Manual of Policies and Procedures

COMMUNITY CARE LICENSING DIVISION

ADULT DAY PROGRAMS

Title 22
Division 6
Chapter 3

STATE OF CALIFORNIA

HEALTH AND HUMAN SERVICES AGENCY

DEPARTMENT OF SOCIAL SERVICES

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This Users' Manual is issued as an operational tool.

This Manual contains:

(a) Regulations adopted by the California Department of Social Services (CDSS) for the governance of its agents, licensees, and/or beneficiaries

(b) Regulations adopted by other State Departments affecting CDSS programs

(c) Statutes from appropriate Codes which govern CDSS programs

(d) Court decisions and

(e) Operational standards by which CDSS staff will evaluate performance within CDSS programs

Regulations of CDSS are printed in gothic type as is this sentence.

Handbook material, which includes reprinted statutory material, other department's regulations and examples, is separated from the regulations by double lines and the phrases "**HANDBOOK BEGINS HERE**", "**HANDBOOK CONTINUES**", and "**HANDBOOK ENDS HERE**" in bold print.

In addition, please note that as a result of the changes to a new computer system revised language in this manual letter and subsequent community care licensing manual letters will now be identified by a vertical line in the left margin.

Questions relative to this Users' Manual should be directed to your usual program policy office.

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CHAPTER 3. ADULT DAY PROGRAMS

Article 1. General Requirements

82000 GENERAL 82000

Adult day programs, as defined in Health and Safety Code Section 1502(a)(2), shall be governed by the provisions specified in this chapter.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1502(a)(2), and 1531, Health and Safety Code.

82001 DEFINITIONS 82001

For purposes of this chapter, the following definitions shall apply:

(a) (1) "Activities of Daily Living" (ADLs) mean the following six activities:

(A) Bathing: Cleaning the body using a tub, shower or sponge bath, including getting a basin of water, managing faucets, getting in and out of tub or shower, reaching head and body parts for soaping, rinsing and drying.

(B) Dressing: Putting on and taking off, fastening and unfastening garments and undergarments and special devices such as back or leg braces, corsets, elastic stockings/garments and artificial limbs or splints.

(C) Toileting: Getting on and off a toilet or commode, emptying a commode, managing clothes, wiping and cleaning the body after toileting, and using and emptying a bedpan and urinal.

(D) Transferring: Moving from one sitting or lying position to another sitting or lying position (e.g., from bed to or from a wheelchair, or sofa, coming to a standing position and/or repositioning to promote circulation and to prevent skin breakdown).

(E) Continence: Ability to control bowel and bladder as well as to use ostomy and/or catheter receptacles, and to apply diapers and disposable barrier pads.

(F) Eating: Reaching for, picking up, grasping a utensil and cup; getting food on a utensil; bringing food, utensil, and cup to mouth; manipulating food on plate; and cleaning face and hands as necessary following meal.

82001 DEFINITIONS (Continued) **82001**

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See also the definition of "Client Who Relies Upon Others to Perform All Activities of Daily Living" in Section 82001(c).

HANDBOOK ENDS HERE

(2) "Administrator" means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the day program.

(3) "Adult" means a person who is 18 years of age or older.

(4) "Adult Community Care Facility" (Adult CCF) means Adult Residential Facilities (ARF), Social Rehabilitation Facilities (SRF), and Adult Day Programs, as defined in Health and Safety Code Sections 1502(a)(1), (2), and (7).

(5) "Adult Day Program" means any community-based facility or program as defined in Health and Safety Code Section 1502(a)(2).

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(A) Health and Safety Code Section 1502(a)(2) provides:

"Adult Day Program" means any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

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(6) "Applicant" means any adult, firm, partnership, association, corporation, county, city, public agency or other government entity that has made application for an initial community care facility license.

(7) "Assessment" means a written evaluation which identifies the client's strengths and his/her social and other related needs.

(8) "Authorized Representative" means any person or entity authorized by law to act on behalf of any client. Such person or entity may include, but not be limited to a conservator.

82001 DEFINITIONS (Continued) **82001**

(9) "Automated External Defibrillator" (AED) means a light-weight, portable device used to administer an electric shock through the chest wall to the heart. Built-in computers assess the patient's heart rhythm, determine whether defibrillation (electrical shock) is needed and then administer the shock. Audible and/or visual prompts guide the user through the process.

(b) (1) "Basic Rate" means the rate charged by a licensee to provide basic services.

(2) "Basic Services" means those services required by applicable law and regulation to be provided by the licensee in order to obtain and maintain a community care facility license.

(c) (1) "California Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction or convicted of a minor traffic or juvenile offenses.

(2) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed adult day program.

(3) "Care and Supervision" means any one or more of the following activities provided by a person or day program to meet the needs of the clients:

(A) Assistance in dressing, grooming, bathing and other personal hygiene.

(B) Assistance with taking medication, as specified in Section 82075.

(C) Central storing or distribution of medications, as specified in Section 82075.

(D) Arrangement of and assistance with medical and dental care.

(E) Maintenance of day program rules for the protection of clients.

(F) Supervision of client schedules and activities.

(G) Maintenance or supervision of client cash resources or property.

(H) Monitoring food intake or special diets.

(I) Providing basic services as defined in Section 82001(b).

(4) "Careprovider" means any person or institution having the responsibility for the client's primary care needs outside the adult day program.

82001 DEFINITIONS (Continued) **82001**

(5) "Cash Resources" means:

(A) Monetary gifts.

(B) Tax credits and/or refunds.

(C) Earnings from employment or workshops.

(D) Personal and incidental needs allowances from funding sources including, but not limited to, SSI/SSP.

(E) Any other similar resources as determined by the licensing agency.

(6) "Client" means an adult who is receiving care and supervision in an adult day program.

(7) "Client Who Relies Upon Others To Perform All Activities of Daily Living" means a client who is unable to perform all six activities of daily living without physical assistance.

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See also the definition of Activities of Daily Living in Section 82001(a).

HANDBOOK ENDS HERE

(8) "Close Friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.

(9) "Community Care Facility" means any day program, place or building where nonmedical care and supervision, as defined in Section 82001(c), are provided.

(10) "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1801 of the Probate Code or Section 5350 of the Welfare and Institutions Code.

