REFERENCE MATERIAL

FOR

OFFICE FUNCTIONS

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2-0010 GENERAL STATEMENT 2-0010

The purpose of this section is to give you an overview of the administrative policies and procedures of the Department of Social Services and the Community Care Licensing Division. In the licensing process, a policy is a plan or course of action determined by the Community Care Licensing Division to influence administration of the program. It will enhance your ability to use the available resource material which outlines management's expectations and objectives. It is designed to clarify your role and responsibility in the administration of the licensing program. References will be made to intra-office policies and procedures. As each office develops intra-office policies unique to that office, your Regional Manager and the Licensing Program Manager will discuss them with you.

2-1000 ACCOUNTABILITY, RECORD KEEPING AND REPORTS 2-1000

Record keeping and reports that communicate information accurately, concisely and completely represent the end product of your efforts and verify your accountability. You are accountable to your Licensing Program Manager for the accurate and timely completion of all required reports.

2-1100 ITINERARIES 2-1100

The Weekly Itinerary (LIC 981) is the document which is used to reflect your activities in the field. This document serves a variety of purposes, including the following (1) it is a tool for planning your field activities; (2) it provides your Licensing Program Manager with information regarding use of your time and managing your caseload; (3) it enables your Licensing Program Manager to contact you in the field should the need arise; and (4) it provides a record of your activities which serves as a data base for statistical reports and supports your travel expense claims.

The essential elements to be reflected in the itinerary are (1) length of time itinerary covers; (2) your name; (3) Licensing Program Manager's name; (4) dates/departure; (5) estimated arrival time of each visit (a.m./p.m.); (6) facility name and telephone number (address and city are optional); (7) facility type (optional); (8) the purpose of the visit; (9) time of departure; (10) visit made (yes/no); (11) reason visit not made; (12) amendments to itinerary; (13) expected return to your office.

Because the field itinerary serves so many important functions, it is vital that it be complete and accurate. Since it is prepared in advance, it is often necessary to make revisions or corrections to the itinerary. For example, a visit may be listed which you were unable to make because no on was at home when you arrived. If major changes are made to your itinerary in the field, contact your Licensing Program Manager that day. It is, therefore, important that you review and correct the itinerary each time you return to the field.

2-1115 FIRE CLEARANCE DOCUMENTATION 2-1115

Assembly Bill 762, Lowenthal, effective January 1, 2010; amended sections 1566.45, 1568.0832, and 1569.72 of the Health and Safety Code for purposes of fire clearances. For purposes of fire clearances, Assembly Bill 762 changes the law so that Residential Care Facilities for the Elderly, Community Care Facilities, and Residential Care Facilities for the Chronically Ill residents/clients who need assistance in transferring to and from bed (but who do not need assistance in turning or repositioning in bed), shall be considered nonambulatory for purposes of fire clearances. Bedridden, for the purpose of fire clearances, means persons who do need assistance to turn or reposition in bed.

The LIC 200 Application for Community Care Facility or Residential Care Facility for the Elderly is currently being revised to reflect the changes of this new law. (In addition to this section, see sample letter in Reference Material, Office Functions, Fire Clearance Sample Letters, section 2-1116 for use until the LIC 200 is amended).

Orientations and Applications

Licensing Program Analysts shall:

1. Ensure, during the orientation process, that new applicants are aware of the changes in Assembly Bill 762. Applicants should have a basic understanding of the differences between nonambulatory persons versus bedridden persons as it relates to fire clearance requests. Applicants should be advised of the new changes and requirements related to the LIC 200 form.

2. Ensure, through the application process, that existing applicants affected by this new law, understand the implementation of this law as it pertains to their application and facility operation. Note: If a bedroom is cleared with a bedridden fire clearance, this clearance will also allow a facility to retain a client(s)/resident(s) who is/are nonambulatory or ambulatory in that bedroom.

   a. Review the LIC 200 and the STD 850 State Fire Safety Inspection Request of each application. Determine which applicants have requested a fire clearance for at least one bedridden resident. If an applicant has requested a fire clearance for at least one bedridden client/resident, the Licensing Program Analyst (or designated staff) shall:

      i. Contact the applicant.

      ii. Inform the applicant about the changes related to AB 762.

2-1115 FIRE CLEARANCE DOCUMENTATION (Continued) 2-1115

iii. Determine if the applicant needs to amend the application. If the applicant needs to amend the LIC 200, provide instruction on how to change the application, i.e. download the LIC 200, complete as outlined on the Sample Facility Letter located in Reference Material, Office Functions, section 2-1116, and remit to the licensing office. Inform the applicant of the need to update the plan of operation as applicable.

iv. Advise the applicant that the local fire jurisdiction will be notified about the updated fire clearance request.

v. Advise the applicant that this change may result in a delay in the processing of the application as the fire marshal may require additional time to process this request.

b. Upon receipt of an applicant's new LIC 200 and LIC 200 attachment if applicable, the Licensing Program Analyst (or designated staff) shall:

i. Ensure that the information provided on the LIC 200 and LIC 200 attachment, if applicable, is complete. Transfer the information onto a new STD 850.

ii. Determine the status of the original STD 850 request. Is it with the Community Care Licensing Division or with the local fire jurisdiction? If it has already been sent to the local fire jurisdiction, the following actions must be taken:

(1) Contact the local fire jurisdiction with authority and alert them to the changes being requested;

(2) Send the updated STD 850 to the local fire jurisdiction, using the Sample STD 850 Letter provided in Reference Material, Office Functions, section 2-1116. Note: the local fire jurisdiction will determine whether a new inspection is required;

(3) Upon receipt of the new STD 850 from the local fire jurisdiction, place the STD 850 in the applicant's facility file.

If the STD 850 has not yet been sent to the local fire jurisdiction, use the information on the new LIC 200 and the LIC 200 attachment, if applicable, to amend the STD 850. Process the new STD 850 using standard operating procedures. The Sample STD 850 Letter should <u>not</u> be used with this request, as it is unnecessary.

Ensure all communications with applicants/licensees are documented on an LIC 185 Contact Sheet.

2-1115 FIRE CLEARANCE DOCUMENTATION (Continued) 2-1115

Facility Visits

Licensing Program Analysts shall:

1. During the next facility visit, share information related to this change in law with licensees. A copy of this implementation plan and LIC 200, or how to access this information on the Community Care Licensing Division webpage must be shared. Note: Residential Care Facilities for the Elderly, Community Care Facilities and Residential Care Facilities for the Chronically Ill clients/residents who are unable to turn or reposition in bed shall be considered bedridden for purposes of fire clearances.

2. Ensure all communications with applicants/licensees is documented on an LIC 185 Contact Sheet.

2-1116 FIRE CLEARANCE SAMPLE LETTERS 2-1116

Sample Facility Letter (Use letterhead)

<Licensee>
<Address>

NOTICE/ACTION REQUIRED

Bedridden Persons in Community Care Facilities (CCFs), Residential Care Facilities for the Chronically Ill (RCF-CIs), Residential Care Facilities for the Elderly (RCFEs) and Fire Clearances

Background/New Law:

Assembly Bill 762, Lowenthal, effective January 1, 2010; amends sections 1566.45, 1568.0832 and 1569.72 of the Health and Safety Code. Specifically, a client/resident who is unable to independently transfer to and from bed, but who does not need assistance in turning and repositioning in bed, is now considered nonambulatory for purposes of a facility fire clearance.

For purposes of fire clearances:

- RCFE, CCF and RCF-CI clients/residents who need assistance in **transferring** to and from bed (but who do not need assistance in turning or repositioning in bed), shall be considered nonambulatory for purposes of a facility fire clearance.

- RCFE, CCF and RCF-CI clients/residents who need assistance to **turning or repositioning** in bed shall be considered bedridden and may only be retained in facilities that have secured a bedridden fire clearance.

Notice/Action Required:

In order to accurately reflect numbers of clients/residents that are nonambulatory and/or bedridden, applicants/licensees are to complete the LIC 200. If necessary, the applicant/licensee must insert the phrase, "SEE ATTACHED" in Sections 10 and 10A.

2-1116 FIRE CLEARANCE SAMPLE LETTERS (Continued) 2-1116

Sample Facility Letter (Continued)

AB 762 Implementation Plan
Page Two

The LIC 200 attachment is a document created by the applicant/licensee which must clearly identify the following:

- Total Requested Capacity – means the sum total of all persons to be cared for in a 24-hour period.

- Number of Nonambulatory - "nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. This also includes persons who are transfer-dependent but who do not need assistance in turning and repositioning in bed.

- Number of Bedridden – means the number of persons who are unable to independently turn or reposition in bed.

The LIC 200, Application for Community Care Facility or Residential Care Facility for the Elderly, is located at http://www.dss.cahwnet.gov/cdssweb/entres/forms/English/LIC200.pdf and can be remitted to my attention at:

<Office Name>
<Office Address>

As applicable, please remit the above information to my attention by <date>. If you have any questions, I can be reached at <phone number>.

Sincerely,

<Name>
Licensing Program Analyst

<Enclosure>

2-1116 FIRE CLEARANCE SAMPLE LETTERS (Continued) 2-1116

Sample STD 850 Letter (Use letterhead)

<Local Fire Jurisdiction>
<Address>

STD 850 FIRE SAFETY INSPECTION REQUEST for BEDRIDDEN PERSONS in a:

☐ Community Care Facility (CCF)

☐ Residential Care Facility for the Chronically Ill (RCF-CI)

☐ Residential Care Facility for the Elderly (RCFE)

Background/New Law:

Assembly Bill 762, Lowenthal, effective January 1, 2010; amends sections 1566.45, 1568.0832 and 1569.72 of the Health and Safety Code. Specifically, a client/resident who is unable to independently transfer to and from bed, but who does not need assistance in turning and repositioning in bed, is now considered nonambulatory for purposes of a facility fire clearance.

Based on the above change in law:

<Facility No.>
<Facility Name>
<Facility Address>

has submitted an Application for a Community Care Facility or Residential Care Facility for the Elderly License change of nonambulatory/bedridden status.

Please process this request according to the information provided on the attached STD 850 Fire Safety Inspection Request form. If you have any questions, I can be reached at <phone number>.

Sincerely,

<Name>
Licensing Program Analyst

Enclosure

2-2000 CONSULTANTS 2-2000

Professional specialists known as "medical consultants" provide professional assistance and expertise in licensing-related problem areas. These specialists are employed under consultant contracts with the California Department of Social Services to work exclusively for the Regional Office staff in the resolution of any problems regarding client placement, medication, food and level of care.

Several types of medical consultants are currently available to Community Care Licensing Division: Psychiatrist, Physician, Pharmacist, Registered Nurse and Nurse Practitioner.

Consultants are available on an "on-call" basis to the Community Care Licensing Division to:

1. Participate in facility inspections and complaint investigations.

2. Provide interpretation of Licensing Program Analyst's findings during the facility evaluation process.

3. Initiate and fulfill responsibilities within five working days from date of request for regular calls and within 24 hours for emergency calls.

4. Provide documented reports of findings and recommendations within five working days.

5. Serve as expert witnesses in legal/administrative actions.

6. Travel within the area(s) of service as specified in their contract.

Consultant services, when required, may be obtained as follows:

1. The individual Licensing Program Analyst in need of consultant service should submit a request to the appropriate Regional Manager.

2. The Regional Manager shall ensure that the consultant services requested are necessary and then advise the Licensing Program Analyst to contact the appropriate consultant directly by telephone to request the needed services (A current list of contracted-consultants is provided each fiscal year to Program and Regional Offices.) This list indicates the geographic areas served by each consultant. The list also available in the Common Library at http://sac8dsscagov/ccldcommon/default.htm.

2-2000 CONSULTANTS (Continued) 2-2000

After the consultation, the Licensing Program Analyst completes the Consultant Evaluation (this form is available in each Regional Office and also in the Common Library at hhtp://sac8dss.ca.gov/ccldcommon/attachments/consutant_evak.pdf) and submits it via mail pouch to:

Central Operations Branch
Division Administrative Support Bureau
M.S. 19-50
Attention: Medical Consultant Coordinator

The Licensing Program Analyst is required to forward the completed form within two weeks of the visit to verify the validity of the claim for payment submitted by the consultant. The consultant's invoice is then processed by the Medical Consultant Coordinator and forwarded to Accounting for payment.

2-2100 MEDICAL EXAMS FOR VICTIMS OF ABUSE WHO ARE MEDICALLY INDIGENT 2-2100

During an investigation of abuse of a client, there may be the need for a medical exam and/or laboratory testing. If the client is medically indigent, i.e., does not have any medical insurance coverage, the Department of Social Services can pay for these services.

If the client, authorized representative or parent does not know whether he/she has medical insurance, the county welfare department should be contacted. Clients in residential care should already be covered by Medi-Cal or some other type of medical coverage.

An exam may or may not be warranted, depending on the nature of the abuse and the amount of time that has elapsed since the abuse incident. It may be necessary to discuss the overall abuse situation with a physician, special investigator and/or social worker. Also, the Division's M.D. consultant may be a resource.

