
EVALUATOR MANUAL TRANSMITTAL SHEET

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Subject:

GENERAL LICENSING REQUIREMENTS
Regulation Interpretations and Procedures
 Section 80007, Exemption from Licensure
 (Section 80008, Licensing of Integral Facilities)

Reason for Change:

Revises Section 80007, Exemption from Licensure
 (Creates Section 80008, Licensing of Integral Facilities, as stand-alone section. This content
 previously existed at the end of Section 80007 and was not revised.)

Filing Instructions:

REMOVE: page i, 8 through 13

INSERT: page i, 8 through 13.1

Approved:

Original signed by Lilit Tovmasian

4/14/2016

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80006 OPERATION WITHOUT A LICENSE (Continued)**80006****(c) POLICY (Continued)**

determined during the visit that the facility is providing care and supervision and is, in fact, operating unlicensed, issue the LIC 195. If the Regional Office has not been previously informed, the notice shall be mailed (certified mail return requested) or hand-delivered to the operator by not later than the following workday. If you are not returning to your office the day of the visit, call your office and make arrangements for the notice to be mailed within the specified time frame.

If the operator has taken no immediate action and an application has not been filed, make a follow-up visit within 30 days of the initial visit. The purpose of this visit is to determine whether the facility is continuing to provide care and supervision. If such is the case, consult with your supervisor to consider referral to the Regional Investigation Section for appropriate enforcement action (refer to Evaluator Manual Section 1-0600 through 1-0650).

80007 EXEMPTION FROM LICENSURE**80007**

- (a) See **California Code of Regulations, Title 22**, Section 80018(d)(5) regarding eating disorders clinics.

(a)(5) POLICY

Facilities determined by the Community Care Licensing Division to be providing nonmedical care and supervision are not exempt from licensure under Health and Safety Code Section 1505(f). These facilities shall be subject to licensure as a community care facility. This statute does exempt church conducted facilities that adhere to a dependence on prayer or spiritual means for healing. However, this exemption is limited to those facilities that substitute prayer for medical/nursing services which would otherwise be provided for or required by residents in a health facility such as a nursing home or hospital as defined in Sections 1200 or 1250 of the Health and Safety Code.

For cases in which a facility is claiming an exemption from licensure the Community Care Licensing Division will determine if granting the exemption is valid. In order to make this determination, the staff of the Community Care Licensing Division Regional Office will:

1. Make an on-site inspection to evaluate the type and extent of care and supervision being provided to persons residing in the facility in question.
2. Contact the appropriate Department of **Public** Health licensing agency when it appears that medical care is required (though not provided) and ask them to determine if the facility is exempt from licensure as a health facility as defined by the Health and Safety Code. In cooperation with Department of **Public** Health, the Community Care Licensing Division staff may arrange joint visits with Department of **Public** Health licensing staff to evaluate the facility.

80007 EXEMPTION FROM LICENSURE (Continued)**80007**

(a)(5)

POLICY (Continued)

3. Advise the facility operator(s)/administrator(s) that they are required to have a license as a community care facility when it is determined that care and supervision is needed and being provided and/or medical care is not needed and not being provided. Give the operator(s) and/or administrator(s) an opportunity to file an application.
4. For those facilities subject to licensure, the following guidelines will be used in granting waivers/exceptions for those licensing requirements which conflict with the beliefs and practices of the particular religion:
 - a. If the facility is maintained by and for the followers of a church or religious denomination who relies upon prayer or spiritual means for healing, the licensing agency shall not require medical assessments, examinations, tests, health histories or medical supervision of the employees or residents in the facility, provided employment and admission for care is limited to those individuals.
 - b. An exception for medical assessments, examinations, tests, health histories, or medical supervision may be granted to a facility that admits adults, and infants or children whose parents rely solely upon prayer or other spiritual means for healing. Individuals, however, must present satisfactory evidence that they do not have a communicable disease. Satisfactory evidence shall be a physician's written statement.
5. If a facility is maintained by and for the followers of a particular faith or religion, such preference may be stated on the license.