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(A) Probate Code Section 1801 provides in part:

(a) A conservator of the person may be appointed for a person who is unable to provide properly for his or her personal needs for physical health, food, clothing, or shelter, …

(b) A conservator of the estate may be appointed for a person who is substantially unable to manage his or her own financial resources or resist fraud or undue influence, …

HANDBOOK CONTINUES

82001 DEFINITIONS (Continued) **82001**

HANDBOOK CONTINUES

(c) A conservator of the person and estate may be appointed for a person described in subdivisions (a) and (b).

(d) A limited conservator of the person or of the estate, or both, may be appointed for a developmentally disabled adult. A limited conservatorship may be utilized only as necessary to promote and protect the well-being of the individual, shall be designed to encourage the development of maximum self-reliance and independence of the individual, and shall be ordered only to the extent necessitated by the individual's proven mental and adaptive limitations….

(B) Welfare and Institutions Code section 5350 provides in part:

A conservator of the person, of the estate, or of the person and the estate may be appointed for any person who is gravely disabled as a result of mental disorder or impairment by chronic alcoholism.

The procedure for establishing, administering, and terminating a conservatorship under this chapter shall be the same as that provided in Division 4 (commencing with Section 1400) of the Probate Code, …

HANDBOOK ENDS HERE

(11) "Consultant" means a person professionally qualified by training or experience to provide expert information on a particular subject and/or to provide services not otherwise available through the day program's personnel.

(12) "Control of Property" means the right to enter, occupy, and maintain the operation of the adult day program property within regulatory requirements. Evidence of control of property may include, but is not limited to, the following:

(A) A Grant Deed showing ownership; or

(B) The lease agreement or rental agreement; or

(C) A court order or similar document which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.

82001 DEFINITIONS (Continued) **82001**

(13) "Conviction" means:

(A) A criminal conviction in California; or

(B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.

(14) "Criminal Record Clearance" means an individual has a California clearance and a Federal Bureau of Investigation (FBI) clearance.

(d) (1) "Day" means calendar day unless otherwise specified.

(2) "Deficiency" means any failure to comply with any provision of the Community Care Facilities Act (Health and Safety Code, Section 1500 et seq.) or regulations adopted by the Department pursuant to the Act.

(3) "Department" means the California Department of Social Services, as defined in Health and Safety Code Section 1502(b).

(4) "Developmental Disability" means a disability as defined in Welfare and Institutions Code Section 4512(a).

HANDBOOK BEGINS HERE

(A) Welfare and Institutions Code Section 4512(a) provides in part:

"'Developmental disability' means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual... this term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature."

HANDBOOK ENDS HERE

(5) "Dietitian" means a person who is a member of, or registered by, the American Dietetics Association.

(6) "Direct Care Staff" means those persons in the center who provide care and supervision to clients at least 70 percent of the hours of program operations per month or who supervise direct care staff.

82001 DEFINITIONS (Continued) **82001**

(7) "Director" means the Director of the California Department of Social Services as defined in Health and Safety Code Section 1502(c).

(e) (1) "Emergency Approval to Operate" (LIC 9117) means a temporary approval to operate a day program for no more than 60 days pending the Department's decision to either approve or deny a provisional license pursuant to Section 82035(c).

(2) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department.

(3) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the licensee's death.

(4) "Exception" means a written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation and which are based on the unique needs or circumstances of a specific client or staff person. Exceptions are granted for particular client or staff person and are not transferable or applicable to other client, staff person, day programs or licensees.

(5) "Exemption" means an exception to the requirements of Health and Safety Code Section 1522 and applicable regulations. Exemptions are not transferable.

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(A) Health and Safety Code Section 1522(g)(1) provides in part:

"After review of the record, the director may grant an exemption from disqualification for a license ... or for employment, residence, or presence in a community care facility ... if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character as to justify issuance of the license or special permit or granting an exemption..."

HANDBOOK ENDS HERE

(6) "Existing Facility" means any community care facility operating under a valid license.

(f) (1) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions reported by the FBI. The individual may also have been arrested with no criminal conviction or convicted of minor traffic or juvenile offenses.

82001 DEFINITIONS (Continued) **82001**

(2) "Formal Supports" means the formal network of social, health, financial, and other services offered by public and private agencies.

(3) "Functionally Impaired Adult" means an adult who does not require continuous on-site medical supervision, and has a limited capacity for independence in the following:

(A) Activities of daily living.

(B) Instrumental activities of daily living.

(g) (Reserved)

(h) (1) "Health Condition Relocation Order" means written notice by the Department to a licensee requiring the relocation of a client from an adult day program because either the licensee is not providing adequate care for a client's health condition as required by the regulations or the client cannot be cared for within the limits of the license or the client requires in-patient care in a health facility or has a prohibited health condition, as specified in Section 82091.

(2) "Home Economist" means a person who holds a baccalaureate degree in home economics with a specialization in either foods and nutrition or dietetics.

(3) "Hours of Operation" means the period of time that the day program is providing services to clients.

(i) (1) "Inhalation-assistive Device" means equipment that assists a client to breathe including, but not limited to, nebulizers, humidifiers, incentive spirometry devices, positive airway pressure devices, and positive expiratory pressure devices, and intermittent positive pressure breathing (IPPB) machines. This does not include metered-dose aerosols and dry-powder inhalers.

(2) "Instrumental Activities of Daily Living" shall include, but not be limited to, the following:

(A) Paying bills.

(B) Cooking.

(C) Shopping.

(D) Laundry.

(E) Using the telephone.

82001 DEFINITIONS (Continued) **82001**

(3) "Interdisciplinary Team" (IDT) means a team that assists the Department in evaluating the need for relocating a client when the client requests a review of the Department's Health Condition Relocation Order. This team consists of a nurse practitioner and a social worker, both designated by the Department, with experience in the needs of the client population. Persons selected for an IDT shall not have been involved in the initial decision to issue a relocation order for the client in question.

(j) (Reserved)

(k) (Reserved)

(l) (1) "License" means authorization to operate a community care facility and to provide care and supervision. The license is not transferable.

