
EVALUATOR MANUAL TRANSMITTAL SHEET

<p><u>Distribution:</u></p> <p><input checked="" type="checkbox"/> All Child Care Evaluator Manual Holders</p> <p><input type="checkbox"/> All Residential Care Evaluator Manual Holders</p> <p><input type="checkbox"/> All Evaluator Manual Holders</p>	<p style="text-align: center;"><u>Transmittal No.</u></p> <p style="text-align: center;">15APX-10</p> <hr/> <p style="text-align: center;"><u>Date Issued</u></p> <p style="text-align: center;">September 2015</p>
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Subject:

2011 Chaptered Legislation
Appendix A – Child Care Centers and Family Child Care Homes

Reason for Change:

This document transmits legislation chaptered in 2011 affecting Child Care Centers and Family Child Care Homes. Immediate Action Required-Interim instructions are provided.

Statutes referenced in this document became operative on January 1, 2012 unless otherwise specified.

Filing Instructions:

REMOVE – 12APX-02 (2011 Chaptered Legislation)

INSERT – 15APX-10 (2011 Chaptered Legislation)

Approved:

Original signed by

9/1/2015

Shanice Boyette, Chief

Date

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SUMMARY AND IMPLEMENTATION PLANS 2011 CHAPTERED LEGISLATION

CHILD CARE CENTERS

BILL NUMBER	SUBJECT	PAGE
	ACTION REQUIRED	
SB 74/Committee on Budget and Fiscal Review	Developmental Services	2
SB 309/Liu	School-Age Child Care Centers: Nonminor Students	5
SB 929/Evans	Vehicles: Child Passenger Restraints	7

Unless otherwise noted, all new legislation becomes effective on January 1, 2012. When conducting inspections, 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

Senate Bill 74 (Committee on Budget and Fiscal Review), Chapter 9, Statutes of 2011

Affects: All Community Care Facilities (CCF), Residential Care Facilities for the Chronically Ill (RCF-CI), Residential Care Facilities for the Elderly (RCFE) and all Child Care Facilities.

Subject: Developmental Services

Summary: Senate Bill 74 added Welfare and Institutions Code section 4648.14 to require the Department of Social Services to notify the California Department of Developmental Services of any administrative action initiated against a licensee serving consumers with a developmental disability. The bill defines administrative action to include, but not be limited to, the following:

- The issuance of a citation requiring corrective action for a health and safety violation.
- The temporary or other suspension or revocation of a license.
- The issuance of a temporary restraining order.

Implementation:

The Regional Offices are required to provide the above information to the Department of Developmental Services for all facilities licensed by the Community Care Licensing Division, caring for persons with developmental disabilities who are receiving services through a regional center (regional center consumers). Regional Offices are not required to provide information for facilities caring for persons with Developmental Disabilities who are not regional center consumers. Per the *Memorandum of Understanding between the California Department of Developmental Services and the California Department of Social Services for Implementation of a Coordinated System of Services to Regional Center Consumers Residing in Licensed Community Care Facilities*, the Department of Social Services already shares information on Temporary Suspension Orders with the Department of Developmental Services and this current process will continue in order to meet the mandates of this law.

The Department will submit copies of all required documentation to the Department of Developmental Services. This documentation is in addition to any required information that is sent to the Regional Centers as part of the *Memorandum of Understanding between the California Department of Developmental Services and the California Department of Social Services for Implementation of a Coordinated System of Services to Regional Center Consumers Residing in Licensed Community Care Facilities*.

Citations:

- The licensing program analyst will print and compile copies of all applicable LIC 809s and LIC 9099s for facilities that care for regional center consumers when there is any Type A or Type B violation cited against the licensee.
- The licensing program analyst will review all LIC 809s and LIC 9099s to ensure that no confidential information is listed. In the event that confidential information is listed on the LIC 809 or LIC 9099, the licensing program analyst must alert the licensing program manager immediately so that the documents can be amended to remove the confidential information before they are sent to the Department of Developmental Services.
- Each Regional Office will compile copies of these LIC 809s and LIC 9099s and submit them to the Department of Developmental Services either via mail or scan and emailed. Emailing these documents is permitted as long as the information is encrypted using a secured file.
- The licensing program analyst is not required to send a copy of the report or other documentation clearing the plan of correction.

