

**REGULATION INTERPRETATIONS
AND
PROCEDURES
FOR
GENERAL LICENSING REQUIREMENTS**

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Article 1 GENERAL DEFINITIONS**80000 GENERAL****80000****POLICY**

The Chapter 1 General Regulations do not apply to foster family homes, child care facilities, residential facilities for the elderly, or residential care facilities for the chronically ill. However, these regulations do apply to all other facility types. To ensure that regulations are properly enforced, corresponding sections in the facility specific regulations should be reviewed.

80001 DEFINITIONS**(a)(5) Adult Residential Facility****POLICY**

Please see Regulation Interpretations and Procedures for Adult Residential Facilities sections 85068.4 through 85068.4(h) for more information on the requirements that licensees of Adult Residential Facilities must follow in order to provide care to persons 60 years of age or older.

(b)(1) Basic Rate**POLICY**

The admission agreement shall specify the services to be provided and the rate for such services.

For Supplementary Security Income/State Supplementary Payment recipients, licensees shall provide all basic services at the government prescribed rate. In addition to funds paid by Supplementary Security Income/State Supplementary Payment, residents of community care facilities may also have \$20 per month of income which is exempt for purposes of allowance computation. Thus, a resident may have personal and incidental monies plus \$20 exempt income. The exempt income may be used to pay an additional charge for basic services provided. The additional charge for basic services provided is indicated in an admission agreement. Pursuant to the Welfare and Institutions Code, Section 11006.9, it is grounds for revocation of a licensee to obtain as an additional cost for care, aid allocated to a recipient for his/her personal and incidental needs.

For private pay residents (residents who do not receive Supplementary Security Income/State Supplementary Payment), the rate should be negotiated at the time of admission, and documented in writing in an admission agreement. However, a facility may charge whatever rate it chooses for services provided to each individual private pay client. All services to be provided and the total cost for providing those services are specified in an admission agreement. Furthermore, the rate charged must be for provision of all services required by the client. In many cases, an individual will not require a number of the elements of care and supervision specified in Section 80001(c)(2). In these cases the rate for care established by the client may reflect only the cost of services to be provided.

80001 DEFINITIONS (Continued)**80001**

(b)(1) Basic Rate (Continued)

POLICY (Continued)

If this rate does not cover all the basic services a community care facility is required to provide, or all the services offered by the specific facility, but not currently required by the client, then there should be a clear explanation in the admission agreement as to what changes or increases in the rate will occur if these services become required or desired by the client. A care provider is not prohibited from raising his/her rate for any services to private pay clients at any time, as long as the 30 day notice is given as required by Section 80068(c)(4) e, (f)(1) and (g). In no event shall a care provider charge a higher rate than agreed to in advance by a client.

PROCEDURE

Refer to Sections 80026(f), 80068, and 80001 (b)(1).

(c)(3) Care and Supervision

POLICY

Facilities which provide care and supervision are required to be licensed. These care and supervision activities include all basic services which must be provided in order to obtain and maintain a license.

(e)(6) Exception

PROCEDURE

See Reference Material Sections 2-5000 and 80024.

80001 DEFINITIONS (Continued)**80001****(e)(7) EXEMPTION****POLICY**

Exemptions can be obtained on an individual basis under certain circumstances. However, the law does not allow transferring of exemptions between statutory acts. For example, exemptions granted to adult residential providers can be transferred to group homes and foster family homes (all in the Community Care Facilities Act) but cannot be transferred to family day care homes or centers (both in the Child Day Care Act).

PROCEDURE

Refer to Section 80019.

(g)(2) Guardian**POLICY**

A guardian is also identified as a person who is exempt from licensure.

(i)(2) Inhalation-assistive device**POLICY**

Inhalation-assistive device does not include metered-dose aerosols and dry-powder inhalers. Due to public comment, metered-dose aerosols and dry-powder inhalers were removed from this definition during the October 1998 regulation package (ORD# 0696-27). Refer to the California Code of Regulations Section 80075 regarding facility staff assisting clients with metered-dose inhalers and dry powder inhalers.

(n)(2) Nonambulatory Person**POLICY**

A deaf person who could respond to a visual signal may be ambulatory. However, when coupled with other factors such as dependence upon a mechanical aid, the person would be considered nonambulatory

80001 DEFINITIONS (Continued)

80001

(n)(2) Nonambulatory Person

POLICY (Continued)

In summary, a nonambulatory person is defined as one who is unable to leave a building unassisted under emergency conditions. This would include:

1. Any person who is unable, or likely to be unable, to physically respond or mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger,
2. Any person who **depends** upon a mechanical aid such as crutches, **walkers**, and wheelchairs.

Infants as defined in Section 80001(i)(1) are considered nonambulatory. Facilities regulated under these General Requirements that care for infants shall obtain a **non ambulatory** fire clearance.

Policy regarding total care need and bedridden clients is as follows:

1. A total care need client is one who is totally dependent on others to perform for them all activities of daily living including feeding, dressing, diapering etc. This definition does not apply to infants, ages zero to two.
2. A bedridden person is defined in Uniform Building Code Section 403, as “a person confined to a bed, requiring assistance in turning or unable to independently transfer to and from bed, and unable to leave a building unassisted during emergency conditions.” This definition does not apply to infants ages zero to two.

Total care need and bedridden clients shall be allowed in community care facilities so long as the client does not require more than incidental medical care and the following conditions are met:

1. The licensee has obtained the appropriate bedridden or non-ambulatory fire clearance.
2. The licensee has a needs and services plan or Individual Program Plan, which specifies the services to be provided to ensure appropriate care for the client’s bedridden or total care condition.

(See Policy and Procedures under Sections 80010 and 80020.)

80001 **DEFINITIONS** (Continued)**80001****PROCEDURE**

See Sections 80010 and 80020.

(s)(6) Substantial compliance

PROCEDURE

See Section 80051.

(u)(3) Urgent Need

PROCEDURE

Refer to Section 80030.

(w)(1) Waiver

PROCEDURE

Refer to Section 80024 and Reference Material Section 2-5000 through 2-5700.

ARTICLE 2 LICENSE

80006 OPERATION WITHOUT A LICENSE

80006

(a) PROCEDURE

For further clarification, refer to the following policy and procedure for subsection (b) and (c).

(a) POLICY

When an unlicensed facility is in operation, the facility may file an application. However, continued operation pending licensure is a violation of the law.

(b) POLICY

If information is received regarding the operation of an unlicensed facility, it shall be treated and given priority as a complaint. (Refer to Evaluator Manual Reference Material Sections 1-0600 through 1-0650 and 3-2010 through 3-3000.)

A site visit shall be conducted to determine if the facility needs to be licensed.

If (1) reasonable attempts have been made to gain access, and (2) there is a basis to support the belief that care and supervision are being provided (e.g., interviews with neighbors support belief). If the evaluator cannot gain entry into the facility in order to conduct this site visit, contact the Regional Investigation Section.

During the site visit the evaluator shall make an assessment as to whether or not the individuals appear to need care and supervision in order to determine if referrals to other agencies and/or individuals are necessary.

This assessment should be based on certain “indicators” that care is needed, including:

1. The ambulatory status of the individuals (e.g., bedridden);
2. The involvement of any placement agency which is delegated the responsibility to monitor the provision of services (i.e., regional centers, etc.);
3. The presence of any life-support equipment or other necessary assistive devices;
4. Any physical or mental conditions of the individuals which indicate the need for care; and
5. Any activities defined in Section 80001(c)(2).

80006 OPERATION WITHOUT A LICENSE (Continued)**80006****PROCEDURE**

If care and supervision are not being provided and it does not appear that any is needed, notify the operator (by use of the LIC 9099) and the complainant(s), if applicable (by use of the Complainant Response-LIC 856) by phone or in person. A copy of the LIC 856 notice shall be placed in the facility confidential files.

If care and supervision are not being provided, yet it appears that individual(s) need such, notify the same individuals specified above plus any known responsible parties, including relatives, guardians or placement agencies, as applicable.

When notifying responsible persons or agencies, mail notices no later than one working day after the site visit has been conducted.

If there are any immediate health and safety risks (e.g., abuse, neglect, or exploitation, serious physical plant deficiencies, etc.) telephone the appropriate county Child Protective Services Unit and/or the Long-Term Care Ombudsman so that immediate action to investigate and take necessary protective action, including necessary relocation of clients, can be initiated. Follow up such notification in writing. See Sections 1-0000 and 1-1190.

Discuss with your supervisor the need to refer any cases to the **Program** Investigation Section.

(c)

POLICY

The Notice of Operation in Violation of Law (LIC 195) shall be issued when a facility is discovered operating without a license.

The LIC 195 shall be issued omitting the last paragraph, when a facility is discovered operating under the following circumstances:

1. When an application has been filed, but a license has not yet been approved.
2. When an initial application for a new license has been denied (regardless of whether or not such denial is appealed by the applicant).

When the **Regional** Office has been previously informed that a facility is operating without a license, take LIC 195 signed by the **Regional** Office Manager, to the site visit. If it is 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 licensee 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.

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

If the licensee 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 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 Health Services 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 Health Services, the Community Care Licensing Division staff may arrange joint visits with Department of Health Services 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.
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(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 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 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.

(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.)

80010 LIMITATIONS ON CAPACITY AND AMBULATORY STATUS**80010****(a) POLICY****Policy regarding total care need and bedridden clients is as follows:**

1. A total care need client is one who is totally dependent on others to perform for them all activities of daily living including feeding, dressing, diapering etc. This definition does not apply to infants ages zero to two. See Sections 80001a(1) and 80001 c.(7).
2. A bedridden person is defined in Uniform Building Code Section 403, as “a person confined to a bed, requiring assistance in turning or unable to independently transfer to and from bed, and unable to leave a building unassisted during emergency conditions.” This definition does not apply to infants, ages zero to two.

Total care need and bedridden clients shall be allowed in community care facilities as long as the client does not require more than incidental medical care, and the following conditions are met:

1. The licensee has obtained the appropriate bedridden or non-ambulatory fire clearance.
2. The licensee has a needs and services plan or an Individual Program Plan which specifies the services to be provided to ensure appropriate care for the client’s bedridden or total care condition.

(See Section 80020)

(b) POLICY

Health and Safety Code, Section 13131 defines nonambulatory and requires the Director of Social Services or representatives to determine ambulatory status.

Although Section 80069 requires medical assessments to include ambulatory status, the licensing agency should not rely solely on that determination as physicians frequently do not understand the definition of nonambulatory which is used in community care facilities.

80010 LIMITATIONS ON CAPACITY AND AMBULATORY STATUS (Continued)**80010****(b) POLICY (Continued)**

In order to be considered **ambulatory**, a client must meet all of the following criteria.

1. The client is not dependent upon a mechanical aid such as a walker, crutches or wheelchair, and he/she is able to ambulate a reasonable distance in a brief period of time. Dependence upon a cane or “quad cane” would not, by itself, classify a client as nonambulatory if he/she is able to meet the requirements of 2 and 3 below.
2. The client is able to respond both physically and mentally to an audible or visual signal or an oral instruction and evacuate the building unassisted, in an emergency situation.
3. The client is able to utilize all escape routes identified in the facility’s fire/safety evacuation plan. This includes doors, stairs and fire escapes.

If a client fails to meet any of the above criteria, he/she shall be considered nonambulatory.

Infants, as defined in Section 80001 (i)(1) are considered ambulatory for purposes of needing a fire clearance.

(b) PROCEDURE

In order to determine the ambulatory status of clients, the licensing agency shall take as many of the following actions as necessary.

1. Ask the administrator or facility representative the names of all nonambulatory clients.
2. Review medical assessments.
3. Review the needs and services plan.
4. Interview clients.
5. Observe clients. (See below.)
6. Contact placement agencies or other persons or agencies responsible for clients.
7. Contact clients’ physicians.

For those clients determined to be nonambulatory, the licensing agency shall inspect for nonambulatory room.

**80010 LIMITATIONS ON CAPACITY AND AMBULATORY
STATUS (Continued)****80010****(b) PROCEDURE (Continued)**

The licensing agency should always be alert to notice the presence of devices such as crutches, walkers or wheelchairs and should determine which clients use these devices.

In situations where the licensing agency questions the ability of a client to ambulate, the licensing agency may request the client to demonstrate his/her ability to walk. The licensing agency should observe and evaluate the ability of the client to exit the facility unassisted in a reasonable period of time.

Prior to determining that a client with developmental disabilities is nonambulatory, the evaluator shall consult with representatives of the Department of Developmental Services and consider their input (Health and Safety Code, Section 13131).

When clients are determined to be nonambulatory and there is no appropriate fire clearance, the following steps shall be taken:

1. A plan of correction shall be developed which requires the licensee to make arrangements for the client to be relocated within a safe but reasonable time, or for the licensee to request, through the licensing agency, an appropriate fire clearance.
 2. Unless the client is to be relocated immediately, the local fire district and the agency or person responsible shall be notified of the situation in writing.
 3. If the licensing agency believes that allowing the client to remain in the facility pending correction will present an immediate threat to safety, the licensing agency, in consultation with the local fire district authority, shall take any other administrative action when it is necessary (revocation and temporary suspension order).
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ARTICLE 3 APPLICATION PROCEDURE**80018 APPLICATION FOR LICENSE****80018****(a) POLICY**

This is to clarify the issue of management companies utilized by applicants/licensee to operate and manage facilities and whether these companies should be added to the license identifying them as co-licensee.

If an applicant/licensee agrees to allow a management company to assume responsibility and control over any aspect of care and supervision in the operation or management of the facility, the management company must appear on the license as a co-licensee.

PROCEDURE

When it has been determined that a co-licensee situation exists, each of the entities would be required to meet all applicable requirements that an individual/licensee must meet to obtain a license.

The relationship between an applicant/licensee and management company is not to be considered a partnership and district office staff should not require that they demonstrate this legal relationship. The management company is normally an independent contractor. A copy of the contract between the licensee/applicant and management company must be submitted with the application for licensure.

(b) POLICY

Persons, inquiring about licensure shall be advised that they must attend an orientation (See Evaluator Manual Reference Material Section 3-0100). Only those that have never attended an orientation for the specific facility category are required to attend. Current licensees that are relocating to a new site, changing the type of ownership (i.e. individual to Limited Liability Partnership), or expanding by opening another facility, do NOT need to attend a new orientation. The intent of the orientation is to provide information about licensing, specific regulations for the applicable facility type, and the application process. Only one person needs to attend for any entity applying for a license.

The Application Booklet (LIC 281) is distributed during the orientation session (See Evaluator Manual Section 3-0025, Guidelines for Processing Applications).

80018 APPLICATION FOR LICENSE (Continued)**80018**

(b)(1)

POLICY

The Americans with Disabilities Act, which was signed into law on July 26, 1990, gives civil rights protections to individuals with disabilities that are like those provided to individuals on the basis of race, sex, national origin and religion. It guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, State and local government services, and telecommunications.

Under the American with Disabilities Act, an individual (including a child) is considered “disabled” if he/she has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment (meaning other people treat the individual as if he/she is disabled whether or not that is actually the case). The American with Disabilities Act also prohibits discrimination against an individual who is “associated” with an individual with a disability.

The term “public accommodations” includes adult day care facilities and other facilities that provide nonresidential care; it may also include facilities that provide care continuously for only a few days, which would be analogous to hotels that provide short-term lodging and are subject to the American with Disabilities Act. With respect to residential care facilities that provide social services, there is apparent overlap between the federal Fair Housing Amendments Act of 1988 and the American with Disabilities Act: the residential aspect appears to be covered by the Fair Housing Act, while the social services aspect appears to be covered by the American with Disabilities Act.

Community Care Licensing Division is not responsible for enforcing the provisions of the American with Disabilities Act.

80018 APPLICATION FOR LICENSE (Continued)**80018**

(b)(1)

PROCEDURE

Because the Community Care Licensing Division is not responsible for enforcing the American with Disabilities Act, Licensing Program Analysts should not give advice to licensees about their responsibilities under the American with Disabilities Act. Licensees should, however, be encouraged to contact Community Care Licensing Division under the following circumstances:

1. If licensees believe that our regulations are an impediment to fulfilling their obligations under the American with Disabilities Act.
2. If licensees are asked to make a “reasonable accommodation” under the American with Disabilities Act or the Fair Housing Act. (This will give Community Care Licensing Division the opportunity to provide input before the parties negotiate a settlement that might not be considered appropriate by Community Care Licensing Division or the State Fire Marshal. Involving Community Care Licensing Division early in the process will enable Community Care Licensing Division to effectively raise such issues as the intent of the regulations.)

In addition, the designated Associate Governmental Program Analyst in each Region will serve as the clearinghouse for residential care issues related to the American with Disabilities Act. The District Offices can still raise questions with the **Advocacy and Policy Branch**, but the District Offices should in all cases make the designated Associate Governmental Program Analyst in their Region aware of American with Disabilities Act issues.

The expectation is that the designated Associate Governmental Program Analysts will identify regional and/or statewide issues that may be presented to the **Advocacy and Policy Branch** in issue-memo format. The **Advocacy and Policy Branch** will assume responsibility for requesting legal opinions as necessary.

Individuals who wish to file a complaint under the American with Disabilities Act, or who wish to obtain further information, should be advised to contact the following agencies:

1. The first step would be to contact the local office of the State Department of Fair Employment and Housing. The Department of Fair Employment and Housing has a wealth of information and will coordinate with federal agencies as appropriate.

80018 APPLICATION FOR LICENSE (Continued)**80018****(b)(1) PROCEDURE (Continued)**

2. For additional information, individuals should contact:

U.S. Department of Justice
Civil Rights Division
Office on the Americans
with Disabilities Act
P.O. Box 66118
Washington, D.C. 20035-6118
(800) 514-0301
(800) 514-0383 TT/TDD

3. Because the Fair Housing Act and the American with Disabilities Act have apparent overlap, individuals may also wish to contact:

U.S. Department of
Housing and Urban Development (HUD)
Region IX—San Francisco
Phillip Burton Federal Bldg.
and U.S. Courthouse
450 Golden Gate Ave.
P.O. Box 36003
San Francisco, CA 94102-3448
(415) 436-6550

Or call HUD's toll-free complaint hotline:
1-800-347-3739; TDD 1-415-436-1594

(d)(2)**POLICY**

Overconcentration applies to all residential care facilities (except residential facilities for the elderly and foster family homes).

Overconcentration means that one residential care facility is located within 300 feet (90 meters) of another, measured from any point upon the outside walls of the facilities.

PROCEDURE

To determine if an applicant's proposed facility location is 300 feet (90 meters) or less from an existing residential facility:

80018 APPLICATION FOR LICENSE (Continued)**80018****(d)(2) PROCEDURE (Continued)**

It may be necessary to visit the proposed site and take measurements (measurement is taken from any point on the outside walls of the facility). Actual measurements should be taken only if other means for determining overconcentration have failed.

If the facility is determined to be 300 feet (90 meters or less from an existing facility), request a LIS Input Sheet (LIC 9104) and send an Exemption Request Letter (LIC 166) to the local planning agency. If the planning agency has not responded within 45 days, or denies the request, then deny the application for licensure.

If the facility does not appear to be within the 300 feet (90 meters) criterion, request the clerk, by LIS Input Sheet (LIC 9104), to send Approval Request Letter (LIC 166) to the local planning agency. If the local planning agency does not send written notice within 45 days or responds and requests approval of the application, approve the facility location. If the local planning agency responds and requests denial, review case and approve the location if not within the 300 (90 meters) feet limitation, or deny the application if within the 300 (90 meters) feet limitation.

(d)(2)(C) PROCEDURE

Review the Administrative Organization (LIC 309). If the form lists persons who own more than 10 percent stock (for corporations), then verify that the information required by Health and Safety Code Section, 1520.3 is met. Ensure that fingerprints of the Chief Executive Officer are obtained in accordance with Section 80019(a).

(d)(3) POLICY

If the property is not owned by the applicant/licensee, evidence of control of property (e.g., copy of lease or rental agreement) shall be submitted to the licensing agency. This policy does not preclude a licensing agency from also requiring copies of deeds when it is necessary to verify who has control of property. Such circumstances would include instances where there are multiple license applications for a single location, or where information is obtained by the licensing agency that would cause them to suspect that the applicant does not have control over the property. Such information shall only be secured at the time of application or when subsequent circumstances dictate that such proof of control is needed.

80018 APPLICATION FOR LICENSE (Continued)**80018****(d)(3) POLICY (Continued)**

Applicants shall be informed by the licensing agency at orientation, interviews, field visits, etc., of their responsibility to adhere to terms placed on deeds, rental agreement, and lease agreements. However, the licensing agency shall not be responsible for determining what the terms of such agreements are or ensuring that they are met.

(d)(5) POLICY

Health and Safety Code Section 1254.5 requires that the treatment of eating disorders such as anorexia nervosa and bulimia be provided in acute psychiatric hospitals or in any other licensed health facility designated by the State Department of Health Services. Facilities that provide such treatment go beyond the scope of the nonmedical care and supervision authorized in community care facilities. They are under the jurisdiction of Department of Health Services for licensure, not Community Care Licensing Division.

PROCEDURE

Review carefully any application for licensure from applicants who plan on providing on-site medical treatment to a clientele with eating disorders. Community Care Licensing Division is not authorized to license such facilities. Individuals interested in providing treatment of eating disorders should be referred to the appropriate Licensing Certification field operations office of Department of Health Services for determination of licensure.

(d)(11) POLICY

The applicant shall disclose on the Applicant Information (LIC 215) any:

1. Past or present beneficial ownership of 10 percent or more in any community care or health care facility; or any past or present service as an administrator, director, general partner, or corporate officer of any community care or health care facility.
 - a. “Beneficial ownership” is any type or form of ownership. This includes, but is not limited to, persons who are members of nonprofit corporations, stockholders, trustees, trustors, partners, etc.
2. Revocation, denial, or other disciplinary action taken or being taken against a license held or previously held by the entities described in Health and Safety Code, Section 1520(d).