(2) "Licensed Professional" means a person who is licensed in California to provide medical care or therapy. This includes physicians and surgeons, physician assistants, nurse practitioners, registered nurses, licensed vocational nurses, psychiatric technicians, physical therapists, occupational therapists and respiratory therapists, who are operating within their scope of practice.

(3) "Licensee" means the adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a licensed community care facility.

(4) "Licensing Agency" means the California Department of Social Services, Community Care Licensing Division.

(m) (1) “Mandated Reporter” is defined in Welfare and Institutions Code Section 15630(a).

HANDBOOK BEGINS HERE

Welfare and Institutions Code Section 15630(a) provides:

> Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

HANDBOOK ENDS HERE

(2) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

82001 DEFINITIONS (Continued) **82001**

(3) "Mental Disorder" means any of the disorders set forth in the Diagnostic and Statistical Manual of Mental Disorders (Fourth Edition) of the American Psychiatric Association and a degree of functional impairment which renders a person eligible for the services enumerated under the Lanterman-Petris-Short Act, commencing with Section 5000 of the Welfare and Institutions Code.

(n) (1) "Needs and Services Plan" means a written plan that identifies the specific needs of an individual client, including those items specified in Section 82068.2 and delineates those services necessary to meet the client's identified needs.

(2) "Nonambulatory Person" means a person as defined in Health and Safety Code Section 13131.

(A) A person who uses postural supports as specified in Section 82072(a)(8) is deemed nonambulatory.

(B) A person is not deemed nonambulatory solely because he/she is deaf, blind, or prefers to use a mechanical aid.

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(C) Health and Safety Code Section 13131 provides:

"'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. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984, who are not developmentally disabled shall be made by the Director of Social Services or his or her designated representative."

HANDBOOK ENDS HERE

(3) "Nutritionist" means a person who holds a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed as a nutritionist by a county health department.

(o) (Reserved)

(p) (1) "Participant" means any adult admitted to an adult day program. Participant is equivalent to "client" as defined in Section 82001(c).

(2) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.

82001 DEFINITIONS (Continued) **82001**

(3) "Placement Agency" is defined in Health and Safety Code Sections 1536.1 and 1569.47(a).

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(A) Health and Safety Code Sections 1536.1(a) and 1569.47(a) are combined and paraphrased in pertinent part:

"Placement agency" means any county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, agency providing placement or referral services, conservator, and regional center for persons with developmental disabilities, which is engaged in finding homes or other places for the placement of persons for temporary or permanent care.

HANDBOOK ENDS HERE

(4) "PRN Medication" (pro re nata) means any nonprescription or prescription medication which is to be taken as needed.

(5) "Provision" or "Provide" means whenever any regulation requires that provisions be made for or that there be provided any service, personnel, or other requirement, the licensee shall do so directly or present evidence to the licensing agency that the requirement has been met by some other means.

(6) "Provisional License" means a license which is temporary, nonrenewable, and issued for a period not to exceed 12 months. A provisional license is issued in accordance with the criteria as specified in Section 82030.

(q) (Reserved)

(r) (1) "Rehabilitation" means the effort to reestablish good character since the date of the last conviction, including, but not limited to, education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service.

(2) "Relative" means spouse, domestic partner as defined in Family Code Section 297, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or such person denoted by the prefix "grand" or "great" or the spouse or domestic partner of any of the persons specified in this definition, even after the marriage, or domestic partnership, has been terminated by death or dissolution.

82001 DEFINITIONS (Continued) **82001**

HANDBOOK BEGINS HERE

(A) Family Code Section 297 provides:

(a) Domestic partners are two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.

(b) A domestic partnership shall be established in California when both persons file a Declaration of Domestic Partnership with the Secretary of State pursuant to this division, and, at the time of filing, all of the following requirements are met:

(1) Both persons have a common residence.

(2) Neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved, or adjudged a nullity.

(3) The two persons are not related by blood in a way that would prevent them from being married to each other in this state.

(4) Both persons are at least 18 years of age.

(5) Either of the following:

(A) Both persons are members of the same sex.

(B) One or both of the persons meet the eligibility criteria under Title II of the Social Security Act as defined in 42 U.S.C. Section 402(a) for old-age insurance benefits or Title XVI of the Social Security Act as defined in 42 U.S.C. Section 1381 for aged individuals. Notwithstanding any other provision of this section, persons of opposite sexes may not constitute a domestic partnership unless one or both of the persons are over the age of 62.

(6) Both persons are capable of consenting to the domestic partnership.

(c) "Have a common residence" means that both domestic partners share the same residence. It is not necessary that the legal right to possess the common residence be in both of their names. Two people have a common residence even if one or both have additional residences. Domestic partners do not cease to have a common residence if one leaves the common residence but intends to return.

HANDBOOK ENDS HERE

82001 DEFINITIONS (Continued) **82001**

(3) "Responsible Person" means that individual or individuals, including a relative or placement agency, who assists the client or prospective client in placement or assumes varying degrees of responsibility for the client's well-being. A responsible person cannot act on behalf of a client unless authorized by law.

(s) (1) "Serious Bodily Injury" is defined in Welfare and Institutions Code Section 15610.67.

HANDBOOK BEGINS HERE

Welfare and Institutions Code Section 15610.67 provides:

"Serious bodily injury" means an injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation.

HANDBOOK ENDS HERE

(2) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the day program clients.

HANDBOOK BEGINS HERE

(A) See Section 82051 for examples of violations which commonly result in serious deficiencies.

HANDBOOK ENDS HERE

(3) "Sexual Orientation" means, for the purpose of this chapter, the identification of any individual as heterosexual, gay, lesbian, or bisexual.

(4) "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code Section 1522(c)(4), if the individual's criminal history meets specific criteria established by Department regulation.

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1522(c)(4) provides:

"(4) The department may issue an exemption on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph."

HANDBOOK ENDS HERE

82001 DEFINITIONS (Continued) **82001**

(5) "Social Worker" means a person who has a graduate degree from an accredited school of social work.

(6) "SSI/SSP" means the Supplemental Security Income/State Supplemental Program which is a federal/state program that provides financial assistance to aged, blind and/or disabled residents of California.

(7) "Substantial Compliance" means the absence of any serious deficiencies.

(8) "Substantiated Complaint" means a complaint which has been investigated by the licensing agency, and as a result, a violation of regulations has been found.