A medical exam/laboratory tests, when clients are medically indigent, may be obtained as follows:

1. The evaluator should submit a written request with a justification to his/her Licensing Program Manager.

2. If the Licensing Program Manager believes that the exam is warranted, the client, authorized representative or parent must complete the LIC 627A, Consent to a Medical Exam.

2-2100 MEDICAL EXAMS FOR VICTIMS OF ABUSE WHO ARE MEDICALLY INDIGENT (Continued) **2-2100**

3. The Regional Office may then contact, by phone, a physician/laboratory nearest the client's residence to arrange for the necessary services.

If assistance is needed in locating appropriate resources, the county child or adult protective services agency should be contacted.

The physicians who perform these exams should send the invoices to the Financial Services Bureau. The address is:

Department of Social Services
Financial Services Bureau
744 P Street, M.S. 13-84
Sacramento, CA 95814

The bill should indicate which evaluator requested the exam/lab tests, in order for the accounting staff to send a copy of the invoice to the evaluator for approval.

When the evaluator receives the copy of the bill, he/she should review it to make sure that the billing is correct and return it within three working days to the Financial Services Bureau with the following information.

1. Index Number –3805

2. PCA Number – 43010

3. That it is "OK to pay"

The physician/lab should receive payment within six weeks of the invoice having been sent to the Department.

For those medically indigent persons who live in counties with a population over 500,000, the counties are required to have specially trained personnel to examine the victim of sexual assault at no cost to the victim or the agency bringing the victim to the exam. When investigating allegations of sexual abuse, this service should be explored before ordering an exam that will be paid by the Department of Social Services. For information regarding the whereabouts of the sexual assault medical teams in these counties, the county welfare department or the local rape crisis centers should be contacted.

When necessary the evaluator should assist in arranging transportation to and from the exam. If no other resources are available, the Department can pay for the cost of the transportation as well as meals and lodging or other cost incurred by the client associated with the exam.

2-2100 MEDICAL EXAMS FOR VICTIMS OF ABUSE WHO ARE MEDICALLY INDIGENT (Continued) 2-2100

If the client, parent or his/her authorized representative requests transportation, the evaluator will investigate the type of transportation needed. Only after the Regional Office has been advised of the appointment date, but before the actual examination, the Financial Services Bureau shall be contacted for guidance and authorized on the payment of expenses resulting from transportation for the examination.

2-3000 COMMUNICATIONS-ROLES AND RESPONSIBILITIES 2-3000

GENERAL STATEMENT

It is important that you utilize appropriate documents when communicating in writing to applicants/licensees, to other Community Care Licensing Division staff and to other agencies. Any correspondence to facility operators should be in the form of a Licensing Report (LIC 809 or LIC 9099 and Evaluator Manual Section 2-6000) or a formal letter typed in accordance with appropriate format. Copies of all correspondence related to a particular facility must be placed in the respective facility file and copies of all letters must be placed in the Regional Office chronological section of the facility file. (See Evaluator Manual Section 2-6000)

2-3100 WRITTEN COMMUNICATION 2-3100

In the course of your written communications you will frequently utilize the following documents:

1. Letters (on official Department of Social Services stationery)
2. Office memos (STD 100)
3. Mini-memos (STD 100B)
4. Memorandums
5. Licensing Report (LIC 809)
6. Penalty Assessment (LIC 421)
7. Contact Sheet (LIC 185)
8. Exception (LIC 971)
9. Waiver (LIC 956)
10. Exemptions

State the purpose and overall content of your letter in clear and concise language. Route the letter to the clerk by LIS Input Sheet (LIC 9104) with information needed to process the letter (i.e., names and addresses of persons receiving copies and enclosures).

Routine letters which you write to applicant/licensee to provide information regarding materials required for licensure or other general information are prepared for your signature.

2-3100 WRITTEN COMMUNICATION (Continued) 2-3100

Other letters which you may prepare require sign-off by your Licensing Program Manager or Regional Office Manager. For example, a follow-up letter to a Noncompliance Conference Plan (LIC 9111) is normally signed by your Regional Manager. Letters relating to a denial or a waiver request or a cease and desist order require the Regional Office Manager's signature.

2-3120 MEMORANDA 2-3120

Office memos (STD 100) (STD 100B) are normally utilized for intra-office communications. The Mini-Memo is informal and facilitates two-way communication and may, depending upon the subject, also be used for intra- and inter-Branch correspondence.

2-3130 OTHER DOCUMENTS USED IN WRITTEN COMMUNICATION APPLICANTS/LICENSEES 2-3130

Licensing reports (LIC 809 and LIC 9099) and Confidential Names Lists (LIC 811) are used concurrently in recording citations and directives as a result of your observations and findings in evaluation of a community care facility. You will also cite deficiencies on the LIC 809 or LIC 9099. In addition, you may record significant discussions or agreements which took place with the applicant/licensee. Since the LIC 809 and LIC 9099 are public documents, you must be careful not to record on these forms any personal information related to the licensee or names of persons receiving services in the facility. The LIC 811 and LIC 812 must be utilized for any such confidential information and must be filed in the confidential facility file.

For those facilities which are subject to civil penalties you will also frequently utilize the Penalty Assessment (LIC 421A and 421B) in addition to the LIC 809 and LIC 9099. (See Section 1-0040 – 1-0070 of the Evaluator Manual)

2-3150 FACILITY FILES 2-3150

As previously indicated, copies of all written documents related to a particular facility must be placed in the facility file. The only possible exception to this will be the office memos or mini-memos which you may write to your Licensing Program Manager or other Community Care Licensing Division staff transmitting routine information or requesting general direction regarding procedures related to the facility.

In addition to the aforementioned documents, you will frequently record all pertinent telephone contacts or office interviews held with applicants/licensees or with others involved in operation of a community care facility. Document facts and objective statements; not inferences, assumptions or opinions. This information may be handwritten and should be recorded on the Contact Sheet (LIC 185) or Detail Supportive (LIC 812) in each facility file.

2-3150 FACILITY FILES (Continued) **2-3150**

It is important that you pay particular attention to the filing of written documents in facility files—assuring confidentiality of records. (Section 2-6000 of the Evaluator Manual)

2-3151 "FACILITY FILES" RECORDS MANAGEMENT **2-3151**
(Records Retention, Preservation and Destruction)

Statutory Authority

The California Records Management Program is mandated by the State Records Management Act contained in Article 3. Government Code, Chapter 5, Sections 14740-14769, and administered by authority of the State Administrative Manual (SAM), Section 1600, et al. The California Department of Social Services Unit has developed a Records Management Handbook for this purpose.

Specific program record questions can be addressed through your Regional Records Coordinator and the Records Services Unit will provide training when necessary.

All facility files shall be maintained by offices in accordance with the designated Regional Records Retention Schedule (STD 73). The designated Records Retention Schedule shall be revised and approved every five years. At anytime within that five-year period, if a program organizational change occurs, offices must promptly amend the Records Retention Schedule. Offices should confidentially maintain current reference binders on all documents related to the retention, indexing, transferring and destruction of office records. Authorized staff should periodically reference the Records Retention Schedule to verify current file categories, retention periods, legal authority, confidentiality status and/or necessary record preservation referrals to State Archives.

State Archives Authority:

Government Code, Section 14755, declares that no records shall be destroyed or otherwise disposed of if the Secretary of State, State Archives has determined the records appropriate for preservation. So, before disposing of any records, offices must review their Records Retention Schedule to determine if any records have been flagged, "Hold for Archives." This flag instructs office staff to forward records to State Archives when records have met their predetermined retention and are no longer of value or useful to the program or department.

Confidential records must be identified and protected by the **Public Records Act** Government Code, Section 6254), **Information Practices Act of 1977** Civil Code, Section 1798 et seq., and/or Federal or State laws under which your program operates. Records affected by the Public Records Act exemptions must be so designated in your Records Retention Schedule. **(Also see Sections 2-6000 through Sections 2-6500**, *which describe personal and confidential information and restrictions).*

State Record Center supplies are low cost storage of inactive records until "Authorization for the Destruction of Records" (GEN 676) is authorized by program management. Any inactive record that have been transferred by means of "Records Transfer List" (STD 71) to State Record Center are retrievable within 24 hours or less when necessary. Complete

2-3151 "FACILITY FILES" RECORDS MANAGEMENT (Continued) **2-3151**
(Records Retention, Preservation and Destruction)

the (STD 76) "State Record Center Reference Request" with appropriate Records Transfer List referenced information. This reference information should be maintained by designated staff and in a secured Records Services Unit for processing or call to expedite processing when record is required in less than 24 hours.

2-3152 "FACILITY CLOSURE" FACILITY RECORDS 2-3152
(Records Retention, Preservation and Destruction)

Community Care Licensing is not responsible for retaining personnel and resident records from closed facilities. Licensees of closed facilities are responsible for archiving or destroying their facility's personnel and resident records.

2-3200 MEETINGS WITH LOCAL AGENCIES 2-3200

Attendance at various meetings with State and local agencies and Community groups (other than routine meetings with applicants/licensees) must be approved by the Licensing Program Manager. Discuss all such meetings in advance with your Licensing Program Manager. Your Licensing Program Manager will provide approval for your participation in such meetings via e-mail with a copy to the Program Administrator.

2-3310 LEGISLATIVE CONTACTS 2-3310

Whenever you receive a telephone call or in person contact from legislators or their staff, the following procedures should be used:

1. Meetings with *legislative* members must be approved in advance by the Health and Welfare Agency. Regional Manager's will request approval upward through Program Administrator/Branch Managers.

2. Answers to direct inquires regarding specific cases and/or license status should be specific and to the point. Response is limited to public licensing information.

3. If you are asked about why it takes so long to complete a licensing process or perform certain licensing functions refer the caller to your Regional Office Manager.

4. Inquiries regarding overall Community Care Licensing Division program effectiveness, or other related issues/subjects other than public licensing information should be referred through the Regional Manager to the Deputy Director, of Community Care Licensing.

Report all contacts *immediately* to your Licensing Program Manager and complete the Report of Legislative/Media Contacts (LIC 9021) which includes a brief summary of the conversation. The Regional Manager then immediately forward this report to the Regional Branch Managers.

2-3320 MEDIA CONTACTS 2-3320

Responsibility for dealing with sensitive and/or controversial news media issues which arise in the Regional Offices is the responsibility of Program Administrators/Branch Managers. Regional Managers will continue to have primary responsibility for initial assessment of potential news crisis situations within their districts and of informing the Public Information Office and the Program Managers/Branch Managers. Any subsequent contact with the media on an issue which has been escalated is the responsibility of the Program Administrator/Branch Manager.

All initial media representative inquiries will be directed to the Regional Managers. Where Regional Managers can reasonably infer that the media inquiry will escalate to high visibility situations, the Regional Manager will immediately inform the Public Information Office and the Program Administrator/Branch Manager. Any inquiries from the media that enter into philosophical issues or positions of Community Care Licensing Division or the Department will be referred to the Public Information Office. For all contacts with the media, the Regional Manager will provide written notification to the Program Administrator/Branch Manager on the Report of the Legislative/Media contacts (LIC 9021).

In situations where immediate notification to the Public Information Office is not warranted due to the general nature of news media inquiries, the Regional Office should provide the information as outlined below:

1. Media request for public information.

    a. The Regional Manager will provide information requested.

2. Media requests for information on complaints against facilities:

    a. Where a complaint has not been investigated by the Regional Office, the Regional Manager will so state and explain that as soon as the complaint has been investigated within the ten days allowed, a public report (Licensing Report, LIC 9099) will be available for review. The nature of the complaint is not to be discussed unless first substantiated.

    b. Where a complaint has been investigated and resolved at the Regional Office Level, the Regional Manager will inform the media representative that the Licensing Report (LIC 9099) is available for review at the Regional Office.

        NOTE: Information requests on complaints referred to, and under investigation by, the Investigations Branch will be referred to the Investigations Branch.

2-3320 MEDIA CONTACTS (Continued) **2-3320**

3. Media requests for information where litigation is in progress:

   a. The Regional Manager will not provide any information concerning facilities under litigation except for public file information.

      NOTE: Legal documents (Accusations, Statement of Issues, Decisions, Stipulated Decisions, Temporary Restraining Orders and Temporary Suspension Orders) are considered public information once signed and issued/served. Inspection Warrants are not considered public information until signed and served or in situations where the issuing court requires review after service of the Inspection Warrant. As a general rule, any questions regarding accessibility of legal documents should be discussed with the Community Care Licensing Division legal staff.

2-3400 DEPARTMENTAL LITIGATION 2-3400

Much departmental litigation involves restraining and injunctive orders, and other situations involving shortening of normal notice times. The Department usually has inadequate time to prepare and review responses. Therefore, except as noted below, *the only persons authorized to accept service of process on behalf of the Department are the Director, Chief Deputy Director, Deputy Director-Legal Affairs and the Chief Counsel.* This is the only way in which tracking and coordination with the Attorney General's Office can be maintained.