80018 APPLICATION FOR LICENSE (Continued)**80018**

(d)(11)

POLICY (Continued)

- a. “Other Disciplinary Action” includes pending or sustained denial actions, Temporary Suspension Orders, pending revocations, injunctions, and misdemeanor actions (Health and Safety Code Section 1540). This information is gathered for character reference purposes only and shall not be considered a reason to cease application review (Health and Safety Code, Section 1520.3).
3. Health and Safety Code Section 1520.3 states if an applicant indicates, or the licensing agency determines, that the applicant previously was issued a health or community care license which was revoked within the preceding two years, the licensing agency shall cease any further review of the application until two years have elapsed from the date of such revocation. Such cessation shall not constitute a denial of the application for purposes of Health and Safety Code, Section 1526 or any other provisions of law.
4. If it is verified that a license has been revoked within the past two years, the licensing agency will return the application to the applicant with the standard form letter.

(d)(11)

PROCEDURE

Upon disclosure of revocation, denial or disciplinary action, **Regional** Offices and County Agencies should contact the Community Care Licensing Division **Statewide Program Office** to determine or verify that an administrative action was, or is, being taken.

For applicants who disclose administrative actions or involvement in a health facility, the licensing agency shall contact the Department of Health Services, Licensing and Certification Division, Office of Certification Section, (916) 324-0047 or Calnet 454-0047. This Unit will be able to provide information regarding administrative actions against health facilities.

The list of administrative actions is provided upon request by Community Care Licensing Division’s **Statewide Program Offices** as a monitoring tool and consists of all completed administrative actions which resulted in a finding of revocation. The report also provides a master list of sustained denial actions and completed Temporary Suspension Orders. Licensing agencies are advised that revocation actions which are adopted by the Department after the date of a quarterly report may exist. For further clarification on the disposition of a particular case, **Regional** Offices may contact the Office of Chief Counsel, Department of Social Services.

80018 APPLICATION FOR LICENSE (Continued)**80018**

(e)(2)

POLICY

A husband and wife, unmarried couple or other adults living at the proposed facility may elect to sign a joint application for a family type license. However, if only one of the foregoing persons wishes to sign an application, the other party in the home is not also compelled to sign such application. If the facility will be located at the applicant's residence (e.g., small family homes and adult residential facilities) the license can only be issued to person(s) living in the home who sign the application. Both spouses are liable, even if only one is the licensee (i.e., for accidents and injuries sustained by clients, employees, or others in the course of the licensing operation).

Amendments to the application document can be made only by the applicant who must initial the change.

80019 CRIMINAL RECORD CLEARANCE**80019**

(a)

Registered nurses, licensed vocational nurses, podiatrists, physical and occupational therapists, and similar visiting medical professionals who only provide services within their scope of practice do not need background checks. However, if the medical professional is a licensee or employee of a community care facility, or provides assistance to clients with dressing, grooming, bathing, or personal hygiene or provides care and supervision of clients, then background checks must be completed for that individual.

(a)(2)(C)

A nurse assistant or home health aid who has been certified or recertified by the State Department of Health Services on or after July 1, 1998, is deemed to meet the criminal background clearance requirements for community care licensing, as long as the home health aid or nurse assistant is not employed, retained, or contracted by the licensee. When the nurse assistant or home health aid is providing care as an employee of a home health agency they must provide the facility with a copy of their current Department of Health Services certification card and the licensee should keep a copy of the card in file for review by the department. If a home health agency sends a person without a Department of Health Services certification to the facility to work, that person must meet the community care licensing fingerprint requirements.

A certified nurse assistant or home health aid is only qualified by that certificate to work for a facility licensed by the Department of Health Services, such as a hospital, skilled nursing facility or home health agency. If this person is contacted for, employed, or retained by a community care facility licensee, while working for the community care facility licensee they are not considered to be a nurse assistant or home health aid, and must meet community care licensing fingerprint requirements.

80019.1 CRIMINAL RECORD EXEMPTION**80019.1**

(a)(1-4) and (b)(1)

POLICY

With the exception of the licensee, spouse, or dependent adult living in the facility, individuals with non-exemptible, felony, or violent misdemeanor convictions must be immediately removed from a licensed facility. Individuals with non-exemptible convictions are not eligible for an exemption. Persons with felony or violent misdemeanor convictions may request an exemption, but must remain out of the facility pending an exemption decision. Individuals may also be excluded from a licensed facility if an exemption is denied or if a previously granted exemption is rescinded. The notification process and Confirmation of Removal form discussed below are applicable in these circumstances. If the individual is a licensee, spouse, or dependent adult living in the facility, see Evaluator Manual Reference Material, Background Check Procedures Section 7-1820 to determine what action should be taken.

The Licensing Agency will contact the licensee by telephone and advise that the individual must be removed from the facility. If the cause for removal is a conviction that can be exempted, the individual and the licensee of the facility with which they are associated, are sent a letter informing them that an exemption must be obtained before the individual can return to the licensed facility. For all removals, the licensee is sent a Confirmation of Removal form by the Licensing Agency. The licensee must complete the Confirmation of Removal form and return the form to the appropriate Regional Office by the date indicated on the notice. The Confirmation of Removal form confirms in writing that the person ordered removed from the facility is, in fact, removed.

The above notification process is completed by the Caregiver Background Check Bureau, which processes criminal record information and requests for exemptions for all State licensed residential care facilities. The Caregiver Background Check Bureau will send the Regional Office copies of the notification letter and Confirmation of Removal form for tracking and follow-up purposes. Caregiver Background Check Bureau will attempt telephone contact the same day the letter is initiated (dated).

(a)(1-4) and (b)(1)

PROCEDURE

When a person has been ordered out of the facility, the Regional Office must have a tracking system in place to ensure that the Confirmation of Removal form is received at the Regional Office by the date indicated on the notice.

If the Confirmation of Removal form is received by the date indicated on the notice, the Regional Office will file the Confirmation of Removal form in the public section of the facility file; no site visit is required unless determined necessary (see C. below.)

If the Confirmation of Removal form is not received by the date indicated on the notice, the Licensing Program Analyst will telephone the licensee within two (2) business days to verify that the person has been removed from the facility.

80019.1 CRIMINAL RECORD EXEMPTION (Continued)**80019.1**

The following procedures are to be followed depending on the information received from the telephone call:

A. If the licensee or designated person in charge of the facility states that the person has been removed from the facility but they failed to return the Confirmation of Removal form to the Regional Office, the Licensing Program Analyst will:

1. Inform the licensee or designee that a citation for failure to return the Confirmation of Removal form will be issued by mail, unless a site visit is made to issue the citation (see C. below). The citation will be issued on the LIC 809 Facility Evaluation Report.
2. Require the licensee or designee, as a plan of correction, to fax or deliver the Confirmation of Removal form to the Regional Office by the close of the next business day.

The Confirmation of Removal forms are available to the public at the Department's website at: www.cclcd.ca.gov. Internet access is available at most public libraries. The Licensing Program Analyst will inform the licensee or designee of the correct Confirmation of Removal form to complete if the licensee indicates that they no longer have the form. (Note: if the licensee returns the wrong Confirmation of Removal form, it is acceptable as long as the identifying information on the form is completed for both the individual removed and the licensee.)

- LIC 300A Confirmation of Removal form - Exemption Needed
- LIC 300B Confirmation of Removal form - Exemption Denied
- LIC 300C Confirmation of Removal form - Exemption Rescinded
- LIC 300D Confirmation of Removal form - Non-Exemptible Conviction
- LIC 300E Confirmation of Removal form – Counties

3. Advise the licensee or designee that failure to fax or otherwise deliver to the Regional Office the Confirmation of Removal form by the plan of correction date (the close of the next business day) will result in the assessment of civil penalties of \$50 per day until corrected.
4. Mail the LIC 809 (via regular mail) with the citation to the licensee and designee within one (1) business day of the plan of correction due date.
5. The Licensing Program Analyst will know by the time the LIC 809 is mailed whether the plan of correction has been completed. If the licensee complies with the plan of correction to return the form, the violation is cleared and no civil penalties shall be issued. If the plan of correction has not been completed, follow Evaluator Manual Reference Material, Enforcement Section 1-0060 Civil Penalties Assessed for Failure to Meet Plan of Correction Date and General Licensing Requirements Section 80054 for civil penalty procedures. (A visit must be made to assess civil penalties.)

80019.1 CRIMINAL RECORD EXEMPTION (Continued) 80019.1

The following is sample language to use for the citation:

Citation with Plan of Correction Completed and Deficiency Cleared

“The following violation of the California Code of Regulations, Title 22, Division 12, deficiency is hereby cited: Section 80019.1(b) Criminal Record Exemption. The licensee failed to return the Confirmation of Removal form to the Regional Office by the due date indicated on the form. This presents an immediate threat to the health and safety of residents in care as the Confirmation of Removal form is written documentation that the individual ordered removed is, in fact, removed from the facility.

As a plan of correction, the licensee was instructed to fax and/or deliver the Confirmation of Removal form to this Regional Office by (date). Verification was received on (date) and the deficiency is cleared.

Please review this report, ake any comments you wish, sign, make a copy for your records, and mail the original back to the Regional Office by (date) at: (note Regional Office and mailing address.)”

Citation with Plan of Correction not Completed (Deficiency not Cleared)

“The following violation of the California Code of Regulations, Title 22, Division 12, deficiency is hereby cited: Section 80019.1(b) Criminal Record Exemption. The licensee failed to return the Confirmation of Removal form to the Regional Office by the due date indicated on the form. This presents an immediate threat to the health and safety of residents in care as the Confirmation of Removal form is written documentation that the individual ordered removed is, in fact, removed from the facility.

As a plan of correction, the licensee was instructed to fax and/or deliver the Confirmation of Removal form to the Regional Office by (date). Verification has not been received and the deficiency is not cleared.

Please review this report, make any comments you wish, sign, make a copy for your records, and mail the original back to the Regional Office by (date) at: (note Regional Office and mailing address.)”

B. If the licensee or designee states that the individual has not been removed from the facility, the Licensing Program Analyst will:

1. Inform the licensee or designee that the individual must be removed from the facility that day and that failure to comply with the order to remove the individual is grounds for administrative action against the license.
2. Inform the licensee or designee that citations for failure to remove the individual and failure to return the Confirmation of Removal form will be issued by mail, unless a site visit is made to issue the citation (see C. below).
3. Follow steps A. 2. – 5. above. Add a citation for violation of Section 80019.1(a) for failure to remove the individual when ordered to by the Licensing Agency.

80019.1 CRIMINAL RECORD EXEMPTION (Continued)**80019.1**

C. The Licensing Agency always reserves the right to make a visit to a facility to determine if an individual has been removed from the facility. If at any time the Licensing Program Analyst has reason to believe that the individual is still working or residing in the facility, the analyst must consult with the Local Unit Manager to determine if and when an on-site visit is necessary to investigate the situation. If it is determined that the individual is still working or residing in the facility during the visit, then the Licensing Program Analyst will:

1. Inform the licensee or designee that the individual must be removed from the facility that day, and failure to comply with the order to remove the individual is grounds for administrative action against the license.
2. Issue a citation for violation of Section 80019.1(a) for failure to remove the individual.
3. Consult with the Local Unit Manager or County Licensing Supervisor to initiate the appropriate administrative action (revocation and/or temporary suspension order).

80020 FIRE CLEARANCE**80020**

(a)

POLICY

Policy regarding bedridden clients is as follows:

A bedridden person shall be defined as (per Uniform Building Code Section 403) “a person confined to a bed, requiring assistance in turning or unable to independently transfer to and from bed, and unable to leave a building unassisted during emergency conditions.”

PROCEDURE

All facilities which care for bedridden clients require a bedridden fire clearance. Licensees found caring for bedridden clients without the appropriate clearance should be cited under Section 80020. The licensee shall be informed that the violation is serious and shall be directed to submit a request for the appropriate bedridden fire clearance or to submit a relocation plan for the removal of the client.

The licensing program analyst should take into account the facility’s history of performance when reviewing the time frames for the relocation of the client to determine the likelihood that compliance will be timely. In all cases the licensee shall be required to immediately notify the client’s placement worker or authorized representative that the facility does not have an appropriate fire clearance.

If the licensee requests a fire clearance for bedridden clients, the licensing analyst shall immediately call the appropriate fire authority and request an expedited clearance explaining the reasons for the request. A written request stating “bedridden fire clearance” should follow.

80020 FIRE CLEARANCE (Continued)**80020****PROCEDURE** (Continued)

If after the inspection, the fire authority denies the fire clearance, the licensee shall be required to submit a relocation plan. In cases where the fire authority has approved a temporary clearance pending physical plant alterations, a relocation plan shall not be required.

(a)(1)

POLICY

“Maintained” means that the fire clearance is to be retained in the facility’s **file and kept current**.

In order to obtain an appropriate fire clearance, the evaluator is responsible for providing clerical staff with sufficient information regarding age, capacity, ambulatory status and physical/mental condition of clients.

If the fire clearance is denied for a deficiency that appears to be correctable, contact the applicant. If the applicant’s decision is to correct, record the plan of correction data on the Contact Sheet (LIC 185) and return the folder to the file. If the deficiency is not correctable or the applicant determines the correction would be too costly, begin the denial or withdrawal process, as appropriate.

If a fire clearance denial is received on a licensed facility, the licensing agency shall initiate the appropriate administrative action. Under no circumstances shall a license be issued without an appropriate fire clearance, and under no circumstances shall the requirement for a fire clearance be waived.

PROCEDURE

(See **Section 80020**)

If the fire clearance is for a group home or small family home for children, instruct clerk to indicate “structured environment for children” on the Fire Safety Inspection Request (STD 850).

(b)(2)

POLICY

All residential facilities (including exclusive use homes and residential facilities with six or fewer clients) serving nonambulatory clients require a valid fire clearance.

See Sections 80010 and **80020**.

For facilities that intend to use supportive restraints, instruct the clerk to note this on the Fire Clearance Request.

80020 FIRE CLEARANCE (Continued)**80020****(b)(2) PROCEDURE**

When deaf persons are being served in a facility (even though considered ambulatory), it should be specified on the request for a fire clearance in order to ensure the home has an appropriate alarm system as required by statute.

80021 WATER SUPPLY CLEARANCE**80021****(a)(2) POLICY**

Sanitation clearance inspections are requested only as required by this regulation or if sanitation conditions exist which could adversely affect the clients' health and safety. For example, if a facility is located in an area where chemical contamination is a concern, an analysis may be requested based on Section 1501(b)(5) of the Health and Safety Code.

PROCEDURE

Discuss the need for a sanitation inspection with your supervisor, as this requires payment of a fee by the applicant /licensee. Coordinate inspections with the local sanitation department.

80022 PLAN OF OPERATION**80022****(b)(5) PROCEDURE**

Refer to Sections 80064, 80065.

(b)(8) POLICY

Licensees shall not be required to submit blueprints or plans drawn to scale.

PROCEDURE

Review plans to ensure compliance with Sections 80010 and 80087.

80022 PLAN OF OPERATION (Continued)**80022****PROCEDURE (Continued)**

(b)(14)(A)

The LIC 604 Admission Agreement Guide has a section for visiting policy. For licensed facilities, the Plan of operation should be updated at renewal or in response to a complaint about visiting policy, as appropriate.

(g)

Upon receipt of the plan of operation, review applicable regulations to ensure that each part of the plan is in compliance. For example, to determine if an applicant's admission agreement is adequate, review **Regulations Interpretations and Procedures for General Licensing**, Section 80068.

80023 DISASTER AND MASS CASUALTY PLAN**80023**

(b)(2)

POLICY

It is recommended that the plan also include utility shut off locations, the location of first aid supplies and be posted by the telephone in the facility.

NOTE: The Emergency Care and Disaster Action Plan (LIC 610) meets this regulation.

(b)(2)

PROCEDURE

Review the facility plan to ensure that it is complete, accurate and updated as necessary to reflect any changes in the facility or community.

(d)

POLICY

Disaster drills should ensure that clients know exit routes. It is recommended that a diagram of the facility clearly indicating exit routes be posted on all floors of the facility.

In conducting disaster drills, exiting the building according to a plan is necessary, but relocation of clients would only occur in an actual disaster.

80024 WAIVERS AND EXCEPTIONS

80024

(b) POLICY

For information on granting exceptions to allow a child to reside in an Adult Residential Facility, please see any one of the following: Regulation Interpretations and Procedures Sections 85068.1(b) for (Adult Residential Facilities); Section 84068.4(c) (Group Homes); or Section 83068.1(d) (Small Family Homes).

(b)(1) POLICY

The Indian Child Welfare Act of 1978 (P.L. 95-608) requires that the Indian child be placed in a facility/home that:

1. Represents the least restrictive setting.
2. Most nearly approximates a family setting.
3. Meets the special needs of a child, if any exists.

Maximum program flexibility through waivers and exceptions should be utilized to achieve licensure of a range of Indian facilities which substantially comply with licensing standards and do not present life threatening health and safety risks. (Refer to Reference Material Section 2-5000.)

(b)(4) POLICY

A **waiver** may be granted when an applicant/licensee requests a variance to a specific regulation that relates to the overall operation of the facility.

An **exception** may be granted when an applicant/licensee requests a variance to a specific regulation on behalf of an individual(s) (e.g., a client or employee).

An **approval** shall 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 applicant/licensee or as deemed necessary by the licensing agency to ensure adequate and safe provision of service.

The basis for denial shall be fully explained.

PROCEDURE

See **Regulations Interpretations and Procedures for General Licensing, Section 80001 (e)(6),(e)(7)** and (w)(1) and Reference Material, **Office Functions**, Section 2-5000.

80025 BONDING 80025

(a)

POLICY

The licensee is not safeguarding client cash resources if the equivalent of the client personal and incidental allowance is given to the client at the same time the client hands his/her Supplementary Security Income/State Supplementary Payment check over to the licensee. In this situation the licensee is not required to obtain a bond. However, if the licensee removes the client's Supplementary Security Income/State Supplementary Payment check from the facility and then gives the client his/her personal and incidental allowance, the licensee is safeguarding client cash resources. In this situation the licensee is required to obtain a bond.

No form of financial guarantee or instrument, other than a surety bond, is acceptable.

(b)

POLICY

If a licensee operates more than one separately licensed facility, there must be separate coverage for each facility. Bonds that insure the licensee/ employees of two or more facilities are permissible provided the bond specifies the following:

1. The name, address and facility number of each facility covered;

and

2. The amount of bond coverage designated for each facility.

Documentation of the above shall be in the form of an attachment provided by the surety company and which is attached to the Surety Bond (LIC 402). The attachment shall be signed by the licensee and surety company representative, and impressed with the surety company's seal.

A "surety company" is defined as a company that is contracted to be responsible for another, especially a company which assumes any responsibilities, debts, or obligations in the event of the default of another.

In order to be allowed to do business in the State of California, the surety company must obtain an organization permit and a certificate of authority from the State Department of Insurance, Office of the Commission.

The bond shall cover the licensee and all facility staff against employee dishonesty in the handling of cash resources of person within the facility. This is commonly called a "fidelity" bond or "employee dishonesty coverage" bond.

80025 BONDING (Continued)**80025****(b) POLICY (Continued)**

Time certificates or other interest accumulating certificates issued by a bank are not bonds.

PROCEDURE

If the validity of a surety **is in question, you may** require the licensee to present documentation of the organization Permit and Certificate of Authority from the surety company.

(f) PROCEDURE

Review the Affidavit Regarding Client Cash Resources (LIC 400), to determine if the facility does or does not handle cash resources as defined in **80026(b)**. If client money will be handled, assure that a current Surety Bond (LIC 402), is on file, is in an appropriate amount as required in Section 80025(c), and is properly signed and sealed by the surety company. (See Section 80026)

**80026 SAFEGUARDS FOR CASH RESOURCES,
PERSONAL PROPERTY, AND VALUABLES****80026****(a) POLICY**

A licensee is not required to admit a client whose pre-admission appraisal indicates that the client is incapable of handling his or her own money. Likewise, a licensee is not required to retain a client whose incapability to handle money is not identified until after admission; the licensee may initiate removal, discharge or eviction proceedings as specified in the chapters that apply to each facility category.

If a licensee chooses to accept or retain an individual whose need for money management has been identified, the licensee must meet that need directly or through outside resources. Outside resources may include a client's representative payee or authorized representative.

NOTE: A licensee may now act as a resident's representative payee for a Social Security and/or Supplementary Security Income/State Supplementary Payment check. Sections 80026(c). and 80026(f) have been waived for licensees who are appointed as payee by, the Social Security Administration. See Evaluator Manual Policy and Procedure for Section 80026(c) for detailed information.

**80026 SAFEGUARDS FOR CASH RESOURCES,
PERSONAL PROPERTY, AND VALUABLES (Continued)****80026****(a) POLICY (Continued)**

If there is no representative payee, or no authorized representative who is willing to accept money management responsibility, the licensee is responsible under Section 80026 for handling and safeguarding the client's money, and is subject to the commingling and bonding provisions of Sections 80025 and 80026.

The licensee may also handle a client's money if requested to do so by a client who is capable of handling his or her own funds, or by a client's representative payee or authorized representative. The licensee in this situation is also subject to the provisions of Sections 80025 and 80026.

In all cases, the admission agreement must document who has money management responsibility.

(b) POLICY

The intent of this section is to safeguard clients' cash resources, personal property and valuables that are entrusted to the care of the licensee (Section 80026(h)).

Handling of a Client's Cash Resources

"Handling" of a client's cash resources occurs if the licensee does any of the following:

1. Is appointed by the Social Security Administration as representative payee to manage a client's Supplementary Security Income/State Supplementary Payment and/or Social Security check.

NOTE: Regulation Section 80026(c) and Section 80026(f) have been waived for licensees who are appointed by a Social Security Administration as representative payee. See Evaluator Manual Policy and Procedure for Section 80026(c) for details.

2. Takes a client's signed check to the bank and returns the personal and incidental amount in cash to the client.
3. Keeps A portion of the client's money on the facility premises for disbursement when the client so requests.
4. Maintains the client's money in a bank, credit union, or savings and loan account.

**80026 SAFEGUARDS FOR CASH RESOURCES,
PERSONAL PROPERTY, AND VALUABLES (Continued)****80026****(b) POLICY (Continued)**

5. Makes purchases for the client at the direction of the client, client's representative payee, authorized representative as defined in Section 80001(a)(9), or other designated person. The licensee must document this in the client's admission agreement.

The licensee is subject to the commingling prohibitions, and the bonding and safeguarding requirements of Sections 80025-80026. As noted in item 1 above, Sections 80026 (c) and 80026 (f) have been waived only for those licensees who have been appointed by Social Security Administration as the client's representative payee.

