

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



July 9, 2002

TO: CHILDREN'S RESIDENTIAL PROGRAM ADMINISTRATOR
CHILDREN'S RESIDENTIAL REGIONAL MANAGERS
STATEWIDE FOSTER FAMILY HOME PROGRAM MANAGER
COUNTY LICENSING PROGRAM MANAGERS
COUNTY LICENSING PROGRAM SUPERVISORS

SUBJECT: AB 1695 IMPLEMENTATION – QUESTIONS AND ANSWERS (Q & A)

This Q &A is in response to questions received from licensing staff on the implementation of Assembly Bill (AB) 1695. AB 1695 ensures that California is in continuing compliance with the 1997 federal Adoption and Safe Families Act (ASFA). The legislation clarified the requirements for the Department, with regards to ASFA, to employ the same standards for all foster family homes. Responses to the questions are given below.

1. **Question:** How will county placement and Community Care Licensing (CCL) know when a "licensed provider" has completed First Aid and CPR, etc? How will State and County licensing staff verify post-licensing requirements? Will there be a placement authorization form created?

Answer: State and County licensing staff are required to track post-licensing information. How the State/County chooses to track this information would be at their discretion. Suggestions include a spreadsheet or check off sheet for verifying post licensing requirements. No, there will not be a placement authorization form.

2. **Question:** What are the differences in a Home Study completed for licensure, an In-Home Assessment completed for licensure, and an In-Home Assessment completed for relatives?

Answer: The term In-Home Assessment and "Home Study" is not referenced in Community Care Licensing regulations. There is an in-home interview required prior to the licensing or approval of a foster family home. The interviews are the same for both relatives and nonrelatives. The purpose of the in-home interview is to assess the caregiver's ability, readiness, and willingness. This interview is separate from the assessment of applicant qualifications completed during the prelicensing visit. Refer to Health & Safety Code Section 1521.5 regarding licensed homes and Welfare and Institution Code Sections 309 and 361.3 regarding approved homes.

After the licensing or approval of a home placement conducts a “Comprehensive Home Study” is conducted to provide an in-depth evaluation of the caregivers qualifications in order to make appropriate ‘permanency’ placements in the best interests of the children placed. Refer to Health and Safety Code Section 1521.6 for licensed homes and Welfare and Institutions Code Section 16518 for approved homes.

3. **Question:** Will the following items included in the in-home interview be completed by the County?

- ◆ TB and Health Screening
- ◆ CPR and First Aid
- ◆ 12 hours of Initial Training

Answer: If a County licensing agency chooses to discuss these activities as part of their in-home interview process they are not precluded from doing so. If the County licensing office does not discuss these activities with the caregiver, then Placement will need to.

4. **Question:** Will CCL require the licensed foster parent to inform us upon the placement of a foster child into the home to ensure compliance.

Answer: No, this is not a requirement of licensing. Licensing will not take on the responsibility of placement. Licensing has continuing responsibility to monitor post licensure issues of licensed homes.

5. **Question:** State and County Licensing offices have received several phone calls on various issues regarding the approval process. Who will be the contact person for the Children and Family Services Division?

Answer: The contact person for the Children and Family Services Division is Harriet Hopgood, Manager, (916) 323-9750.

6. **Question:** Who will be the contact person for Community Care Licensing?

Answer: The contact person for the State Department of Social Services Community Care Licensing Division is Stephanie Davis, Manager (916) 322-4887.

7. **Question:** What is the process when a foster parent moves with a child?

Answer: There is no change to the process because of ASFA, regulatory requirements must be met. The process must focus on the best interest of the child. The manner of handling a move should not disrupt placement.

Health and Safety Code Section 1524 provides that a license is forfeited by operation of law when the facility moves. It also provides the authority for an expedited licensing process to accommodate such moves. Emergency regulation Section 89234 "Changes to License" require the FFH caregiver to notify the licensing office and file a new application.

8. **Question:** How can we expedite the licensing process for a change of location?