If you should be contacted regarding acceptance of service of any litigation-related documents or receive any documents concerning departmental litigation in the mail, immediately contact your Licensing Program Manager. He/she, through the Regional Manager, will (1) advise the Office of the Chief Counsel and (2) forward any documents to the chief Counsel.

Subpoenas for documents in the possession of the Department may continue to be accepted by the Regional Manager, or his/her delegate. Again, the Office of the Chief Counsel should be immediately contacted when a subpoena is received.

2-4000 – 2-4900 (Repealed 6-1-00) CRIMINAL RECORD CLEARANCE

2-5000 WAIVERS AND EXCEPTIONS GUIDELINES 2-5000

GENERAL STATEMENT

The Department recognizes that alternative concepts and techniques or experimental and demonstration projects should not be excluded from child day care and residential programs. Therefore, regulatory requirements may be waived or exceptions made to allow for program flexibility, provided the health and safety of children, adults and the elderly are not jeopardized by the use of these alternative methods. These guidelines will be used for all waiver and exception requests. The Department, however, is prohibited from approving waivers/exceptions to the Health and Safety Code. The Licensing Program Analyst should advise the licensee or license applicant of the waiver/exception process and let them know that they may apply.

2-5100 GUIDELINES FOR EVALUATING REQUESTS 2-5100

Review the request for a waiver/exception to ensure that:

1. The requested alternative method provides equal or better protections for client/resident health and safety than the original regulation.

    a. Consider the impact of the request on other regulations.

    b. Determine if any additional requirements are necessary to ensure compliance with the purpose of the regulation.

EXAMPLES

An applicant/licensee who cannot afford to install a five-foot fence around a doughboy pool requests a waiver to the regulation. The alternate plan must ensure that the pool ladder will be removed during the hours children are in the facility and access to the pool area restricted except when a qualified adult directly supervises the children.

2-5200 WAIVER VS EXCEPTION 2-5200

WAIVER – Waiver requests are predominantly based on a facility wide need or circumstance and are not typically tied to a specific facility resident or staff person.

If a licensee/license applicant requests variance to a facility wide regulation by replacing it with an alternate plan which still meets the purpose of that regulation, then it is a waiver request. Examples include:

1. A child care center that prepares meals or snacks onsite requests not to have hot running water on site, but plans to use disposable dinnerware and utensils and make provisions for sterilizing any reusable utensils instead.

2-5200 WAIVER VS EXCEPTION (Continued) **2-5200**

2. A facility does not have 75 square feet per child of outdoor play area and the licensee wishes to use the play area in the park, one block down the street.

EXCEPTION – Exception requests are based on the unique needs or circumstances of a specific client(s)/resident(s) or staff person(s). Exceptions, therefore, are granted for a particular person(s) and can not be transferred or applied to another individual(s). The regulation in question still applies to other persons in the facility.

If a licensee/applicant requests an exception for a specified individual(s) from compliance with a regulation and has an individual alternative plan to meet the needs of that particular person or persons, then it is an exception request. Examples include:

1. Admitting or retaining an elderly resident who needs assistance in the care of his/her indwelling catheter beyond assistance with insertion and irrigation.

2. Use of one room with an occupancy of three specific residents.

3. Staff educational requirements/qualifications.

4. Placement of a child in an adult facility and vice versa.
   In some situations, rather than issuing an exception for residents outside the age range of the license limitations, it may be more practical and appropriate to consider issuance of a waiver. This would allow a limited number of such residents to be in the facility at any one time, but would not identify the specific residents by name.

2-5300 CONSIDERING REQUESTS **2-5300**

When reviewing a request from a licensee/applicant for a waiver/exception the following steps should be taken:

1. Insure that the requested alternative provides equal or better protection for client/resident health and safety.

2. Consider the impact of the request on other regulations.

3. Determine if any additional requirements are necessary to ensure compliance with the intent of the regulation.

4. Review previous decisions for similar requests to maximize consistency.

2-5310 DOs AND DO NOTs FOR EVALUATING REQUESTS 2-5310

The following is provided to assist Licensing Program Analysts in their evaluations of requests for waivers and exceptions. Where possible, items are listed in order of priority. However, all considerations should be taken into account to arrive at a balanced decision.

DO	DO NOT
1. Consider the health, safety and rights of client(s)/resident(s) as well as the safety, adequacy and sanitation of the facility.	1. Waive any statutory requirements (Health and Safety Code Section).
2. Insure that any alternative plan meets the original regulatory purpose or standard.	2. Waive personal rights requirements, medical or dental care requirements, criminal record clearance requirements, fire safety requirements, civil penalty requirements, or any regulation which would create an unsafe situation for client(s)/resident(s).
3. Request documentation from placement agency/social worker/ nurse/physician or related personnel when waiving or granting exception to a regulation for particular client(s)/resident(s).	3. Make decisions regarding the specific services needs of client(s)/resident(s) without obtaining input, documentation and support for the decisions from the agencies who share responsibility for the person(s).

2-5310 DOs AND DO NOTs FOR EVALUATING REQUESTS (Continued) **2-5310**

DO	DO NOT
4. Examine the impact of the request in terms of other regulations not specifically mentioned in the request.	4. Review and assess the implications only in terms of the specific regulations cited in the request and assume the applicant knows the full implications of their request for other statutes and regulations.
5. Consider the necessity for imposing alternate requirements (conditions) on the waiver or exception to provide adequate protection for client(s)/resident(s).	5. Except to enforce conditions that have not been specifically written on the waiver or exception e.g. verbal agreements.
6. Apply conditions to reinforce the purpose of the regulation being waived, that is, to provide equal or better, alternative protections for client/resident health and safety.	6. Apply conditions which deviate from the purpose of the regulation(s).
7. Consider the direction and the intent of the program.	7. Waive requirements which would be contrary to the program.
8. Apply only conditions which are attainable and enforceable.	8. Apply conditions which cannot be measured, attained and enforced.
9. Obtain assistance from Policy Development Bureau via a policy interpretation request when the meaning of the regulation is unclear.	9. Attempt to second guess the meaning of regulations when there are substantive questions in your mind.

2-5310 DOs AND DO NOTs FOR EVALUATING REQUESTS (Continued) **2-5310**

PROCEDURE:

The following procedure is to be followed for all waiver and exception requests. The key elements of the process are:

1. Use of the above guidelines for evaluating the merits of each request. This will maximize statewide consistency.

2. Documentation of the information considered when evaluating each request. This is crucial and will allow any other individual to review the information upon which you based your decision in order to follow up on complaints or requests for additional review. The documentation, therefore, must be sufficient to support the decision.

General Documentation Guidelines:

1. Documentation should be dated and signed by the person providing the input, i.e., Licensee, Applicant, Case Manager, Probation Officer, Social Worker, etc.

2. Type of documentation may vary. However, some general rules apply. If the request is for a waiver of physical plant requirements, a sketch of the facility floor plan and outdoor areas, including dimensions of pools, fencing, etc., should be obtained.

3. If the request is based on the specific service needs of a resident, written placement agency input is necessary. This can include a copy of the individual services plan or other appropriate placement monitoring documents. The licensee should be required to obtain such input in writing as part of the application for a waiver or exception.

   For residents with no identified placement agency, the licensee/applicant should obtain written concurrence with the request from the guardian, authorized representative, or appropriate medical or professional personnel as warranted by the individual case.

   Licensing regulations which specify the development of assessment plans should be used in conjunction with the above when necessary to insure proper assessment and follow-up services to meet a specific resident's needs.

4. Documentation should include necessary information to insure a balanced consideration of the request.

2-5400 DEVELOPING THE REQUEST 2-5400

The licensee/applicant should be held responsible for providing adequate information to justify the request for the waiver or exception. The Licensing Program Analyst shall assist the licensee/applicant that wants to request a waiver that addresses a facility-wide need or circumstance, or an exception for an individual, by providing an explanation of the waiver/exception process. The request submitted by the licensee/applicant should include citation(s) of the regulation(s) in question, the rationale for the request and sufficient supporting documentation to substantiate it.

Waiver and exception requests should identify an alternate method or plan by which the purpose of the specified regulation(s) will be carried out.

Exception requests should provide the name(s), age(s), and special characteristics of the client(s)/resident(s) for whom the exception is being requested.

2-5500 EVALUATING THE REQUEST 2-5500

1. The Licensing Program Analyst who receives a waiver or exception request from a licensee/applicant should obtain any necessary additional supporting evidence to make a determination in the particular case. This includes clarifying the facts provided and/or obtaining information to address additional considerations.

2. It is essential that the Licensing Program Analyst review the facility file regarding cited deficiencies, substantiated complaints, etc., to determine whether it is appropriate to grant a waiver/exception. For example, if the facility had been cited repeatedly for lack of supervision, granting an exception to allow admittance of an elderly resident requiring protective supervision would be inappropriate as it would place that person at risk.

3. The written request and supporting evidence should be evaluated in terms of the standard evaluation guidelines as stated above.

    a. Approvals must 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 licensee/applicant or as necessary for adequate and safe service provision.

    b. Denials must fully explain the basis for denial and may include a recommended alternative plan to be considered by licensee/applicant. The standard evaluation guidelines can be used and elaborated upon as the basis for denial.

2-5510 OTHER REASONS FOR DENIAL 2-5510

1. Regulatory section(s) cited in the waiver/exception request is a statutory requirement which cannot be waived.

2. Granting of the waiver/exception would risk health and safety of client(s)/resident(s).

3. Waiver/exception, if granted, would minimize the supervision of client(s)/resident(s).

4. Waiver/exception request is not supported by the placement agency (or agencies) involved with the facility.

5. Licensee provided insufficient information upon which to base a decision.

6. Waiver/exception request fails to indicate specifically how client(s)/resident(s) would benefit or how the alternative would continue to meet their needs.

7. Documentation fails to demonstrate that other clients/residents would not be adversely affected by granting of the waiver/exception.

2-5600 PREPARATION OF WAIVER/EXCEPTION 2-5600

Upon completion of the evaluation, the Licensing Program Analyst prepares a draft waiver/exception or a denial and submits it with all supporting documentation to the Licensing Program Manager for review and submission to the Regional Manager for final review.

Clerical staff will prepare the waiver/exception or denial for signature by the Regional Manager and will mail the signed original to the licensee/applicant. Clerical staff should insure that the request, all supportive documentation and a copy of the waiver or exception is filed in the facility folder, with any exception and accompanying documentation pertaining to a client being placed in the confidential file.

2-5700 RE-EVALUATION OF WAIVER/EXCEPTION 2-5700

Licensing Program Analysts should review waiver(s)/exception(s) prior to annual inspection or as often as necessary to insure that safe and adequate care is provided to client(s)/resident(s).

During the site visit, document on the Licensing Report (LIC 809) whether the conditions of the waiver/exception request have or have not been met. Depending upon the re-evaluation, the waiver/exception may be extended or terminated. If no significant changes have occurred in the circumstances or conditions of the currently approved waiver/exception, indicate this on the LIC 809. If the waiver/exception will be extended, the extension date shall be specified on the LIC 809. In most cases it should not be necessary to issue a new waiver/exception form but if circumstances have changed or if additional conditions should be imposed it may be necessary to complete a new document.

2-5800 GUIDELINES FOR USE OF VIDEO SURVEILLANCE 2-5800

Use of video surveillance in adult community care facilities and residential facilities for the elderly is not directly addressed in Title 22 regulations. However, clients maintain privacy and dignity rights that can be violated by negligent and/or abusive surveillance practices. The following guidelines are provided to help ensure that any video surveillance in common and private areas does not violate the personal rights of clients. Under no circumstances may video surveillance in facilities use an audio component.

A Licensee that has been using video surveillance prior to 2015 must contact his or her Licensing Program Analyst to develop a plan that brings the facility into compliance with the guidelines established in this policy for the use of video surveillance.