(c) POLICY

This Section and Section 80026 (f) have been waived for licensees who are appointed by the Social Security Administration to act as representative payee for residents who receive Supplementary Security Income/State Supplementary Payment and/or Social Security. (See Evaluator Manual Policy and Procedure for Section 80026(f)) All other bonding, safeguarding and accountability provisions in Sections 80025 and 80026 must be followed by licensee-payees since acting as payee constitutes handling of client monies.

Licensee-payees must meet the following State guidelines in handling the client's Supplementary Security Income/State Supplementary Payment and/or Social Security benefits:

STATE GUIDELINES

1. The client's record must contain the document from the Social Security Administration appointing, or terminating the appointment of, the licensee as payee.
2. The admission agreement must indicate if the licensee has been appointed as payee.
3. Personal and incidental money must be protected as currently required.
4. To properly account for the use of Supplementary Security Income/State Supplementary Payment and/or Social Security benefits the payee has received, the payee must:

**80026 SAFEGUARDS FOR CASH RESOURCES,
PERSONAL PROPERTY, AND VALUABLES (Continued)****80026****(c) POLICY (Continued)**

- a. Meet the ledger accounting requirements contained in Section 80026(h). The full benefit allowances received are to be posted to the ledger as income. The amounts paid to the licensee-payee for services are to be itemized separately as amounts disbursed. The remaining balance constitutes cash resources of the client and is to be accounted for in the normal manner.

Licensee-payees will also be required by the Social Security Administration to follow federal regulations. Some of these regulations are highlighted below:

FEDERAL REQUIREMENTS

1. Licensees are not permitted to charge a Supplementary Security Income/State Supplementary Payment or Social Security beneficiary for acting as payee.
2. In managing a client's Supplementary Security Income/State Supplementary Payment and/or Social Security benefit, the payee must attend to:
 - a. The client's current maintenance (room, board, care and supervision, and personal & incidental needs identified by the payee and the client), and
 - b. The client's reasonably foreseeable needs, which are typically personal in nature (for example, a winter coat or other seasonal clothing, holiday travel to visit relatives, medical needs not covered by Medi-Cal or Medicare, etc.).

Benefits not needed for current maintenance or reasonably foreseeable needs must be invested in an interest or dividend paying account in a bank, trust company, credit union, or savings and loan association which is insured under either federal or State law, or in U.S. Savings Bonds. Details of how accounts are to be held are contained in item 4 below.

3. Unlike clients who receive a Supplementary Security Income/State Supplementary Payment check, clients who receive only Social Security do not have a specific portion of their income that is protected for personal and incidental needs. The payee is required by federal regulations to attend to the personal needs of the beneficiary, and the payee's use of the Social Security benefit is subject to monitoring by Social Security Administration.

**80026 SAFEGUARDS FOR CASH RESOURCES,
PERSONAL PROPERTY, AND VALUABLES (Continued)****80026****(c) POLICY (Continued)**

4. Any Supplementary Security Income/State Supplementary Payment or Social Security funds that are not needed for current maintenance or reasonably foreseeable needs must be invested for the client when they exceed \$150. They must be placed in an interest or dividend paying checking or savings account in a bank, trust company, credit union, or savings and loan association insured under either federal or State law, or in U.S. Savings Bonds. Checking and savings accounts must show clearly that the payee has only a fiduciary, and not a personal interest in the funds. Interest paid on the account belongs to the client. Two recommended account titles are:

_____ (Payee's name), representative payee for
 _____ (client's name).

or

_____ (Client's name) by (payee's name), representative
 payee.

5. If the payee is changed by Social Security Administration, the payee who has kept or invested benefits for a client must transfer those funds, and the interest earned from those funds, to the successor payee, or to Social Security Administration, as specified by Social Security Administration. The client's record must contain the document from Social Security Administration indicating the payee change.

(c) PROCEDURE**When the Payee Fails to Meet the Guidelines or is Suspected of Misusing the Benefits**

The State guidelines detailed above were issued in an all-licensee letter in January 1993. The evaluator should verify that the licensee-payee is observing the guidelines. If the evaluator determines the licensee-payee is willfully violating the State guidelines, the evaluator should report the situation to the Audit Section of Community Care Licensing Division.

The federal requirements noted above were also contained in the all-licensee letter. While the evaluator is not responsible for monitoring the payee's compliance with the federal requirements, it is appropriate for the evaluator to notify Social Security Administration and the Audit Section of Community Care Licensing Division if he or she suspects that the licensee-payee is not following those requirements.

**80026 SAFEGUARDS FOR CASH RESOURCES,
PERSONAL PROPERTY, AND VALUABLES (Continued)****80026****(c) PROCEDURE (Continued)**

To determine the nearest Social Security Administration office, look in your local phone book under “United States Government Offices, Health and Human Services Department, Social Security Administration.” The appropriate contact person at Social Security Administration is the Title XVI Supplementary Security Income Claims Representative for cases involving Supplementary Security Income/State Supplementary Payment monies only. For cases involving only Social Security or both Social Security and Supplementary Security Income/State Supplementary Payment, the contact person is the Title II (Social Security) Claims Representative. (Claims representatives in some small Social Security Administration offices may routinely handle both types of cases.) Be prepared to give the Social Security Administration contact person the client’s social security number, if it is available. If the nearest Social Security Administration office does not handle that client’s case, they will refer it to the correct Social Security Administration office. Document the name and telephone number of your Social Security Administration contact, and the action Social Security Administration indicates it will take.

The Social Security Administration has the responsibility to investigate complaints of misuse of benefits and will take action to change payee, seek restitution, or refer for prosecution, as appropriate. The Licensing Division also has a responsibility to investigate allegations of misuse of personal and incidental money and take administrative action when appropriate.

(e) POLICY

The requirement for safeguarding does not prohibit the licensee from maintaining client cash resources in one account.

PROCEDURE

See Section 80026(i).

**80026 SAFEGUARDS FOR CASH RESOURCES,
PERSONAL PROPERTY, AND VALUABLES (Continued)****80026****(f) POLICY**

This section and Section 80026 (c) have been waived for licensees who are appointed by the Social Security Administration to act as a resident's representative payee. (See Section 80026(c) for detailed information.) Licensees who act as representative payee will necessarily make expenditures from the client's check(s) for basic services. However, the licensee is still prohibited by State law (Welfare and Institutions Code Section 11006.9) from obtaining any portion of the Supplementary Security Income/State Supplementary Payment personal and incidental needs allowance for the cost of basic services.

PROCEDURE

See Section 80026 (c) for detailed instructions.

(h)(1)(B)**POLICY**

The Individual Account Funds Maintained in Licensed Facilities (LIC 405) is available to applicants/licensees for accounting purposes. Licensees are responsible for safeguarding cash resources, personal property and valuables. However, a licensee is responsible to inventory personal property only when it has been entrusted to the licensee or facility staff for safekeeping. The Client Personal Property and Valuables (LIC 621), is available for this purpose.

When it is suspected that a licensee is not accounting for clients cash resources in accordance with Section 80026, an audit shall be requested. A request is normally made because there are clear reasons for doing so; i.e., a complaint from a third party, lack of records to establish personal and incidental balances or failure by a licensee to substantiate that the accounting of personal and incidental **balances** is adequate. The Evaluator Worksheet (LIC 423) is to assist you in determining if a request for an audit is appropriate when those types of clear indicators, as described above, have not surfaced.

The licensee is responsible for entering the amount of money received and spent for a client on the LIC 405 or comparable ledger. The ledger must indicate source of funds: (name of bank and account number), explanation (deposit or withdrawal) amount (of deposit or withdrawal) and the new balance. The LIC 405 is designed to show the balance of monies to be accounted for and safeguarded. Individual transactions of a savings account or checking account would not be itemized on the ledger unless they reflected a change to the balance of monies being accounted for.

**80026 SAFEGUARDS FOR CASH RESOURCES,
PERSONAL PROPERTY, AND VALUABLES (Continued)****80026**

(h)(1)(B)

PROCEDURE

During the facility evaluation, review the individual accounts of clients to verify proper recording of deposits, withdrawals and balances, and determine that the Surety Bond adequately covers the amount of cash maintained in the facility plus cash resources entrusted to the licensee and deposited in a bank, savings and loan or credit union as specified in Section 80025 and 80026(i).

(h)(1)(C)

POLICY

LIC 405 and LIC 621 are available for this purpose.

(i)

POLICY

Licensees who handle client money shall account for all interest earned from a clients, checking or savings account. Any interest earned on client money belongs to the client. However for clients who are not on Supplementary Security Income/State Supplementary Payment, a reasonable amount can be charged for this service. This service is considered a basic, not an optional service, and an “extra” charge cannot be made for Supplementary Security Income/State Supplementary Payment recipients. Additionally, the charge must be agreed to in the admission agreement.

The licensee, not the bank, is responsible for designating the account as client money on the passbook. This is not a joint tenant or trustee account.

(1)

PROCEDURE

See Section 80034(a)(2).

(m)(1)(A)

PROCEDURE

During the application process for change of ownership, if any questions arise regarding the accounting of client cash resources, personal property and valuables, review the LIC 405 and LIC 621 or comparable forms to ascertain that the accounting by the licensee is correct. Ensure that the Accounting Record for a Change of Licensee form (LIC 424) is submitted to the licensing agency.

80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued) 80026**(m)(2) POLICY**

The LIC 424 specified above meet this requirement.

(n)(2) POLICY

The LIC 405 and LIC 621 are available to licensees to maintain required records.

80027 INITIAL APPLICATION REVIEW 80027**(b)(1) POLICY**

An application which has been withdrawn shall not be considered a denial.

PROCEDURE

See Section 80029.

(c) POLICY

The two-year “cease review” requirement does not apply if an individual, who was previously a member of a corporation whose Community Care Licensing Division license was revoked, files a new application. However, if it can be proven that the individual was party to the reasons the corporation’s license was revoked, there may be basis for denial of the application.

PROCEDURE

Refer to Section 80018(1)(10).

80028 CAPACITY DETERMINATION 80028**(c)(1) POLICY**

The licensing agency must evaluate each situation and make a capacity determination considering, in part, the presence of other members of the household who reside at the facility.

80028 CAPACITY DETERMINATION (Continued)**80028****(c)(1) POLICY (Continued)**

If it appears that other household members require a significant amount of care and supervision, this may reduce the ability of the licensee to provide care to the requested number or maximum number of community care clients. Similarly, the presence of other appropriately qualified household members may enhance the ability of the licensee to provide care and supervision if these members assist in the provision of care.

For licensing capacity purposes, guardianship children are treated as natural children. That is, if a facility cares both for nonguardianship children and guardianship children, the licensed capacity of the home reflects the number of nonguardianship children that the licensee can care for. However, as stated above, the presence of guardianship children in the home may reduce the licensed capacity if the guardianship children impair the ability of the licensee(s) to provide care to the non-guardianship children.

The decision to reduce licensed capacity (from the requested or maximum number allowed) is based on the care needs of other household members. These needs are reflected by their mental and physical level of functioning, relative to other persons of the same age, and their dependence on the licensee for care and supervision.

Licensing agencies shall enforce the appropriate physical plant regulations established for the specific category, to ensure adequate accommodations exist for all people who will reside in the facility. If adequate accommodations exist for all household members and no household member has special or unusual care needs, they have no impact on the capacity determination.

If other members of the household have unusual or special needs, then a capacity reduction should be considered. As a general rule, the capacity should be reduced by one for every household member whose special needs require care in an amount similar to that required by other community care residents with similar special needs. For example, a developmentally disabled child (natural or guardianship) may reduce the licensed capacity by one.

(c)(1) PROCEDURE

Obtain information about the other household members, children and adults, who reside at the facility. This information shall be broken down by:

1. Age, relationship to licensee.
2. Physical and mental level of functioning, if these individuals have special needs.
3. Based on "2" above, a brief description of any special or unusual care needs.

80028 CAPACITY DETERMINATION (Continued)**80028****(c)(1) PROCEDURE (Continued)**

For existing licensees, this information shall be obtained or updated at time of renewal. For applicants, this information shall be obtained at time of application and updated at time of renewal.

All decisions to reduce licensed capacity for existing licensees shall be approved by the District Office Manager and shall be properly documented and supported in the facility's files. This decision should also be shared with any placement agencies involved.

Inform the licensee, in writing, of the reasons why a reduced capacity was determined necessary. For existing licensees, a reasonable time period shall be provided if relocation of clients is necessary.

If an applicant or licensee does not voluntarily reduce their license capacity, deny their application. If an application is denied and the licensee appeals this action, request a Temporary Suspension Order if the licensee's failure to reduce the capacity is significant enough to jeopardize the clients' health and safety (e.g., a requested capacity reduction of one may not jeopardize the clients' health or safety). (See Section 80042)

(f)(2) POLICY

When restricted to specific clients, the names of those clients are confidential and shall not be printed on the license. The license shall indicate "Restricted to specified clients".

PROCEDURE

Complete the Confidential Names form (LIC 811). Inform licensee, in writing, of the reason(s) for the restriction, referring to the client(s) by number and enclose a copy of the LIC 811. Instruct clerk to file the letter in the public section of the facility file and the LIC 811 in the confidential section.

80029 WITHDRAWAL OF APPLICATION**80029****(a)(1) POLICY**

The applicant has the right to withdraw an application any time prior to the issuance of a license. The withdrawal of an application shall not be considered a denial. However, the withdrawal of an application shall not deprive the department of its authority to institute or continue a proceeding to deny an application, unless the department has consented to the withdrawal in writing.

80029 WITHDRAWAL OF APPLICATION (Continued)**80029****(a)(1) POLICY (Continued)**

If the licensing agency gives consent to a withdrawal, administrative action cannot be taken. Therefore, written consent should not be given in situations where application denial is intended or pending. Additionally, the withdrawal of an application is not appropriate in situations where the application has already been acted upon (denied or approved).

PROCEDURE

If the licensing agency is notified that an applicant is no longer interested in obtaining a license and wishes to withdraw his/her application, confirm in writing the applicant's intent to withdraw the application and give consent to the withdrawal, unless the licensing agency is in the process of denying the application. If the licensing agency is in the process of denying the application, continue the denial procedure and do not consent to the withdrawal of the application.

1. If a denial action is pending, send the following notification:

“We acknowledge receipt of your request to withdraw your community care license application. This acknowledgment is not a consent to the withdrawal of your license application and does not deprive the department of its authority to take action to deny your application.”

2. If denial action is not pending, send the following:

“We have received your request to withdraw your community care license application and do hereby consent to the withdrawal. If you wish to obtain a community care license in the future, you must reapply for a license.”

Document in the facility case file the reason for consenting or not consenting to the withdrawal.

80030 PROVISIONAL LICENSE**80030****(f) POLICY**

Issuing a provisional license is a discretionary option available to the licensing agency during urgency conditions when denying the application for initial license would be inappropriate. Thus, provisional licenses are not issued “upon request” of the applicant. Nor is there an application process for issuance of provisional licenses, or an appeal procedure if an applicant requests a provisional license and is not given one. The applicant does have appeal recourse to the denial of the application for the initial licensure.

80030 PROVISIONAL LICENSE**80030****(f) POLICY**

Provisional licenses are not for the purpose of “expediting” the licensing process and are not to be used as “probationary licenses”. An applicant must comply with the criminal record and fire clearance requirements in order to meet the substantial compliance criteria. To the extent that waiting for these clearances “hold up” the licensing approval process, a provisional license cannot be used to remedy this situation.

PROCEDURE

When an application for a Provisional License is approved, route it to the clerk with a **LIS Input Sheet (LIC 9104)** for typing and logging. Prepare a cover letter that describes the conditions of the Provisional License and states deficiencies to be corrected before a regular license can be granted. The cover letter should conclude with the statement that unless all conditions are fulfilled, a regular license will not be granted. Supervisory review of the Provisional License and cover letter is required before being mailed.

If, during the term of a provisional license, health and safety risks arise:

1. Issue a Notice of Denial-Initial Application **form** (LIC 192) and establish in that letter the date the facility must cease operations (taking into consideration any client relocation which may be necessary). (See Section 80040)
2. After the effective date in the LIC 192, if the facility continues operation, issue a Notice of Operation in Violation of Law **form** (LIC 195). (See Section 80006)

Before the termination of a Provisional License, the licensing agency shall (1) conduct a review to determine whether all licensing requirements are met and (2) deny or approve the application for a license.

80031 ISSUANCE OF LICENSE**80031****(a) POLICY**

A facility’s failure to comply with a local ordinance or deed restriction shall not constitute grounds for denial of an application, denial of renewal or revocation of a license unless the reasons for noncompliance are also violations of licensing laws and regulations.

PROCEDURE

1. If a city, county, landlord, etc., notifies a licensing agency that an applicant/licensee is failing to meet the terms of a local ordinance, or deed restriction, advise such person(s) that if the facility meets the requirements of Title 22, California Code of Regulations and the Community Care Facility Act, the applicant/licensee will be issued a license to operate a community care facility.

80031 **ISSUANCE OF LICENSE** (Continued)**80031****PROCEDURE** (Continued)

They should further be advised that any administrative /legal action or recourse as it pertains to nonconformance with local ordinances or deed restrictions would have to be initiated and carried out by the city, county, landlord, etc., in question.

2. If such noncompliance is determined to be in violation of licensing laws and regulations, advise the applicant /licensee of the violation and take appropriate legal/administrative action, i.e., denial, issuance of civil penalties, etc. (See Sections 80040-80042.)
3. If it is discovered that a city, county, landlord, etc., has adopted/ imposed a local ordinance or deed restriction which is in violation of State law, (i.e. , Health and Safety Code Sections 1529.5, 1566.3, 1567.9) the licensing agency shall not initiate to take legal/ administrative action against the city, county, landlord, etc., on an applicant's/licensee's behalf. In such cases, the applicant /licensee shall be advised that if they meet all of the provisions of Title 22, California Code of Regulations and conform with State laws, they shall receive a license.

(b) PROCEDURE

Determine, as the result of the site visit, that the facility and licensee meet licensing requirements. Review the entire folder and make final decision on the application. Forward the folder to the clerk with a Transmittal for Processing (LIC 907), recommending licensure and detailing limitations and the applicant's preferences. The clerk prepares the Application for License **form** (LIC 150) and the License Notice **form** (LIC 272) and forwards the folder to the supervisor for review. If recommendation for licensure is approved, the supervisor signs off the above forms and forwards to the clerk for recording and mailing.

If recommendation for licensure is not approved, the supervisor will discuss the case with you and action to be taken. It is important not to advise the applicant of a licensure decision prior to supervisory approval.

80034 SUBMISSION OF NEW APPLICATION**80034**

(a)(2)(c)

POLICY

If there has been no change in the ownership of the corporation, a new application is not required solely because there is a change in the Chief Executive Officer of a corporation, even if the Chief Executive Officer signed the application. However, the Administrative Organization (LIC 309), Fingerprint Card (BID 7), and any other licensing forms or documents which require updating due to the change must be submitted.

PROCEDURE

See Section 80026(m).

(a)(5)

POLICY

A permanent change in any client from ambulatory to nonambulatory status does not require a new application if there is a nonambulatory fire-cleared room available in the facility.

Although this requirement for submitting a new application is linked to a “permanent” change in a client’s ambulatory status, this does not permit “temporarily” nonambulatory clients to use rooms or areas restricted to ambulatory clients.

PROCEDURE

Refer to Sections 80001n.(2) and 80010.

80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY CARE FACILITY LICENSE**80035****POLICY**

A licensee may retain a license even if he/she has voluntarily chosen to discontinue operating the facility. In such cases, the licensee is not relieved of the responsibility to comply with certain regulations. For example, if the facility is licensed for a capacity of 12 clients, the licensee must maintain sufficient beds, linens, and towels to accommodate 12 clients.

**80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY
CARE FACILITY LICENSE (Continued)****80035****POLICY (Continued)**

In keeping with this policy, Community Care Licensing Division is prohibited from requiring a licensee to relinquish the facility license because the facility is not operating; however, the licensee may choose the option of voluntarily surrendering the license. If the facility is in substantial compliance and no administrative action is being considered, the evaluator should encourage this option. Acceptance of a surrendered license shall be approved only by the District Office Manager or his/her designee. Explain to the licensee that a surrendered license is equivalent, under the law, to forfeiture of license.

The local licensing office shall acknowledge, in writing, receipt of the surrendered license, or receipt of a statement of intent to surrender the license. Under no circumstances shall the surrendered license deprive the department of its authority to institute or continue administrative actions against the licensee.

When a forfeiture is the result of a surrender of a license, do not use the term “surrender”; use the language in the following procedures.

See Evaluator Manual Reference Material Sections 1-2000, 1-2200, and 1-2210.

PROCEDURE

1. If there is no pending or planned administrative action and the licensee of a community care facility surrenders his/her license to the local licensing office stating any of the following:
 - He/she will no longer operate;
 - The facility is going out of business;
 - The licensee is moving;
 - The licensee has moved.
- a. Send the following to the licensee at the last known address:

“Effective (date), your license is forfeited by operation of law pursuant to Health and Safety Code Section 1524. Your license is no longer valid and all provision of care and supervision must cease. If you have not already done so, please send your license to the above address.

**80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY
CARE FACILITY LICENSE (Continued)****80035****PROCEDURE (Continued)**

You are responsible for notifying all clients or their authorized representatives that you have surrendered your license and will facilitate the relocation of the clients to another facility. If you wish to again operate a community care facility, you must not start operation until a new license is issued.”

The effective date should be the date of notification, unless a later closure date has been agreed upon.

- b. Close the facility file.
2. When the licensee of a community care facility surrenders his/her license to the local licensing office stating that he/she will no longer operate and there is evidence which may support an administrative action, or an administrative action has been initiated:
 - a. Acknowledge receipt of the license as follows:

“We acknowledge receipt of your license and/or your statement that you no longer wish to be licensed for a community care facility. This acknowledgement does not deprive the Department of its authority to institute or continue an administrative action against your license.

If the administrative action results in the revocation of your license, your application for a new license will not be processed until two years have elapsed from the date of the revocation (refer to Health and Safety Code Section 1520.3).”
 - b. District Offices are to notify legal staff; county licensing agencies are to notify their administrative action consultant to discuss the appropriateness of pursuing/continuing the administrative action.
 - c. The licensee must be notified in writing of the effective date of the forfeiture of license.
 - d. Document in the case file the reason for acknowledging the receipt of the license and/or the licensee’s statement that they are surrendering their license.

