose access to their personal documents and identification, and seeks to ensure that such persons are not prohibited from obtaining disaster-related assistance and services as a result. More specifically, this legislation does the following:

- Requires all state agencies to provide all possible assistance to the Governor and the Director of the state Office of Emergency Services in implementing this law.
- Requires public employees “to assist evacuees and other individuals in securing disaster-related assistance and services without eliciting any information or document that is not strictly necessary to determine eligibility under state and federal laws.”
- Provides that nothing in this new law shall prevent public employees “from taking reasonable steps to protect the health or safety of evacuees and other individuals during an emergency.”

AB 2327 became effective January 1, 2009.

## INFORMATION ONLY - NO ACTION REQUIRED

### AB 2759 (Jones), CHAPTER 308, STATUTES OF 2008

**Affects:** Child Care Centers serving Preschool-age children

**Subject:** California State Preschool Program

**Summary:** AB 2759 amended and added sections to the Education Code relating to child care and development services and shall become operative on July 1, 2009, only if SB 1629 was enacted and became effective on or before January 1, 2009. AB 2759 creates the California State Preschool Program by consolidating the current State Preschool, Prekindergarten-Family Literacy, and General Child Care and Development Programs that currently serve preschool-age children. The consolidation of these funding streams creates the largest state-funded preschool program in the nation and will streamline the administration of state preschool programs. This will help improve the efficiency and effectiveness of early learning program administration by creating a uniform and streamlined system of reimbursement for providers. This bill does not change the requirements currently established in regulations.

## INFORMATION ONLY - NO ACTION REQUIRED

### **SB 1629 (Steinberg), CHAPTER 307, STATUTES OF 2008**

**Affects:** Child Care Centers serving children ages birth to five years

**Subject:** Early Learning Quality Improvement Act

**Summary:** SB 1629 establishes the Early Learning Quality Improvement System Advisory Committee to develop recommendations on how to evaluate and improve the quality of child development programs providing services from birth to age five, including preschool, and establishes a framework for future resources necessary to achieve and maintain higher quality programs. The advisory committee may also consider, but need not be limited to, a list of features of high quality programs including statutory and regulatory compliance, including provisions of Title 22 of the California Code of Regulations relating to child care and development. The advisory committee shall consist of 13 members, one of whom shall be the Director of the Department of Social Services or his or her designee.

This bill shall become operative only if AB 2759 is enacted and becomes effective on or before January 1, 2009.

NOTE: AB 1629 shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed unless a later enacted statute that becomes operative on or before January 1, 2012 deletes or extends the dates on which it becomes operative and is repealed.