Answer: Health and Safety Code Section 1524 gives the Department the authority to expedite licensing of the new home?

The process to expedite the licensing of a caregiver's home that is the result of a change in location can involve one or more of the following steps:

- ◆ Licensing should make an effort to go out on the day of the move to re- license the home.
- ◆ Enter into an MOU between State and County or County and County to expedite the licensing process.
- ◆ Request placement to do a site visit so the home can be reviewed for licensure on the day of visit and provide the report to licensing.
- ◆ Issue a Notice of action for violation (NOV) with a Plan of Correction (POC) as a solution.

9. **Question:** What are we doing with the existing Certified License Pending applicants?

Answer: This practice was discontinued in 1998. The All County Letter dated December 14, 2001, provides clarification that AB 1695 is the vehicle used to delete obsolete language referring to "certified-license pending homes". AB 1544 set forth the same criteria for the counties to approve or license all foster family homes. For county and state licensing agencies that have open applications pending they need to move the homes to the appropriate category or deny the application.

10. **Question:** Does licensing need to be concerned about the applicant's rights, and therefore be offered the options for approval/licensure?

Answer: During the orientation process the applicant should be informed of the difference between the licensure and approval process. It should be explained to the applicant who is required to be licensed and who may qualify as being exempt from licensure if they meet approval standards.

11. **Question:** If we deny the certified pending application, does the applicant have appeal rights?

Answer: See question #9 above. There is no longer certified pending status. However, if there are still certified pending applications in the system that are denied, yes, they have appeal rights. The appeal process is the same and has not changed.

12. **Question:** After licensure, does licensing issue a deficiency to a caregiver providing care for children if they did not complete the placement requirements?

Answer: Yes, do a plan of correction to complete their placement requirements.

13. **Question:** Some counties have existing Certified License Pending applicants because an outside agency placed children in their county. What do counties do with these applicants, and how do they proceed notifying these counties who placed outside their own counties?

Answer: As previously stated in the answer to question 9, this practice was discontinued in 1998. These placements are not Certified License Pending, they are unlicensed homes and are to be treated in the same manner as any other unlicensed home. The All County Letter dated December 14, 2001 provides clarification that AB 1695 is the vehicle used to delete obsolete language referring to “certified-license pending homes”. For county and state licensing agencies that have open applications pending they need to move the homes to the appropriate category or deny the application.

14. **Question:** Would a different license be issued for foster parents with swimming pools approved to care for children over 10 years old where no pool fencing is required? This will become a very serious placement issue since this age category is not identified on the license.

Answer: Licensing must make notation on the license, whether or not there is a pool or other bodies of water that may be accessible to children and whether or not there are safeguards in place. If not, the license must indicate any restrictions that should apply.

Examples

If there is a pool or other bodies of water, notation should include “there is a pool or other bodies of water”, and any one or combination of the following:

- caring for children under 10 years of age
- special needs of the child (i.e., DD or mental health)
- the child has a condition that requires special care and supervision

If there is not a pool or other bodies of water, notation should include:

- there is not a pool or other bodies of water

15. **Question:** Can a prior foster parent or certified foster parent be considered a “non-relative extended family member” and be a “approved” instead of licensed by CCL under AB 1695?

Answer: The relationship of caregiver to child is determined at the time of initial placement. However, if there has been a lapse in care, the existence of a nonrelative extended family member relationship will be determined on a case-by-case basis.

16 **Question:** Can a certified parent with a FFA who wants to leave the FFA and maintain a personal relationship with the foster child be considered a “nonrelative extended family member” and be “approved” instead of licensed by CCL?

Answer: As previously stated, this is determined on a case by case basis. If a caregiver who has a prior relationship with the child meets the extended family member criteria and does not wish to care for any other children then they may be considered in the approved population. However, if that caregiver is planning to care for other children they must be licensed.