**80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY
CARE FACILITY LICENSE (Continued)****80035****PROCEDURE (Continued)**

3. When the licensee of a community care facility surrenders the license in order to avoid having to comply with licensing regulations, but continues to operate, i.e., provide care and supervision:
 - a. Acknowledge receipt of the license as follows:

“We acknowledge receipt of your license and your statement that you no longer wish to be licensed as a community care facility. Since you continue to operate a community care facility, you are required by law to be licensed. You are, therefore, operating a licensed facility and must comply with the rules and regulations related to such operation.”
 - b. Until the facility ceases operation, continue to visit and cite the facility, document any deficiencies on the LIC 809, and monitor all corrective actions. If the license expires and the facility continues to operate, the guidelines in Section 80006(b) and (c) on “Operation Without A License” are to be followed (refer to Evaluator Manual Sections 1-1170 through 1-1195).
4. When the licensing agency discovers that the licensee has moved, but licensing has not been notified of the move, and there is no pending administrative action, refer to Procedure 1 above.

See Reference Material Sections 3-2000 - 2900.

POLICY

Section 1523.1 of the Health and Safety Code states in part that failure to pay the required license fees, including the finding of insufficient funds to cover bona fide business or personal checks submitted for this purpose, shall constitute grounds for denial of a license or forfeiture of a license.

Until regulations are developed regarding forfeiture of a license due to nonpayment of licensing fees use Health and Safety Code Section 1523.1 as your citing authority and follow the procedures described below.

The object of citing a licensee as “unlicensed” without an actual facility visit when the licensee admits to continuing operation is to save both the time and the effort of local licensing office staff.

**80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY
CARE FACILITY LICENSE (Continued)****80035****POLICY (Continued)**

Refer to Reference Section 3-1600 Review of Annual License Fee Notice **form** (LIC 201F).

PROCEDURE

The **PROCEDURE** stated below applies to Health and Safety Code Section 1523.1.

When there is no proof of payment or information stating the licensee has ceased operation and surrendered their license in the facility file, licensing staff shall attempt to contact the licensee to find out if the licensee plans to continue operating.

If the licensee is believed to be operating, licensing staff are to contact the licensee by phone and advise them that the fee must be paid immediately. Licensees are to be advised that failure to pay their annual fee shall result in the forfeiture of their license and may make them subject to civil penalties.

If the licensee claims to have previously paid the fee or claims to have ceased operation, send a Final Notice Non-Payment of Fees letter (sample below) to both the facility address and licensee address (if they are different) by regular mail service as a follow-up to the phone conversation.

If the licensee refuses to pay the annual licensing fee, send the Final Notice Non-Payment of Fees letter to them by regular mail service. Licensing staff may wish to explain to the licensee that the Final Notice letter will be mailed to them.

If proof of a previous payment or full payment of the annual fee is received in the licensing office prior to the licensee's anniversary date no further action is needed.

If there is no response to the Final Notice Non-Payment of Fees letter within the required time, then within one week send the Notice of Forfeiture (sample below) to both the facility address and the licensee address (if they are different) by regular mail service.

If the licensee has requested a meeting in response to the Final Notice letter, the evaluator who issued the Final Notice and a higher level staff person shall arrange to meet with the licensee or his/her representative. If it is determined that the licensing fee is not due or has been paid (for example, a credit is due because of a previous overpayment), no further action is needed.

**80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY
CARE FACILITY LICENSE (Continued)****80035****PROCEDURE (Continued)**

If it is determined that the licensing fee is due and the licensee refuses to pay it, the Notice of Forfeiture, as shown below, shall be given to the licensee or their representative at the time of the meeting provided it is after the licensee's anniversary date.

If the annual licensing fee remains unpaid on the 16th calendar day from the effective date shown on the Notice of Forfeiture, the licensee is to be assessed civil penalties. Licensing staff are to refer to Regulation Section 80006, Operation Without a License, and Section 80058, Unlicensed Facility Penalties, for further instructions. A facility site visit is not necessary to assess civil penalties. The Notice of Forfeiture will be used in lieu of the Notice of Operation in Violation of Law until regulations are in place **(refer to Evaluator Manual Section 1-0040 through 1-0050)**.

Following is a sample Final Notice Non-Payment of Fees letter:

"You were previously notified that your annual license fee is due. Our records indicate that your fee of \$ _____ has not been received in this office. If you believe you have paid this fee and that our records are in error, please provide us with a copy of your cancelled check or other evidence of payment within two weeks of the date of this letter.

If you feel this fee is not due, or there is any other reason for your failure to pay the fee, you should contact your local licensing office and schedule a meeting to discuss these issues. A date and time will be arranged for you to present your information. You have two weeks from the date of this letter to contact your local licensing office and request a meeting.

Please be advised that payment of an annual licensing fee is required under Health and Safety Code Section 1523.1. Failure to pay the annual fee is grounds for forfeiture of your license. If you have not yet paid this fee, either the full payment or your request for a meeting must be received in our licensing office within two weeks from the date of this letter.

If you do not wish to continue operating a licensed facility please check the box below and return this notice along with your license to us within the above two week period.

**80035 CONDITIONS FOR FORFEITURE OF A COMMUNITY
CARE FACILITY LICENSE (Continued)****80035****PROCEDURE (Continued)**

- I do not wish to continue operation of my community care facility. I am surrendering my license and am not providing any care and supervision as authorized by this license. I am also aware that to provide care and supervision without a license makes me subject to civil penalties and/or criminal prosecution.

If you choose to surrender your license or your license is forfeited, we will notify the appropriate referral agencies and remove the name of your community care facility from our list of licensed facilities.”

Following is a sample Notice of Forfeiture letter:

“Because you have failed to pay your annual licensing fee, your license to operate a community care facility is forfeited by operation of law pursuant to Health and Safety Code Section 1523.1 effective * _____. As of this date your license is no longer valid.

You have 15 calendar days from the date of this notice to make full payment of your annual licensing fee or to submit a new application for licensure, including the required application fee, to your local licensing office.

If you continue to operate a community care facility you are in violation of Health and Safety Code Section 1503.5 or 1508 and you are subject to a civil penalty assessment of \$200.00 per day effective on the 16th calendar day, from the date of this notice unless full payment of your annual licensing fee reaches us within the required time.”

- * The effective date should be the date of notification, unless a later closure date has been agreed upon.
-

80036 APPLICATION/ANNUAL FEES**80036**

The following are procedures pursuant to the Health & Safety Code Section 1523.1.

This process is intended to give an overview of the entire fee collection process. The District Office is responsible for the District Office Procedures only.

MAILING OF LICENSING INFORMATION SYSTEM GENERATED ANNUAL LICENSE FEE NOTICE

The *Annual License Fee Notice* is automatically generated by the Licensing Information System the first Wednesday of every month and centrally mailed from the California Department of Social Services mailroom to the licensee's address four months prior to the facility's anniversary date.

If a licensee pays the annual fee after the facility's anniversary date, District Office staff must inform the licensee to submit a new license application and new application fee. Any exceptions to this must be approved by the District Office Manager.

A licensee who fails to pay the full annual fee by the facility's anniversary date subjects the license to forfeiture. In the event the licensee continues to operate after their license is forfeited, they are operating an unlicensed facility and are subject to unlicensed facility penalties pursuant to Health and Safety Code Section 1547. The District Office staff are to follow the Regulation Section for Unlicensed Facility Penalties and Evaluator Manual Section 1-0640. If a licensee is involved in the sale and transfer of the property and business, the annual fee does not have to be paid provided the parties involved in the transfer fully comply with the requirements of Health and Safety Code Section 1524.1(e) and the new application fee has been paid. This is the only circumstance that relieves the licensee from paying the statutory mandated annual fee when due.

Notice instructs the licensee to:

- Send the annual payment in the form of a check or money order to Central Office Cashiering, MS 14-67, P.O. Box 944243, Sacramento, CA 94244-2430, due 30 days prior to the facility's anniversary date; or
- Indicate on the *No Longer in Business Notification* located on the reverse side of the fee notice if the facility is no longer in operation as a community care facility and return it to the District Office.

District Office Information:

- If the District Office receives an annual payment, the check must be endorsed and transferred with supporting documentation to Central Office Cashiering on a daily basis;

80036 APPLICATION/ANNUAL FEES (Continued)**80036**

- No action is necessary if at any time prior to the facility's anniversary date full payment of the annual license fee is received and entered by Central Office Cashiering into the Licensing Information System.

Central Office Cashiering Information:

- Central Office Cashiering will input the fee payment into the Licensing Information System Cashiering screens within 48 hours of receipt;
- Central Office Cashiering will verify that transmittal document concurs with enclosed checks;
- Facility information changes made on the *Annual License Fee Notices* are forwarded to the Central Operations Branch by Central Office Cashiering. The Central Operations Branch sends the copies on to the District Office for the Licensing Information System to be updated.

PROCEDURE**For the District Office**

NOTE: The LIC 201F will no longer be used. The Annual License Fee Notice is now a back-to-back one-page letter generated by the Licensing Information System.

Should a licensee return the *Annual License Fee Notice* to the District Office with the signed *No Longer in Business Notification* indicating the facility is no longer in operation, District Office staff will enter this information into the Licensing Information System *Facility Closure* screen using Closure Code 3, "Closed-Licensee-Initiated" and file the notice in the facility file. (Refer to Section 3-1600 for surrender acknowledgement instructions and follow office procedure).

NOTE: Analyst must be informed of the closure. No additional automated notices will be produced.

Any Annual License Fee Notices, Final Notices, or Forfeiture Notices that are returned to the District Office that are signed and indicate a Reason for Closure on the No Longer in Business Notification, District Office staff must forward a copy of the Reason for Closure to the Technical Assistance Bureau at MS 19-56.

80036 APPLICATION/ANNUAL FEES (Continued)

80036

PROCEDURE**For California Department of Social Services Mailroom**

- On the first Thursday of every month, the California Department of Social Services mailroom personnel pick-up the *Annual License Fee Notice* from the Health and Welfare Data Center for mailing to the licensee's address by the following day.

MAILING OF LICENSING INFORMATION SYSTEM GENERATED FINAL NOTICE OF ANNUAL LICENSE FEE-UNDERPAYMENT NOTICE

If the full annual fee payment has *not* been entered into the Licensing Information System by Central Office Cashiering by approximately the 22nd day preceding the facility's anniversary date, (this can be viewed on the *Payment History/Aggregate Menu* by District Office staff) or the licensee-initiated closure code has not been entered, the Licensing Information System will generate a *Final Notice of Annual License Fee-Underpayment* and a *No Longer in Business Notification*. The District Office will receive copies of the notices every Friday for filing in the facility file, as well as a *List of Facilities Issued a Final Notice for Annual Fee*. This listing identifies facilities requiring a follow-up courtesy call by the District Office.

Notice advises the licensee that:

- *Full* payment of the annual fee has not been received and the fee is required to remain licensed pursuant to Health & Safety Code Section 1523.1;
- If payment has already been made the licensee must provide evidence to the local District Office listed on the reverse side of the notice;
- If the facility is no longer in operation, the licensee is to sign in the area indicated on the *No Longer in Business Notification* located on the reverse side of the letter stating they are no longer providing care and supervision to clients and return it with their original license to the listed District Office;
- If full payment is not received by the facility's anniversary date, their license will be forfeited, pursuant to Health & Safety Code Section 1523.1(d) for failure to pay.

80036 APPLICATION/ANNUAL FEES (Continued)

80036

PROCEDURE (Continued)**Licensee is instructed to:**

- Mail the payment prior to the facility's anniversary date in the form of a money order or cashier's check only; or
- Submit proof of payment to their local District Office if the licensee has already paid the current annual fee; or
- If the facility is no longer in operation, to sign and return the *No Longer in Business Notification* found on the reverse side of the notice with the original license to the listed District Office by the facility's anniversary date. (This procedure is to inform District Office staff of the operational status of a facility only. This notice is not used for a facility relocation or change in ownership.)

PROCEDURE**For the District Office**

- A *List of Facilities Issued a Final Notice for an Annual License Fee* is printed every Friday at the District Office;
- The District Office Manager or his/her delegate calls the licensees on the *List of Facilities Issued a Final Notice for Annual Fee*. The phone calls shall be made within seven calendar days following the date the report prints, to find out the status of the fee payment and facility operation;
- If the licensee states the facility is still in operation, the licensee must be informed that in order to retain their license, they must pay the full annual fee by close of business of their anniversary date or their license will be forfeited by operation of law;
- If the licensee states the facility is no longer in operation, the District Office must ask the licensee if they wish to surrender their license. If the licensee chooses to surrender the license, direct them to sign and return the *No Longer in Business Notification* acknowledging the surrender with their original license to the listed District Office. Upon receipt of the signed *No Longer in Business Notification* or other written notification, the license will be forfeited pursuant to Health & Safety Code Section 1524(b). District Office staff are to input Closure Code 3 "Closed-Licensee-Initiated" into the Licensing Information System.

80036 APPLICATION/ANNUAL FEES (Continued)**80036****PROCEDURE (Continued)****For the District Office (Continued)**

(Refer to Section 3-1600 for surrender acknowledgement instructions and follow office procedure for closing a file). **NOTE:** Analyst must be informed of the closure. No additional automated notices will be produced. If a written statement or the signed *No Longer in Business Notification* is not received by the facility anniversary date, the license is forfeited pursuant to Health & Safety Code Section 1523.1(d). The facility must be closed on the Licensing Information System under Closure Code 7, "Closed-Non-Payment." (Please refer to *Closing A Facility Due To Nonpayment-For District Office* procedures.)

- The District Office must document all related telephone conversations on a Contact Sheet (LIC 185) to be placed in the facility file;
- If the District Office receives proof of payment from the licensee, the District Office must place a copy into the facility file and forward the original documentation to the Accounting Unit, MS 13-72 for entering into the Licensing Information System. The Accounting Unit will reconcile the proof of payment with the Licensing Information System by posting payment information into the *Payment History Report* screen. No additional automated notices will be produced.

PROCEDURE**For California Department of Social Services Mailroom**

- The California Department of Social Services mailroom sends these notices to the licensee's address and if different, to the facility address.

MAILING OF LICENSING INFORMATION SYSTEM GENERATED NOTICE OF FORFEITURE**This list is informational only**

If the full annual fee payment has *not* been entered into the Licensing Information System by Central Office Cashiering by approximately the 8th day preceding the facility's anniversary date, (this also can be viewed on the *Payment History/Aggregate Menu* screen by the District Office staff) or the licensee-initiated closure code has not been entered into the Licensing Information System, the Licensing Information System will generate a *Notice of Forfeiture* and a second *No Longer in Business Notification*.

80036 APPLICATION/ANNUAL FEES (Continued)

80036

PROCEDURE (Continued)**For California Department of Social Services Mailroom**

The District Office will receive copies of the notices for filing into the facility file, as well as, a *List of Open Facilities Issued a Forfeiture/Revocation*. This listing is also printed at the Regional Office for information only.

Notice advises licensee that:

- Their license to operate a community care facility will be forfeited pursuant to Health & Safety Code Section 1523.1(d), on the facility anniversary date due to nonpayment of the annual license fee;
- If the license is forfeited, the licensee will be required to resubmit a new licensing application and fee to become re-licensed;
- If the licensee continues to operate with a forfeited license, they will be in violation of Health & Safety Code Section 1503.5 and 1508 and will be subject to penalty assessment for operating without a valid license pursuant to Health & Safety Code Section 1547.

Licensee is instructed to:

- Mail the payment prior to the facility's anniversary date in the form of a money order or cashier's check only; or
- If the facility no longer is in operation, to sign and return the *No Longer in Business Notification* with the original license to the listed District Office.

PROCEDURE**District Office**

- A *List of Facilities Issued a Notice of Forfeiture/Revocation Letter For Annual Fee* every Friday at both Regional and District Offices;
- If the District Office receives the *No Longer in Business Notification* by the facility's anniversary date, the District Office must input Closure Code 3, into the *Facility Menu* of the Licensing Information System, "Closed Licensee-Initiated." (Refer to Section 3-1600 for surrender acknowledgement instructions and follow office procedure for closing a file). **NOTE:** Analyst must be informed of the closure.
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80036 APPLICATION/ANNUAL FEES (Continued)

80036

PROCEDURE**For California Department of Social Services Mailroom**

- The California Department of Social Services mailroom sends these notices to the licensee's address and, if different, to the facility's address.

CLOSING A FACILITY DUE TO NONPAYMENT – FOR DISTRICT OFFICES

A STATEMENT OF FACTS is not necessary to process a closure of a community care facility due to nonpayment of the annual fee. A Statement of Facts is only necessary to process the closure of REGIONAL CARE FACILITIES FOR THE CHRONICALLY ILL for nonpayment of the annual fee.

If the full annual fee payment has *not* been entered into the *Payment History Report* screen of the Licensing Information System or the licensee-initiated closure code into the *Facility Closure* screen by approximately the 11th day following a facility's anniversary date, the facility will appear on the Licensing Information System generated List of *Facilities To Close Due To Nonpayment of the Annual Fee*. This listing informs the District Office of the facilities that are currently open on the Licensing Information System that need to be closed due to forfeiture of their license from nonpayment of their annual license fee. This listing prints each Monday evening at the District Office and every month on the second Monday at the Regional Offices.

PROCEDURE**DISTRICT OFFICES**

DISTRICT OFFICE STAFF MUST RESEARCH EACH FACILITY TO VERIFY THE ACCURACY OF THE FACILITY'S NON-PAYMENT STATUS, PRIOR TO CLOSING THEM IN THE LICENSING INFORMATION SYSTEM DATABASE.

If a licensee pays the annual fee after the facility's anniversary date, District Office staff must inform the licensee to submit a new license application and new application fee. Any exceptions to this must be approved by the District Office Manager.

- District Office staff must close the facilities in the Licensing Information System under Closure Code 7, under "Closed-Non-Payment of Fees." This closure option is under Option #9, Application/Facility Closure which is under Option #5, Facility Menu;

80036 APPLICATION/ANNUAL FEES (Continued)

80036

PROCEDURE (Continued)**DISTRICT OFFICES** (Continued)

- Follow through with District Office policy for closing facilities;
- These facilities must be closed within ten calendar days from the date the report prints;

Visits are discretionary for verifying if facility operation has ceased.

CLOSING A FACILITY DUE TO NONPAYMENT - FOR REGIONAL OFFICES
This list is informational only

The *Listing of Facilities to Be Closed For Nonpayment of the Annual Fee* prints every month on the second Monday at the Regional Offices. This list captures facilities remaining open on the Licensing Information System from 11 to 30 days past their facility's anniversary date and in increments of 30 days thereafter. *The Regional Office Report and District Office Report are the same report and can be referenced by the report run date.* Due to the report only reflecting facilities from the current billing cycle, facilities that remain open on the Licensing Information System without a fee payment can remain on the report for up to eight months past their facility's anniversary date before dropping off (refer to Evaluator Manual Section 1-1190).

MAILING OF LICENSING INFORMATION SYSTEM PRODUCED DISHONORED CHECK NOTICE

If the check processed for the annual fee is dishonored due to insufficient funds, stale date or closed account, the Accounting Unit will enter returned check information into the *Payment History Report* screen of the Licensing Information System. This will immediately generate a *Dishonored Check Notice* to the licensee. The Accounting Unit is responsible for mailing the notice certified mail to the licensee. A facility file copy is printed at the District Office. If the check is returned by the bank due to insufficient funds, stale date or closed account, the District Office will receive a copy of the *Dishonored Check Notice*.

If the check is returned due to stop payment, the District Office will receive a *Dishonored Check Notice* and a faxed copy of the stop payment check from the Accounting Unit. See District Office procedures for further instructions.

80036 APPLICATION/ANNUAL FEES (Continued)

80036

The Dishonored Check Notice advises the licensee that:

- The check for payment of the annual license fee was returned by the bank because of insufficient funds;
- The licensee has 30 days to submit payment in the Total Due amount listed on the letter unless evidence is provided an error was made by their financial institution;
- The license will be subject to forfeiture if payment has not been submitted to the Accounting Unit or appropriate documentation by the facility's anniversary date;
- If the check was dishonored due to stop payment, the licensee must provide the Department with a Good Faith Dispute in the manner provided in Civil Code 1719 within 30 days from the date of the letter;
- Continued operation after the facility's anniversary date without a valid license will result in the assessment of unlicensed facility penalties pursuant to Health & Safety Code Section 1547.

The licensee is instructed to:

- Mail payment in the form of a cashier's check or money order only. A business or personal check will no longer be accepted per Health & Safety Code Section 1523.1(c); or
- If the licensee wants to dispute this claim, they must submit documentation to the Accounting Unit from their financial institution to support their claim otherwise payment for the Total Due amount is necessary; or
- If the check was dishonored due to a stop payment, and if the licensee is asserting a Good Faith Dispute claim pursuant to Civil Code Section 1719, they must provide the Accounting Unit with a written statement of reasons for the stop payment; or
- If payment has already been resubmitted, return the *Dishonored Check Notice* with the check number and date of remittance to the Accounting Unit.

District Office Procedures:

- If the District Office receives a copy of the *Dishonored Check Notice* only, District Office staff are to file the notice into the facility file. No additional action will be necessary provided the annual fee payment is paid prior to the due date.