(t) (Reserved)

(u) (1) "Universal Precautions" means an approach to infection control that treats all human blood and body fluids as if they are infectious. Generally, Universal Precautions consist of regular hand-washing after coming into contact with another person's body fluids (mucous, saliva, urine, etc.) and includes the use of gloves when handling blood or body fluids that contain blood. Specifically, Universal Precautions consist of the following four basic infection guidelines:

(A) Hand-washing - Staff should wash their hands:

1. After assisting with incontinent care or wiping a client's nose.

2. Before preparing or eating foods.

3. After using the toilet.

4. Before and after treating or bandaging a cut.

5. After wiping down surfaces, cleaning spills, or any other housekeeping.

6. After being in contact with any body fluids from another person, even if they wore gloves during contact with body fluids.

(B) Gloves - Staff should always wear gloves:

1. When they come into contact with blood or body fluids.

2. When they have cuts or scratches on their hands.

3. When assisting with incontinent care or when cleaning up urine, stool, or vomit.

4. When administering first aid for a cut, a bleeding wound, or a bloody nose.

82001 DEFINITIONS (Continued) **82001**

5. Use gloves only one time, for one incident or client.

   a. Staff must air dry their hands prior to putting on a new pair of gloves.

6. Dispose of used gloves immediately after use.

(C) Cleaning with a disinfectant - Staff should clean with a disinfectant:

1. On all surfaces and on an "as needed" basis on any surface that has come into contact with blood.

2. Such as a basic bleach solution, made fresh daily by mixing:

   a. 1/4 cup household liquid chlorine bleach in one gallon of tap water, or one tablespoon bleach in one quart of water.

(D) Proper disposal of infectious materials - Staff should dispose of infectious materials by:

1. Placing them in a plastic trash bag, tying it with a secure tie, and disposing of it out of reach of clients and visitors.

(2) "Unlicensed Community Care Facility" means an unlicensed facility day program that is maintained and operated to provide nonmedical care and not exempt from licensure and meets any one of the following conditions.

(A) A day program that is "providing care and supervision" as defined in Section 82001(c) includes, but is not limited to, one in which an individual has been placed by a placement agency or family members for temporary or permanent care.

(B) A day program that is "held out as or represented as providing care or supervision" includes, but is not limited to:

1. A day program license that has been revoked or denied, but continued care is provided for the same or different clients with similar needs.

2. A day program where a change of ownership has occurred and the same clients are retained.

3. A licensed day program that moves to a new location.

4. A day program that advertises as providing care and/or supervision.

(C) A day program that "accepts or retains clients who demonstrate the need for care or supervision" includes, but is not limited to:

82001 DEFINITIONS (Continued) **82001**

1. A day program where it is apparent that care and/or supervision are being provided by virtue of the client's needs being met.

(3) "Urgent Need" means a situation where prohibiting the operation of the day program would be detrimental to a client's physical health, mental health, safety, or welfare. Circumstances constituting urgent need include, but are not limited to, the following:

(A) A change in day program location when clients are in need of services from the same operator at the new location.

(B) A change of day program ownership when clients are in need of services from a new operator.

(v) (Reserved)

(w) (1) "Waiver" means a nontransferable written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation and which are based on a program-wide need or circumstance.

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Sections 1502 and 1530.1, Health and Safety Code. Reference: Section 51, Civil Code; Section 297, Family Code; Section 12921, Government Code; Sections 1500, 1501, 1502, 1503, 1503.5, 1505, 1507, 1508, 1509, 1511, 1520, 1522, 1524, 1525, 1525.5, 1526, 1531, 1533, 1534, 1536.1, 1537, 1550, 1556, 1569.47, and 13131, Health and Safety Code; Section 1800, Probate Code; Sections 4512, 5000 et seq., 5350 and 15610.67, Welfare and Institutions Code; and 29 CFR 1910.1030.

82003 DEFINITIONS – FORMS **82003**

(a) The following forms, which are incorporated by reference, apply to the regulations in Title 22, Division 6, Chapter 3 (Adult Day Programs):

(1) LIC 195 (10/05) – Notice of Operation in Violation of Law.

(2) LIC 200 (8/04) – Application for a Community Care Facility or Residential Care Facility for the Elderly License.

(3) LIC 300A (9/03) – Removal Confirmation – Exemption Needed.

(4) LIC 300B (9/03) – Removal Confirmation – Denial.

82003 DEFINITIONS – FORMS (Continued) **82003**

(5) LIC 300C (9/03) – Removal Confirmation – Rescinded.

(6) LIC 300D (9/03) – Removal Confirmation – Non-Exemptible.

(7) LIC 301E (7/03) – Reference Request Form.

(8) LIC 309 (6/01) – Administrative Organization

(9) LIC 400 (1/99) – Affidavit Regarding Client/Resident Cash Resources.

(10) LIC 508 (1/03) – Criminal Record Statement.

(11) LIC 602 (10/99) – Physician's Report for Community Care Facilities.

(12) LIC 9054 (3/99) – Local Fire Inspection Authority Information

(13) LIC 9117 (2/00) –Emergency Approval to Operate.

(14) LIC 9158 (11/04) – Telecommunications Device Notification.

(15) LIC 9182 (4/02) – Criminal Background Clearance Transfer Request.

(16) LIC 9188 (9/03) – Criminal Record Exemption Transfer Request.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1508, 1520, 1522, 1540, and 1541, Health and Safety Code; and Section 2881, Public Utilities Code.

Article 2. Licensing

82005 LICENSE REQUIRED 82005

Unless a day program is exempt from licensure as specified in Section 82007, Exemption from Licensure, no adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain an adult day program, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the licensing agency.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1505, 1508, 1509, 1513, and 1531, Health and Safety Code.

82006 OPERATION WITHOUT A LICENSE 82006

(a) An unlicensed day program, as defined in Section 82001(u), is in violation of Health and Safety Code Section 1503.5 or 1508 unless exempted from licensure pursuant to Section 82007.

(b) If the day program is alleged to be in violation of Health and Safety Code Section 1503.5 or 1508, the licensing agency shall conduct a site visit or evaluation of the day program pursuant to Health and Safety Code Section 1538.