Temporary Suspensions and Revocations:

- In the event that the Department is initiating a revocation of a license for a facility caring for regional center consumers, the Regional Office will send a copy of the accusation to the Department of Developmental Services upon service of the accusation to the licensee.
- In the event that a Temporary Suspension Order is issued to a licensee of a facility caring for regional center consumers, the Regional Office will send a copy of the Temporary Suspension Order to the Department of Developmental Services upon service of the order.
- In the event that a license is revoked for a facility caring for regional center consumers, the Regional Office will send a copy of the decision and order to the Department of Developmental Services upon service of the decision.

Temporary Restraining Orders:

- In the event that a temporary restraining order is issued against the licensee for a facility caring for regional center consumers, the Program Office will send a copy of the order to the Department of Developmental Services upon service of the order. Please contact the enforcement attorney if there are questions related to what information can be shared with the Department of Developmental Services.

All information can be mailed to the following address:

California Department of Developmental Services
Residential Services and Monitoring Branch
Attention: Shelton Dent, Manager
1600 9th Street, MS 3-9
Sacramento, CA 95814

All information can be emailed, using an encrypted secure file, to the following email address:

DSSSB74Reports@dds.ca.gov

ACTION REQUIRED

SB 309 (LIU), CHAPTER 470, STATUTES OF 2011

Affects: School-age Child Care Centers

Subject: Retention/Enrollment of nonminor students in School-Age Child Care Centers

Summary: SB 309 added Sections 1596.785, 1596.7915, and 1596.862 to the Health and Safety Code to allow the Department to approve or deny written requests for the enrollment or retention of nonminor students at a School-Age child care center.

Definitions

- **“Nonminor student”** means a person 18 years of age or older who *qualifies as an individual with exceptional needs*, as defined in Section 56026 of the Education Code, and *who qualifies for services from a regional center for persons with developmental disabilities, as a person with a developmental disability*, as defined in subdivision (a) of Section 4512 of the Welfare and Institutions Code. The terms "child," "children," or "minor," as used in this chapter or Chapter 3.5 (commencing with Section 1596.90), may also include a nonminor student enrolled or retained at a School-Age child care center. (Health and Safety Code Section 1596.785)
- **“School-Age child care center”** means a day care center or part of a day care center that provides nonmedical care and supervision, personal services, or assistance essential for sustaining the activities of daily living or for the protection of School-Age children or nonminor students, or both, in a group setting for less than 24 hours per day. (Health and Safety Code Section 1596.7915)

Written Request Must Include:

- Confirmation that the licensee conducted a personal interview of the nonminor student or the nonminor student’s authorized representative, if applicable.
- A copy of the nonminor student’s current individualized education program and any information requested by the department that will assist in making the determination to approve or deny.
- A written statement from the licensee whether the nonminor student would present a threat to the physical health, mental health, or safety of the nonminor student and others at the School-Age child care center.
- A statement whether the needs of the nonminor student can be met by the School-Age child care center.

Basis for Approval/Denial:

The Department has the authority to approve or deny a request for enrollment or retention of a nonminor student at a School-Age child center.

The Department may approve such requests if:

- all of the required written documentation has been provided as stipulated above, and
- the Department determines the School-Age child care center can meet the needs of the nonminor student, and
- the Department determines that enrollment or retention of the nonminor student is not detrimental to the physical health, mental health and safety of the nonminor student and others at the center.

Termination of Request:

An approved request may be terminated by the Department and a citation of deficiency, an assessment of civil penalties, or discipline of the licensee pursuant to Section 1596.885 or Section 1596.886, or any combination thereof, may result if the licensee fails to comply with applicable laws.

Retention of Nonminor Students:

- If a written request is submitted to the Department at least 30 days prior to the child's 18th birthday, the nonminor student may be retained at a School-Age child care center.
 - ✓ Unless the request is denied in writing by the Department.

Enrollment of Nonminor Students:

- A nonminor student shall not be enrolled at a School-Age child care center until the request is approved in writing by the Department.

Fingerprint and Criminal Record Clearance Requirements of a Nonminor Student:

A nonminor student enrolled or retained in a School-Age child care center, pursuant to section 1596.862, shall be exempt from the fingerprinting and criminal record clearance requirements in Section 1596.871 and otherwise applicable regulations.

