

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, California 95814

**REASON FOR THIS TRANSMITTAL**

- State Law Change  
 Federal Law or Regulation Change  
 Court Order  
 Initiated by CCL

**CCL INFORMATION RELEASE NO. 2007-03**

TO: ALL ADULT CARE PROGRAM STAFF

**SUBJECT: ADULT DAY PROGRAMS REGULATIONS Q&A**

The Community Care Licensing Division (CCLD), Adult Care Policy Unit conducted four days of implementation training on the Adult Day Programs (ADP) Regulations in Monterey Park, Orange, Sacramento and Oakland. At each training site, program staff raised many good questions; some were quickly answered during training and others required policy staff to research and consult with our legal division. The following Q&A highlights and answers those questions from our field staff to which we could not give an immediate answer.

**1) Are field staff expected to license “community based programs” or “facilities without walls”?**

Currently CCLD cannot license community based programs (or facilities without walls) because there are no standards in place to regulate these programs. However, CCLD does reserve the right to develop regulations for non-facility based programs in the future. Field staff will be notified if/when the development of these regulations begin.

**2) Can an ADP be cited when a regional center is transporting a client to an ADP and there is an accident?**

The fact of an accident does not necessarily mean the driver is at fault. Even if fault were determined, if the ADP had no responsibility surrounding the client's transportation, then the ADP would not to be cited.

Possible questions to consider where the driver's fault is determined, include, but are not limited to the following:

- Did the ADP contract for the transportation?
- Are transportation services part of the ADP's plan of operation under section 82022(b)(3)?
- Are the services part of the clients needs and services plan under section 82068.2(f)(4)(A)?

- Are the services included in the admission agreement under section 82068(b)(1) or (2)?
- Did the ADP knowingly allow a client to be transported by a dangerous individual?

Where the transporter is determined at fault in an accident such that health and safety concerns raise a suspicion of client neglect, even if the ADP is not responsible for the transportation, the ADP staff at a minimum should consider reporting to the ombudsman or law enforcement, pursuant to mandated reporter laws under Welfare and Institutions Code section 15630(b).

**3) Section 82075(f) (Health Related Services) requires all staff responsible for providing care and supervision to maintain current first aid and CPR training. Why is section 82075(f)(1) necessary since (f) already requires staff responsible for care and supervision to maintain current first aid and CPR training?**

Section 82075(f)(1) (incorporating prior section 82575) appears duplicative of section 82075(f) (incorporating prior section 80075(f)). However, subsection (1) ensures that one full-time staff member (regardless of whether the staff member is responsible for providing care and supervision) will be present during operating hours and have a current CPR certificate.

**4) Does the LIC 281 “Application Instructions For Facility License” (9/04) need to be revised in order to accommodate “Community Based Programs?”**

Currently CCLD cannot license community based programs (or facilities without walls) because there are no standards in place to regulate these programs. As such, there is no need to revise licensing forms. If/when regulations are developed specifically for community based programs, the applicable licensing forms will be reviewed in conjunction.

**5) Section 82065.5 (Staff/Client Ratios) require staffing ratios of at least 1 staff for each group of 8 clients or fraction thereof, yet section 82065 (Personnel Requirements) requires a minimum of 2 staff when there are 2 or more clients. What are the actual ratios required by the ADP regulations?**

Aside from the staffing requirements for clients who rely upon others to perform all activities of daily living [section 82065.5(a)], the staffing ratio for an ADP is 1:8 per section 82065.5(b) (re-numbered from 82565.5(a)). However, section 82065(o) (re-numbered from 82565(b)) requires that at a minimum there shall be at least 2 staff on duty when there are 2 or more clients in the day program.

The following table shows the required staffing requirements for ADPs:\*

<b>Clients</b>	<b>Direct Care Staff</b>
1	1
2 through 16	2
17 through 24	3
25 through 32	4
Every additional 8 clients or fraction thereof	Add 1 staff

\*This information will be included in the ADP Evaluator Manual.