HANDBOOK BEGINS HERE

(1) Health and Safety Code Section 1538(c) provides, in part:

> Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility …the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection of the community care facility or certified family home within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies.

HANDBOOK ENDS HERE

(c) If the day program is operating without a license, the licensing agency shall issue a notice of operation in violation of law and may refer the operator for criminal prosecution and civil proceedings.

(d) The licensing agency shall have the authority to issue an immediate civil penalty pursuant to Section 82058, Unlicensed Day Program Penalties, and Health and Safety Code Section 1547.

82006 OPERATION WITHOUT A LICENSE (Continued) **82006**

HANDBOOK BEGINS HERE

(1) Health and Safety Code Section 1547 provides in part:

"(a) Notwithstanding any other provision of this chapter, any person who violates Section 1503.5 or 1508, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars ($200) per day of the violation.

"(b) The civil penalty authorized in subdivision (a) shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed facility..."

HANDBOOK ENDS HERE

(e) Sections 82006(c) and (d) shall be applied pursuant to Health and Safety Code Section 1549.

HANDBOOK BEGINS HERE

(1) Health and Safety Code Section 1549 provides:

"The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the department to enforce this chapter."

HANDBOOK ENDS HERE

(f) The licensing agency shall notify the appropriate placement or protective service agency if either of the following conditions exist:

(1) There is an immediate threat to the clients' health and safety.

(2) The program operator has not submitted an application for licensure within 15 calendar days of being served a Notice of Operation in Violation of Law (LIC 195).

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1503.5, 1505, 1508, 1533, 1538, 1540, 1540.1, 1541, 1547, and 1549, Health and Safety Code.

82007 EXEMPTION FROM LICENSURE 82007

(a) The adult day program regulations contained in this chapter shall not apply to any of the following:

(1) Any health facility, as defined by Health and Safety Code Section 1250.

(2) Any clinic, as defined by Health and Safety Code Section 1200.

(3) Any day program conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.

(4) Any arrangement for the receiving of care and supervision of persons by a relative, as defined in Section 82001(r), or conservator, as defined in Section 82001(c).

(5) Any arrangement for the receiving of care and supervision of persons from only one family by a close friend of the recipient, parent, or conservator, provided the following are met.

(A) The close friend is not a licensee or current employee of an Adult Residential Facility, an Adult Day Program or a Residential Care Facility for the Elderly.

(B) The arrangement is not of a business nature, in that the provider does not represent himself or herself as being in the business of providing care, and any compensation that may be paid to the provider is only for the value of the services rendered.

(C) The arrangement occurs and continues only as long as the needs for care and supervision of the recipient are being adequately met.

(6) Any placement agency as defined in Health and Safety Code Section 1536.1 or an individual who places individuals for care in a day program licensed to receive and care for such persons.

(7) The Department.

(8) Any similar facility as determined by the Director.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, 1505, 1508, 1530.5, and 1536.1, Health and Safety Code.

82009 POSTING OF LICENSE 82009

(a) In day programs with a licensed capacity of seven or more, the license shall be posted in a prominent publicly accessible location in the facility.

(b) In day programs with a licensed capacity of six or fewer, the license shall be retained in the facility and be available for review upon request.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82010 LIMITATIONS ON CAPACITY 82010

A licensee shall not operate a day program beyond the conditions and limitations specified on the license, including the capacity limitation.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82012 FALSE CLAIMS 82012

(a) No licensee, officer, or employee of a licensee shall make or disseminate any false or misleading statement regarding the day program or any of the services provided by the day program.

(b) No licensee, officer, or employee of a licensee shall alter a license, or disseminate an altered license.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1508, and 1531, Health and Safety Code.

Article 3. Application Procedures

82017 NONDISCRIMINATION OF APPLICANTS 82017

Any adult shall be permitted to apply for a license regardless of age, sex or gender, race, religion, color, political affiliation, national origin, disability, marital status, actual or perceived sexual orientation, or ancestry.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Section 1520, Health and Safety Code; and Section 51, Civil Code.

82018 APPLICATION FOR LICENSE 82018

(a) Prior to filing an application, the applicant shall attend an orientation designed for the adult day program and provided by the licensing agency.

(1) The orientation shall cover, but not be limited to, the following areas:

(A) Completion of the application for license.

(B) Scope of operation subject to regulation by the Department.

(2) An applicant, who is already licensed to operate an adult day program, shall not be required to attend an orientation if the last orientation attended was for an adult day program and within two (2) years of the next scheduled orientation.

(3) An applicant applying for more than one adult day program license shall be required to attend only one orientation.

(b) Any adult, firm, partnership, association, corporation, limited liability company, county, city, public agency, or other governmental entity desiring to obtain a license shall file with the licensing agency a verified application on form LIC 200 furnished by the licensing agency, and containing the following information:

(1) Name or proposed name and address of day program.

(2) Name, and residence and mailing addresses of applicant.

(3) Name and address of owner of the day program premises if the applicant is leasing or renting.

(4) The category of facility to be operated.

82018 APPLICATION FOR LICENSE (Continued) **82018**

(5) Maximum number of persons to be served.

(6) Hours or periods of day program operation.

(c) Additional documents supporting the application shall contain the following:

(1) If the applicant is a corporation or association, licensing form LIC 309 must be completed and the following information must be provided:

(A) The name, title and principal business address of each officer, executive director and member of the governing board.

(B) The name and address of each person owning more than 10 percent of stock if the applicant is a corporation that issues stock.

(C) A copy of the articles of incorporation, constitution, and bylaws.

(2) If the applicant is a corporation, each member of the board of directors, executive director, and any officer shall list the name of all facilities which they have been licensed to operate, employed by, or a member of the board of directors, executive director or an officer.

(3) Age range, sex or gender, and the categories of persons to be served including, but not limited to, persons with developmental disabilities, mental disorders, or physical handicaps.

(4) Name of administrator.

(5) Information required by Health and Safety Code Section 1520(d).

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1520(d) provides:

Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer, or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in, any community care facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

HANDBOOK ENDS HERE

82018 APPLICATION FOR LICENSE (Continued) **82018**

(6) Information required by Health and Safety Code Section 1520(e).

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1520(e) provides:

Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in subdivision (d).

HANDBOOK ENDS HERE

(7) Licensing form LIC 9054, providing the name, and address of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the day program is located.