17. **Question:** The Plan of Operation section is no longer mentioned in the Foster Family Home Emergency Regulations. Included in that section was the Facility Sketch/Floor plan. Is the Facility Sketch/Floor Plan no longer required for FFH?

Answer: The Facility Sketch/Floor Plan is no longer required.

18. **Question:** Per Article 2, can a waiver or exception be granted for caregivers licensed or approved by Article 3 standards?

The Licensing/Approval Agency can not grant any waivers or exceptions for anything in Article 3. The caregiver may develop a documented alternative plan for the building and grounds section 89387(a) and the telephone requirements in section 89373 of Article 3. For example, they may develop a documented alternative plan for the number of children in a room. i.e., the room is large enough to accommodate more than two to a room. The Licensing/Approval Agency may consider and grant authorization of the caregiver’s documented alternative plan.

19. **Question:** What standards will county placement use to determine age limitations & appropriateness in regards to:
- a) Locking medications & cleaning supplies or making those items inaccessible.
 - b) Care & Supervision as appropriate to the child's age, maturity and capability.
 - c) The Needs and Services Plans are specific to each child's appropriate capabilities and independence.

Answer: Article 3 of Title 22 is incorporated within Division 31. County child welfare agencies are required to follow Division 31 in its' entirety when considering placement options for children, including the use of the child's portion of the case plan to document the specific needs of the child. The social worker as part of this process is required to assess safety issues with respect to children, before placing and to make written note of any documented alternative plan requested by the caregiver and, that has been authorized by the licensing agency. The documented alternative plan and any related documentation should be available to licensing.

20. **Question:** Since there is no longer a requirement for a Plan of Operation, how will CCL know that the placed child has been properly assessed?

The Plan of Operation did not include the requirement for a needs and services plan. However, the requirement for the needs and services plan is included in Article 3. The social worker must document in the needs & services plan, placement agreement or Transitional Independent Living Plan (TILP) the specific needs and services of the child as appropriate.

21. **Question:** Will the new LIC 508 – Criminal Record Statement be included in the FFH application Booklet?

Answer: The application forms will no longer be submitted in the booklet format. Community Care Licensing has reviewed and modified all the forms that were a part of that booklet . There will still be specific forms that must be submitted as part of an application package and the Criminal Record Statement is one of those forms. All required forms will be available on the Internet @ www.cclid.ca.gov.

22. **Question:** Does SB 933 require all adults in a foster family home to complete a Criminal Record Clearance or be subjected to a \$100 Civil Penalty?
- Answer:** All adults in a licensed or approved home must complete a criminal record clearance. However, only licensed caregivers are subject to civil penalties for any uncleared adults.
23. **Question:** AB 899 relates to a new Personal Rights Bill. Should licensing be passing out copies of personal rights to providers at the Foster Care Orientation?
- Answer:** Yes, the personal rights should be distributed at the orientations. The personal rights provisions of AB 899 are incorporated in the foster family home emergency regulations. A new poster is available through the Office of the Ombudsman. In addition, the LIC 613B (Personal Rights Children's Residential Facilities) has been developed that list the provisions of AB 899.
24. **Question:** Buildings and Grounds Section 89387(p) of the Emergency Regulations, refer to all windows with security bars needing safety release devices when current policy requires only release mechanisms be installed on windows in sleeping rooms only. Which one is correct?
- Answer:** The window bar requirement is clarified in the Emergency Regulations Buildings and Grounds section 89387(q) which states "Each bedroom or sleeping room shall have at least one operable window or door that ensures safe, direct, emergency exit to the outside. If security window bars are used, the window is considered operable only if the window bars have a safety release device that meets all state and local requirements." This clarification is consistent with a policy memo issued on March 14, 1999.
25. **Question:** How can/will CWS/CMS & LIS computer systems interface?
- Answer:** There has been no change as a result of AB 1695. LIS will continue to have limited interface with CMS to provide county placement agencies with information on appropriate licensed placement resources.
26. **Question:** Is the same orientation required for caregivers seeking both approval and or licensure? What are the differences between the two orientations? Who will be responsible for creating a standardized orientation outline to apprise state and county licensing staff of all the changes created by the passage of AB 1695.