**6) If an ADP has 17 clients and staff take 8 clients to an outing leaving 9 clients in the ADP; what would be the appropriate staffing ratios for both the clients that go to an outing and the clients that remain in the ADP?**

Section 82065(o) (Personnel Requirements) requires that at least 2 persons be on duty, at least one of whom is a direct care staff, at all times when there are 2 or more clients in the day **program**. Section 82065.5(b) requires a staffing ratio of not less than one direct care staff for each group of eight clients **present** (assuming none of the clients relied upon others to perform all activities of daily living).

If taking clients to an outing is part of the ADP program (as outlined in their program statement) then 1 staff is required for every 8 clients present (1:8 present). The 9 remaining clients in the ADP would require 2 staff; one for every 8 present (1:8 present). The total number of staff would be 3. When applying section 82065(o), the whole ADP program must be taken into account. The number of clients at an outing and at the ADP are all part of the same program (as outlined in the program statement) so the total number of staff would still be 3 (at least 2 staff for 2 or more clients in the program).

If 9 clients went to an outing, then 2 staff would be required (1:8 present). The remaining 8 in the ADP would require 1 staff (1:8 present). The total number of staff would remain 3. Conversely, if 9 clients were no longer participating in the ADP for the day and went home, then the 8 remaining clients in the ADP would require 2 staff (1:8 or fraction thereof present and a minimum of 2 staff when there are 2 or more clients in the program).

\*The table in question #5 clarifies required staffing ratios.

**7) Section 82068.2(c) (Needs and Services Plan) requires that the needs and services plan be developed before a client with a restricted health condition is allowed in the ADP; while section 82069(a) allows 30 calendar days to obtain a client's medical assessment, part of the needs and services plan under section 82068.2(f)(1)(B). If an ADP unknowingly allowed a client with a restricted health condition prior to completion of the medical assessment, would the ADP be out of compliance with the needs and services plan requirements?**

Sections 82068.2(f)(1)(D)(5.), (6.) and (14.) provide that the needs and services plan must include the client's "functional limitations including physical impairments or concern" including "transferring," "repositioning" and "medical history and conditions." It is unlikely that the day program would be completely unaware of a restricted health condition included in section 82092(b). However, if the ADP had no idea of a client's restricted health condition until receiving the medical assessment, then the ADP would not be cited. On the other hand, the ADP would be cited if there is evidence of the client's restricted health condition in other components of the needs and services plan.

**8) Section 82087.5 Delayed Egress Devices requires fire and earthquake drills; do all staff need to participate? If an ADP conducts fire and earthquake drills required in section 82087.5, are the disaster drills specified in section 82023(d) required?**

For ADPs that use delayed egress devices, section 82087.5(a)(3) requires the fire and earthquake drills to be conducted once every three months on each shift and include at a minimum all direct care staff to participate. For all ADPs, section 82023(d) (Disaster and Mass Casualty Plan) requires that "disaster drills" be conducted at least every six months, but does not require direct care staff to participate.

An ADP using delayed egress devices would be in compliance with both sections 82023(d) and 82087.5(a)(3) if "fire and earthquake drills" occur at least once every 3 months with all direct care staff participating. Section 82023(d)(2) requires the ADP to document the drills.

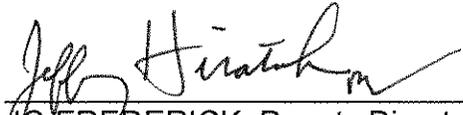
**9) Why is section 80077.3 (Care for Clients Who Lack Hazard Awareness or Impulse Control) of the General Licensing Requirements not part of the ADP regulations?**

The applicable provisions of section 80077.3 (Care for Clients Who Lack Hazard Awareness or Impulse Control) are found in section 82087.5 (Delayed Egress Devices). During the development of these regulations, the workgroup decided that the language in section 80077.3(a) and (a)(1) was permissive and not restrictive and was hence unnecessary to be adopted in the ADP regulations. Section 80077.3(a)(2) et seq. was not adopted because it did not apply to ADPs. Instead, the remainder of section 80073.5 was renamed and adopted as section 82087.5, Delayed Egress Devices.

CCL Information Release No. 2007-03  
Page Five

If you have any questions or need further clarity on the above responses, please contact Seton Bunker, Manager of the Adult Care Policy and Systems Unit, at (916) 322-1192.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Hirschman", written over a horizontal line.

JO FREDERICK, Deputy Director  
Community Care Licensing Division