(8) A plan of operation as specified in Section 82022, Plan of Operation.

(9) Fingerprints as specified in Section 82019, Criminal Record Clearance.

(10) The bonding affidavit as specified in Section 82025(a).

(11) A health screening report on the applicant as specified in Section 82065(g).

(12) The fee for processing the application by the requested capacity as specified in Section 82036, Licensing Fees.

(d) The applicant shall cooperate with the licensing agency in providing verification or documentation as requested by the licensing agency.

(e) The application shall be signed by the applicant.

(1) If the applicant is a partnership, the application shall be signed by each partner.

(2) If the applicant is a firm, association, corporation, limited liability company, county, city, public agency, or other governmental entity, the application shall be signed by the chief executive officer or authorized representative.

(f) The application shall be filed with the licensing agency's Adult Care Program Office that serves the geographical area in which the day program is located.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1520, 1520.11, 1522, 1522.1, 1523.1, and 1560, Health and Safety Code.

82019 CRIMINAL RECORD CLEARANCE 82019

(a) The Department shall conduct a criminal record review of all individuals specified in Health and Safety Code Sections 1522(a) and (b)(1) and shall have the authority to approve or deny a day program license, employment, residence, or presence in the program, based on the results of the review.

HANDBOOK BEGINS HERE

(1) Section 1522(a) of the Health and Safety Code provides in part:

Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record ….

(2) Section 1522(b)(1) of the Health and Safety Code provides in part:

In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the facility.

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained, or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section…

(D) Any staff person, volunteer, or employee who has contact with the clients.

(E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

HANDBOOK ENDS HERE

82019 CRIMINAL RECORD CLEARANCE (Continued) **82019**

(b) The following persons, who are not licensees or employees of the licensee, are exempt from the requirement to submit fingerprints:

(1) A medical professional, as defined in Section 82001(m), who holds a valid license or certification from the individual's governing California medical care regulatory entity and who is not retained or contracted by the licensee, if all of the following apply:

(A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.

(B) The individual is providing time-limited specialized clinical care or services.

(C) The individual is providing care or services within the individual's scope of practice.

(2) A third-party repair person, or similar retained contractor, if all of the following apply:

(A) The individual is hired for a defined, time-limited job.

(B) The individual is not left alone with clients.

(C) When clients are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(3) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client, and are in the day program at the request of that client or the client's legal decision maker.

(4) Clergy and other spiritual caregivers who are performing services in common areas of the day program, or who are advising an individual client at the request of, or with the permission of, the client.

(5) Members of fraternal, service and similar organizations who conduct group activities for clients, if all of the following apply:

(A) Members are not left alone with the clients.

(B) Members do not transport clients off the day program premises.

(C) The same group does not conduct such activities more often than four times a month not to exceed two hours each time.

82019 CRIMINAL RECORD CLEARANCE (Continued) **82019**

(6) The following persons, unless contraindicated by the client's individualized program plan (IPP), or needs and services plan:

(A) A client's relative or close friend who is visiting the client.

(B) An attendant or facilitator providing direct care and supervision for a client with a developmental disability if the attendant or facilitator is not retained or contracted by the licensee.

(C) A volunteer, if all of the following apply:

1. The volunteer is supervised by the licensee or a day program employee with a criminal record clearance or exemption.

2. The volunteer is never left alone with clients.

3. The volunteer does not provide any client assistance with dressing, grooming, bathing or personal hygiene other than washing of hands.

(7) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

(c) Prior to the Department issuing a license, the applicant and administrator shall obtain a California criminal record clearance or exemption as specified in Health and Safety Code Section 1522(a)(1).

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(1) Health and Safety Code Section 1522(a)(1) provides:

Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the State Department of Social Services shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, of the Penal Code, subdivision (b) of Section 273a of the Penal Code, or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated.

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82019 CRIMINAL RECORD CLEARANCE (Continued) **82019**

(d) All individuals subject to a criminal record review shall be fingerprinted and sign a Criminal Record Statement (LIC 508) under penalty of perjury with the following information.

(1) Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section 82019(i) regardless of whether the individual was granted a pardon for the conviction, received an expungement pursuant to Penal Code 1203.4 or the individual's record was sealed as a result of a court order.

(2) If convicted of a crime other than a minor traffic violation, provide information regarding the conviction.

(3) The licensee shall submit these fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or comply with the requirements of Section 82019(e), prior to the individual's employment or initial presence in the day program.

(A) Fingerprints shall be submitted to the California Department of Justice by the licensee, or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the Department.

(e) Prior to working, residing or volunteering in a licensed day program, all individuals subject to a criminal record review pursuant to Health and Safety Code Section 1522 shall do the following:

(1) Obtain a California clearance or a criminal record exemption as required by the Department; or

(2) Request the licensee or applicant for a license to request a transfer of a criminal record clearance as specified in Section 82019(f); or

(3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 82019.1(r), unless, upon request for the transfer, the Department permits the individual to be employed, reside or be present at the day program.

(f) A licensee or applicant for a license may request of a transfer of a criminal record clearance from one state licensed facility to another, or from TrustLine to a state licensed facility by providing the following documents to the Department:

(1) A signed Criminal Background Clearance Transfer Request (LIC 9182).

(2) A copy of the individual's:

(A) Driver's license, or

82019 CRIMINAL RECORD CLEARANCE (Continued) **82019**

(B) Valid identification card issued by the Department of Motor Vehicles, or

(C) Valid photo identification issued by another state or the United States government if the individual is not a California resident.

(3) Documentation required by the Department on form LIC 508, Criminal Record Statement and job description.

HANDBOOK BEGINS HERE

(4) Health and Safety Code Section 1522(h)(2) provides:

(A) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

HANDBOOK ENDS HERE

(g) Violation of Section 82019(e) shall result in an immediate assessment of civil penalties of one hundred dollars ($100) per violation per day for maximum of five (5) days by the Department.

(1) Subsequent violations within a twelve (12) month period shall result in a civil penalty of one hundred dollars ($100) per violation per day for a maximum of thirty (30) days.

(2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1548.

(h) Violation of Section 82019(e) may result in a denial of the license application or suspension and/or revocation of the license.