ACTION REQUIRED

SB 929 (EVANS) CHAPTER 474, STATUTES OF 2011

Affects: Child Care Centers and Family Child Care Homes

Subject: Vehicles: Child Passenger Restraints

Summary: This law is effective January 1, 2012. Relevant to Child Care Centers (CCC) and Family Child Care Homes (FCCH), SB 929 amends Vehicle Code Section 27315(d) and 27363 and repeals and adds Vehicle Code Sections 27360 and 27360.5. This law does the following:

- Prohibits a parent, legal guardian, or driver from transporting on a highway in a motor vehicle, as defined, a child or ward who is under eight years of age without properly securing that child in a rear seat in an appropriate child passenger restraint system meeting applicable federal motor vehicle safety standards, except as provided. See below exemptions. (Vehicle Code Section 27360(a).)
- Prohibits a parent, legal guardian, or driver from transporting on a highway in a motor vehicle, as defined, a child or ward who is eight years of age or older, but less than 16 years of age, without properly securing that child or ward in an appropriate child passenger restraint system or safety belt meeting applicable federal motor vehicle safety standards. (Vehicle Code Section 27360.5(a).)

Exemptions:

- A child or ward under eight years of age who is 4 feet 9 inches in height or taller may be properly restrained by a safety belt, as defined, rather than by a child passenger restraint system. (Vehicle Code Section 27363(d).) "Properly restrained by a safety belt" means that the lower (lap) portion of the belt crosses the hips or upper thighs of the occupant and the upper (shoulder) portion of the belt, if present, crosses the chest in front of the occupant. (Vehicle Code Section 27315(d)(2).)
- A child or ward under eight years of age may ride properly secured in an appropriate child passenger restraint system meeting applicable federal motor vehicle safety standards in the front seat of a motor vehicle under any of the following circumstances:
 - 1) There is no rear seat.
 - 2) The rear seats are side-facing jump seats.
 - 3) The rear seats are rear-facing seats.
 - 4) The child passenger restraint system cannot be installed properly in the rear seat.
 - 5) All rear seats are already occupied by children seven years of age or under.
 - 6) Medical reasons necessitate that the child or ward not ride in the rear seat. The court may require satisfactory proof of the child's medical condition. (Vehicle Code Section 27363(e).)

Notwithstanding the above, a child shall not be transported in a rear-facing child passenger restraint system in the front seat of a motor vehicle that is equipped with an active frontal passenger airbag. (Vehicle Code Section 27363(f).)

Continuing Exemptions:

- A Court may exempt from the child safety belt and passenger restraint requirements any class of child by age, weight, or size if certain determinations are made. (Vehicle Code Section 27363(a).)
- In case of a life-threatening emergency, or when a child is being transported in an authorized emergency vehicle, if there is no child passenger restraint system available, a child may be transported without the use of that system, but the child shall be secured by a seatbelt. (Vehicle Code Section 27363(b).)
- A child weighing more than 40 pounds may be transported in the backseat of a vehicle while wearing only a lap safety belt when the backseat of the vehicle is not equipped with a combination lap and shoulder safety belt. (Vehicle Code Section 27363(c).)

Implementation:

CCCs and FCCHs must continue to ensure that all vehicle occupants are secured in an appropriate restraint system. If a licensee fails to do so, then they may be cited as set forth in the below chart.

Infant Care Centers must continue to ensure that each infant is secured in a child passenger restraint system, i.e., a car seat designed for an infant. The child passenger restraint system must be secured in the vehicle in accordance with the manufacturer’s instructions. The manufacturer’s instructions must be maintained in the Infant Care Center for as long as the infant car seat is in use. If a licensee fails to do so, then they may be cited as set forth in the below chart.

CCCs must continue to post signs at the point of entry to the facility, which provide the telephone number of the local health department and state all of the following:

1. “Protect your child—it is the law.”
2. All the information specified in Sections 27360 and 27360.5 of the Vehicle Code regarding child passenger restraint systems.
3. “Call your local health department for more information.”

The poster, PUB 269, California Child Passenger Safety Law, is available for facilities that choose to use it.

Any person desiring issuance of a license for a CCC shall file with the Department evidence, satisfactory to the Department, that the applicant has posted signs meeting the above requirements. (22 CCR 101169(d)(18).)

If a licensee is found to be in violation of the below requirements, the following citations apply:

	CHILD CARE CENTERS	FAMILY CHILD CARE HOMES
RESTRAINT REQUIREMENT	California Code of Regulations Sections 101225(d) (applies to all Child Care Centers); 101425(d) (applies specifically to Infant Care Centers)	California Code of Regulations Section 102417(k)
POSTING REQUIREMENT	California Code of Regulations Section 101225(f)	N/A