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## EVALUATOR MANUAL TRANSMITTAL SHEET

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<p><b><u>Distribution:</u></b></p> <p><input type="checkbox"/> All Child Care Evaluator Manual Holders</p> <p><input type="checkbox"/> All Residential Care Evaluator Manual Holders</p> <p><input checked="" type="checkbox"/> All Evaluator Manual Holders</p>	<p style="text-align: center;"><b><u>Transmittal No.</u></b></p> <p style="text-align: center;"><b>10RM-02</b></p> <hr/> <p style="text-align: center;"><b><u>Date Issued</u></b></p> <p style="text-align: center;">January 2010</p>
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**Subject:**

Reference Material - Office Functions  
 Section 2-5310 - Dos and Do Nots for Evaluating Requests  
 Section 2-5400 - Developing the Request

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**Reason for Change:**

This revision was necessary to format and update the Evaluator Manual sections

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**Filing Instructions:**

REMOVE – Pages 16 through 18

INSERT – Pages 16 through 18

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**Approved:**

*Original Signed by Thomas Stahl*

*1/26/10*

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**THOMAS STAHL Chief**  
 Policy Development Bureau  
 Community Care Licensing Division

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Date

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Contact Person: Lynn Anderson

Phone Number: (916) 323-3952

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## 2-5310 DOs AND DO NOTs FOR EVALUATING REQUESTS (Continued) 2-5310

**DO**

4. Examine the impact of the request in terms of other regulations not specifically mentioned in the request.
5. Consider the necessity for imposing alternate requirements (conditions) on the waiver or exception to provide adequate protection for client(s)/resident(s).
6. Apply conditions to reinforce the purpose of the regulation being waived, that is, to provide equal or better, alternative protections for client/resident health and safety.
7. Consider the direction and the intent of the program.
8. Apply only conditions which are attainable and enforceable.
9. Obtain assistance from Policy Development Bureau via a policy interpretation request when the meaning of the regulation is unclear.

**DO NOT**

4. Review and assess the implications only in terms of the specific regulations cited in the request and assume the applicant knows the full implications of their request for other statutes and regulations.
5. Except to enforce conditions that have not been specifically written on the waiver or exception e.g. verbal agreements.
6. Apply conditions which deviate from the purpose of the regulation(s).
7. Waive requirements which would be contrary to the program.
8. Apply conditions which cannot be measured, attained and enforced.
9. Attempt to second guess the meaning of regulations when there are substantive questions in your mind.

**2-5310 DOs AND DO NOTs FOR EVALUATING REQUESTS (Continued) 2-5310****PROCEDURE:**

The following procedure is to be followed for all waiver and exception requests. The key elements of the process are:

1. Use of the above guidelines for evaluating the merits of each request. This will maximize statewide consistency.
2. Documentation of the information considered when evaluating each request. This is crucial and will allow any other individual to review the information upon which you based your decision in order to follow up on complaints or requests for additional review. The documentation, therefore, must be sufficient to support the decision.

**General Documentation Guidelines:**

1. Documentation should be dated and signed by the person providing the input, i.e., Licensee, Applicant, Case Manager, Probation Officer, Social Worker, etc.
2. Type of documentation may vary. However, some general rules apply. If the request is for a waiver of physical plant requirements, a sketch of the facility floor plan and outdoor areas, including dimensions of pools, fencing, etc., should be obtained.
3. If the request is based on the specific service needs of a resident, written placement agency input is necessary. This can include a copy of the individual services plan or other appropriate placement monitoring documents. The licensee should be required to obtain such input in writing as part of the application for a waiver or exception.

For residents with no identified placement agency, the licensee/applicant should obtain written concurrence with the request from the guardian, authorized representative, or appropriate medical or professional personnel as warranted by the individual case.

Licensing regulations which specify the development of assessment plans should be used in conjunction with the above when necessary to insure proper assessment and follow-up services to meet a specific resident's needs.

4. Documentation should include necessary information to insure a balanced consideration of the request.

**2-5400 DEVELOPING THE REQUEST****2-5400**

The licensee/applicant should be held responsible for providing adequate information to justify the request for the waiver or exception. The Licensing Program Analyst shall assist the licensee/applicant that wants to request a waiver that addresses a facility-wide need or circumstance, or an exception for an individual, by providing an explanation of the waiver/exception process. The request submitted by the licensee/applicant should include citation(s) of the regulation(s) in question, the rationale for the request and sufficient supporting documentation to substantiate it.

Waiver and exception requests should identify an alternate method or plan by which the purpose of the specified regulation(s) will be carried out.

Exception requests should provide the name(s), age(s), and special characteristics of the client(s)/resident(s) for whom the exception is being requested.

**2-5500 EVALUATING THE REQUEST****2-5500**

1. The Licensing Program Analyst who receives a waiver or exception request from a licensee/applicant should obtain any necessary additional supporting evidence to make a determination in the particular case. This includes clarifying the facts provided and/or obtaining information to address additional considerations.
2. It is essential that the Licensing Program Analyst review the facility file regarding cited deficiencies, substantiated complaints, etc., to determine whether it is appropriate to grant a waiver/exception. For example, if the facility had been cited repeatedly for lack of supervision, granting an exception to allow admittance of an elderly resident requiring protective supervision would be inappropriate as it would place that person at risk.
3. The written request and supporting evidence should be evaluated in terms of the standard evaluation guidelines as stated above.
  - a. Approvals must describe the alternate plan and specify the condition(s) under which the request is granted, including its duration. The duration of waivers/exceptions shall be for the term of the license or for a shorter period at the request of the licensee/applicant or as necessary for adequate and safe service provision.
  - b. Denials must fully explain the basis for denial and may include a recommended alternative plan to be considered by licensee/applicant. The standard evaluation guidelines can be used and elaborated upon as the basis for denial.