(i) If the criminal record transcript of the individuals specified in Health and Safety Code Sections 1522(a) and (b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for a crime other than a minor traffic violation for which the fine was less than $300, and an exemption pursuant to Section 82019.1(k) has not been granted, the Department shall take the following actions:

(1) For initial applicants, deny the application.

(2) For current licensees, the Department may institute an administrative action, including but not limited to, revocation of the license.

(3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1558, and deny the application or revoke the license if the individual continues to provide services at the day program.

82019 CRIMINAL RECORD CLEARANCE (Continued) **82019**

(4) For convicted individuals residing at the day program, including spouses of the applicant, licensee, or employee, exclude the affected individual pursuant to Health and Safety Code Section 1558 and deny the application or revoke the license, if the individual continues to reside at the day program.

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(5) Section 1522(c)(3) of the Health and Safety Code provides in part:

… If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, [sexual battery] 273a, 273d, 273g, or 368 [elder or dependent adult abuse] of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility…. If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall be grounds for disciplining the licensee pursuant to Section 1550.

HANDBOOK ENDS HERE

(j) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees in the individual's personnel file as required in Section 82066, Personnel Records.

(k) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of volunteers that require fingerprinting.

(1) The licensing agency shall have the authority to inspect, audit, and copy this documentation upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the requirements specified in Sections 82066(c).

(l) The Department may seek verification from a law enforcement agency or court of an individual's criminal record as reported to the Department from any member of the public or affected individual.

(1) Upon obtaining confirmation from a law enforcement agency or court of the offense, the Department shall proceed as if this criminal record information was provided by the California Department of Justice.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1522, 1531, 1540, 1549, and 1564, Health and Safety Code.

82019.1 CRIMINAL RECORD EXEMPTION 82019.1

(a) While the Department considers granting or denying an exemption, the Department shall notify a licensee to act immediately to remove from the day program or bar from entering the day program any of the following persons:

(1) A person who has been convicted of, or is awaiting trial for, a sex offense against a minor;

(2) A person who has been convicted of a felony;

(3) A person who has been convicted of an offense specified in Sections 243.4, 273a, 273d, 273g, or 368 of the Penal Code or any other crime specified in Health and Safety Code Section 1522(c)(3);

(4) A person who has been convicted of any crime specified below:

(A) Battery

(B) Shooting at Inhabited Dwelling

(C) Corporal Injury on Spouse/Cohabitant

(D) Discharging Firearm with Gross Negligence

(E) Exhibiting Weapon/Firearm

(F) Threat to Commit a Crime Resulting in Gross Bodily Injury or Death

(G) Criminal Threat to Harm or Injure Another Person

(H) Cruelty to Animals

(I) Willful Harm or Injury to Child; or

(5) Any other person ordered to be removed by the Department.

(b) In addition to the requirements of Section 82019.1(a), the licensee must return the confirmation of removal form that is sent by the Department, within five (5) days of the date of the form, that confirms under penalty of perjury that the individual has been removed from the day program.

(1) Confirmation must be made on either a Removal Confirmation – Exemption Needed, LIC 300A, Removal Confirmation – Denial, LIC 300B, Removal Confirmation – Rescinded, LIC 300C, or Removal Confirmation – Nonexemptible, LIC 300D.

82019.1 CRIMINAL RECORD EXEMPTION (Continued) **82019.1**

(c) After a review of the criminal record transcript, the Department may grant an exemption if:

(1) The applicant/licensee requests an exemption in writing for himself or herself; or

(2) The applicant/licensee requests an exemption in writing for an individual associated with the day program; or

(3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, however the affected individual requests an individual exemption in writing; and

(4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment, or presence in a licensed day program.

(d) To request a criminal record exemption, a licensee or license applicant must submit information that indicates that the individual meets the requirements of Section 82019.1(c)(4). The Department shall notify the licensee or license applicant and the affected individual, in concurrent, separate notices, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.

(1) The notice to the affected individual shall include a list of the conviction(s) that the Department is aware of at the time the notice is sent that must be addressed in an exemption request.

(2) The notice shall list the information that must be submitted to request a criminal record exemption.

(3) The information must be submitted within forty-five (45) days of the date of the Department's notice.

(A) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing any information requested by the Department including, but not limited to, police reports and certified court documents to process the exemption request, pursuant to Section 82019.1(e).

(B) If the individual for whom the criminal record exemption is requested is an employee or resident other than a spouse or a dependent family member and the licensee or license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may cease processing the exemption request and close the case.

(C) If the individual for whom the criminal record exemption is requested is an applicant, licensee, spouse or dependent family member and the licensee or license applicant does not submit the information listed in the Department's written notice within 45 days of the date of the notice, the Department may deny the exemption request.

82019.1 CRIMINAL RECORD EXEMPTION (Continued) **82019.1**

(D) Individuals may request a criminal record exemption on their own behalf if the licensee or license applicant;

1. Chooses not to request an exemption, and

2. Chooses not to employ or terminates the individual's employment after receiving notice of the individual's criminal history.

(e) The Department shall consider factors including, but not limited, to the following as evidence of good character and rehabilitation:

(1) The nature of the crime including, but not limited to, whether it involved violence or a threat of violence to others.

(2) Period of time since the crime was committed and number of offenses.

(3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.

(4) Activities since conviction, including employment, or participation in therapy or education, that would indicate changed behavior.

(5) Granting by the Governor of a full and unconditional pardon.

(6) Character references.

(A) All character references shall be on a Reference Request form (LIC 301E).

(7) A certificate of rehabilitation from a superior court.

(8) Evidence of honesty and truthfulness as revealed in exemption application documents.

(A) Documents include, but are not limited to:

1. A Criminal Record Statement (LIC 508) and

2. The individual's written statement/explanation of the conviction and the circumstances about the arrest.

(9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.

82019.1 CRIMINAL RECORD EXEMPTION (Continued) **82019.1**

(f) The Department shall also consider the following factors in evaluating a request for an exemption:

(1) Facility and type of association.

(2) The individual's age at the time the crime was committed.

(g) The Department may deny an exemption request if:

(1) The licensee and/or the affected individual fails to provide documents requested by the Department, or

(2) The licensee and/or the affected individual fails to cooperate with the Department in the exemption process.