GUIDELINES

There are specific components that should be completed by the licensee and submitted to the Department. The components are as follows:

- Waiver Request
  - A waiver of the right to privacy is not required for common areas that are readily viewable and accessible by the public (e.g. on a driveway clearly open to public viewing or an entrance or exit that is publicly accessible).
  - A waiver is required for private areas of a facility.
  - All relevant Title 22 regulations to be waived are listed on the request.
  - The potential regulations that the licensee might request to be waived are provided, below, in **Table 1A (General Licensing), Table 1B (Adult Day Programs), Table 1C (Residential Facilities for the Elderly) and Table 1D (Residential Care Facilities for the Chronically Ill).**

2-5800 GUIDELINES FOR USE OF VIDEO SURVEILLANCE (Continued) **2-5800**

- Note: For each regulation waived, the licensee must be clear the waiver is strictly related to the video surveillance, (i.e. a resident does not waive his/her right to other aspects of the regulation). *For example, a waiver of Title 22, Section 87468(a)(1) does not mean the resident is waiving his/her right to dignity in relations with staff, etc. The waiver request would provide explanation of how the waived regulations are limited to the use of video surveillance and the resident would only be waiving his/her right to privacy based on the specified use and purposes of video surveillance as defined in the updated Plan of Operation with a documented statement of informed consent.*
- The following are the applicable Waiver and Exceptions regulations in the California Code of Regulations, Title 22:
  - 80024 Waivers and Exceptions - General Licensing regulations (Adult Residential Facilities, Adult Residential Facilities for Persons with Special Health Care Needs and Social Rehabilitation Facilities)
  - 82024 Waivers and Exceptions - Adult Day Program regulations
  - 87209 Program Flexibility - Residential Care Facilities for the Elderly regulations
  - 87824 Waivers and Exceptions - Residential Care Facilities for the Chronically Ill regulations

- Updated Plan of Operation
  - Licensee must submit an updated Plan of Operation.
  - **Table 2** provides a general outline for how a Licensee may update their Plan of Operation.
  - Licensee must be in compliance with applicable Title 22 regulations, as specified in the following Sections:
    - 80022 Plan of Operation - General Licensing regulations (Adult Residential Facilities, Adult Residential Facility for Persons with Special Health Care Need and Social Rehabilitation Facilities). In addition to Section 80022, the following shall apply:
      - 81022 Plan of Operation - Social Rehabilitation Facilities regulations
      - 85022 Plan of Operation - Adult Residential Facilities regulations
    - 82022 Plan of Operation - Adult Day Program regulations
    - 87209 Program Flexibility - Residential Care Facilities for the Elderly regulations
    - 87822 Plan of Operation - Residential Care Facilities for the Chronically Ill regulations

- Updated Admission Agreement and Informed Consent
  - The California Department of Social Services (CDSS) shall apply the following definition of "informed consent" when reviewing a facility's process for obtaining signed informed consent from potential residents or existing residents or the legally authorize representative as necessary:
    - "Informed Consent" is a person's agreement [or that of their legally authorized representative] to allow something to happen, made with full knowledge of the risks involved and the alternatives. *(Source: Garner, Bryan, editor. Black's Law Dictionary, 4th Pocket Ed. West Group Publishing, St. Paul, Minn, 2011, p. 149*)

2-5800 GUIDELINES FOR USE OF VIDEO SURVEILLANCE (Continued) **2-5800**

- "Full knowledge", also known as "knowingly" means, 1. having or showing awareness or understanding; well-informed 2. Deliberate; conscious. *(Source: Garner, Bryan, editor. Black's Law Dictionary, 4th Pocket Ed. West Group Publishing, St. Paul, Minn, 2011, p. 429)*

- An updated Admission Agreement with informed consent, specific to the facility's use of video surveillance and specific to the area(s) under video surveillance, shall be signed by the resident or the resident's legally authorized representative, if applicable.
  - In the event a legally authorized representative signs the statement, the licensee must first obtain documented proof the authorized representative has legal authority to make the decision on behalf of the resident. The documentation must be maintained in the resident's record.
  - A clause, within the updated Admission Agreement, that states how the licensee must turn off the video surveillance in private areas, if a resident does not provide consent or if a resident revokes consent.
- **Potential Resident with Existing Video Surveillance Service**
  In the event a licensee already has video surveillance, and the licensee chooses to continue the use of surveillance, a potential resident or his/her legally authorized representative, as appropriate, would need to sign the admission agreement that describes the full scope of the services available at the facility. This policy for video surveillance and the admission agreement required for a potential resident defers to the potential resident or his/her legally authorized representative, as appropriate, to decide whether the resident will reside in the facility that offers video surveillance. If the licensee intends to use surveillance in the common areas the applicant would be required to sign the admission agreement, consenting to the use of video surveillance in the common areas, to be admitted. The licensee would be required to turn off the video surveillance in the applicable private areas if a potential resident does not want this service provided in the applicable private areas.
- **Existing Resident Revokes Signed Informed Consent**
  In the event an existing resident revokes his/her informed consent verbally or in writing, the licensee would be required to shut off the video surveillance in the applicable private areas for that resident (e.g. the private studio the potential resident would reside in, bedrooms or bathrooms). The video surveillance in the common areas may remain on. The best practices addressed in this policy provide a recommendation for what the licensee should do when a resident verbally revokes their consent. This policy also defers to the resident or his/her legally authorized representative, as appropriate, to decide whether the resident will choose to continue to reside in the facility that offers video surveillance.

- Video Surveillance Records (i.e., a physical recording or a transmission of images)
  - In the event that a Licensee maintains video surveillance records, the Department recommends that the Licensee specify how they will maintain the video surveillance records in their Plan of Operation. The following best practices are recommended:
    - *Storing Recordings in Resident Records*
      This policy recommends the recordings be maintained as part of the resident records.

2-5800 GUIDELINES FOR USE OF VIDEO SURVEILLANCE (Continued) **2-5800**

In event the recordings are maintained in the resident records, the applicable regulations shall apply.

- Only those with the legal authority to view resident records may view saved recordings.
- If more than one person is recorded and the licensee is not able to redact the images of any resident in the recording to protect their confidentiality then only Licensing Program Analysts and persons authorized by law to view all of the residents on the video may view these recordings upon request.

▪ *Storing Recordings Elsewhere (not in resident records)*

The licensee is not required to make the recordings part of the resident records. If the recordings are stored outside of the resident records the licensee shall comply with all of the following:

- Confidentiality laws;
- Allowing Licensing Program Analysts access to the video recordings upon request;
- Allowing access to the recordings only to other persons or entities authorized by law.

- Facility personnel must be sufficient in numbers to meet the residents' needs - video surveillance does not substitute for adequate staffing per Title 22, as specified in the following Sections:
  - 80065 Personnel Requirements - General Licensing regulations (Adult Residential Facilities, Adult Residential Facilities for Persons with Special Health Care Needs and Social Rehabilitation Facilities). In addition to Section 80065, the following shall apply:
    - 81065 Personnel Requirements - Social Rehabilitation Facilities regulations
    - 85065 Personnel Requirements - Adult Residential Facilities regulations
  - 82065 Personnel Requirements - Adult Day Program regulations
  - 87411 Personnel Requirements - General - Residential Care Facilities for the Elderly regulations
  - 87865 Personnel Requirements - Residential Care Facilities for the Chronically Ill regulations

2-5800 GUIDELINES FOR USE OF VIDEO SURVEILLANCE (Continued) **2-5800**

TABLE 1A: General Licensing Regulations (Adult Residential Facilities, Adult Residential Facilities for Persons with Special Health Care Needs and Social Rehabilitation Facilities)

If the licensee requests a waiver to use video surveillance in the private areas of the facility, the following regulation sections may be included in the waiver request along with an updated Plan of Operation:

TABLE 1A **General Licensing Regulations** (Adult Residential Facilities, Adult Residential Facility for Persons with Special Health Care Need and Social Rehabilitation Facilities)	
Regulation Section	**Section Title**
Dignity in relationships with staff and others	
80072(a)(1)	Personal Rights
Right to privacy in accommodations	
80072(a)(2)	Personal Rights
80075(d)	Health-Related Services
80077.4(b)(7)	Care for Clients with Incontinence
81088(b)(4) *Social Rehabilitation Facilities only*	Fixtures, Furniture, Equipment and Supplies
85088(b)(4) *Adult Residential Facilities only*	Fixtures, Furniture, Equipment and Supplies
Resident records are to be confidential	
80070(c)	Client Records
80071(a)(2)	Register of Clients
Right to have private visits	
81072(b)(4) *Social Rehabilitation Facilities only*	Personal Rights
81072(b)(9) *Social Rehabilitation Facilities only*	Personal Rights
85087(d) *Adult Residential Facilities only*	Buildings and Grounds
85072(b)(4) *Adult Residential Facilities only*	Personal Rights
85072(b)(9) *Adult Residential Facilities only*	Personal Rights

2-5800 GUIDELINES FOR USE OF VIDEO SURVEILLANCE (Continued) **2-5800**

TABLE 1A (Continued) **General Licensing Regulations** (Adult Residential Facilities, Adult Residential Facility for Persons with Special Health Care Need and Social Rehabilitation Facilities)	
Regulation Section	**Section Title**
Right to privacy when receiving medical treatment	
85075(d) *Adult Residential Facilities only*	Health-Related Services
80092.4(a)(7) *Does not apply to Adult Residential Facility for Persons with Special Health Care Needs*	Colostomy/Ileostomy
80092.5(a)(5) *Does not apply to Adult Residential Facility for Persons with Special Health Care Needs*	Fecal Impact Removal, Enemas, or Suppositories
80092.6(a)(7) *Does not apply to Adult Residential Facility for Persons with Special Health Care Needs*	Indwelling Urinary Catheter/Catheter Procedure
80077.4(b)(7)	Care for Clients with Incontinence

Note: The CDSS will ensure that Title 22, Section 80044(b)(1) is preserved in every waiver request.

2-5800 GUIDELINES FOR USE OF VIDEO SURVEILLANCE (Continued) **2-5800**

TABLE 1B: Adult Day Programs

If the licensee requests a waiver to use video surveillance in the private areas of the facility, the following regulation sections may be included in the waiver request along with an updated Plan of Operation:

TABLE 1B Adult Day Programs	
Regulation Section	**Section Title**
Dignity in relationships with staff and others	
82072(a)(1)	Personal Rights
Right to privacy in accommodations	
82072(a)(2)	Personal Rights
82075(d)	Health-Related Services
82077.4(b)(7)	Care for Clients with Incontinence
Resident records are to be confidential	
82070(c)	Client Records
82071(b)(1)	Register of Clients
Right to privacy when receiving medical treatment	
82075(d)	Health-Related Services
82092.4(a)(7)	Colostomy/Ileostomy
82092.5(a)(5)	Fecal Impact Removal, Enemas, or Suppositories
82092.6(a)(7)	Indwelling Urinary Catheter/Catheter Procedure
82077.4(b)(7)	Care for Clients with Incontinence

Note: The CDSS will ensure that Title 22, Section 82044(b)(1) is preserved in every waiver request.

2-5800 GUIDELINES FOR USE OF VIDEO SURVEILLANCE (Continued) **2-5800**

TABLE 1C: Residential Facilities for the Elderly

If the licensee requests a waiver to use video surveillance in the private areas of the facility, the following regulation sections may be included in the waiver request along with an updated Plan of Operation:

TABLE 1C Residential Facilities for the Elderly	
Regulation Section	**Section Title**
Dignity in relationships with staff and others	
87468(a)(1)	Personal Rights
Right to privacy in accommodations	
87307(a)	Personal Accommodations and Services
87307(c)	Personal Accommodations and Services
Resident records are to be confidential	
87506(c)	Resident Records
87508(c)(1)	Register of Residents
Right to have private visits	
87308(b)	Resident and Support Services
87468(a)(11)	Personal Rights
87468(a)(14)	Personal Rights
Right to privacy when receiving medical treatment	
87465(a)(8)	Incidental Medical and Dental Care
87621(b)(3)	Colostomy/Ileostomy
87622(b)(2)	Fecal Impact Removal, Enemas, and/or Suppositories
87623(b)(4)	Indwelling Urinary Catheter
87625(b)(8)	Managed Incontinence
Right to privacy in accommodations	
87307(a)	Personal Accommodation and Services
87307(c)	Personal Accommodation and Services
87465(a)(8)	Incidental Medical and Dental Care
87625(b)(8)	Managed Incontinence

Note: The CDSS will ensure that Title 22, Section 87755(b) is preserved in every waiver request

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2-5800 GUIDELINES FOR USE OF VIDEO SURVEILLANCE (Continued) **2-5800**

TABLE 1D: Residential Care Facilities for the Chronically Ill

If the licensee requests a waiver to use video surveillance in the private areas of the facility, the following regulation sections may be included in the waiver request along with an updated Plan of Operation:

TABLE 1D Residential Care Facilities for the Chronically Ill	
Regulation Section	**Section Title**
Dignity in relationships with staff and others	
87872(a)(1)	Personal Rights
Right to privacy in accommodations	
87872(a)(2)	Personal Rights
87888(f)(4)	Fixtures, Furniture, Equipment and Supplies
Resident records are to be confidential	
87870(c)	Resident Records
87870(c)(1)	Resident Records
Right to have private visits	
87872(a)(11)	Personal Rights
Right to privacy when receiving medical treatment	
87898(b)(3)	Colostomy/Ileostomy
87899(b)(2)	Enema and/or Suppository and Fecal Impaction Removal
87900(b)(4)	Indwelling Urinary Catheter/Catheter Procedure/Intermittent Catheterization
87901(b)(2)	External Catheters
87902(b)(4)	Managed Bowel and/or Bladder Incontinence
Right to privacy in accommodations	
87872(a)(2)	Personal Rights
87888(f)(4)	Fixtures, Furniture, Equipment and Supplies

Note: The CDSS will ensure that Title 22, Section 87844(c)(1) is preserved in every waiver request

2-5800 GUIDELINES FOR USE OF VIDEO SURVEILLANCE (Continued) **2-5800**

TABLE 2: Plan of Operation updates specific to the use of video surveillance

In order to use video surveillance in a facility, the licensee would be required first submit an updated Plan of Operation that reflects the facility's scope and use of the video surveillance. The following are recommended updates for the Plan of Operation:

Table 2 - Plan of Operation Recommended Updates	
Plan of Operation*	**Recommended updates specific to the use of video surveillance**
Statement of purpose and program goals	Description and purpose of the use of the video surveillance in the facility and how residents' privacy and confidentiality will be protected as it relates to the following: • Private communication. • Designated private areas required by regulations. • When there is an expectation of privacy. • Handling of recordings (encrypted, password protection, storage system, retention schedule, destruction methods, etc.). • How the licensee will secure (e.g., encryptions, password protection, etc.) the Internet feed of resident images in the event the licensee allows for remote viewing of residents (e.g., to adult children monitoring their senior parent in a Residential Care Facility for the Elderly). • Explain that video surveillance equipment cannot have audio capability. • Specify steps taken to secure the system from unauthorized access.
Admission Agreement and signed informed consent	• Description of the scope and use of the video surveillance. • An explanation that states how the licensee must turn off the video surveillance in private areas, if a resident does not provide consent or if a resident revokes consent.