80036 APPLICATION/ANNUAL FEES (Continued)

80036

District Office Procedures: (Continued)

- If the District Office receives a copy of the *Dishonored Check Notice* along with a copy of the check indicating a stop payment:
 - District Office staff must investigate the reason for the stop payment by contacting the licensee within 30 days from the date of the notice.
- If the District Office is notified verbally or in writing by the licensee that they are asserting a Good Faith Dispute, and as a result a stop payment has been placed on the annual fee check, they must adhere to the following procedures to preserve the Department's rights under Civil Code 1719 to collect the annual fee:
 - District Office staff must ask the licensee what the Good Faith Dispute is about i.e. a statement of reasons for the stop payment;
 - District Office staff must consult with the consultation attorney assigned to their District Office regarding the Good Faith Dispute claim. The consultative attorney will recommend the appropriate course of action, i.e., to either go forward with forfeiture/revocation or keep the case on hold to try to work out the dispute, etc.;
 - District Office staff must document all communication on a contact sheet (Form LIC 185) and keep it in the public section of the facility file;
- If the District Office receives the *List of Facilities Issued a Final Notice for Annual Fee* and it includes the facility issued a *Dishonored Check Notice*:
 - District Office staff must check the list or the Licensing Information System for facility billing status and follow the procedures listed under *Mailing of Licensing Information System Generated Final Notice of Annual License-Fee Underpayment*;
- If the District Office receives the *List of Facilities Issued a Forfeiture/Revocation Letter for Annual Fee* and it includes the facility issued a *Dishonored Check Notice*:
 - District Office staff must check the list or the Licensing Information System for facility billing status and follow the procedures listed under *Mailing of Licensing Information System Generated Notice of Forfeiture*;

80036 APPLICATION/ANNUAL FEES (Continued)**80036****District Office Procedures:** (Continued)

- If the District Office receives the *Listing of Facilities to Close Due to Nonpayment of the Annual Fee* and it includes the facility issued a *Dishonored Check Notice*:
 - District Office staff must check the list or the Licensing Information System for facility billing status and follow the procedures listed under *Closing a Facility Due to Nonpayment-for District Offices*.

ARTICLE 4 ADMINISTRATIVE ACTIONS**80040 DENIAL OF INITIAL LICENSE****80040****(e) POLICY**

NOTE: The following is a list of some common conditions which may necessitate the denial of the application:

1. Failure to meet regulations for securing fire, health and sanitation clearances.
2. A history of criminal conviction with insufficient evidence of rehabilitation. (See Section 80019 (g))
3. The proposed physical plant does not meet the requirements.
4. The applicant fails to follow through with the application process.

When it is determined that an application will be denied, applicants shall not be given the option to withdraw the application prior to the denial action. In this circumstance, licensing agencies shall not consent to a request to withdraw an application. If the licensing agency accepts a withdrawal of the application in writing, the licensing agency cannot proceed with any administrative action on the case. The decision and order resulting from an administrative hearing serves to officially document and record the denial. Health and Safety Code Section 1520(e) provides that the applicant must disclose previous disciplinary actions taken against him/her. Health and Safety Code Section 1520.3 provides for certain Community Care Licensing Division actions based on past revocations if the individual applies again for a license. It is important, therefore, to record the denial actions for future reference. This process does not apply when an applicant withdraws his/her application and the licensing agency, at the time of the withdrawal action, has no grounds for a license denial action. (See Section 80029.)

PROCEDURE

Review all applications which **will apparently be denied** with your supervisor. All denial actions must be fully documented and substantiated. The importance of this cannot be overemphasized. The Administrative Action Guide Book, which is available in District Office's, outlines the documentation requirements for denials. Upon compiling the necessary documentation and consultation, a Denial Initial Application **form** (LIC 192) **containing** the District Office Manager's signature **must be sent to** the applicant by certified mail **stating the reason(s) for denial** and the specific **regulatory requirements** which were not met. A copy of the denial letter is sent to the Regional Office Manager, **and the** letter **must** inform the applicant **of his/her right to appeal the decision** in writing within 15 days.

80040 DENIAL OF INITIAL LICENSE (Confidential)**80040****PROCEDURE (Continued)**

In the event the applicant appeals the denial, the Regional Office Manager will acknowledge receipt of the letter, and advise the applicant that an administrative hearing will be scheduled. A copy of the acknowledgment letter is then sent to the District Office, where a Statement of Facts will be prepared. The Regional Office will initiate the steps necessary for an administrative hearing to review the denial action. During this hearing the evaluator may be required to testify. The documentation previously gathered will be used to show why the denial action was justified. If the applicant does not file an appeal, the denial is complete and no further action is needed other than verifying that the facility is not in operation. (Section 80006) See Reference Material Sections 1-2000 - 1-2300.

80042 REVOCATION OR SUSPENSION OF LICENSE**80042****PROCEDURE**

See **Evaluator Manual** Reference Material Sections 1-0010 - 1-5010.

(a)(1)

PROCEDURE

See Section 80031.

(b)

PROCEDURE

See **Evaluator Manual** Reference Material Section 1-2000.

80043 LICENSE/APPLICANT COMPLAINTS (RESERVED)**80043****PROCEDURE**

See **Evaluator Manual** Reference Material Section 1-4000.

**80044 INSPECTION AUTHORITY OF THE DEPARTMENT OR
LICENSING AGENCY****80044****(a) POLICY**

This authorizes the licensing agency to inspect any licensed or unlicensed premise providing personal care, supervision and services. This includes authority to enter and inspect the entire premise (inside and outside). However, it is our policy to inspect the licensee's and staff's living quarters at the time of initial licensure evaluation and when we observe or have reason to believe there are health or safety hazards which would threaten the clients. Typically, the evaluator will glance or quickly scan licensee and staff living quarters for obvious health and safety hazards. If any such hazards are evident, a more thorough inspection would be necessary. Also, the evaluator would be required to inspect licensee and staff living quarters in the case of a relevant complaint (i.e., staff member's room is unsanitary).

Health and Safety Code Section 1538.5 permits, but does not require, Community Care Licensing Division agencies to inform specified persons and/or agencies of any substantiated complaints against a facility, involving certain types of licensing deficiencies. However, under certain circumstances this law mandates the licensee at his/her own expense, to send a copy to substantiate a complaint to such persons and/or agencies. The licensing agency's responsibility is to inform the licensees of their obligation to notify specified persons and/or agencies.

In all cases when it is requested, licensing agencies shall notify the client's authorized representative(s) of any substantiated complaint against a facility. If not requested, licensing agencies may elect to notify the authorized representative(s). The policy, listed below, shall apply to all residential facilities.

1. Not less than 30 days prior to the expiration date of the facility's current license:
 - a. A copy of all Licensing Reports (LIC 9099) or (LIC 809) regarding any substantiated complaints related to client abuse and neglect, food services, sanitation, incidental medical care, or client supervision shall be sent when requested to the client's authorized representatives as indicated in the client's admission agreement. These individuals may include:
 - (1) Parents,
 - (2) Legal guardians,
 - (3) Conservators,
 - (4) Clients' rights advocate, or

**80044 INSPECTION AUTHORITY OF THE DEPARTMENT OR
LICENSING AGENCY (Continued)****80044****(a) POLICY (Continued)**

- (5) Placement agency representatives (as specified in the client's placement/admission agreement).

Licensing Reports **(LIC 9099s) and** (LIC 809s) are considered public information.

- b. The licensing agency shall retain written proof (e.g., copy of the letter sent) that the notices were sent. Such written proof of the notices, sent during the facility's current license term, shall be retained and open to public inspection for one year after transmittal.
2. All licensing agencies shall require licensees of all residential facilities to send by certified mail a copy of all Licensing Reports **(LIC 9099s) and** (LIC 809s) resulting from **substantiated** complaints to the client's authorized representative, under the following circumstances:
- a. Within three days following receipt of a citation for **any substantiated complaints** regarding physical or sexual abuse of client(s).
- b. Upon receipt of **three or more substantiated complaints** for the same type of violation(s), specified in **1.(a)** above, during the term of the current license. Since the time period within which the licensee must comply with this notification mandate is not specified by law, the evaluator shall inform the licensee of his/her obligation to notify the client's authorized representative and negotiate a specific date when such notification shall be completed. This negotiation between the licensee and the evaluator is not to be confused with a plan of correction. If the licensee fails to send the notification by the negotiated date, a plan of correction shall be developed in accordance with the civil penalties procedures.
3. Licensees must retain the certified mail receipt for one year as proof that the written notices were sent.
4. Failure of the licensee to comply with (B)(1), (B)(2), and (c) above shall result in civil penalty action being taken against the licensee, pursuant to applicable regulations and procedures.

**80044 INSPECTION AUTHORITY OF THE DEPARTMENT OR
LICENSING AGENCY (Continued)****80044****(a) POLICY (Continued)**

The Welfare and Institutions Code Sections 9700-9701 and 9710-9714, in part, gives the State Ombudsman the following authority in relationship to community care facilities providing care to any adult clients:

1. To be given first priority by licensing agencies when responding to community care facility complaints referred by ombudsmen. However, complaints which allege an immediate threat to resident health and safety shall be given first priority, regardless of complainant.
2. To refer to the appropriate licensing agency anyone who willfully interferes with any lawful action of the office. Interferences by community care facility licensees would include:
 - a. Denying an Ombudsman access to the facility.
 - b. Denying an Ombudsman access to client and personal records.
 - c. Taking discriminatory, disciplinary or retaliatory action against clients or employees who disclose information to assist the office in carrying out its duties and responsibilities.
3. To enter community care facilities for the purpose of hearing, investigating and resolving complaints relative to adult clients. Although the Office of the State Ombudsman primarily focuses on adults who are 60 years of age and older, the Office is authorized to enter any community care facility caring for adults. Such visits can be made at any time the State Ombudsman feels it is necessary and reasonable in order to effectively carry out his/her responsibilities.
4. To have access to client and personal records under the conditions specified in Section 9724 of the Welfare and Institutions Code.
5. To have access to any record of a State or local government agency which is necessary to carry out the responsibilities of the Office. This includes all confidential records except those specified in Reference Material Section 2-6000.
6. As a result of complaints made by ombudsmen, to receive from licensing agencies copies of inspection reports and plans of correction, and to be notified of any citations and civil penalties levied against an adult community care facility. Licensing agencies are required to provide this information only on those cases related to complaints referred by the office.

**80044 INSPECTION AUTHORITY OF THE DEPARTMENT OR
LICENSING AGENCY (Continued)****80044****PROCEDURE**

1. Upon receipt of complaints from Ombudsmen, the licensing agency shall respond according to existing complaint procedures.
2. Upon receipt of complaints referred by Ombudsmen relative to interferences with the Office of State Ombudsman (described in Policy, 2., a-c above), licensing agencies shall:
 - a. Telephone the licensee and inform him/her that the particular interference(s) is a violation of the law and that they must comply.
 - b. If the licensee does not comply and the Ombudsman files a formal complaint with the licensing agency, make an onsite inspection within ten days.
 - c. Violations of Sections 9700 et seq. of the Welfare and Institutions Code are not subject to civil penalties or any other type of Community Care Licensing Division enforcement actions.
 - d. The Licensing Report (LIC 9099) or (LIC 809) shall inform the licensee of the provisions of Section 9700 et seq. of the Welfare and Institutions Code and shall describe the specific interference(s).
 - e. As a result of any complaint referred by the office, licensing agencies shall send to the nearest available Ombudsman, copies of the inspection reports described in Policy 6 above.

See Reference Material Sections 3-2000, 2810 and 2-6500.

80045 EVALUATION VISITS**80045**

(b)

POLICY

Except for prelicensing visits, all evaluation visits shall be unannounced unless approved otherwise by the licensing supervisor.

In order to ensure the health and safety of clients, it may be necessary to interview clients and/or their authorized representative, staff and other persons as appropriate in addition to the licensee/administrator.

Evaluators shall have a complete knowledge and understanding of licensing laws and regulations prior to attempting any evaluation visit.

80045 EVALUATION VISITS (Continued)**80045****(b) POLICY (Continued)**

A Licensing Report **form** (LIC 809) shall be completed for each site visit during which an evaluation was done. (See Sections 80052(b) - (d) and 80053.)

(b) PROCEDURE

Before you make the field visit, review the facility file to determine if required documents or information are lacking or need to be updated. It is important to ensure required Criminal Record Clearance and fire clearances are current. Prior to any complaint visit, review the file and note the number of substantiated complaints (See Section 80044). Any records that are not confidential that may be helpful should be photocopied and added to your field folder.

NOTE: Any confidential records shall not be shared with any individual other than the affected person(s). (See Section 80019 and Reference Material Section 2-6500)

When you arrive at a licensed facility and find no one on the premises, do not complete a Licensing Report **form** (LIC 809). Note on the Weekly Itinerary (LIC 981) that the visit was not completed. Upon return to the District Office, note the date and circumstances on the facility file Contact Sheet **form** (LIC 185). When you make a return visit to the facility and make contact with the licensee/administrator, note the previous attempt to visit in the opening statement on the LIC 809.

There are times when it is advisable for you to make the site visit accompanied by another person, such as an evaluator, the licensing supervisor, a nurse, a sanitarian, an auditor, investigator, or a placement worker. These occasions are determined by the nature of the visit, the time of the visit, the type of facility or even the general attitude of the licensee/administrator toward you or the agency. It is strongly recommended that visits made during other than normal working hours be made by an evaluator team.

If a licensee/administrator denies you access to their facility after you have presented proper identification and have explained the reason for your visit, leave the premises, document such denial on the LIC 809, and mail a copy to the licensee informing him/her that denial of access is a violation of law (Health and Safety Code, Section 1533, 1534 or 1538, as appropriate). Discuss with your supervisor the need for an office conference with the licensee.

If you have been allowed entrance, contact the person in charge and explain the reason for the site visit. It is recommended that the tour of the facility be made in the company of facility staff. Deficiencies can then be pointed out and plans of correction discussed as deficiencies are identified. Do not feel hesitant to ask the facility representative to provide time and a place so that staff or clients may be interviewed in private.

80045 EVALUATION VISITS (Continued)**80045****(b) PROCEDURE (Continued)**

Licensees must respect clients' rights to be treated with dignity and have privacy. However, recognize that licensees also have the same rights. The enforcement of licensing regulations does not condone an overbearing, pushy manner.

Date and initial any documents received from the licensee and note on the LIC 809 that it was obtained during the visit.

If there is a potentially dangerous situation in or near a facility that could evolve into a verbal or physical assault, leave immediately in the safest manner possible. Verbal or physical assault by a licensee, client or other person against licensing staff **must be reported on California Department of Social Services Incident Report Form (GEN 1311)**.

When the site visit has been completed, conduct an exit interview with the licensee/administrator, or if not present, the person in charge of the facility. (See Sections 80052 -80056.)

ARTICLE 5 ENFORCEMENT PROVISIONS**80052 DEFICIENCIES IN COMPLIANCE****80052****(a) POLICY**

Deficiencies are noncompliances with either licensing laws or regulations. A serious deficiency is defined in Section 80001(s)(1) as “a deficiency that presents an immediate or substantial threat to the physical health, mental health, or safety of the clients of a community care facility.” Section 80051 lists examples of key regulations that may result in a serious deficiency citation. That list is not conclusive, nor does lack of compliance with any of those regulations automatically result in a serious deficiency citation. However, noncompliance with any of those regulations listed will generally indicate the existence of a threat to the health and safety of the clients commensurate to a serious deficiency and should be so cited.

Further, lack of compliance with Section 80019, relating to criminal record clearance, and Section 80020, relating to fire clearance, will always be cited as a serious deficiency. These are two requirements that are essential to ensure the provision of adequate and safe care to clients.

PROCEDURE

When you identify a deficiency, write the deficiency on the Licensing Report (LIC 809).

It is recommended that you note such infractions on the Detail Supportive Information (LIC 812) for reference. Also see Evaluator Manual Sections 3-2010, 3-3010, 3-3120, and 3-3400.

(b) POLICY

A licensee who fails to sign a LIC 809 or LIC 9099 shall be cited under this section.

(b) PROCEDURE

During the exit interview, discuss the following:

1. Deficiencies which were observed and cited on the LIC 809.

80052 DEFICIENCIES IN COMPLIANCE (Continued)**80052****(b) PROCEDURE (Continued)**

2. The plan for correcting any deficiencies, including due dates, and, if necessary, interim steps for completing each part of the plan. (See Section 80052(d)(4).)
3. The civil penalty process and the licensee's appeal rights. (See Sections 80052 through 80056 and Evaluator Manual Section 1-0040.)

If a facility has deficiencies which could pose an immediate threat to client health and safety (i.e., **no staff present at the facility**), remain on the premises until any dangerous conditions can be remedied.

The LIC 809 and LIC 9099 is used for documenting site visits, Compliance Plans and office visits. The LIC 809 and LIC 9099 is signed by the evaluator and the licensee/administrator (or designee) a duplicate copy is made. When completing the form, the top sheet (original) is retained by the District Office, the first copy is given to the facility, and the third copy is retained for mailing to other public agencies upon request, e.g., local Ombudsman.

(c)(3)**POLICY**

It is expected that the writing of the LIC 9099 or LIC 809 be completed in the field at the conclusion of the evaluation visit. Exceptions to this could be, for example, a lengthy and complex inspection that extends beyond your normal working hours, or uncertainty whether a violation should be cited as a **deficiency** or serious deficiency and you need to consult with your supervisor.

PROCEDURE

If the evaluator is unable to complete the Licensing Report (LIC 809), he/she must leave an LIC 9099 and LIC 809 signed by the licensee/administrator (or person in charge) that states the date and the purpose of the visit and clearly documents that:

1. Deficiencies were discussed during the exit interview.
2. An appointment will be made, either in the facility or District Office to review the report and determine plans of correction. An attempt should be made to schedule the appointment not more than two working days past the date of the evaluation visit.

80052 DEFICIENCIES IN COMPLIANCE (Continued)**80052**

(d)(3)

POLICY

The most appropriate Regulatory Section from the California Code of Regulations, Title 22, or Statutory Section from the Health and Safety Code shall be cited on the LIC 809.

PROCEDURE

Complete the top section on the first page of the Licensing Report (LIC 809) or (LIC 9099). This includes the time entering and exiting the facility and address and telephone number of the licensing agency. It is important that the top Section be completed. The additional pages need the facility name, the date and page reference.

Clearly number and separate each deficiency. This allows clear reference to the violation when either issuing citations or securing plans of correction. After numbering the deficiency, indicate the California Code of Regulations Section number being cited.

After the California Code of Regulations reference, describe the deficiency with reasonable specifics - who, what, where and to what extent. If you are citing multiple deficiencies that pertain to the same regulation group them together, rather than document each one separately. When grouping a number of deficiencies that apply to a section and its subsections, identify each subsection.

Discuss and develop a reasonable plan of correction with the licensee/administrator. On the right hand portion of the LIC 809, directly across from the deficiency being cited, ask the licensee/administrator to clearly explain how and when each deficiency will be corrected. (See Evaluator Manual Reference Material Sections 3-2340 and 3-3100 through 3-3300.)

(d)(4)(D)

POLICY

After considering the factors identified in California Code of Regulations Section 80052(d)(4)(A)(I)-(4), it may be necessary to establish interim corrective steps in order to achieve a fair and reasonable final correction due date. For example, a licensee may be cited for damaged floor coverings throughout his/her facility. Due to inconveniences to clients, and time necessary for delivery and installation of new carpets and linoleum, interim due dates may be established for specified rooms.

The licensee may request an Administrative Review of the Penalty Notice Visit or the Follow-up Penalty Assessed Visit (See Section 80055).

80052 DEFICIENCIES IN COMPLIANCE (Continued)**80052**

(d)(4)(D)

POLICY (Continued)

As a result of this review, the District Office Manager (or delegate of higher staff level than the evaluator) may amend, extend the due date, retain or dismiss the penalty. The evaluator is not authorized to make these decisions. Such a request should be made in writing within ten days of receipt of the Licensing Report **form** (LIC 809) or Facility Penalty Assessment **form** (LIC 421) **and (LIC 421A)**. The Penalty Review **form** (LIC 178) is sent to the licensee as official notification of the Administrative Review.

PROCEDURE

There will be occasions when, because of the deficiency cited, the licensee will be unable to immediately provide a plan of correction. For example, your tour of a group home, reveals that the roof is leaking throughout the facility. The licensee states he/she cannot provide a plan of correction before talking to a contractor. For example, as an interim plan of correction, you may require that the facility secure a contractor and specify a reasonable completion date within ten days.

Point out to the facility that the more specific the plan of correction is, the easier it is to (1) jointly identify a reasonable correction date; and (2) the less chance there is for any misunderstanding when you return to determine if the deficiency is corrected.

(d)(6)

POLICY

Licensing regulations require that you shall issue a notice of deficiency during the licensing visit when Compliance Plans are involved. In issuing the notice, you must state on the LIC 809 whether the violation is a deficiency or a serious deficiency, the amount of the penalty if not corrected, and the date the penalty begins.

Even though you may document more than one deficiency or serious deficiency, the maximum penalty assessed per day shall not exceed \$50 for one or more deficiencies.

PROCEDURE

Attempt to set common correction dates. This is not always possible when serious deficiencies **(Type A and Type B)** are involved which require immediate (24 hour) correction. If you determine that there are no serious deficiencies and establish a single, plan of correction date, you may write “all deficiencies must be corrected by (the specific date) or be subject to **\$50** per day penalty” rather than write this information after each deficiency.

80053 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE**80053**

(a)(2)

POLICY

The LIC 809 is used when following up on a plan of correction. Your follow-up visit shall be made not later than ten working days after the latest plan of correction date established during your original visit. You may need to schedule an earlier follow-up visit when serious deficiencies requiring immediate (24-hour) correction have been cited. When your follow-up visit verifies that deficiencies are satisfactorily corrected, clear the plan of corrections by stating on the LIC 809 how the corrections were made and “no civil penalty assessed”.

(c)(2)

POLICY

When a civil penalty is assessed, reference the report to the original notice, stating: “Deficiencies listed below have not been corrected by the plan of correction date on the Licensing Report of (date). See previous report for details.” List all the uncorrected deficiencies by number, regulation code and section(s) that correspond to the original LIC 809. Then briefly explain why the deficiencies were not corrected. You are then ready to issue the **Civil** Penalty Assessment **form** (LIC 421).

The purpose of the LIC 421 is to indicate to the licensee and the District Office the exact date the penalty began and the amount owed at the time of the visit. Enter the date of the visit in the upper left-hand corner of LIC 421. In establishing the dates covered by the penalty, the penalty begins the day following the plan of correction date and includes the day of your visit. If, for example, the correction on a deficiency **(\$50)** was due on the first of the month and your visit was the fifth, the penalty would be assessed for the second through the fifth in the amount of **\$200** with **\$50** per day to continue until correction has been made.

PROCEDURE

At the conclusion of the follow-up visit, complete the following forms:

1. Licensing Report (LIC 809) and any other supporting documentation.
2. **Civil** Penalty Assessment **form** (LIC 421) (not needed if all corrections are completed).