(a)(7)

POLICY

A homeless shelter is exempt from licensure as a community care facility. To qualify for exemption, the facility is prohibited from providing care and supervision, administering or dispensing prescription medications to homeless persons, or allowing a homeless person to reside permanently in the shelter.

Homeless shelters may provide certain acceptable services. These include temporary shelter, food/meals, clothing, transportation, personal grooming supplies, bathing facilities, laundry facilities, housing search assistance, job search assistance, advocacy, and counseling. These permitted services may appear to cross over with care and supervision requiring licensure; however, a homeless shelter that provides these services shall not be construed as providing elements of care and supervision and is exempt from licensure.

Due to the nature of the program, individuals who come to a homeless shelter may need care and supervision. If an evaluation by shelter staff indicates that a client is in need of care and supervision, the client will be referred for appropriate placement.

80007 EXEMPTION FROM LICENSURE (Continued)**80007****(a)(7) PROCEDURE**

If a Licensing Program Analyst receives a complaint regarding a homeless shelter operating as an unlicensed facility, the Licensing Program Analyst must immediately discuss the complaint with his/her Licensing Program Manager to assess whether an unlicensed operation of a facility is occurring. In addition, the Licensing Program Analyst and Licensing Program Manager should consult with the enforcement attorney if necessary to obtain assistance interpreting requested documents provided by the operator. This determination will be made on a case-by-case basis. As part of the unlicensed operations complaint investigation, consideration should be made to the documentation provided by the operator demonstrating the status as a homeless shelter. This documentation may include, but not be limited to, a business license or other required permits, if required by local ordinances to operate as a homeless shelter, or contracts with local governments to operate a homeless shelter. Local ordinances may have set requirements that must be met in order to operate a homeless shelter (e.g., permits, zoning requirements, maximum number of beds, and business licenses). Senate Bill 2 (Statutes of 2007) required local governments to identify a zone that can accommodate at least one year-round emergency shelter and sets parameters regarding local requirements such as permits and zoning requirements. Emergency shelters would be an example of a homeless shelter that would be exempt from licensure from the Department of Social Services. The Licensing Program Analyst must obtain the Licensing Program Manager's approval prior to issuing findings that a homeless shelter is operating as an unlicensed facility.

(a)(12)(C)**POLICY**

Prospective adoptive parents are exempt from licensure as a community care facility if they meet the above criteria. However, an exempt facility does not qualify as an eligible facility for Aid to Families with Dependent Children-Foster Care Program funding purposes. Therefore, if prospective parents wish to be licensed as a community care facility, they may be licensed if they meet all of the licensing requirements.

80007 EXEMPTION FROM LICENSURE (Continued)**80007****PROCEDURE**

- A. For relinquishment adoptions, the licensing agency can verify that a home meets the above exemption requirements by:
1. Obtaining the name of the caseworker in the licensed adoption agency from the prospective adoptive parents.
 2. Contacting that individual in the adoption agency to obtain a copy of one of the following documents:
 - a. Relinquishment Form (AD 585).
 - b. Termination of rights by court action (court record).
 - c. Acknowledgment and confirmation of receipt of relinquishment documents (AD 4333).
 3. Confirming with the caseworker that the child referenced on the document obtained is the child in placement with this prospective adoptive parent.
- B. For intercountry adoptions, the licensing agency can verify that a home meets the above exemption requirements by:
1. Obtaining the name of the caseworker in the Licensed Adoption Agency from the prospective adoptive parents.
 2. Contacting that individual in the Adoption Agency to obtain a copy of one of the following documents:
 - a. Visa for the child with an official stamp from Immigration Naturalization Service.
 - b. Adoption decree from the foreign country and a form from Immigration Naturalization Service (such as the visa or green card) proving that the child is in the country legally.
 - c. Petition to Classify Orphan as Immediate Relative (Immigration Naturalization Service Form 1-600).
 - d. Application for Advance Processing of Orphan Petition (Immigration Naturalization Service Form 1-600A).

80007 EXEMPTION FROM LICENSURE (Continued)**80007****PROCEDURE (Continued)**

3. Confirming with the caseworker that the child referenced on the document obtained is the child in placement with this prospective adoptive parent.