2-5800 GUIDELINES FOR USE OF VIDEO SURVEILLANCE (Continued) **2-5800**

Table 2 - Plan of Operation Updates *(Continued)*	
Plan of Operation*	**Updates specific to the use of video surveillance**
Statement of admission policies and procedures regarding acceptance of persons for services	• Description of how video surveillance would not be utilized in any private area if the resident or resident's legally authorized representative did not sign a statement of informed consent or revoked a signed statement of informed consent.
Plan for training staff	• Address training requirements for staff using the video surveillance equipment. • Address how staff will protect the privacy and confidentiality of residents.
Staffing plan	• Clarification that facility personnel must be sufficient in numbers to meet the residents' needs - video surveillance does not substitute for adequate staffing.
Facility sketch	• Provide a description of the physical signs that will be posted in the areas that will be subject to video surveillance. • Sketch where each camera will be located and the area captured by each camera.
Statement of the facility's policy for family visits and other communications with residents	• Description of the use of the video surveillance in the facility and how residents' privacy and confidentiality will be protected.

*In the event anything specific to the use of video surveillance changes (e.g. video surveillance has been shut off in all of the private areas, or the video surveillance is no longer operable and in use, etc.), then the licensee must notify the licensing agency and update the existing waivers and Plan of Operation with the changes.

2-5801: Guidelines for Use of Personally Operated Video Surveillance and Audio Recording

Introduction

Use of a personally operated video surveillance camera by a client in an adult community care facility, a Residential Care Facility for the Chronically Ill or resident of a Residential Care Facility for the Elderly is not specifically addressed in statute or the California Code of Regulations, Title 22.

The use of a personally operated video surveillance camera is not currently prohibited by law outright. Nevertheless, all clients and residents maintain privacy and dignity rights that could be violated by negligent and/or abusive surveillance practices.

The licensee is responsible for the promotion and protection of clients' or residents' right to privacy and dignity as required by existing regulations.

Evaluating use of personally operated surveillance cameras

When the Community Care Licensing Division reviews the use of personally operated surveillance cameras in a facility, the Licensing Program Analyst (LPA) will determine if a client's or resident's use of personally operated surveillance camera(s) violates a clients' or residents' right to privacy and dignity as required by existing regulations.

2-6000 PUBLIC, PERSONAL AND CONFIDENTIAL INFORMATION 2-6000

The Information Practices Act of 1977 and the California Public Records Act define the rights of citizens to have access to information collected, used, and maintained by virtually all State agencies. Additionally, State agencies are under strict rules regarding how public, personal, and confidential information can be collected, used, released, and retained.

The Public Records Act (Government Code, Section 6250-6265) states, "The Legislature, mindful of the rights of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in the State." The Act also requires departments to establish written guidelines for public accessibility to Department records (See Department of Social Services Administrative Manual 3-3000 to 3-4302). The Information Practices Act (Civil Code Section 1798 et. seq.) provides that individuals have the right to inquire and be notified if the Department maintains a file on them and to receive copies of such records if they so desire.

Additionally, the Community Care Facilities Act (Health and Safety Code, Section 1500 et. seq.) requires that reports on the results of each (licensing) inspection, evaluation, or consultation regarding the facility shall be kept on file in the Department and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

All records in the facility files are considered public unless exempted in the Public Records Act or protected by confidentiality laws. All client confidential information shall be redacted prior to public review. There is no exemption in the Public Records Act for applications (even prior to licensure). However, personal information (such as education, financial, medical, driver's license numbers, social security numbers, date of birth, names of children living in the facility, etc.) in the applications would need to be redacted prior to release under the Public Records Act. Additionally, names, addresses and other identifying information contained in applications for foster family homes for 6 or fewer children and small family child care homes must be redacted. This restriction also applies to documents pertaining to certified family homes for 6 or fewer children.

Therefore, applications for these types of facilities do not need to be produced as the required redaction renders the application "meaningless."

The Department of Social Services Administrative Manual (Section 3-3010) requires each licensing office to post guidelines regarding access to public records. To comply with this mandate, each licensing agency must post Guidelines for Inspection of Public Records in a prominent place that is readily accessible to the public.

2-6000 PUBLIC, PERSONAL AND CONFIDENTIAL INFORMATION (Continued) 2-6000

The Information Practices Act requires that (1) personal and confidential information be maintained only if necessary to accomplish the legally mandated purposes; (2) information should be requested directly from the individual rather than other sources; (3) individuals shall have a right to refuse to disclose information; (4) individuals shall have a right to request an amendment to personal records; (5) information shall be disclosed only under specific conditions; and (6) persons providing information to be notified where records where are kept and have access to the personal information.

As a result of a lawsuit filed against the California Department of Social Services by CBS Broadcasting Inc., and in accordance with the Court of Appeal of the State of California, Second Appellate District's decision filed August 21, 2001, the names of individuals with criminal record exemptions and the identification of the facility with which they are associated is considered public information. This information will be made available in response to a public record request, including a request to review the facility file.

2-6100 REQUEST TO REVIEW INFORMATION 2-6100

When an interested individual requests information related to licensing standards regarding a community care facility in person, that individual may receive, for a reasonable charge the following:

1. One copy of the published regulations for each licensing category requested by the individual.
2. One copy of the civil penalty regulations for all requested categories except for exempted facilities.

If the interested individual contacts a licensing office by phone, mail or e-mail, the interested party shall be referred to the Community Care Licensing Division's internet Website to obtain the requested material (www.ccld.ca.gov).

To receive information regarding deficiency notices, waivers, and/or exceptions issued to facilities which serve or may serve SSI recipients, an interested individual must request such information by specifying the name of the affected facility(ies). Additionally, the individual shall be given the opportunity to review the public file for each specified facility and receive the following free of charge.:

1. One copy of each waiver or exception issued to that facility, if requested by the individual. If clients are named in these documents the name shall be blocked out before release to the public.

2-6100 REQUEST TO REVIEW INFORMATION (Continued) **2-6100**

2. One copy of any licensing report (LIC 809 or LIC 9099) issued to that facility if requested by the individual.

   a. Please note that all confidential information which may include Confidential Names (LIC 811), Detailed Supportive Information (LIC 812) or Photography Reports (LIC 813) shall not be released.

3. The names of individuals currently associated with the facility who have been granted a criminal record exemption.

   a. The names of the affected individuals will be provided using the LIS Exemption Listing (LIS 505). County Licensing Offices must maintain a list of persons with exemptions granted, in the facility file.

      - Run a current Exemption Listing (LIS 505).
      - Attach to the LIS 505, a copy of the Caregiver Background Check Information (LIC 995F).
      - The current LIS 505 and the attachment will then be filed in the public section of the facility file.

   b. When providing exemption information in response to a telephone request, the Licensing Program Analyst should inform the interested party that:

      - By law, the Department is allowed to provide only the names of individuals with criminal record exemptions. Therefore, no specific information about criminal convictions or history can be provided.
      - A criminal record exemption means that the individual has a criminal record that was reviewed by the Department, and a determination was made that the individual would not pose a risk to the health and safety of clients in care if the individual was allowed to have contact with clients.
      - The exemption process includes an evaluation of the crime committed, the length of time that has passed since the person was convicted, what the person has done since the conviction to show that he/she has been rehabilitated, and character references.
      - The interested party should also be advised that the information provided is the most up-to-date information available, but that some individuals may no longer be associated with the facility. If more information is requested, the interested party should be referred to the licensee.

2-6110 REQUESTS FOR INFORMATION RELATIVE TO RESIDENTIAL CARE FACILITIES FOR THE ELDERLY 2-6110

For Residential Care Facilities for the Elderly, the Health and Safety Code requires that the public files be maintained available for immediate access to interested individuals. Upon request an interested individual shall be given the opportunity to review the public file for each specified facility.

When an interested individual requests information regarding Residential Care Facility for the Elderly, the individual shall upon the payment of a reasonable charge receive copies of documents from the file including but not limited to the following:

1. Waivers or exceptions issued to that facility, if requested by the individual. If clients are named in these documents, all but the first name and first initial of the last name shall be blocked out before release to the public.

2. Any licensing report (LIC 809) issued to that facility if requested by the individual.

   a. Please note that all confidential information which may include Confidential Names (LIC 811) or Photography Reports, Detailed Supportive Information (LIC 812) or Photography Reports (LIC 813) shall not be released.

2-6120 REQUESTS FOR INFORMATION RELATIVE TO CHILDREN'S RESIDENTIAL FACILITIES & ADULT RESIDENTIAL FACILITIES 2-6120

Licensing Office Procedures

When an interested party calls the licensing office for information about a children's residential facility or an adult residential facility:

1. The call initially goes to the program specific Duty Officer of the Day or to the appropriate Licensing Program Analyst. If the call is taken by voice mail, the call must be returned on the same working day or, if that is not possible, within 24 hours.

2. The Duty Officer recommends that the interested party review reports at the facility, or that the interested party come into the licensing office to review the public facility file.

3. The Duty Officer advises the interested party that there is a 48-hour time frame for pulling and preparing the public file(s) for review in the licensing office.

If the interested party is unable to come into the licensing office:

1. The licensing office offers to provide information by phone when the interested party is too far away to come to the office or is unable to get to the office during business hours. Licensing staff will not set a standard regarding how far is "too far". This will be up to the interested party to decide.

2-6120 REQUESTS FOR INFORMATION RELATIVE TO CHILDREN'S RESIDENTIAL FACILITIES & ADULT RESIDENTIAL FACILITIES **2-6120**
(Continued)

2. The Duty Officer explains that, due to the volume of calls and the ongoing workload, the policy of the licensing office is to provide telephone reviews covering the past two years for up to three facilities. If any interested party has a need for more than three files they will be advised to recontact the licensing office the following working day.

3. Licensing staff calls the interested party back with the requested facility information within 24 hours, or during the next working day if the 24-hour period falls on a weekend or holiday.

4. Licensing staff summarizes the facility report(s) and any public complaint information from the last two years over the phone, unless the information reveals a need to go back further in time. Information typically provided:

   a. Facility type, capacity, any limitations on the license, and the length of time the facility has been licensed.

   b. Deficiencies listed on LIC 809s for the past two years. This includes explaining the meaning of terms such as deficiency, citation, and Type A or B violation.

   c. The facility's history of complaints for the past two years, referring to LIC 9099s (Complaint Investigation Report), not to LIC 802s (Complaint Report) or other complaint documents in the confidential file. This includes explaining the differences between substantiated, inconclusive, and unsubstantiated findings.

   d. Any informal or noncompliance plan, within the past two years.

   e. Any administrative action where an accusation has been served on the applicant or licensee and the documents are in the public file. (Statements of Facts are not public.)

   f. Licensing staff must be very careful to give an objective review; to provide only information contained in written reports in the public facility file; and to not editorialize or be drawn into giving personal opinions about a facility or specific items in the file.

If the interested party chooses to come into the licensing office:

1. The licensing office has up to three public facility files ready for review after 48 hours. If the 48-hour period falls on a weekend or holiday, the files will be ready for review on the next working day.

2. Licensing staff explains to the interested party the type of information that is kept in the public facility files.

2-6120 REQUESTS FOR INFORMATION RELATIVE TO CHILDREN'S RESIDENTIAL FACILITIES & ADULT RESIDENTIAL FACILITIES **2-6120**
(Continued)

3. If there is an urgent need, licensing staff will make every effort to accommodate walk-ins without an appointment. Otherwise, interested parties will be asked to return after 48 hours to give staff time to prepare the requested files for review.

Business hours:

1. All licensing offices are open from 8 a.m. to 5 p.m.
2. Some licensing office record after-hours messages. These offices will call the interested party back on the next working day.