The Facility Penalty Assessment **form** (LIC 421) is completed by the evaluator during the site visit. The LIC 421 is to be completed in its entirety describing those regulatory sections and/or Health and Safety Code sections which have been violated. Be sure to accurately complete that portion of the form, which sets the amount of the initial penalty and documents the period of time for which the penalty is assessed.

80053 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE
(Continued)**80053****PROCEDURE**

The beginning date for the assessment is the day following the plan of correction date, (date by which the deficiency was to be corrected). The second date shown is the date of the follow-up visit. This date should be the same as the date this LIC 421 is prepared. These dates are important for use by the clerical staff in setting up the facility penalty ledger for billing.

80054 PENALTIES**80054**

(f)

POLICY

At anytime during the penalty assessment process, the licensing agency may request a noncompliance conference (See Section 80043) with the licensee for the purpose of establishing a plan of correction date and a plan for achieving compliance. If no notice of correction has been received from the licensee by the end of the 30-calendar-day assessment period, a follow-up visit shall be scheduled as soon as possible. The visit is for the purpose of determining if deficiencies have been corrected.

(f)

PROCEDURE

The following describes three general situations you may encounter and the appropriate action to take.

Situation #1

At the time of the follow-up visit, if the deficiencies have been corrected, complete a LIC 809 documenting the visit and that the deficiencies have been corrected. No further action on this deficiency is required by the evaluator. However, the licensee is liable for any penalties which have accrued for 30 calendar days or until the date the deficiencies were corrected and verified (See Section 80054(e)) whichever is the earlier date. (See Section 80053(c) for explanation of Collection Procedures.)

Situation #2

The follow-up visit at the facility indicates that the licensee has not corrected the deficiencies; however, the licensee is able to provide verification that corrective action is in progress but not yet completed (e.g., receipt showing window glass on order, contract to have work done, etc.). In this situation, prepare an LIC 809 stating the action taken thus far by the licensee to comply with the regulations and establishing a new plan of correction date.

80054 PENALTIES (Continued)

80054

PROCEDURE (Continued)**Situation #2** (Continued)

The new plan of correction date should be realistic based on the licensee's ability to comply with the regulations. For example, if the window glass is on order and will be available in two weeks, establishing a plan of correction date of one week is not realistic. In no case, however, can the plan of correction date be longer than 30 calendar days (except as specified in Section 80052(d)(4)(B) and (C)).

If a site visit is required you must visit the facility within ten days after the plan of correction date to ensure compliance (Reference Section 80053). If the licensee has corrected the deficiency, no further action is required by the evaluator for this deficiency. However, the licensee is responsible for all penalty assessments accrued. (See Section 80053(c) for explanation of Collection Procedures.) If the licensee fails to meet this second plan of correction date, the procedure described in Situation #3 below is to be followed.

Situation #3

At the time of the follow-up visit, if the deficiencies have not been corrected and the licensee has demonstrated no effort to comply or if the licensee has failed to comply with the second plan of correction date, the procedure below must be followed:

Document on the LIC 809, the facility's failure to comply with the plan of correction date and again cite the facility for noncompliance following the requirements of Section 80052. Assessment of penalties cannot begin until a site visit is conducted, a new plan of correction date established, etc. If this new plan of correction date is not met, another penalty assessment period must begin which cannot run longer than 30 days.

(h)

POLICY

Once civil penalties have been assessed, it is the licensee's responsibility to notify the District Office that the corrections have been made. This notification need not be in writing. If it is necessary to make a site visit to verify corrections, this visit must be made within five working days of the notification of correction. Upon verifying the correction, the total amount of the fine is computed from the date following the plan of correction date through the date the licensee notified the office.

80054 PENALTIES (Continued)

80054

PROCEDURE

When a licensee notifies the District Office that deficiencies have been corrected, document the date and summarize information received on the Contact Sheet (LIC 185). Verification that corrections have been made can be accomplished by mail through use of Proof of Correction(s) form LIC 9098. There may be a need to schedule a site visit to verify the correction.

(j) POLICY

Civil Penalties may be paid in installments. All requests for an installment payment shall be in writing. Inquiries and/or verbal requests made by telephone shall be documented on the Contact Sheet (LIC 185) and placed in the facility file. The licensee (or designated representative) shall be advised to follow-up the telephone/verbal request in writing to the licensing agency.

If the licensee (or designated representative) requests a noncompliance conference, the conference shall be documented on the Licensing Report (LIC 809) according to established procedures. (Reference Material Section 1-4000)

(k) POLICY

All claims are pursued in Central Operations Branch.

PROCEDURE

See Evaluator Manual-Reference Material Section 2-7000 or Procedures Manual for procedures on collection of civil penalties.

The District Office Manager (or designated staff) shall document the following:

1. Basis for approval or denial of request;
2. If approved, the established installment schedule, amount of payment, and due dates.

Compliance Plan assessments shall be cleared within a two-month payment schedule. However, if this payment schedule would impair the provision of the level of care and supervision as required by regulation, the District Office Manager (or designated staff) may approve an extended payment schedule. The extended payment schedule shall not exceed a total of four months unless approval is obtained from the District Office Manager.

80054 PENALTIES (Continued)**80054****PROCEDURE**

Installment payments of not less than \$25 per month must be made in order to avoid further action being initiated by the Department, such as referral to Central Operations Branch.

Written confirmation of the approved/denied installment payment request shall be sent to the licensee.

Forward all documentation to the clerk for processing of the Notice For Payment (LIC 422).

The Contact Sheet (LIC 185) and the licensee's letter or the LIC 809 shall be forwarded to the District Office Manager (or designated staff) for review and approval or denial.

The District Office Managers (or designated staff) shall apply the following standards when establishing a Compliance Plan installment payment schedule.

1. The amount of the outstanding Compliance Plan assessment must be \$50 or more. **Additionally** one of the following shall exist:
 - a. The source(s) of income and/or available resources of the licensee demonstrate an inability to make the payment as assessed, or
 - b. The payment of the total outstanding Compliance Plan assessment due adversely impacts the level of care and supervision.

80055 ADMINISTRATIVE REVIEW**80055**

(d)

POLICY

The District Office Manager or delegate will act as reviewer and may amend, retain or dismiss the notice of deficiency and/or notice of penalty. The correction date may also be extended by the reviewer. However, granting this extension should be the exception, and granted only in circumstances where there is evidence that correction delays are beyond the control of the licensee.

PROCEDURE

Upon completion of the review, a Penalty Review (LIC 178) is drafted which notifies the licensee of action taken on his/her appeal. A copy of the LIC 178 is retained in the facility file.

ARTICLE 6 CONTINUING REQUIREMENTS**80061 REPORTING REQUIREMENTS****80061****(b)(2)(D) POLICY**

The Unusual Incident/Injury/ Report form, (LIC 624) or the Death Report form (LIC 624A), is available for this purpose.

(c) POLICY

Such organizational changes require that a new application be filed.

PROCEDURE

Refer to Section 80034(a)(2).

(c)(3)(B) POLICY

The Administrative Organization (LIC 309) can be used to notify the licensing agency of any changes in a corporation, association or partnership.

80064 ADMINISTRATOR-QUALIFICATIONS AND DUTIES**80064****(b) POLICY**

It must be documented who is in charge when the administrator is absent. The designated substitute must be responsible and accountable for the facility's operation in the administrator's absence, and must be able to manage and administer the facility in accordance with regulations. This includes maintenance and supervision of client cash resources, personal property and valuables which have been entrusted to the licensee or facility staff.

80064 ADMINISTRATOR-QUALIFICATIONS AND DUTIES
(Continued)**80064**(b) **POLICY** (Continued)

However, it would be acceptable for a licensee to establish reasonable business hours during which time the money would be made available to clients (i.e., not past 10:00 p.m.). Such reasonable rules may be included as part of the facility's house rules.

PROCEDURE

Determine by reviewing such documentation as the Designation of Administrative Responsibility (LIC 308), the Personnel Report (LIC 500), and the Personnel Record (LIC 501), that the designated substitute administrator is qualified and scheduled to provide coverage in the absence of the administrator.

80065 PERSONNEL REQUIREMENTS**80065**(b) **POLICY**

This regulation does not establish specific staff ratios or guidelines. As a general rule of thumb, if a licensee is cited for recurring violations (such as poor maintenance of the facility or lack of provision of basic services, etc.) this could indicate insufficient staff. The licensing agency shall pay particular attention to the use of restraints (See Section 80072 (a) (8)), bathing, sleeping and eating schedules, lack of necessary supervision, or other regulatory deficiencies which may be the result of insufficient staff.

PROCEDURE

During the site visit, observe ratio of on-duty staff to clients. Review Personnel Report (LIC 500), Personnel Record (LIC 501), Preplacement Appraisal Information (LIC 603) **Appraisal/Needs and Services Plan** (LIC 625), and other appropriate documents to determine that the facility had sufficient support staff to meet the requirements of this regulation and the personnel requirements for the particular facility category. It is advisable to schedule visits during hours when the facility is fully functioning (i.e., during bathing, eating, activities). Use the Licensing Report (LIC 809) to document the need for additional staff.

80065 PERSONNEL REQUIREMENTS (Continued)**80065**

(d)(2)

POLICY

Section 80001 (c)(2) provides a definition of “care and supervision”. Employees such as administrators, night supervisors, activity directors, or attendants, must be 18 years of age. Employees such as food service assistants, janitors, secretaries or housekeepers, who do not provide any care and supervision, are not included within this requirement.

PROCEDURE

Review the LIC 500, LIC 501, LIC 507, or other appropriate facility records to determine the age of employees and duties performed. If necessary, contact the licensee /administrator for clarification of duties.

(e)(2)

POLICY

A valid water safety certificate is one which has been obtained from a recognized first aid or life safety organization, such as a State or county emergency service organization or the American Red Cross. It is not the intent to require that an individual be competent as a water safety instructor or lifeguard, but that the adult be able to swim and have basic skills in this area.

Water safety classes are given by local recreation departments and school districts, often under contract with the American Red Cross. “Water Safety” is a generic term, the course title will vary. The course should encompass “Basis Rescue and Water Safety”.

If there is a lifeguard on duty it is not necessary to have a facility staff person with a valid water safety certificate present; however, the licensee must ensure the appropriate ratio of adults and/or staff present for general supervision.

If the licensee states the class is not available, advise him/her to check with the local American Red Cross, Parks and Recreation Department, or school district. If the course is not scheduled, it is often possible to set up a course if enough people will take it (usually about six people).

Ask the licensee to name the staff persons who supervise clients at a swimming pool or other body of water where no lifeguard is available. Request verification that the staff persons have a valid water safety certificate; check the expiration date on the certificate.

80065 PERSONNEL REQUIREMENTS (Continued)**80065****(f) POLICY**

This requirement for on-the-job training or related experience also applies to administrators.

(g)(3) POLICY

If an individual is only occasionally in the facility to provide a service (e.g., entertainment), a TB clearance is not necessary. However, if individuals supplement staff with regard to regular activity programs, a clearance is required.

(h) POLICY

The health screening shall be completed and signed by a physician or a medical professional, such as a nurse practitioner or physician assistant under the direct supervision of the physician. The physician's evaluation shall certify that the person's general health is adequate to carry out required responsibilities. The Health Screening Report-Facility Personnel (LIC 503) is available for this purpose.

Religious facilities which are subject to licensure (See Policy under Section 80007(a)(5)) may be granted a waiver for California Code of Regulations Sections 80065(g), 80066(b), 80069, 80070(b)(7)-(10), and 80075(a), (c), (d), (i) and (j) under the following conditions:

1. The entire administrative staff are adherents of the particular religion.
2. All clients admitted to the facility are adherents of the religion.
3. All nonadministrative staff who are not adherents of the religion, must be informed in writing by the facility that all staff are covered by the waiver and, therefore, other employees have not been medically cleared against TB or other infectious diseases.

Religious facilities which do not meet the above conditions for a waiver, or any nonreligious facility, may be granted individual exceptions to the above sections for any staff or clients who are adherents of a well-recognized church, relying solely upon prayer or spiritual means of healing. Facilities must present satisfactory evidence to the licensing agency that individuals needing an exception are free from any communicable disease. Such evidence shall be a written statement from a physician or person under his/her supervision.

80065 PERSONNEL REQUIREMENTS (Continued)**80065****(i)(2)(A) POLICY**

The Criminal Record Statement (LIC 508) shall be used for this purpose.

PROCEDURE

If the LIC 508 reveals past criminal convictions follow the procedures outlined in Section 80019.

PROCEDURE

- (l) See Sections 80044 and 80061.
-

80066 PERSONNEL RECORDS**80066****(a)(9) POLICY**

The Personnel Record (LIC 501) is available for this purpose.

PROCEDURE

During inspection of facility personnel records, use the Personnel Records Review Staff/Volunteer (LIC 859) to ensure a complete review.

(b) PROCEDURE

See Section 80065(h), Policy.

80068 ADMISSION AGREEMENTS**80068****(b) POLICY**

The Admission Agreement Guide (LIC 604) is a sample of an appropriate agreement. This guide meets this regulation and is available to licensees.

80069 CLIENT MEDICAL ASSESSMENTS (Continued)**80069****(c) POLICY(Continued)**

If a facility is conducted by and for the adherents of any well-recognized church or religious denomination who rely solely upon prayer or spiritual means of healing, the requirement for client medical assessments may be waived.

PROCEDURE

Refer to Section 80065(h), Policy.

80070 CLIENT RECORDS**80070****(b)(10) PROCEDURE**

For Subsections 80070(b)(7) through (10), see Section 80065(h), Policy.

(c) PROCEDURE

For adult facilities during the process of selling or transferring property the licensee may be asked to or may have provided information about the clients/resident's cared for at the facility to persons interested in taking control of the facility. A client/resident's confidentiality must be respected even during the sale and transfer of property. For example, the range of care needs of the clients/residents in general can be provided however identifying information about the individual client/resident would be violating the confidentiality of the client/resident. The party interested in buying or taking possession of the property would have a right to the confidential information if the party became the licensee or is associated with the facility as an employee. Any violation by sharing confidential information during the process of selling or transferring property must be cited by the licensing program analyst.

(c)(2) PROCEDURE

See Section 80044 - Policy, relative to State Ombudsman.

(d)(1) PROCEDURE

Review a sample of 10 percent, or a minimum of ten, of the client record files. If your review reveals any substantial problems more records should be sampled. Document your review of the Client Record Review (Residential) (LIC 858). If capacity of the facility is less than ten clients, review 100 percent of the client record files.

Refer to Section 80044(b).

80071 REGISTER OF CLIENTS**80071**

(a)(1)(A)-(D)

POLICY

The Roster of Facility Clients (LIC 9020) is available to licensees for this purpose. Licensees are to maintain this information in a single location for all clients. Information may be on one list for all clients or a separate sheet containing all the required data on each client. However, if information is maintained on a separate sheet for each client, a single folder, binder, etc., must be used to ensure the central location of the information. All information must be legible.

PROCEDURE

During inspection of facility records, review the register to ensure that this requirement is being met. A review of 10 percent or a minimum of ten client record files should be checked to verify the validity of the register. . If your review reveals any substantial problems, more records should be sampled. If capacity of the facility is less than ten clients, review 100 percent of the register against the clients' files

80072 PERSONAL RIGHTS**80072**

(a)(4)

PROCEDURE

Refer to Section 80044, **Inspection Authority of the Department or Licensing Agency**.

(a)(6)(B)

POLICY

The licensee can develop and implement the facility's policy regarding runaway clients. Such a policy should include contacting police and the placement and licensing agencies. However, licensing does not regulate the content of the facility's runaway policy unless such policy violates current licensing regulations. The "proning" of a client is not in imminent danger of causing harm to him/herself or other clients/staff **is prohibited**. Prone containment is permissible only when there is a clear and immediate danger of physical harm.

A client who attempts to run can be verbally persuaded to return or be subject to minimal physical contact to "escort" him/her back to the facility. The use of any increased physical intervention, including forcibly escorting the client back to the facility is appropriate only when the client presents an immediate danger to him/herself or others, or the facility reasonably believes the client could come to harm if allowed to run.

The licensee's efforts to keep such a client from leaving the facility are allowable with the following proviso:

- Restricting departure cannot be accomplished through locking the client in either one room of the facility or any part of the facility.

80072 PERSONAL RIGHTS (Continued)**80072**

(a)(6)(B)

POLICY (Continued)

- Attempts to restrict departure should be abandoned whenever the risk to the client is the same or greater than the risk posed by the client's leaving.
-

(a)(8)

POLICY

Restraints used as a means for controlling behavior are not allowed in community care facilities.

This includes the use of prone containment as a method of client control. The prone containment prohibition applies to the restraint procedure in which a client is contained in a prone or supine (face down or face up) position on the floor or on a bed by staff members who apply their weight to the client's legs, arms, buttocks and shoulders.

The prohibition against prone containment is not intended to preclude the use of reasonable force in emergency situations in which an assaultive client threatens death or serious injury to himself or others. Such a circumstance which develops suddenly and unexpectedly may require the use of prone containment to protect the client and/or others from the threat of serious injury or death. Prone containment **should not** be resorted to unless no alternative means of avoiding the danger are available.

In such an extreme emergency, if prone containment is necessary, the following precautions shall be followed:

- Persons who are contained shall be observed at all times.
- No pressure shall be applied on ankles, wrists, elbows, back, rib cage, knees, spinal column, or the neck area.
- No blankets, pillows, clothing, or any type of covering shall be placed on the person's head or face.

For reporting purposes, the use of prone containment is considered an **unusual incident** which must be reported by a telephone report to the licensing agency within the licensing agency's next working day during normal business hours and a written report sent within seven days as required by Section 80061(b)(1)(D). The report shall include a description of the assaultive client behavior, the containment method used, its duration, and staff involved. Recurrent need for the use of prone containment is evidenced that the client in question is not appropriate for continued placement in a community care facility.

Advance approval to use **supportive** restraints shall be by individual exception only. Such approval shall be granted by the licensing agency only if the requirements, policies and procedures of **80072(B)(A)-(G)** are met. (See Reference Material Section 2-5000.)

80072 PERSONAL RIGHTS (Continued)**80072**

(a)(8)

POLICY (Continued)

For those facilities in which behavioral restraints have been allowed in the past, the licensing agency shall reevaluate the exceptions at the time of renewal of the license or expiration of the exception, whichever is earlier, and determine if the exception meets the criteria specified in this policy. In those cases where a facility is using behavioral restraints and is not in conformance with this policy, the licensing agency shall advise the licensee that the restraints must be discontinued or the client(s) must be relocated.

If the licensee refuses to discontinue the use of the restraint(s) or to relocate the client(s), the licensing agency shall take administrative action as appropriate.

(a)(8)(A)

POLICY

Soft ties means soft cloth (e.g., muslin sheeting) which does not cause abrasion and which does not restrict blood circulation, and which can be easily removed in the event of an emergency. Under no circumstances shall supportive restraints include tying, depriving or limiting the use of a client's hands or feet.

(a)(8)(B)

POLICY

1. Persons may be placed in supportive restraints only upon the written order of a physician **and** written approval of the placement agency (e.g., regional centers) if one is involved, or the clients' parent or authorized if no placement agency is involved. Such order shall not run beyond 90 days without a reorder by a physician, based upon an observation of the client.
2. Persons in supportive restraints shall be observed at least every 30 minutes, or more often as needed, by a staff person responsible for the client's care, or by a person in a higher level of supervision. Observation shall be recorded, i.e., by card file, listening, logging, or other written method. Such documentation shall be kept on file at the facility.

At change of duty (shift change, etc.), the oncoming responsible staff shall acknowledge in writing the fact that the **client** is in a supportive restraint. This written record shall be for the purpose of noting this exchange of information and may be by use of a listing, card file, log, or in the client's file. It shall be documented in the **client's** record whenever a restraint is applied upon and/or removed from the client.

80072 PERSONAL RIGHTS (Continued)**80072****PROCEDURE**

See Policy following (a)(8) of this section for additional documentation required for use of prone containment.

(a)(8)(D)

POLICY

Any form of restraint shall not be permitted without an appropriate fire clearance from the local fire district. For the purpose of securing an appropriate fire clearance persons in supportive restraints shall be considered nonambulatory. On the request for a fire clearance it shall be noted that the facility intends to use supportive restraints by marking Item 15 on the STD 850.

PROCEDURE

Advise the clerk to note on the STD 850, Item 15, that the facility intends to use supportive restraints. (See Section 80072(8)(A)-(C) and 80020(b) (2).

(a)(9)

POLICY

Refer to information on crushing medication in [Regulation Interpretation and Procedures for General Licensing Requirements](#) Section 80075(b)(3), Health-Related Services.

(d)

POLICY

The Personal Rights from (LIC 613), meets this requirement and is available to licensees.

80073 TELEPHONES**80073**

(a)

PROCEDURE

See Sections 83072, 84072 and 85072, General Licensing Regulations.

80074 TRANSPORTATION**80074****(c) POLICY**

Licensees are not required by California Department of Social Services to have their motor vehicles periodically safety checked.

PROCEDURE

If you observe any vehicle used to transport clients, which appears to be in an unsafe operating condition (e.g., bald tires, broken headlight, shattered windshield, etc.), develop a plan with the licensee to (1) correct the obvious problem(s) and (2) submit to the licensing agency a safety check from a service station or garage certified to perform this service.

80075 HEALTH-RELATED SERVICES**80075****PROCEDURE**

For procedures relative to waivers due to religious beliefs, see [Regulation Interpretations and Procedures for General Licensing Requirements](#) Sections 80065(h).

Some policies in this section may not apply to Small Family Homes which care for children with special health care needs. Consult your supervisor before visiting such facilities. See Chapter 4 for Small Family Homes. Also see the provisions of Assembly Bill 760, Chapter 1137, Statutes of 1990. (Health and Safety Code in Appendix B).

(a) POLICY

Transportation to meet medical/dental appointments and to obtain needed medical/dental services are basic services which must be provided at the basic rate. If the nearest available healthcare facility, that can meet a client's health needs is too far from the facility, the licensee must ensure provision of transportation at no extra charge to the client. However, licensees have two other options:

1. If the licensee is aware of this situation at time of admission, he/she can deny the client admission into the facility. Once accepted, the licensee must provide this basic service to the client.
 2. If a client's health needs change after admission, requiring that he/she obtain health services from a distant medical facility, the licensee can give a 30-day notice to relocate the client to a facility which can meet his/her needs, or to a facility which is located closer to the client's medical facility.
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80075 HEALTH-RELATED SERVICES (Continued)**80075****(b)****POLICY**

Assistance with medications shall not include the actual administration of the medications by the licensee or facility staff to the clients. For example, assistance includes passing oral medication to clients for self-administration. See Regulation Interpretations and Procedures for General Licensing **Requirements** Section 80075**(b)(3)** regarding crushing medications.