(a)(13)(C)

POLICY

(See policy under **Regulation Interpretations and Procedures for General Licensing Requirements** Section 80007(a)(12).)

PROCEDURE

For independent adoptions, the licensing agency can verify that a home meets the above exemption requirements by:

1. Obtaining the name of the caseworker in the licensed adoption agency from the prospective adoptive parent(s).
2. Contacting that individual in the adoption agency to obtain a copy of one of the following documents:
 - a. The Health Facility Minor Release Report (AD 22).
 - b. Petition to adopt.

NOTE: If the prospective parent has a copy of one of these documents, it is unnecessary to contact the adoption agency.

3. Confirming with the caseworker that the child referenced on the document obtained is the child in placement with this prospective adoptive parent.

(a)(14)

POLICY

For purposes of **California Code of Regulations, Title 22**, Section 80007(a)(14), “Individual” means a person such as a family member or authorized representative who only places in licensed facilities. It would not include individuals or organizations such as Foster Family Agencies who are required by the Health and Safety Code to be licensed as community care facilities.

80007 EXEMPTION FROM LICENSURE (Continued)**80007**

(a)(17)

POLICY

1. Facilities on federal property or on Indian Reservations:

Facilities on federal government property or on Indian Reservations are exempt from licensing. However, an exempt facility may request licensing to qualify for Aid to Families with Dependent Children-Foster Care funding.

2. Facilities with Indian Child Welfare Act Eligible Children:

Section 1505(n) of the Health and Safety Code exempts facilities from licensing, if they accept for placement only children who are Indian Child Welfare Act eligible and the facility is:

- a. The home of an extended family member of the child, or
- b. A foster home licensed, approved, or specified by the child's tribe.

An extended family member is anyone defined by the law or custom of the tribe. Lacking law or custom, the extended family includes anyone who is at least 18 years old and is the child's grandparent, aunt or uncle, brother or sister, brother-in-law, sister-in-law, niece or nephew, first or second cousin, or stepparent.

(a)(17)

PROCEDURE

1. Process a licensing application, if the land manager (e.g., military base commander or the Indian Tribal Council) agrees to cooperate with all licensing procedures. Use the appropriate following standard form to record the agreement:

LIC 996 Agreement for licensure of community care facility/child day care facility on Federal Property.

LIC 996A Agreement for Licensure of community care facility/child day care facility on an Indian Reservation.

In addition, the licensing agency should obtain a written agreement from the applicant to ensure that all parties understand the licensing conditions. Use the appropriate following standard form to record the agreement with the applicant:

LIC 997 Agreement by Licensee /Applicant on Federal Property

LIC 997A Agreement by Licensee /Applicant on an Indian Reservation

80007 EXEMPTION FROM LICENSURE (Continued)**80007****(a)(17) PROCEDURE (Continued)**

A licensing agency manager should sign the agreement used.

If an agreement is with an Indian Tribal Council, the licensing agency must notify the Bureau of Indian Affairs. Send a copy of the completed agreement to the following address:

U.S. Department of Interior
Sacramento Area
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825
Attention: Area Director

2. To verify that a facility meets the Indian Child Welfare Act placement licensing exemption, take the following steps:
 - a. Obtain the name of the caseworker from the facility operator.
 - b. Obtain from the caseworker verification of the child's eligibility for Indian Child Welfare Act, the Indian child's tribe, and whether the facility is licensed/approved/specified by the child's tribe or is the home of an extended family member.
 - c. Confirm with the caseworker that the child for whom verification is requested is the child placed in the subject home.

80008 LICENSING OF INTEGRAL FACILITIES**80008****(a)(3) POLICY**

“Single site” means at one location, or on the same premises. In other words, a facility may be comprised of multiple buildings, and may be under one license, as long as the buildings are physically located on the same premises (adjoining lots); are managed by the same licensee; are components of a single program; and have a common address. (For purposes of determining if the facility is a single site, consult the county tax records at the county assessor's office to ascertain if the property on which the buildings are located are under a single parcel number or on adjoining lots.)