Language capabilities:

1. Licensing offices generally hire staff to reflect the make-up of the local community.
2. Most licensing offices have Spanish-speaking staff available. Some offices also have staff available with other language capabilities (e.g., Farsi, Chinese, Korean, Vietnamese).
3. If the local licensing office does not have staff available who speak the authorized representative's language, the office will take the authorized representative's name and number. The office will make every effort—either through another licensing office, or other means—to find a person who can speak the authorized representative's language.

2-6150 REQUESTS FOR INFORMATION RELATIVE TO CHILD CARE FACILITIES **2-6150**

This section provides procedures for licensing offices to use when responding to a request for information about a child care facility from a child's authorized representative. Health and Safety Code Section 1596.859(a)(1) requires child care facilities to make available to the public, at the facility site, a copy of any licensing report pertaining to the facility that documents a facility visit or a substantiated complaint. Child care facilities must maintain these reports for three years. The reports can only contain information that would be available in public files at the local licensing office.

In addition, Assembly Bill 458 (Chapter 823, Statutes of 1999) added Section 1596.859(a)(2) to the Health and Safety Code to require every child care resource-and-referral agency and alternative payment program to advise anyone requesting a child care referral of his or her right to: 1) inspect licensing reports maintained at child care facilities; and 2) access public files regarding child care facilities at the local licensing office.

Because of these relatively new laws, licensing offices may be receiving more requests for information about child care facilities. The following procedures should be used in responding to these requests:

2-6150 REQUESTS FOR INFORMATION RELATIVE TO CHILD CARE FACILITIES (Continued) 2-6150

Resource-and-Referral Agencies and Alternative Payment Programs

Resource-and-referral agencies and alternative payment programs will encourage authorized representatives to visit child care facilities and narrow their choices before contacting the local licensing office. They will also encourage authorized representatives to review the LIC 809s (Facility Evaluation Report) and other information at the facility.

Licensing Office Procedures

When an interested party calls the licensing office for information about a child care center or family child care home:

1. The call initially goes to the Child Care Duty Officer of the Day, or to the appropriate Licensing Program Analyst. If the call is taken by voice mail, the call must be returned on the same working day or, if that is not possible, within 24 hours.

2. The Duty Officer informs the interested party that the law requires child care facilities to make licensing facility reports and substantiated complaints from the last three years available to the public at the facility site.

3. The Duty Officer recommends that the interested party review reports at the child care facility or come into the licensing office to review the public facility file.

4. The Duty Officer advises the interested party that there is a 48-hour time frame for pulling and preparing the public file(s) for review in the licensing office.

If the interested party is unable to come into the licensing office:

1. The licensing office offers to provide information by phone when the interested party is too far away to come to the office or is unable to get to the office during business hours. Licensing staff will not set a standard regarding how far is "too far." This will be up to the interested party to decide.

2. The Duty Officer explains that, due to the volume of calls and the ongoing workload, the policy of the licensing office is to provide telephone reviews covering the past two years for up to three facilities.

3. Licensing staff calls the interested party back with the requested facility information within 24 hours, or during the next working day if the 24-hour period falls on a weekend or holiday.

2-6150 REQUESTS FOR INFORMATION RELATIVE TO CHILD CARE FACILITIES (Continued) **2-6150**

4. Licensing staff summarizes the facility report(s) any public complaint information from the last two years, unless the information reveals a need to go back further in time, and provides the names of individuals that have been granted a criminal record exemption. Information typically provided:

   a. Facility type, capacity, any limitations on the license, and the length of time the facility has been licensed.

   b. Deficiencies listed on LIC 809s for the past two years. This includes explaining the meaning of terms such as deficiency, citation, and Type A or B violation.

   c. The facility's history of complaints for the past two years, referring to LIC 9099s (Complaint Investigation Report), not to LIC 802s (Complaint Report) or other complaint documents in the confidential file. This includes explaining the difference between substantiated, inconclusive, and unfounded findings.

   d. Any informal or noncompliance conference, or formal compliance plan, within the past two years.

   e. Any administrative action where an accusation has been served on the applicant or licensee and the documents are in the public file. (Statements of Facts are not public.)

   f. The names of individuals currently associated with the facility who have been granted a criminal record exemption .

      1. The names of the affected individuals will be provided using the LIS Exemption Listing (LIS 505). County Licensing Offices must maintain a list of persons with exemptions granted, in the facility file.

         A. Run a current Exemption Listing (LIS 505).

         B. Attach to the LIS 505, a copy of the Caregiver Background Check Information (LIC 995F).

         C. The current LIS 505 and the attachment will then be filed in the public section of the facility file.

2-6150 REQUESTS FOR INFORMATION RELATIVE TO CHILD CARE FACILITIES (Continued) **2-6150**

2. When providing exemption information in response to a telephone request, the Licensing Program Analyst should inform the interested party that:

   A. By law, the Department is allowed to provide only the names of individuals with criminal record exemptions. Therefore, no specific information about criminal convictions or history can be provided.

   B. A criminal record exemption means that the individual has a criminal record that was reviewed by the Department, and a determination was made that the individual would not pose a risk to the health and safety of children in the child care facility if the individual was allowed to have contact with children.

   C. The exemption process includes an evaluation of the crime committed, the length of time that has passed since the person was convicted, what the person has done since the conviction to show that he/she has been rehabilitated, and character references.

   D. The interested party should also be advised that the information provided is the most up-to-date information available, but that some individuals may no longer be associated with the facility. If more information is requested, the interested party should be referred to the licensee.

g. Licensing staff must be very careful to give an objective review; to provide only information contained in written reports in the public facility file; and to not editorialize or be drawn into giving personal opinions about a facility or specific items in the file.

If the interested party chooses to come into the licensing office:

1. The licensing office has up to three public facility files ready for review after 48 hours. If the 48-hour period falls on a weekend or holiday, the files will be ready for review on the next working day.

2. Licensing staff explains to the interested party the type of information that is kept in the public facility files.

2-6150 REQUESTS FOR INFORMATION RELATIVE TO CHILD CARE FACILITIES (Continued) **2-6150**

a. Information regarding criminal record exemptions shall be made available to persons reviewing the public file for Child Care Centers or Family Child Care Homes in accordance with Sections 2-6150 and 2-6150(4.)(f.) of the Evaluator Manual.

3. If there is an urgent need, licensing staff will make every effort to accommodate walk-ins without an appointment. Otherwise, interested party will be asked to return after 48 hours to give staff time to prepare the requested files for review.

Business hours:

1. All licensing offices are open from 8 a.m. to 5 p.m.

2. Some licensing offices record after-hours messages. These offices will call the interested party back on the next working day.

Language capabilities:

1. Licensing offices generally hire staff to reflect the make-up of the local community.

2. Most licensing offices have Spanish-speaking staff available. Some offices also have staff available with other language capabilities (e.g., Farsi, Chinese, Korean, Vietnamese).

3. If the local licensing office does not have staff available who speak the interested party language, the office will take the interested parties name and number. The office will make every effort--either through another licensing office, the local resource-and-referral agency or other means--to find a person who can speak the interested parties language.

2-6200 RESTRICTIONS RELATIVE TO FOSTER FAMILY HOMES AND FAMILY CHILD CARE HOMES 2-6200

Health and Safety Code Section 1536 prohibits the Department from disclosing the names, addresses and other identifying information of foster family homes and certified family homes of foster family agencies providing 24-hour care for six or fewer children. This information is considered personal information for purposes of the Information Practices Act and is not to be disclosed by the Department if a request is made pursuant to the California Public Information Act. Additionally, Health and Safety Code Section 1596.86(b) prohibits the Department from disclosing the above information to the public when a request is made involving a small family child care home.

The following is a clarification of the above restriction:

1. The names, addresses, telephone numbers, and other identifying information of Foster Family Homes and certified homes of foster family agencies providing 24-hour care for six or fewer children shall be considered personal information. Such information, including a list or partial list of Foster Family Homes shall only be provided to bona fide professional foster parent organizations upon request, and except as necessary for administering the licensing program, and facilitating the placement of children in these facilities. Licensing agencies will be responsible for determining locally which foster care organizations are bona fide professional organizations.

   The names, addresses, telephone numbers and other identifying information of small Family Child Care Homes serving up to eight children shall only be released as necessary for administering the licensing program, facilitating the placement of children in these facilities, and providing the names and addresses to resource and referral agencies, food and nutrition programs and alternative payment programs funded by the State Department of Education and county programs under the Greater Avenues for Independence Act of 1885, family child care organizations or specialized health care service plans licensed under the Knox-Keene Health Care Service Plan Act of 1975 which provide employee assistance services that include child care referral services. Upon request, parents seeking local day care services may receive the names and telephone numbers of local small Family Child Home providers.

   Information regarding criminal record exemptions shall be made available to persons reviewing the public file for all Family Child Care Homes in accordance with Sections 2-6150 and 2-6150.4.f of the Evaluator Manual.

2-6200 RESTRICTIONS RELATIVE TO FOSTER FAMILY HOMES AND FAMILY CHILD CARE HOMES (Continued) **2-6200**

2. All requests for access to personal information must be made in writing or in person. If the request is made in person at the licensing agency, the interested party shall be required to complete the Information Request (LIC 989). If such requests are made by mail, the licensing agency shall send the interested party the Information Request (LIC 989) and require completion of the form before the information can be released.

After completion of the LIC 989, the following procedures must be completed before information can be released to the interested party:

a. If an agency or person requests to see a Foster Family Home or Family Child Care Home file and can provide the name of the licensee and the address of the home, the personal file may be released.

b. If an agency or person is not able to provide the name and address, the personal file shall not be made accessible. However, such agency or individual may be provided a partial list of Foster Family Homes and Family Child Care Homes if the requirement specified in (1) above is met.

c. Upon release of any information regarding Foster Family Homes and Family Child Care Homes, the licensing agency shall require the interested party to sign an agreement as evidence that the information was released. This signed agreement shall be maintained in the facility file. If the released information is provided to the interested party by mail, a notice shall be enclosed with instructions for an appropriate signature and for its return to the licensing agency. (See Section 2-6210 of the Evaluator Manual.)

d. Confidential information shall only be released according to the provisions specified in Section 2-6500 of the Evaluator Manual.

3. All licensing agencies receiving Family Child Care Home and Foster Family Home listings from the LIS shall instruct all agencies and persons who are provided copies of the lists that such information is for their use only and is not to be distributed to other agencies or persons.

2-6210 SAMPLE NOTICE 2-6210

Date _____

The attached contains information on Family Child Care and /or Foster Family Homes. Health and Safety Code Section 1536 prohibits the Department from disclosing personal identifying information for foster family homes and certified family homes of foster family agencies providing 24-hour care to six or fewer children except under specified circumstances.

Health and Safety Code Section 1596.86(b) prohibits the Department from disclosing personal identifying information for small family child care homes except under specific circumstances.

The information that is being released to the interested party is for his/her personal use only. The interested party agrees to not disclose or distribute the released information to other agencies or persons unless authorized under California law.

_____ _____

Licensing Agency Representative Interested Party

2-6300 PUBLIC INFORMATION 2-6300

Nonpersonal information means any information, in any record or form, concerning an individual that is maintained by an agency which consists only of names, addresses, telephone numbers, and other **factual data**. Public information cannot reflect or convey, in any reasonable way, anything detrimental, degrading, or threatening to an individual's reputation, rights, benefits, privileges, or qualifications. Additionally, such information cannot be used by an agency to make determination that would affect an individual's rights, benefits, privileges, or qualifications. Any information that is not considered personal or confidential will be categorized as public information.

2-6400 PERSONAL INFORMATION 2-6400

Personal information means any information which relates to an individual in any record that is maintained by an agency, including but not limited to, information regarding an individual's education, financial transactions, and medical or employment history.

Character reference letters shall be considered as personal information rather than confidential information. It is the responsibility of the licensing agency to inform the designated person that any information submitted on the reference letter may be made available to the licensee/applicant (or the subject person).

Health and Safety Code (1520) requires that persons desiring a license must submit "Evidence satisfactory to the State Department that the applicant is of reputable and responsible character." Much of the information on the applicant, such as employment background, credit references, education, health and marriages, is personal information.

2-6500 CONFIDENTIAL INFORMATION 2-6500

Confidential information includes specific data contained in the licensing agency facility file that is not accessible to the data subject. The following is a comprehensive list of information that shall be filed in the confidential information section of a facility file. If the information is required by a specific statute to be considered confidential, this is also noted.

- Criminal Record Reports (Penal Code 11142)

- Welfare Records (Welfare and Institutions Code, Section 10850).

- Medical, psychiatric or psychological information.

  Medical, psychiatric or psychological information shall be considered confidential information when it has been determined that the disclosure of such information to the data subject would be medically or psychologically detrimental. However, the data shall be released to a medical professional nominated by the individual to receive it.

- Investigative Material

  Investigative material shall include the following:

  – Information which is part of an investigation which is still in progress. (**NOTE:** This information is open to disclosure after the investigation, subsequent prosecution or remedial action, except for the complainant's name and/or identity).