As needed or PRN medications are allowed in community care facilities only under the following circumstances:

1. When the client is mentally and physically capable of knowing that a dose of medication needed, and is capable of asking for it, or
2. When the doctor has written detailed instructions for the prescription label including symptoms that might require use of the medication, exact dosage to be given in a 24-hour period, facility staff shall telephone the doctor **before** each dose and explain the person's symptoms and receive an order to assist the client in self-administration of that dose of medication.

The purpose of the detailed instructions on the prescription label is to enable the employee to know when to call the doctor to describe the client's condition and have the doctor make the judgment that the drug is needed.

In order to demonstrate that the doctor has authorized the dose of medication, a written record must be placed in the client's file by the person who talked to the doctor.

Facility staff are prohibited from taking any part, by advice or otherwise, in the diagnosis of a client's condition, the selection of a medication or the dosage to use to treat the illness or condition. An opinion by the California Office of the Attorney General (No. 87-106, June 15, 1988) states that the making of such decisions for others constitutes treatment of others by means of drugs which only licensed practitioners may do. This includes both prescription drugs and nonprescription or over-the-counter drugs and preparations.

Medication shall not be used by anyone other than the person for whom prescribed. If a client refuses to take medication, it is the licensee's responsibility to report it to the client's physician and/or authorized representative.

(b)

POLICY

The following policy applies to the requirement for written instructions from a physician for a client's/resident's/child's PRN medication(s):

1. The physician's business stationery may substitute for the required prescription blank for every prescription PRN and nonprescription PRN medication.
2. A licensee may obtain faxed instructions from the client's/resident's physician when there are no written physician instructions on file. The fax must be of the physician's business stationery or prescription blank.
3. A licensee may obtain written instructions from the client's/resident's/child's treating physician for a nonprescription PRN medication before a client/resident/child shows a need for such medications.

PROCEDURE

Review the client's/resident's/child's file to ensure that the physician's written instructions are on a prescription blank, physician's business stationery (or fax of either) and that the instructions contain the following information:

1. The documentation required by California Code of Regulations Section 80075(b).
2. The physician's signature and the date of the instructions provided.
3. Specific information on how and when to take these prescription and nonprescription PRN medications along with other medications (if applicable) that the client/resident/child is taking.

Special instructions for adult residential facilities and social rehabilitation facilities:

Review the client's/resident's file for the physician's written statement that the client/resident can determine and communicate his/her need for a prescription or nonprescription PRN medication, or can communicate his/her symptoms clearly even though he/she is unable to determine his/her own need for a nonprescription PRN medication.

80075 HEALTH-RELATED SERVICES (Continued)**80075****(b)(2)****POLICY**

In community care facilities, injections may be self-administered by the clients. If the clients are unable to do so, injections shall **only** be administered by licensed medical professionals, such as physicians, licensed vocational nurses and registered nurses. The Board of Vocational Nurse and Psychiatric Technician Examiners interprets the Psychiatric Technician Law, Sections 2728 and 2728.5 of the California Business and Professions Code, to mean that a licensed psychiatric technician may administer medication within their scope of practice. In settings outside of a health facility or State Developmental Center, a psychiatric technician can only administer subcutaneous and intramuscular injections to clients who are developmentally disabled or mentally disordered, provided the licensed psychiatric technician performs the procedure in accordance with a licensed physician's order.

Only the client or a licensed medical professional shall mix medication to be injected or fill the syringe with the prescribed dose ("draw-up" the medication).

For information on how far in advance doses of insulin and other injectable medications can be prefilled in individual syringes by a pharmacy or the manufacturer (or, in the case of insulin only, a registered nurse), please see Regulation Interpretations and Procedures for General Licensing Requirements Section 80092.8(a)(4).

PROCEDURE

Suspected violations (e.g., scope of practice, ethics) under the authority of any non-CCL licensing entity (e.g., Board of Registered Nursing, Board of Vocational Nursing and Psychiatric Technicians) should be referred to the respective licensing board. Consult with a licensing supervisor prior to making this referral.

If unlicensed and/or unauthorized persons are administering injections, a notice of deficiency must be issued, citing California Code of Regulations Section 80075(b)(2).

(b)(3)**POLICY**

Clients/children have a personal right to refuse medication, unless a guardian, conservator; child's authorized representative, or other legal entity has been appointed who has authority over medical decisions. Therefore, medication may be crushed to enhance swallowing or taste, but never to disguise or "slip" it to a client/resident/child without his/her knowledge or the permission of a guardian/conservator/authorized representative who has authority over medical decisions.

80075 HEALTH-RELATED SERVICES (Continued)**80075****(b)(3)****POLICY (Continued)**

No exception from licensing is required to crush a client's/child's medication, if the following written documentation is in the client's/child's file.

1. The physician's order for the specified medication to be crushed. The order must include the following:
 - a. The dosage amount.
 - b. The timeframe for giving the medication, i.e., when and how often.
2. A consent form that gives authorization for medication(s) to be crushed, signed by one of the following:
 - a. The client, if not conserved.
 - b. The client who has a conservator, but whose conservator does not have authority over the client's medical decisions.
 - c. The client's/child's conservator who has authority over the client's/child's medical decisions.
 - d. The child's authorized representative. This approval may be contained in the child's needs and services plan.
3. Documentation of the licensee's/facility administrator's consultation with a pharmacist or treating physician, provided orally or in writing, that includes the following:
 - a. The name of the pharmacist/treating physician, the name of the business, and the date of the conversation.
 - b. The pharmacist's/physician's statement that the medication can be safely crushed without losing effectiveness.
 - c. Identification of foods and liquids that can be mixed with the medication.
 - d. Instructions for crushing and mixing the medication.

80075 HEALTH-RELATED SERVICES (Continued)**80075****PROCEDURE**

Review the client's/child's file for the following written documentation: (See Regulation Interpretations and Procedures [for General Licensing Requirements](#) Section 80075**(b)(3)** above for the specific information required for each item below.)

- A physician's order that allows specified medication to be crushed, and
- The licensee/facility administrator's verification of a consultation with a pharmacist or treating physician, which was provided either orally or in writing by that pharmacist or physician; and
- A consent form that gives authorization for medication(s) to be crushed.

(b)(5)(A)**POLICY**

Refer to Regulation Interpretations and Procedures [for General Licensing Requirements](#) Section 80075**(b)** concerning prescription blanks.

80075 HEALTH-RELATED SERVICES (Continued)**80075****(c) POLICY**

The provision of an isolation room or area does not require the licensee to maintain an extra bedroom for that purpose. In cases where isolation is deemed necessary, the licensee may designate the affected client's own bedroom as the isolation room. If the client shares his/her bedroom with another client, alternative sleeping arrangements which provide privacy must be made for the client who is not ill. Such an arrangement shall not exceed ten days.

(i) POLICY

If licensees or facility employees are currently certified as Standard First Aid Instructors, they may train other facility staff. Certification as an instructor must be provided by the American Red Cross or other authorized agency.

Facility employees who are licensed medical professionals do not have to complete first aid training, but they shall not provide training to other employees unless they are also certified as Standard First Aid Instructors.

Staff such as cooks, gardeners, and janitors shall not be required to complete first aid training unless they also serve in the capacity of direct care staff or, at various intervals, are called upon to provide direct care and supervision of the clients.

CPR training does not substitute for the first aid training required by this regulation.

Review personnel records to determine that all staff required to have first aid training have a current certificate on file as proof of training.

If training is being provided by another facility employee, check to see that the person has a current Standard First Aid Instructor certificate.

Online training for cardiopulmonary resuscitation (CPR) and first aid is permitted. Currently a hands-on practice component is not required; however, it is recommended that any online training that has a skills competency component, e.g. First Aid and CPR, include a hands-on practice component. The hands-on practice component would increase the confidence level of the participant and consequently augment staff's ability to perform their job duties. The hands-on practice component should be provided and overseen by an on-site instructor and address skills appropriate to the clients served.

80075 HEALTH-RELATED SERVICES (Continued)**80075**

(j)(1)

POLICY

The first aid kit may contain other first aid items specified in the first aid manual, such as Ipecac syrup and universal antidote (activated charcoal) used in poisoning cases. However, care staff must be reminded that use of these antidotes must not occur without the recommendation of the local poison information center, hospital, or physician.

(k)(4)

POLICY

It is recommended that the licensee obtain a signed consent from the authorized representative to permit the authorization of medical care. It is mandatory that licensees of children's facilities obtain such consent for medical care.

The form LIC 627 is available to licensees for this purpose.

See California Code of Regulations Section 83070 for Small Family Homes and Section 84070 for Group Homes.

(m)(3)

POLICY

When there is a dispute with the licensee/administrator over whether medications shall be centrally stored, the licensing agency shall contact a physician to obtain a third opinion. In most community care facilities, the "condition or habits of other persons" in care will require that medications be centrally stored.

(n)

POLICY

Centrally stored medications, kept in the refrigerator, shall be maintained in a locked receptacle, drawer, or container, separate from food items.

80075 HEALTH-RELATED SERVICES (Continued)**80075**

(n)(2)

POLICY

Over-the-counter preparations/medications should have the client's name on the container, without obscuring the manufacturer's label or the instructions for use of the product. By turning an over-the-counter medication over to the licensee to store, the client is entrusting the medication to the licensee, thus invoking the California Code of Regulations Section 80026, Safeguards for Cash Resources, Personal Property and Valuables. In order to prevent loss of the client's medication by having it used for others it must be identified as belonging to a given person.

POLICY

Containers of medication samples provided by the client's physician should contain all information required by this section except the prescription number and pharmacy name.

PROCEDURE

See Regulation Interpretations and Procedures [for General Licensing Requirements Section 80075\(b\)](#) for additional information about prescription labels for PRN (as needed) medications.

For facilities with a capacity of more than 20 clients, review a random sample of 10 percent of the clients' medication containers. If the capacity is less than 20, review all of the clients' medications. Compare the information on the containers with the information on the records required by Section 80075(n)(7)(A) – [\(H\)](#).

(n)(3)

PROCEDURE

Check medication labels for storage instructions such as temperature requirements. If not indicated, medications should be stored at room temperature, between 59 degrees Fahrenheit and 80 degrees Fahrenheit. If the label indicates "refrigerate or store below 45 degrees Fahrenheit, the medication should be stored in a refrigerator between 36 degrees Fahrenheit and 46 degrees Fahrenheit. If the medication is not stored at the appropriate temperature, cite this section.

Check to ensure that all containers have secure caps or lids. Paper envelopes are not acceptable storage containers.

(n)(4)

PROCEDURE

Check labels to determine if someone other than the issuing pharmacist has altered the prescription container label. If the doctor changes the frequency or amount of the dosage, the facility should have a system of flagging or noting the change without altering the label. The following procedure is recommended:

80075 HEALTH-RELATED SERVICES (Continued)**80075****(n)(4) PROCEDURE (Continued)**

1. Designated facility staff affix a colored label somewhere on the container but not covering the original label; this refers the person passing the medications to a notebook, card file, cardex or other record, where the new instructions have been written by the facility staff following the physician's instructions to make the change. This contact may have been by telephone or in person.
2. The physician prepares a new prescription request or calls the pharmacy so that the container can be properly labeled when the prescription is refilled.

(n)(5) POLICY

Insulin and other injectable medications shall be kept in their original containers until the prescribed single dose is measured into a syringe for immediate injection by the client or a licensed medical professional. Dosages may not be prepared or "set-up" in advance by filling one or more syringes with the prescribed dose and storing the medication in the syringes until needed. See [Regulation Interpretations and Procedures for General Licensing Requirements](#) Section 80092.8(a)(4).

PROCEDURE

When evaluating the storage and handling of insulin or other injectable medications, keep in mind that some medications may be packaged in premeasured doses in individual syringes. Check the container label(s) to be sure that the medication has not been set up in advance by someone other than a pharmacist or the manufacturer. See [Regulation Interpretations and Procedures for General Licensing Requirements](#) Section 80092.8(a)(4).

(n)(6) POLICY

When an adult client leaves a facility for a short period of time during which only one dose of medication(s) is needed, the facility may give medication(s) to the client in an envelope (or similar container) labeled with the facility's name and address, client's name, name of medication(s) and instructions for administering the dose. If the client is to be gone for more than one dosage period, the facility may:

1. Give the full prescription container to the client, or
2. Have the pharmacy fill a separate prescription or separate the into two bottles, or
3. Have the client's family obtain a separate supply of the medication for use when the client visits with the family.

80075 HEALTH-RELATED SERVICES (Continued)**80075****PROCEDURE**

If medications are being sent with adult clients off the facility premises, check the Physician's Report (LIC 602) to ensure that they are given only to clients whose doctors indicated that they may control their own medication.

See Regulation Interpretations and Procedures [for General Licensing Requirements](#) Section 80075(n)(5) regarding the prohibition against setting up injectable medications in advance.

(n)(7)

POLICY

A record shall be kept in the client's file that any over-the-counter medications are being taken with the knowledge of the client's physician. This record keeping is required by the California Code of Regulations Section 80070(b)(10).

PROCEDURE

If a client is taking any over the counter medications, check the file to ensure that the client's physician is aware of the medication. Cite California Code of Regulations Section 80070(b)(10) if there is no record.

PROCEDURE

(n)(7)(F) Inspect medication containers for the expiration date. It may be typed on the prescription label, on the manufacturer's label or stamped on the bottom crimp of a tube. If the medication has expired, it must be destroyed, under the provisions of California Code of Regulations 80075(o).

(o)

POLICY

The LIC 622 is available to licensees to maintain this information.

80075 HEALTH-RELATED SERVICES (Continued)**80075****(o)****POLICY (Continued)**

Our regulations require that all medications which are not taken with the client, or are not to be retained, shall be destroyed by the administrator. No other person, including physicians and pharmacists, may take possession of the medications. This means that medications shall not be returned to the pharmacy for destruction.

Client medications that are discontinued shall be destroyed. However, such medications may be saved if the physician orders that the medication be **temporarily** discontinued and states that he will be instructing the client to resume use of the medication at a future date.

PROCEDURE

Ensure that licensees have received written documentation from the physician which orders temporary discontinuance of the medication and indicates resumed use of it at a future date.

80076 FOOD SERVICE**80076****(a)(1)****PROCEDURE**

If it is questionable whether a facility meets this requirement, document on the LIC 809 what food is available and discuss with your supervisor the need for consultation from a nutritionist. If there are documented sanitation problems, discuss with your supervisor the need for consultation from a local sanitarian. See Sections 80087 and 80088.

(a)(3)**POLICY**

If the client(s) is away from the facility during the regularly scheduled meal times, (i.e., program, school, etc.), the licensee shall provide the client with a “brown bag” meal which meets Evaluator Manual Section 80076(a)(1), or enough money to purchase a meal which meets Evaluator Manual Section 80076(a)(1). Such arrangements shall be clearly documented in the admission agreement.

80076 FOOD SERVICE (Continued)**80076****(a)(3) POLICY (Continued)****The admission agreement should indicate:**

1. The day(s) of the week and times when the client will or will not be dining at the facility.
2. Estimated average cost of facility meals.
3. Either a “brown bag” meal or money will be provided.

(a)(3) PROCEDURE

Review the admission agreement and interview clients to ensure that clients who dine away from the facility have their prepaid meal service reimbursed by (1) being provided a “brown bag” meal or (2) money to purchase a nutritious meal. Also review the individual Account Funds (LIC 405) to ensure clients are not charged twice.

(a)(4) POLICY

Clients may purchase snacks from a store or facility vending machines by using their own money. This does not relieve the licensee from the responsibility to make nutritious snacks available at the basic rate.

(a)(6) PROCEDURE

Review menus, food supplies, client Pre-placement Appraisal Information form (LIC 603), Appraisal/Needs and Services Plan form (LIC 625) and/or Physician’s Report form (LIC 602) to ensure that the food inventory agrees with the written menu and that the menu provides for clients who have medically prescribed diets.

(a)(7) PROCEDURE

Check canned goods to ensure that they are free from swollen or bulged ends, evidence of product leakage, sharp creases to the body panel, damaged seams and rims, rust spots that indicate perforation is about to occur, flood or fire damage, or major dents on side panels that compromise structural integrity. Generally, minor rust that can be easily removed by buffing, and minor damage or dents to the side panels do not compromise the structural integrity of cans. If cans with dents on side panels can be stacked, their structural integrity generally has not been compromised. [This procedure was developed in collaboration with the California Department of Health Services, Food and Drug Branch, Food Safety Inspection Unit, and based on *Guidelines for Evaluation and Disposition of Damaged Food Containers: Cans and Glass* (Bulletin 38-L 4th Edition), 1999, published by Food Products Association, Washington, DC. pp47-64.]

80076 FOOD SERVICE (Continued)**80076****(a)(10) POLICY**

The official stamp of approval shall suffice as written evidence. The official State stamp is a "C" and a three digit number (i.e., C-123). The federal stamp is USDA.

(a)(11) POLICY

NOTE: The University of California at Davis publishes a booklet which explains how to can foods. The booklet can be obtained by writing to: ANR Publications, 6701 San Pablo Ave., Oakland, CA 94608-1239, or you can call ANR at (800) 994-8849. Licensees who use home canned foods must maintain this booklet in the facility and follow safe canning procedures.

PROCEDURE

If the licensee is using home canned foods, inform him/her of the requirement to follow the safe canning procedures in the booklet and where to obtain it. If the licensee has not followed these standards, inform him/her that any unused home canned foods cannot be served to clients and that further canning must cease until the procedures outlined in the booklet is used. Document this on the LIC 809.

(a)(12) POLICY

This means that the facility is purchasing from, or contracting with an outside vendor to prepare meals.

PROCEDURE

If there is any question that the outside vendor meets the requirements for commercial food services, contact the local environmental health office for verification of licensure.

(a)(14) POLICY

Subsection (a)(14) refers to perishable foods. These are foods which spoil readily without refrigeration, drying, or some other method of food preservation. Examples include, but are not limited to: milk and other dairy products, meat, fish, poultry, eggs, fresh fruits and vegetables, bread and other baked products, all prepared items; leftovers, such as frozen foods which have been allowed to thaw, and canned foods which have been opened.

80076 FOOD SERVICE (Continued)**80076****(a)(14) PROCEDURE (Continued)**

If it is suspected that the temperature of a refrigerator exceeds 45 degrees F (i.e., items in the refrigerator are not cold to touch, cheese or butter softened, food packed too tightly, etc.) use a holding thermometer to check the temperature. In some cases, the licensee may already maintain a thermometer inside the refrigerator.

(a)(17) PROCEDURE**Check the following:**

1. Cleanliness of refrigerators and freezers. Frost accumulation is one sign that a refrigerator has been inadequately cleaned.
 2. Cleanliness of floors and walls.
 3. Cleanliness of cabinets and counters.
 4. Cleanliness of appliances (large and small).
 5. Dry storage area. Check for cracks and crevices which would allow for rodent entry and for damaged screens or windows which could allow insects to enter. Look under items stored on the floor and behind food on shelves for evidence of infestation. Check for rodent and insect infestation by opening all of the resealed containers and storage bins. Food should not be stored directly on the floor.
 6. Look for contamination by small bugs, worms or weevils and for rat and mice droppings, rub marks, runways, gnawings and tracks. Rub marks and runways are caused by established rodent pathways to feeding or nesting areas. Tracks can be seen on dusty surfaces.
 7. Although sanitation clearance inspections are not routinely requested on every facility, if there is serious question regarding such matters as proper food preparation and storage, sanitizing of dishes, insect control or general sanitation, discuss with your supervisor the need for such an inspection. (See Policy Section 80087(a).
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80076 FOOD SERVICE (Continued)**80076****(a)(19) PROCEDURE**

Check glasses and dishes to ensure that they are not chipped or cracked.

Check the vent fan over the stove to ensure that it works.

If you detect any gas smell when the stove and oven are not in use, this may indicate poor maintenance, and is a definite safety hazard.

(a)(20)(A) POLICY

Low energy dishwashers not reaching 165 degrees Fahrenheit are acceptable **if** they automatically dispense a sanitizing agent.

PROCEDURE

At the beginning of an evaluation visit, place a holding thermometer in the automatic dishwasher. When the full cycle has completed, check the thermometer to assure that the temperature meets this requirement.

(a)(20)(B) POLICY

An alternative comparable method would be the addition of a sanitation agent to the final rinse water.

(a)(21) PROCEDURE

See Subsection (a)(19) above.

(b)(1) POLICY

Licensing agencies shall document specific food service deficiencies prior to requiring facilities to provide written information about food purchases.

80076 FOOD SERVICE (Continued)**80076**

(b)(1)

PROCEDURE

When a deficiency in food service is identified, document findings on the Licensing Report (LIC 809) and as necessary, on the Detail Supportive Information (LIC 812).

80077.4 CARE FOR CLIENTS WITH INCONTINENCE**80077.4**

(b)(8)

POLICY

If a Needs and Services Plan (preadmission appraisal) indicates that a client (child/adult) is incontinent and the facility accepts that client, the facility is responsible for the following as appropriate:

1. Providing disposable diapers.
2. Providing clean cloth diapers.
3. Providing rubber sheeting.

Should the licensee determine that the facility can no longer be responsible for providing an incontinent client with the above supplies, the licensee must inform the client and/or authorized representative that his/her needs cannot be met in the facility.

If a client becomes incontinent after admission (a condition not previously identified in the needs and services plan/readmission appraisal), and the facility cannot or does not want to provide the necessary services, the facility must update the needs and services plan accordingly and then inform the client and/or authorized representative, in writing, that the client must find a facility which can meet his/her needs.

Medi-Cal will cover the cost of supplies associated with the care of clients with chronic incontinence related to a medical problem. The age of the client must be five years or older. Prior authorization is required before Medi-Cal will pay for these supplies.