Answer: No, the orientations are not the same. The orientation for caregivers seeking approval will be done by county placement staff. The orientation for caregivers seeking licensure will be done by licensing staff. The two orientations use different forms and formats. State staff in conjunction with County licensing staff are developing a standardized orientation module for licensed homes. Pertinent changes created by the passage of AB 1695 will be incorporated into the orientation.

27. **Question:** Who will be responsible for training state and county licensing staff Statewide? Will local county placement staff be invited?

Answer: The Community Care Licensing Division established a workgroup to develop the training. The county liaisons along with a county staff representative will train state and county licensing staff. There are 12 licensing training sessions scheduled to begin July 11, 2002 ending August 23, 2002. The Children and Family Services Division is developing a separate training for county placement staff.

28. **Question:** If the public wants to make comments on the emergency regulations, where and to whom should they be referred?

Answer: Comments on the Foster Family Homes emergency regulations should be directed to the Office of Regulation Development @ www.dss.cahw.net.gov/ord.

29. **Question:** What is the process for state and county licensing staff when there are pending FFH applicants on file who currently qualify as relative providers?

Answer: Relatives can be moved to the approved population unless they want to take other children that are not related. Nonrelative extended family members are only exempt from licensure if they get approved. If they fail to get approved they would be operating without a license.

30. **Question:** Does State/County licensing staff use Article 3 alone, or the full 92 page – 5 Article Interim Standards to evaluate a new FFH?

Answer: The Interim Standards are no longer effective. The Emergency FFH regulations became effective July 1, 2002. State/County licensing staff must use Article 3 of the Emergency regulations to license a foster family home. All five articles in Title 22 of the Emergency regulations must be used for on-going evaluation of the licensed home. Division 31 regulations must be used for ongoing evaluation of an approved home.

31. **Question:** Have the policies or guidelines for licensing/approving individuals who are employed by the County or State changed?

Answer: No, the policies or guidelines have not changed.

32. **Question:** Can County Welfare place children in the homes of relatives or nonrelative extended family members who are certified as foster parents without the involvement of the Foster Family Agency?

Answer: No, they must work with the FFA for a relative or nonrelative extended family member placement. All placements must consider the best interest of the child to be placed as well as the compatibility of all children in care, the caregivers ability and the needs of the household members. However, relative placement is a statutory preference.

33. **Question:** Will certified foster family homes be required to meet the same core standards as the relative approved homes?

Answer: No, they must meet the requirements of the small family home regulations.

34. **Question:** Are relatives required to make incident reports?

Answer: Yes, relatives are required to make incident reports to the placement agency.

35. **Question:** Licensing receives an incident report on a relative home, is CCL required to do a follow-up? If so, to whom-County Licensing or Placement?

Answer: If licensing receives an incident report on the foster family home of a relative, refer the report to Placement Agency.

36. **Question:** Does CCL receive the complaints on relative providers?

- a. If so, is there a written compliant procedure process?
- b. How will the relatives be notified of a complaint procedure process?

Answer: Licensing will not be responsible for the complaints on relative care providers. These types of complaints will be addressed by Placement. For questions regarding the complaint process for relatives contact Harriett Hopgood (916) 923-9750.

37. **Question:** In regards to timelines, what regulations are to be cited pertaining to the implementation of AB 1695?

Answer: The correct set of regulations to use when citing an incident will depend on the date of the violation.

Refer to the attached chart when determining which document to use when issuing a citation for violation of foster family homes regulatory requirements.

Should you have any questions, contact Sharon D. Whitted, Policy Analyst at (916) 327-4104 or Stephanie Davis, Manager at (916) 324-3057.

Sincerely,

CATHLEEN A. MCCOY, Chief
Technical Assistance and Policy Branch
Community Care Licensing Division

Attachment (1)