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2-6500 CONFIDENTIAL INFORMATION (Continued) **2-6500**

- Names of confidential sources of investigative data where the informants have requested anonymity and such persons will not be called as witnesses in any proceeding arising out of the investigation.

- Information Subject to Attorney-Client Privilege

  Any communication with the Office of Chief Counsel or Attorney General or any other attorney representing the agency(ies).

  NO LEGAL OPINION SHALL BE RELEASED WITHOUT PERMISSION OF THE ATTORNEY WHO WROTE IT. (California Evidence Code, Section 950 et seq.)

- The names of a facility's clients.

- Complainants' names and any identifying information that may identify the complainant.

- Any other information which is required by statute to be withheld from the individual to whom it pertains.

In accordance with Sections 9723 and 9724 of the W&I Code, licensing agencies shall, upon request, give the State Ombudsman (not the local ombudsman) access to any licensing records to assist the office in carrying out its responsibilities. This includes all confidential records except:

1. Bureau of Criminal Identification and Information Report (BCII RAP SHEET).

2. Information subject to attorney-client privilege.

3. Complainants' names and any identifying information including names of confidential sources who have requested anonymity.

4. Information relating to an investigation which is in progress.

However, the confidential records described above can be disclosed upon legal approval.

2-7000 COLLECTION OF CIVIL PENALTIES 2-7000

Regional Offices have several options available to encourage the payment of civil penalties:

1. The installment procedure (See Section 80054(i), Regulation Interpretations).

2. Informal conferences with the licensee (See Section 1-0300).

If civil penalty fines cannot be collected measures must then be taken to "get the debt off the records" (Discharge from Accountability). This is done *after* all attempts are made to locate the licensee.

The policies and procedures, which are used for this purpose, are as follows:

1. The Offset Program

2. Revocation of the License Based on Unpaid Civil Penalties

3. The Write-off Procedure

2-7100 OFFSET PROGRAM 2-7100

The Offset Program allows the collection of monies owed to a State agency by attaching the individual's State personal income tax return. Community Care Licensing Divisions use of the program is limited to:

1. Those accounts for which a favorable small claims court judgement has been received and no appeal of this decision is in progress;

and

2. Those accounts where the licensee has made no payments on the outstanding account or has not made payments within the last three months and there *is* no indication of resuming payment on the account.

2-7510 DRIVER RECORD INFORMATION 2-7510

During the licensing process, a need may arise to investigate an applicant's driving record. This is not expected to be a routine procedure, but limited to those situations where there is cause or reason to require such information.

On Licensing Program Manager's approval, the Evaluator will submit Form INF-254 to the Department of Motor Vehicles as follows:

(SAMPLE FORM INF-254):

STATE OF CALIFORNIA DMV DEPARTMENT OF MOTOR VEHICLES
A Public Service Agency

GOV'T AGENCY REQUEST FOR DRIVER LICENSE/IDENTIFICATION RECORD INFORMATION

RETURN TO: *DEPARTMENT OF MOTOR VEHICLES, P. O. BOX 944231, MAIL STA. G201, SACRAMENTO, CA 94244-2310*

1. REQUESTER CODE
2. SUBJECT DL/ID NUMBER
3. BIRTH DATE MO. / DAY / YR.
4. **Information Requested**
   - ☐ Status and Record
   - ☐ Certified
   - ☐ Order of Susp/Rev
   - ☐ Other
   - ☐ Proof of Service
   - ☐ Copy DL 44
5. NAME *(LAST FIRST MIDDLE)*
6. CITATION DATE
7. ADDRESS
8. COURT DATE

CITY STATE ZIP CODE

9. REQUESTED INFORMATION NEEDED BY *(DATE)* *

*Please submit the record request **two weeks prior** to the date needed. Otherwise, you may not receive the record information by the specified date.

Each INF 254 Request Form must contain your return address (limited to 4 lines with no more than 35 characters per line) clearly entered below.

10. REQUEST FOR SPECIFIC COPY OF ORDER OF SUSPENSION OR REVOCATION
1. Effective date: _____
2. Effective date: _____
3. Effective date: _____

11.
Attn: _____

From:

We are returning the enclosed request form(s) for the reason(s) checked below:

- ☐ No record based on information submitted and/or illegible.
- ☐ Requested documents purged. ☐ Requested documents not on microfilm.
- ☐ Suspension/Revocation and/or service order unavailable. Please resubmit in ____days.
- ☐ Best DL 44 available. ☐ No DL 44 available.
- ☐ No departmental action in effect.
- ☐ No departmental action in effect on citation given.
- ☐ No DL 44 available on "X" file records.
- ☐ Your INF 254 request form must contain your requester code number, agency name, and return address.
- ☐ Upon checking departmental files, a hard copy document is unavailable . A certified driver record has been provided in lieu of the Admin Per Se Order of Suspension.
- ☐ As of March 1, 1988, the only record of Financial Responsibility and Civil Judgment suspension orders will be in the Driver License Master files for each affected subject.

Initials/Unit _____ Date _____

INF 254 (REV. 10/97) **DISTRIBUTION: Original + Copy to Department (Copy returned with record information)**

2-7510 DRIVER RECORD INFORMATION (Continued) **2-7510**

DEPARTMENT OF MOTOR VEHICLES

DRIVER RECORD INFORMATION SERVICE – GOVERNMENTAL AGENCIES

The following are instructions for using Form INF-254, Government Agency Request for Driver Record information.

COMPLETING FORM INF-254

A separate request form must be completed for each record search, and all requests must include either *name and driver's license number or full name and birthdate.*

1. REQUESTER CODE

Enter the five-digit code number assigned to your office or agency. To ensure a response, this code must be used on all requests.

2. LICENSE NUMBER

Enter the California driver's license or identification number, including the single letter which is part of the number. A listing of the permanent number series is shown on page 4.

3. NAME

Enter the last name, then first and middle names. Please do not use abbreviations or initials if the full spelling is available.

4. ADDRESS

Always enter the most complete address available.

5. BIRTH DATE

Enter the birth date in a six digit numerical form. For example, show January 29, 1952 as 01/29/52. The birth date is required on all requests submitted if the driver's license number is not known.

2-7510 DRIVER RECORD INFORMATION (Continued) **2-7510**

6. MISCELLEANOUS INFORMATION SUBMITTED BY REQUESTER

Use of this box is optional. Up to 20 print spaces of reference information may be entered here, such as your case or file number, will be keyed in to appear on the driver record printout. The DL-254 request form is not returned with the printout.

7. CITATION DATE

Law enforcement agencies and courts should use this box to indicate applicable dates when requesting copies of orders, brief service documents, or prior drunk driving convictions.

8. COURT DATE

This box may be used to indicate that the information requested is needed in connection with a pending court date.

9. INFORMATION REQUESTED

If a driver record printout is being requested, check the "Status and Record" box. Photostatic copies of record documents may be requested by checking the "Copy of App" box or "Other" if another document is needed (please identify).

10. The agency name and address of the requester is required in this space on each Form DL-254 submitted.

For agencies using "blanket" identify requester codes, the name and address must be limited to three lines of not more than 35 print spaces per line. Immediately below the third line, an "attention" line may be added to designate a specific person or unit of the requesting agency.

Agencies having individually assigned requester codes should always enter their name and address as shown in the departmental letter assigning the code number. These agencies should send notifications of any address change to:

Division of Driver Safety and Licensing
Information Request Area
P.O. Box 12590
Sacramento, CA 95852

2-7510 DRIVER RECORD INFORMATION (Continued) **2-7510**

Mail completed DL-254 request forms to:

Department of Motor Vehicles
Division of Driver Safety and Licensing
P.O. Box 11231
Sacramento, CA 95853

Supplies of the form DL-254 may be obtained by writing to:

Department of Motor Vehicles
Division of Driver Safety and Licensing
P.O. Box 11231
Sacramento, CA 95853

Agencies with duplicating facilities may make copies of this form, but must retain the exact size and format of the original.

2-8010 GENERAL STATEMENT 2-8010

The licensing agency requires licensees, with the exception of family child care providers, to report certain incidents that affect facility clients or the general operation of the facility. The intent of this requirement is to protect both the client and the licensee. The licensee is provided with an opportunity to explain how or why the incident occurred and what action is being taken as a result of the incident to prevent further incidents and protect the clients. The reporting requirement also allows the licensing agency to become aware of incidents prior to these incidents coming to the attention of the news media or other interested agencies.

It is the responsibility of the licensee or designated representative of the facility to report unusual incidents, injuries, deaths, and organizational changes in the plan of operation, etc, to the licensing agency by telephone, mail or fax. For category specific requirements and time frames, refer to the following California Code and Regulation, Title 22, Sections: 80061 (General), 89261 (foster family homes), 87211 (residential care facilities for the elderly), 101212 (child day care).

Incidents are normally reported by the licensee or designated representative on the LIC 624-UNUSUAL INCIDENT/INJURY REPORT or LIC 624A-DEATH REPORT.

Previously incidents, injuries and deaths were reported on one form, the LIC 624. As of 1-99 there will be two reporting forms, the LIC 624, for incidents and injuries only, and the LIC 624A for deaths.

2-8010 GENERAL STATEMENT (Continued) **2-8010**

Incidents reported by the licensee or designated representative are not to be recorded as complaints. However, it is important to remember that the information reported as an incident by the licensee or designated representative might also be phoned in as complaint by a parent or responsible relative or a client. In this situation the Community Care Licensing Division is mandated by statute to accept the complaint and follow the normal complaint investigation procedures. See Evaluator Manual Section 3-2011.

NOTE: For purposes of consistency and clarity, the term "client" will be used throughout this Section when referring to a child in day care, a child or adult residing in a community care facility or an elderly resident of a residential care facility for the elderly.

2-8100 ACCEPTING/RECORDING REPORTS BY TELEPHONE 2-8100

Although there is not a designated form for accepting incident or death reports by telephone, the licensing evaluator should document the information received by phone on the LIC 812-Detail Supportive Information or the Incident Reporting Checklist found in the Community Care Licensing Division common library. See Evaluator Manual Section 2-8200 for samples of each.

To complete the LIC 812, the top portion of the LIC 812 should identify the facility name and number. The date of visit box should reflect the date the report is taken over the phone. The first line should indicate "Incident Report". This should be followed by a narrative statement of the circumstances under which the information was received, when it was received, and who it was received from. The rest of the information should include the identities (name and title) of those involved in the incident, the date and nature of the event, and how the incident was resolved including any contacts made, i.e. physician, ambulance service, local health department, police, etc.

Whether documenting the incident on the LIC 812 or the Incident Reporting Checklist (2-8200), remember to ask "Who, What, When, Where, How and Why" when obtaining the information.

The evaluator should remind the licensee or designated representative to submit a written report, using the LIC 624 or LIC 624A, to the licensing agency within the timeframes specified in the category specific regulations. If clients are involved and they are Regional Center clients, the licensee must also send a copy of the report to the Regional Center.

Copies of the documentation recording the initial telephone report of the incident and the LIC 624 or LIC 624A are to be maintained in the facility's licensing file in the Regional Office. The majority of the incident reports, specifically those containing the names of clients, and all death reports, will be filed in the confidential section of the file.

(Continued)

In some instances there may be a separate facility file for incident reports, particularly for group homes, where numerous incident reports are received.

The evaluator should also inform the licensee or designated representative of their responsibility to contact other local authorities, (i.e. local health departments, county child care protective services, police or sheriff, long term care ombudsman, client's authorized representative, etc.) of the incident, injury or death.

2-8200 SAMPLE TELEPHONE INCIDENT REPORT FORM 2-8200

SAMPLE LIC 812 FORM

State of California
Health and Welfare Agency

Department of Social Services
Community Care Licensing

DETAIL SUPPORTIVE INFORMATION

This form is to document information that is relevant to the licensing file but generally not public information. This would include back-up information on deficiencies such as conditions contributing to the severity of violations, witnesses to the violations, or other observation from field notes. When used to support the Licensing Report (LIC 809), the form should be completed, signed, and dated shortly after the visit. This assures accuracy and completeness of the detail of the public report.

Facility Name: Smith Care Home	Facility Number: 123456789	Date of Visit: 1-3-92

"Incident Report"

Received a telephone call at 10:00 a.m. on 1-3-92 from Jane Smith, licensee, regarding a fire at her facility. The fire started today (1-3-92) at approximately 7:30 a.m. in the kitchen. The two current residents were safely evacuated and relocated with the permission of their responsible representatives to another licensed facility, Arden Manor located at 329 J. Street.

According to Mike Brown, fire inspector for the American River Fire District (324-4088), the fire started as the result of a grease fire while the licensee was preparing breakfast. The fire was quickly contained and, therefore, damage to the facility was minimal.

The licensee will submit the required written report and has notified the responsible relatives and placement agencies. She will start making plans today to have the kitchen repaired and will contact licensing prior to moving the residents back in.