ARTICLE 7 PHYSICAL ENVIRONMENT**80086 ALTERATIONS TO EXISTING BUILDINGS OR NEW FACILITIES 80086****(a) PROCEDURE**

Determine if the alteration or new construction would require submission of a new application pursuant to Section 80034.

Inform applicants/licenseses that alterations to existing structures or new construction must be approved by State or local building inspectors as mandated in the Building Code. Inform licensees that when local building regulations/laws require a permit and or building inspection the licensee is required to follow those laws and requirements. When there is a question, the LPA is to check with the local building authority to determine whether a permit/building inspection is required.

Inform the licensee that during all phases of alterations to the facility, the licensee is required to maintain the facility in compliance with Title 22 regulations. The licensee must protect the client(s) in care from any health and safety hazards during and/or resulting from construction. For example, if the construction process presents any danger, the licensee is responsible to ensure the clients have no access to that area.

During the renovation and reconstruction, the Licensing Program Analyst will need to keep track of the licensee's progress and insure the licensee is in compliance with the requirements of Title 22, section 80087. Consult with placement representatives (e.g., county workers or Regional Center staff) so they can ensure that clients' needs continue to be met throughout the alteration/construction process. The placement entity can also determine, given the individual's needs, whether the construction/alteration will impact their clients. When deemed necessary, the LPA is to make a case management visit to ensure there is no danger to clients.

(b) POLICY

When a licensee decides to renovate, reconstruct or add new construction to the facility, the State Fire Marshal or local fire authority must approve the building plans. The licensee should submit the floor plan with room dimensions and indication of the intended use of each room to the Regional Office. The Licensing Program Analyst may also provide consultation to a potential new licensee on renovation, reconstruction or new construction of a building that is intended for use as a facility. This consultation should only cover licensing laws and regulations, any questions regarding building and construction should be directed to the appropriate authority.

Inform the licensee or potential licensee that alterations to existing structures or new construction must be approved by a State or local building inspector as mandated in the Building Code.

Under the State Fire Marshall regulations, a copy of the approved plans and specifications shall be maintained at the job site during all phases of construction.

PROCEDURE

After the Licensing Program Analyst's review of the final floor plan, the **Regional** Office must submit a STD 850 (Fire Safety Inspection Request) to the State Fire Marshal or local fire authority.

If the renovation, reconstruction or new construction impacts the licensed capacity or the ambulatory status, the licensee must complete a new Application for Facility License (LIC 200).

Upon receipt of the report from the licensee that the construction is nearing completion, request a fire clearance (STD 850). Schedule a final site visit to (1) ensure that the construction has been completed in accordance with the floor plans submitted; (2) complete an analysis of accommodations; (3) confirm that the facility is in compliance for client occupancy; and (4) ensure that the facility meets all licensing regulations.

Placement representatives (e.g., county workers or Regional Center staff) as well as other government agencies may need to be included as consultants when determining if the facility can continue to operate during the alterations.

If a suspected building hazard to health and safety is identified during a site visit, discuss the problem with the licensee and document on the LIC 809 the plan of correction date for the licensee to arrange for a building inspection with an authorized building inspector.

80087 BUILDINGS AND GROUNDS**80087****(a) POLICY**

The presence of an environmental health and safety hazard in a community care facility is a violation of this section.

Suspected environmental hazards (e.g., asbestos) to clients in, or employees of community care facilities should be inspected by the agency having jurisdiction, i.e., the local building inspector, or county environmental health and sanitation agency. Safety hazards that pose a danger to certain clientele include but are not limited to uneven pavement, uneven door thresholds and exposed electrical wiring. The results of their inspection could be the basis for appropriate licensing decisions. This policy is also true for other referrals to health/sanitation agencies, (e.g., suspected water contamination, questionable waste disposal system). Refer to Section 80087(a)(2).

PROCEDURE

1. If a hazard is suspected, request an inspection from the agency having jurisdiction. If possible, conduct a joint inspection.
2. If the inspection reveals the presence of a hazard that potentially may jeopardize the health and safety of clients/employees, cite this deficiency and establish a plan of correction and due date. The Plan of Correction should be developed jointly with the licensee/administrator and should be meaningful, understandable, measurable and verifiable. Plans of Correction should have realistic timeframes, and is subject to Departmental approval. In the joint development of the Plan of Correction, Licensing Program Analysts may need to offer suggestions to the facility representative regarding their Plan of Correction in order to create an effective plan and due date. The plan of correction and due date should ensure the health and safety of residents are met.

80087 BUILDINGS AND GROUNDS (Continued)**80087**

(a)(2)

POLICY

County staff may be utilized by licensing agencies as consultants or collateral resources to establish compliance by a facility with a specific licensing requirement. For example, county health department staff may be utilized to inspect the source of the private water supply of a community care facility and to provide a bacteriological analysis of a water sample. However, inspections of a facility by county staff to ascertain compliance with statutes other than the Community Care Facilities Act are inappropriate since these statutes do not apply to community care facilities.

(f)

POLICY

Pool inaccessibility does not relieve the licensee from his/her obligation to provide supervision. Both supervision of clients and pool inaccessibility are required.

Pool covers embossed or labeled "F 1346-91" by the American Society for Testing Materials will support the weight of an adult. Pool domes are tent-like structures that fit over the pool for heating purposes. Domes are not designed to keep out clients and are not acceptable substitutes for covers.

Fences must be in good repair and completely surround the pool. Division 1, Appendix Chapter 4 of the 1994 Uniform Building Code provides in pertinent part:

1. Bottom

The bottom of the fence shall be no more than two inches from the ground (four inches if the fence is on a hard surface such as a concrete deck or mounted on top of an above ground pool structure).

2. Sides

Separation Fence

No door or window of the facility shall provide direct access to the pool. If a wall of the dwelling contains doors or windows which provide direct access to the pool, a separation fence shall be provided.

80087 BUILDINGS AND GROUNDS (Continued)**80087****(f) POLICY (Continued)****Indentations and Protrusions**

On the side away from the pool, protrusions, and indentations are prohibited if they render the barrier easily climbable by clients under the age of six. In particular, horizontal bars or beams on the side away from the pool shall be spaced at least 45 inches apart.

Openings

No opening shall permit the passage of a 1 ¾ inch (44mm) diameter sphere [a golf ball, which has a diameter of 42.67 mm, provides a good approximation]. However, for picket fences (fencing made up of vertical and horizontal members), if the tops of the horizontal beams are at least 45 inches apart, the pickets may be up to 4 inches apart.

Thickness

Wire used in chain link fences must be thick enough that it cannot easily be broken, removed, or stretched by clients. Chicken wire, for example, is unacceptable.

Mesh fences that meet regulatory standards for pool fencing may be used provided the licensee agrees on the LIC 809 that **regardless** of whether or not clients are present, the fence will remain permanently in place for the duration of the license.

(f) PROCEDURE**A waiver to the requirements for pool covers and fences may be granted as follows:**

1. The pool is surrounded by a fence and is a public swimming pool regulated by the State Department of Health (examples include pools situated in apartment houses, mobile home parks, auto and trailer parks, condominiums, townhouses, public or private schools, hotels, motels, and homeowner's associations) and the waiver request is supported by a copy of a current certificate of compliance with public pool regulations (24 California Code of Regulations Part 2, State Chapter 90) issued by the local health authority. This documentation must be updated for continued approval at the next evaluation visit.
2. Apartment complexes in which the building encloses the pool area and is itself the pool barrier pose special problems. In this case, the waiver shall require either of the following for each door of the apartment which gives direct access to the pool.

80087 BUILDINGS AND GROUNDS (Continued)**80087****(f) PROCEDURE (Continued)**

- a. Installation of an alarm on the door of the licensee's apartment. The alarm shall meet the requirements of the 1997 edition of the Uniform Building Code Appendix Chapter 4, Division 1, Section 421.1(5)(2). [Section 421.(5)(2) provides that the alarm must be capable of being heard throughout the house during normal household activities. The alarm must also sound continuously for at least 10 seconds immediately after the door and its screen, if present, is opened. A switch or touch pad must be installed at least 4 ½ feet from the floor which permits the alarm to be deactivated for a single opening of no more than 15 seconds. The alarm must automatically reset under all conditions.] Or,
- b. Installation of self-closing and self-latching devices with the release mechanism located a minimum of 54 inches above the floor.

Where windows of the apartment give direct access to the pool, the waiver shall also require that the window be secured so that it cannot be opened more than 4 inches. For example, a clamping device may be fitted into the window track. The device shall be of a kind that cannot be removed by children such as clamps fixed in place by screws for aluminum windows or slats nailed into the tracks of wood framed windows.

3. The degree of protection afforded is substantially the same as that afforded by the regulations. In processing the waiver, the local building department may be selectively used as a consultant.

The following examples of waivers are not intended to be all inclusive:

- a. When doors or windows of the facility provide direct access to the pool and the proximity of the pool to the building does not permit the construction of a separation fence, a waiver may be granted as described in 2., above.
- b. A waiver may be granted to allow reduction in the size of fence openings using wire mesh or Plexiglas meeting the above thickness standards and securely fastened to the fence.
- c. A waiver may be granted to allow the use of slats fastened at the top or the bottom of a chain link fence to reduce the size of the openings.

80087 BUILDINGS AND GROUNDS (Continued)**80087****(f) PROCEDURE (Continued)**

- d. A waiver may be granted to permit gates that are not equipped with self-latching or self-closing devices or which do not open away from the pool. These waivers shall be granted only if the licensee agrees to keep the gate locked at all times on the LIC 809, there is at least one access gate that meets regulatory requirements and is likely to be used for regular entry to the pool area, and the licensee agrees to use that gate to access the pool on the LIC 809.

Section 80087(f) requires all facilities, regardless of the age or disabilities of clients in care, to provide a pool cover or, in lieu of covering, a fence that surrounds the pool and separates the pool from the house. In this the Department adopts the standard specified in Health and Safety Code Section 115922(a) which applies to all residential pools constructed on or after a specified date. Under Section 115922(a), pools must be made inaccessible irrespective of whether any children under the age of six or disabled persons resided in the home. If a fence is used to enclose the pool, the fence must isolate the pool from access to the house.

80088 FURNITURE, FIXTURES, EQUIPMENT AND SUPPLIES**80088****(a)(1) POLICY**

Note that this does not necessarily require facilities to install air conditioning units. For example, in areas of mild temperature, occasional hot spells could be dealt with using other means of ventilation or cooling.

If all clients desire a warmer or cooler temperature than this regulation allows, licensees may request a waiver.

If a facility seems unusually hot or cold or a complaint regarding temperature is received, determine by the thermostat reading or thermometer that the indoor temperature of the facility is within the range specified in this regulation.

If a facility requests a waiver because all clients desire a warmer or cooler temperature than this regulation allows, licensees must be able to provide the licensing agency with written, signed statements from clients and/or authorized representatives. Evaluators should interview clients privately to ascertain that the temperature is acceptable.

80088 FURNITURE, FIXTURES, EQUIPMENT AND SUPPLIES
(Continued)**80088****(c) POLICY**

“Open-faced heater” includes free-standing heating units, wall and floor grills and grates, and any other heating device used to regulate room temperatures which, by virtue of their surface temperature when in use, may endanger the health and safety of facility client.

This also applies to wood or coal burning stoves used for heating purposes.

(e)(1) PROCEDURE

Check the temperature of water with a thermometer.

(e)(2) POLICY

NOTE: Subsection (e)(2) of this regulation is not applicable to faucets used by clients for personal care since such faucets as required in Section 80088 (e)(1) cannot deliver water at more than 120 degrees F.

PROCEDURE

If licensees want hot water exceeding 120 degrees F. delivered to faucets not used by clients, they may install:

1. A mixing valve at the plumbing fixture used by clients to ensure that the water delivered does not exceed 120 degrees F.;
2. A booster heater at the faucets that will raise the water temperature;
3. An instantaneous water heater at the source of the faucets; or;
4. A separate water heater.

(e)(3) POLICY

Except for adult day care, if a needs and services plan (preadmission appraisal) indicates that a client (child/adult) is incontinent and the facility accepts that client, the facility is responsible for the following as appropriate:

1. Providing disposable diapers.

80088 FURNITURE, FIXTURES, EQUIPMENT AND SUPPLIES
(Continued)

80088

(e)(3) **POLICY** (Continued)

2. Providing clean cloth diapers.
3. Providing rubber sheeting.

Should the licensee determine that the facility can no longer be responsible for providing an incontinent client with the above supplies, the licensee must inform the client and/or authorized representative that his/her needs cannot be met in the facility.

If a client becomes incontinent after admission (a condition not previously identified in the needs and services plan/preadmission appraisal) and the facility cannot or does not want to provide the necessary services, the facility must update the needs and services plan accordingly and then inform the client and/or authorized representative, in writing, that the client must find a facility which can meet his/her needs.

When the facility accepts infants or children who have not been toilet trained, supplies must be provided as appropriate, i.e., disposable diapers, clean cloth diapers and rubber sheeting; or the child's authorized representative must be informed that the infant's or child's needs cannot be met.

Medi-Cal will cover the cost of supplies associated with the care of clients with chronic incontinence related to medical problem. The age of the client must be five years or older. Prior authorization is required before Medi-Cal will pay for these supplies.

PROCEDURE

Refer to Sections 80076 and 80087, and 82078.

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- (f)** If clients are using injectable medications, ask staff how and where they dispose of used needles and syringes in the facility. The needles and syringes should be rendered unusable before they are discarded and the method should include protecting anyone who handles the solid waste from accidental needle-sticks. If you have questions about the safety of the method used, call the local County Health Office and discuss the situation. See Section 80092.8(a)(5)(A).

(f)(3) **POLICY**

Refer to Sections 80076 and 80087.

80090 HEALTH AND SAFETY SERVICES**80090****(c) POLICY**

Please see Regulation Interpretations and Procedures for General Licensing Requirements section 80092(b)(4) for conditions under which an exception may be considered to allow a licensee of an adult community care facility to care for a client with a peripherally inserted central catheter, or PICC line.

80092 RESTRICTED HEALTH CONDITIONS**80092****(b)(4) POLICY**

This policy pertains to the use of peripherally inserted central catheters, or PICC lines, by clients of adult community care facilities. As indicated below, a PICC line is a type of central venous catheter that is inserted into the arm. This policy does NOT pertain to any other type of central venous catheter that is inserted into an area such as the neck or the chest.

A central venous catheter, or vascular access device, is a long, thin, flexible tube used to give medicines, fluids, nutrients or blood products intravenously over a relatively long period of time, usually several weeks or more (although sometimes longer). A PICC line is a type of central venous catheter that is inserted into a vein in the arm rather than a vein in the neck or the chest. The PICC line is threaded through the vein in the arm until it reaches a large vein near the heart. It provides a form of intravenous access that can be used for care such as long chemotherapy regimens, extended antibiotic therapy, or total parenteral nutrition (intravenous feeding).

Generally, patients have a PICC line while hospitalized, and the PICC line is removed before the patient returns home. But sometimes a patient returns to his or her place of residence with the PICC line intact for as long as the patient continues to receive related outpatient care. A person with a PICC line can perform most normal activities.

PROCEDURE

An exception must be obtained in order for a licensee of an adult community care facility to care for a person with a PICC line who is otherwise eligible to be cared for in the facility. The general requirements regarding exceptions in California Code of Regulations, title 22, section 80024, Waivers and Exceptions, must be followed. The exception itself should be to California Code of Regulations, title 22, section 80092(b)(4), since the use of a PICC line is considered to represent the use of a catheter not specifically permitted by Section 80092.6

80092 RESTRICTED HEALTH CONDITIONS (Continued)**80092****(b)(4)****PROCEDURE (Continued)**

All exceptions must be determined on a case-by-case basis, taking into account individual client needs and all of the other individual circumstances surrounding an exception request. The following elements should be considered (in consultation, when appropriate, with the client's physician or a licensed healthcare professional designated by the physician) in determining whether or not to grant an exception to a licensee of an adult community care facility to care for a client with a PICC line:

- **Facility's standing.** Is the facility in good standing? Consider such things as whether the facility is on probation, on a compliance plan, or has had a noncompliance conference within the last year; whether the facility has had any recent administrative actions taken against it that were upheld; and whether the facility has a history of Type A deficiencies, including the nature, pattern and severity of the deficiencies and the time frames in which they were corrected. In particular, has the facility been cited recently for a Type A deficiency that involved the direct care and supervision of a client with a restricted health condition?
- **Licensee requirements.** Has the licensee met the requirements of California Code of Regulations, title 22, sections 80090(c)(1) through (c)(5), Health and Safety Services? This section allows the Department to grant an exception to accept or retain a person with a health condition not specifically identified as a restricted health condition in the regulations if certain requirements are met. Those requirements include a plan of care for the client and obtaining written instructions from the licensed healthcare professional responsible for training facility staff. *Please see the end of this subsection for information on caring for a PICC line—information that may be useful to incorporate into the client's plan of care and the training of facility staff.*
- **Plan of care.** More specifically, has the licensee developed a plan of care for the client pursuant to California Code of Regulations, title 22, section 80090(c)(3)?
- **Related care by a licensed healthcare professional.** California Code of Regulations, title 22, section 80092.2(a)(2)(C), requires the client's physician, or a licensed healthcare professional designated by the physician, to identify specific services needed by a client with a restricted health condition. In this case, does the client's Restricted Health Condition Care Plan contain a provision that a licensed healthcare professional see the client on a recurring basis, as instructed by the client's physician, in order to change the client's dressing and provide other monitoring and care related to the PICC line? A best practice, to be determined in conjunction with the client's physician, may be for the licensed healthcare professional to see the client at least weekly to provide this type of care.

80092 RESTRICTED HEALTH CONDITIONS (Continued)**80092****(b)(4)****PROCEDURES (Continued)**

- **Client’s capabilities/behaviors.** Consider whether or not any of the client’s capabilities and/or behaviors would affect the client’s safe use of the PICC line while residing in the facility. For example:
 - Does the client understand what the PICC line is and why it is being used?
 - Can the client self-monitor the PICC line to ensure that the PICC line or the dressing does not become loose, etc.?
 - Is the client demonstrating any behaviors that would cause concern that the client might pull the PICC line or the dressing loose, or otherwise damage the PICC line?
- **Other clients’ behaviors.** Are other clients in the facility demonstrating any combative or other behaviors that would cause concern that the client’s PICC line might be damaged as the result of inadvertent or intentional physical contact with others in the course of daily life in the facility?
- **Potential stipulations.** Should the exception contain a stipulation to the effect that the exception is contingent on the client’s ability to self-monitor the PICC line, and that the exception may be revoked if the client’s condition deteriorates?

In addition, following are some practices for the licensee to consider when making plans to care for a client with a PICC line, *but only after consulting with the client’s licensed healthcare professional*. The licensee should always follow the specific instructions of the client’s licensed healthcare professional. If determined to be applicable by the client’s licensed healthcare professional, consider incorporating the following information into the client’s plan of care and the training of facility staff pursuant to California Code of Regulations, title 22, section 80090(c):

- Be very careful not to “catch” the PICC line when helping a client get in and out of bed, or in and out of a shower or chair, etc.
- Ensure that there is nothing tight around the arm where the PICC line is located, including a blood-pressure cuff, etc.
- Ensure that no water gets on the site.
- Check daily through the clear plastic bandage where the PICC line is located to ensure that there is no sign of infection (e.g., redness, swelling, oozing, high temperature). *Consider establishing a facility log to verify that daily checks are done at least once a day.*

80092 RESTRICTED HEALTH CONDITIONS (Continued) 80092**(b)(4) PROCEDURES (Continued)**

- Follow any instructions from the client's licensed healthcare professional regarding additional observations that may indicate complications. This may include, but not be limited to, signs of deep vein thrombosis (chest pain, swelling of the arm above or below the PICC line insertion site), bleeding at the PICC line insertion site, and indications of line malpositioning (pain in shoulder or neck).
- If there are any signs of infection or other complications, contact the client's licensed healthcare professional immediately.
- If the dressing becomes loose or starts to come off, or if it looks soiled or wet, contact the client's licensed healthcare professional immediately to have the bandage changed.
- If the catheter end breaks off, cover the end of the catheter with sterile gauze and tape down with occlusive dressing. In addition, clamp the catheter above the break with a smooth catheter clamp (without teeth) so that the catheter will not migrate or bleed (this will also reduce the risk of systemic infection or air embolus). Contact the client's licensed healthcare professional immediately. In the event of an emergency, call 9-1-1.

80092.6 INDWELLING URINARY CATHETER/CATHETER PROCEDURES 80092.8**(a) POLICY**

Please see Regulation Interpretations and Procedures for General Licensing Requirements section 80092(b)(4) for conditions under which an exception may be considered to allow a licensee of an adult community care facility to care for a client with a peripherally inserted central catheter, or PICC line.

80092.8 INSULIN-DEPENDENT DIABETES 80092.8**(a)(4) POLICY**

Insulin and other injectable medications may be prefilled in individual syringes by the pharmacy or the manufacturer (or, in the case of insulin only, a registered nurse) for later self-administration by the client. The following applies regarding how far in advance doses of insulin and other injectable medications can be prefilled:

- If prefilled by the pharmacy: Insulin and other injectable medications may be prefilled and prepackaged by a pharmacy in individual syringes according to the manufacturer's specifications (which can vary, depending on the type or brand

80092.8 INSULIN-DEPENDENT DIABETES (Continued)**80092.8**

(a)(4)

POLICY(Continued)

of insulin or other injectable medication being used). Instructions for use and the expiration date are shown on the pharmacy label.

- **If prefilled by the manufacturer:** Insulin and other injectable medications that are supplied to the pharmacy by the manufacturer as prefilled and prepackaged individual syringes should be used according to the pharmacy label. The expiration date can be found on the manufacturer's box and/or the pharmacy label.
- **If insulin is prefilled at the facility by a registered nurse:** Insulin (but NOT other injectable medications) may be prefilled in individual syringes at the facility by a registered nurse *no more than seven days in advance* of self-administration by the client. The storage time for syringes prefilled at the facility is only seven days to decrease the risks of labeling errors, destabilization of the insulin, and bacterial contamination.

(a)(4)

PROCEDURE

When evaluating the storage and handling of insulin or other injectable medications, check the container label(s) to make sure that individual syringes of injectable medications have not been set up in advance by anyone other than a pharmacist or the manufacturer (or, in the case of insulin only, a registered nurse).