Signature of Licensing Evaluator(s) (Print clearly and sign) Date: 1-3-92

LIC 812 (11/91) (Personal/Confidential Depending on Type of Information)

FACILITY NAME _____ ASSIGNED LPA _____

ADDRESS _____ CITY _____

REPORTING PARTY _____ PHONE NUMBER _____

DATE _____ TIME _____ LOCATION _____

CLIENT(S) INVOLVED _____

_____

WITNESSES/CONTACT _____ PHONE NUMBERS _____

_____

TYPE OF INCIDENT:

DEATH / / INJURY / / ABUSE / /

EPIDEMIC / / CATASTROPHE / / FIRE/EXPLOSION / /

UNEXPLAINED ABSENCE / / HAS CLIENT RETURNED YES / / NO / /

PRONE CONTAINMENT/RESTRAINT / / OTHER / /

DETAILS INCLUDING ACTION TAKEN, FOLLOW-UP, NAME OF ATTENDING PHYSICIAN/HOSPITAL/CORONER, OTHER AGENCIES CONTACTED:

_____

_____

_____

_____

LPA _____ DATE _____

*REMIND REPORTING PARTY TO SUBMIT A WRITTEN REPORT ON AN LIC 624 OR LIC 624A AND CONTACT THE CLIENT'S AUTHORIZED REPRESENTATIVES AND OTHER REQUIRED AGENCIES. IF CLIENT IS DEVELOPMENTALLY DISABLED, A COPY MUST GO TO THE REGIONAL CENTER.

2-8300 PRIORITIZING/EVALUATING REPORTS OF UNUSUAL INCIDENTS OR INJURIES 2-8300

Upon receipt of an Incident Report (LIC 624), the evaluator must determine whether the incident warrants an immediate case management visit to the facility or a follow-up. **As stated previously, incident reports are not to be recorded as complaints (See Evaluator Manual Section 3-2011.** However, a follow-up investigation may be required, like a complaint, depending on the nature of the incident, especially if abuse or neglect is suspected. For example, it may be necessary to obtain copies of police reports, medical records, etc. to ensure that client received the necessary medical treatment and the licensee was not in violation of any regulation or statute.

The follow-up may require interviews with victims, witnesses to the incident, and/or other clients in care. If the documents and information collected during the follow-up are complete and address all the issues and concerns regarding the incident, it may not be necessary to conduct additional interviews or make a facility visit. For instance, if a serious injury has occurred which has been investigated by law enforcement, a copy of the police, or sheriff report may be sufficient. However, if an unusual injury has occurred and there are no other investigative agencies involved, an investigation by the Community Care Licensing Division must be conducted. In these situations it is important to evaluate the incident report carefully and work with your Licensing Program Manager to formulate a plan to collect, examine, and analyze all the facts and evidence available.

Although incident reports are not complaints, the same steps may be utilized to investigate the incident. Refer to Section 3-2000 for specific techniques that may assist you in your investigation.

2-8300.1 PRIORITIZING/EVALUATING REPORTS OF DEATH 2- 8300.1

Upon receipt of a Death Report (LIC 624A), or other source of notification of a client death (i.e., Law Enforcement, Adult Protective Services, Child Protective Services, Media, Complaint, etc.), the evaluator must determine whether the death warrants an immediate case management visit to the facility or a follow-up. Any death of a child requires a facility visit. A site visit is also required for deaths of adults and elderly clients that are questionable deaths but not deaths by natural causes. Questionable deaths are defined as any death resulting from injury, abuse, or other than natural causes. The Licensing Office must conduct a site visit within two-business days in a case where there is a death of a child or questionable death of an adult or elderly client. (Refer to Evaluator Manual Section 2-8300.2 Protocol for Reporting Client Deaths to the Office of the Deputy Director, under Office Functions.)

In the case of an adult or elderly client death, a follow-up investigation may be required depending on the nature of the cause of death or the licensee's explanation of the circumstances surrounding the death.

2-8300.1 PRIORITIZING/EVALUATING REPORTS OF DEATH 2- 8300.1
(Continued)

For example, a death would be considered questionable if the nature of the death is not consistent with the explanation, or if the death could have been the result of a possible lack of care and supervision, then a full investigation must be conducted. In these situations it is important to evaluate the death report, or the source of notification of a client death (i.e., Law Enforcement, Adult Protective Services, Child Protective Services, Media, Complaint, etc.), carefully and work with your Licensing Program Manager to formulate a plan to collect, examine and analyze all the facts and evidence available. A full investigation would include obtaining copies of police reports, medical record, death certificates, etc. as well as interviewing witnesses or other clients.

If the death has been or is in the process of being investigated by a law enforcement agency, such as a police or sheriff's department, and law official request that the Department not visit the facility, do not make the visit. The law enforcement agency's request must be documented and discussed with your Licensing Program Manager to plan your next course of action. Although incident reports are not complaints, the same steps may be utilized to investigate the incident. Refer to the *COMPLAINTS* Section of the Evaluator Manual for specific techniques that may assist you in your investigation.

2-8300.2 PROTOCOL FOR REPORTING CLIENT DEATHS TO THE OFFICE OF DEPUTY DIRECTOR

Licensing offices <u>must</u> report to the Deputy Director's Office ALL deaths of children in Community Care Licensing facilities and questionable deaths of other clients. County licensing offices must also send a copy to their County Liaison. Deaths of adults by natural causes do not need to be reported. Deaths are to be reported by e-mail or fax using the "Community Care Licensing Client Death Report".

A. TIMELINE:

1. Immediately

- Licensing offices must report deaths to the Deputy Director's Office <u>immediately</u> on the date the Regional Office is informed of a death.

- On rare occasions, it may be necessary to delay transmitting the report, but in no case shall the report be delayed later than close of business on the date the Regional Office was notified of the death.

- If complete information is not available, send a preliminary report. An addendum should be submitted when additional information is available.

2-8300.2 PROTOCOL FOR REPORTING CLIENT DEATHS TO THE OFFICE OF DEPUTY DIRECTOR (Continued)

2. Within One Business Day

- Send addendum with as much additional information that is available. At a minimum submit *Compliance History of Facility.*

3. Within Two Business Days

- Any death of a child requires a facility visit within two business days. A facility visit is also required within two business days for deaths of adults and elderly clients that are questionable deaths but not deaths by natural causes. A facility visit shall be made within two business days in these type of cases except when there is police involvement and the police request that the Department not visit the facility. (Please see Evaluator Manual Section 2-8300.1, under Office Functions).

B. COMPLETING THE FORM:

1. The case file number at the top of the form will be assigned by the Deputy Director's Office. Licensing offices should leave this line blank.

2. Please complete all information in each of the five sections on the form; *Licensing Office Information; Client Information; Facility Information; Certified Family Home; Additional Information.*

3. If you do not have all of the information initially, send what you have. In the section, *Licensing Office Information*, check the box marked "initial report." **Do not wait until you have all the information to submit the death report.**

4. Send one or more addenda as additional information becomes available. When submitting additional information, mark the box entitled "addendum" and indicate the number, e.g., #2, #3, etc.

5. In the event of multiple deaths, submit a separate form for each client.

6. The Child Care Client Death Report For Public File (LIC 9187) and the Community Care Licensing Division Client Death Report (LIC 9186 are available electronically in the Community Care Licensing Division's Website: www.dss.cahwnet.gov/pdf/lic9186.pdf

C. TRANSMITTING THE REPORT

The report must be e-mailed or faxed to the Deputy Director, Attention: Death Reporting Notice. (E-mail is the preferred transmission).

2-8300.2 PROTOCOL FOR REPORTING CLIENT DEATHS TO THE OFFICE OF DEPUTY DIRECTOR (Continued)

Upon receiving the report, the Deputy Director's Office will forward copies to the Deputy Director for Public Affairs, Deputy Director for Legal Division and others as required.

E-MAIL ADDRESS: ccldeputydirector@dss.ca.gov

FAX #: (916) 657-3783

D. INFORMATION FOR LICENSING OFFICE PUBLIC FILES

To ensure that parents have access to relevant information about facilities, for all deaths in child care facilities, effective July 1, 2000, Licensing Offices must place information on the death in the facility public file located in the Licensing Office. The "Child Care Client Death Report," should be completed and placed in the public files as soon as the cause of death is determined.

The report will be copied on yellow paper so that it is easily found in the file. The document will be filed in the public section of the facility file in accordance with the Regional Office Procedures Manual under Sections 820 Facility File Organization - Child Care Centers and Section 830 Facility File Organization - Family Child Care.

2-8400 PROTOCOL FOR EVALUATING INCIDENT/INJURY AND DEATH REPORTS **2-8400**

Since the majority of the reports are going to be of a sensitive and emotional nature, it is important to be particularly tactful and sensitive to the unspoken needs of others. This is especially true when a client dies unexpectedly. Although it is important to obtain all the pertinent information at the time of the call, it is also important to remember the grief the provider has just experienced. Whenever possible, try to avoid unnecessary questions that may further upset the provider.

Sensitivity should always be expressed when dealing with reported incidents of a serious nature. Remember to exercise tact and provide support to the provider while obtaining the required information.

2-8500 PROTOCOL FOR EVALUATING INCIDENTS OF SUDDEN INFANT DEATH SYNDROME (SIDS) 2-8500

Sudden Infant Death Syndrome (SIDS) cannot be predicted or prevented. It is the sudden death of a seemingly healthy and normal infant. The diagnosis is one made by exclusion. A statewide autopsy protocol has been established for coroners' reports. The protocol requires an investigation of the death scene and establishes strict guidelines for the pathologist and the coroner. By the time the coroner has made a presumptive diagnosis of SIDS, obvious indicators of homicide, abuse, neglect, etc. have already been excluded as contributing factors in the death of the infant. The coroner will prepare a final diagnosis which includes the results of toxicological, bacteriological tests, etc. within approximately six weeks following the death of the infant.

When licensing learns of a child's death in a licensed facility, where there has been a "presumptive" diagnosis of SIDS, irrespective of the source of the report, an Incident Report is to be completed.

If the cause of death is described as "questionable" with SIDS identified as a possibility, an investigation should be undertaken. If the information is provided to the Regional Office other than by the facility, it should be logged and processed as a complaint.

The report should be provided to the Licensing Program Manager for tracking and follow-up to ensure that the evaluator receives a copy of the coroner's report. The "presumptive" diagnosis is generally available within 24 hours of the coroner's autopsy. The length of time might vary if there are other urgent autopsies that the coroner must perform. In some jurisdictions, the Child Care Ombudsman has arranged to be notified in the event of SIDS incidents in "out-of-home" care. In other cases, the evaluator should call the coroner's office and request a copy of the coroner's report explaining the need to verify cause of death.

Depending upon local jurisdictions, there may be other "first responder" reports available, e.g. law enforcement agency, paramedics, etc. Those reports might contain information which would be useful to the evaluator determining whether further investigation is indicated.

In the event that the report is received as a "complaint" of a death in a licensed facility prior to notification from the coroner's office, the evaluator should contact the coroner's office and/or local law enforcement agency before conducting the complaint investigation. With the presumptive diagnosis of SIDS, there is no need to duplicate the investigation of the Deputy Coroner or any other law enforcement agency.

2-8500 PROTOCOL FOR EVALUATING INCIDENTS OF SUDDEN INFANT DEATH SYNDROME (SIDS) (Continued) 2-8500

The evaluator, in consultation with his/her Licensing Program Manager, and in some cases, the Regional Investigator, should review the reports(s) to determine whether further investigation is indicated. A further investigation would be indicated if the evaluator, after reviewing the reports, believes that any licensing violations as defined by the regulations, may have existed at the time of the child's death. It should be noted, however, that given the definition of SIDS, existing conditions at the facility would not have contributed to the death of the child. Therefore, if licensing violations are cited, special consideration should be given to the need for the evaluator to be sensitive to the provider's grief at this time. The provider should be assured that the citation of deficiencies is standard operating procedure.

Irrespective of the decision, the evaluator should contact the licensee and refer the provider to the **California SIDS Program/California Association of Public Health Nursing Directors (CAPHND) telephone 1-800-369-SIDS and/or the local public health department** for information about SIDS and contact with other supportive community resources. If there will be an investigation, inform the provider that it will be necessary to conduct a facility visit. Determine whether the provider is planning to be away from the facility for a while, if so, determine the dates. (Providers may feel a need to close their facilities for a time following a SIDS incident).

If no investigation is determined necessary, the evaluator should inform the provider that there will be no need for further investigation at this time.

The above guidelines initiate the sensitive treatment of providers while recognizing the responsibility of the licensing agency to carry out investigations in those areas unrelated to the death of the child.

2-8600 FACILITY VISIT/DOCUMENTATION 2-8600

If it has been determined that a facility visit is necessary to follow-up on an incident report, follow the normal facility visit procedures while utilizing the protocol suggestions listed in Section 2-8400.

If you find that the facility is in violation of any statute or regulation, document the findings and cite any deficiencies on the licensing report (LIC 809).