(h) The reasons for any exemption granted or denied shall be in writing and kept by the Department.

(1) Exemption denial notices shall specify the reason the exemption was denied.

(i) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed day program.

(j) It shall be conclusive evidence that the individual is not of such good character as to justify issuance of an exemption if the individual:

(1) Makes a knowingly false or misleading statement regarding:

(A) Material relevant to their application for a criminal record clearance or exemption,

(B) His or her criminal record clearance or exemption status to obtain employment or permission to be present in a licensed facility, after the Department has ordered that he or she be excluded from any or all licensed facilities, or

(C) His or her criminal record clearance or exemption status in order to obtain a position with duties that are prohibited to him/her by a conditional exemption; or

(2) Is on probation or parole.

(A) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the Department may, in its discretion, grant a criminal record exemption notwithstanding Section 82019.1(j)(2).

82019.1 CRIMINAL RECORD EXEMPTION (Continued) **82019.1**

(k) The Department shall consider granting a criminal record exemption if the individual's criminal history meets all of the applicable criteria specified in Sections 82019.1(k)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good character as specified in Section 82019.1(c)(4). For purposes of this section, a violent crime is a crime that, upon evaluation of the code section violated or the reports regarding the underlying offense, presents a risk of harm or violence.

(1) The individual has been convicted of one nonviolent misdemeanor, and one year has lapsed since completing the most recent period of incarceration or probation.

(2) The individual has been convicted of two or more nonviolent misdemeanors and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(3) The individual has been convicted of one or more violent misdemeanors and 15 consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(4) The individual has been convicted of one nonviolent felony and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(5) The individual has been convicted of two or more nonviolent felonies and ten consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.

(6) The individual has not been convicted of a violent felony.

(7) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the period of lapsed time required in Sections 82019.1(k)(1) through (5) above shall begin from the last date of conviction(s).

(l) It shall be a rebuttable presumption that an individual is not of such good character as to justify the issuance of an exemption if the individual fails to meet the requirements specified in Sections 82019.1(k)(1) through (6).

(m) The Department shall not grant an exemption if the individual has a conviction for any offense specified in Section 1522(g)(1) of the Health and Safety Code.

82019.1 CRIMINAL RECORD EXEMPTION (Continued) **82019.1**

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Health and Safety Code Section 1522(g)(1) essentially provides that no exemption shall be granted if an individual has been convicted of any of the following offenses:

(1) Penal Code Sections 136.1 and 186.22 – Gang related/Intimidation of witnesses or victims.

(2) Penal Code Sections 187, 190 through 190.4 and 192(a) – Any murder/Attempted murder/Voluntary manslaughter.

(3) Penal Code Section 203 – Any mayhem.

(4) Penal Code Section 206 – Felony torture.

(5) Penal Code Sections 207, 208, 209, 209.5, 210 – Kidnapping.

(6) Penal Code Sections 211, 212.5, 213, 214 – Any robbery.

(7) Penal Code Section 215 – Carjacking.

(8) Penal Code Section 220 – Assault with intent to commit mayhem, rape, sodomy or oral copulation.

(9) Penal Code Section 243.4 – Sexual battery.

(10) Penal Code Section 261(a), (a)(1), (2), (3), (4) or (6) – Rape.

(11) Penal Code Section 262(a)(1) or (4) – Rape of a spouse.

(12) Penal Code Section 264.1 – Rape in concert.

(13) Penal Code Section 266 – Enticing a minor into prostitution.

(14) Penal Code Section 266c – Induce to sexual intercourse, etc. by fear or consent through fraud.

(15) Penal Code Section 266h(b) – Pimping a minor.

(16) Penal Code Section 266i(b) – Pandering a minor.

(17) Penal Code Section 266j – Providing a minor under 16 for lewd or lascivious act.

HANDBOOK CONTINUES

82019.1 CRIMINAL RECORD EXEMPTION (Continued) **82019.1**

HANDBOOK CONTINUES

(18) Penal Code Section 267 – Abduction for prostitution.

(19) Penal Code Section 269 – Aggravated assault of a child.

(20) Penal Code Section 272 – Contributing to the delinquency of a minor (must involve lewd or lascivious conduct).

(21) Penal Code Section 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994] – Willfully causing or permitting any child to suffer under circumstances or conditions likely to produce great bodily harm or death.

(22) Penal Code Section 273d – Willfully inflicting any cruel or inhuman corporal punishment or injury on a child.

(23) Penal Code Section 285 – Incest.

(24) Penal Code Section 286 – Sodomy.

(25) Penal Code Section 288 – Lewd or lascivious act upon a child under 14.

(26) Penal Code Section 288a – Oral copulation.

(27) Penal Code Section 288.2 – Felony conviction for distributing lewd material to children.

(28) Penal Code Section 288.5(a) – Continuous sexual abuse of a child.

(29) Penal Code Section 289 – Genital or anal penetration or abuse by any foreign or unknown object.

(30) Penal Code Section 290(a) – All crimes for which one must register as a sex offender including attempts and not guilty by insanity.

(31) Penal Code Section 311.2(b), (c) or (d) – Transporting or distributing child-related pornography.

(32) Penal Code Section 311.3 – Sexual exploitation of a child.

(33) Penal Code Section 311.4 – Using a minor to assist in making or distributing child pornography.

(34) Penal Code Section 311.10 – Advertising or distributing child pornography.

HANDBOOK CONTINUES

82019.1 CRIMINAL RECORD EXEMPTION (Continued) **82019.1**

HANDBOOK CONTINUES

(35) Penal Code Section 311.11 – Possessing child pornography.

(36) Penal Code Section 314 paragraphs 1 or 2 – Lewd or obscene exposure of private parts.

(37) Penal Code Section 347(a) – Poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well, reservoir or public water supply.

(38) Penal Code Section 368 – Elder or dependent adult abuse.

(39) Penal Code Section 417(b) – Drawing, exhibiting or using a loaded firearm.

(40) Penal Code Section 451(a) or (b) – Arson.

(41) Penal Code Section 460(a) – First degree burglary if it is charged and proved that a non-accomplice was present in the residence during the burglary.

(42) Penal Code Sections 186.22 and 518 – Gang related/Extortion.

(43) Penal Code Section 647.6 or prior to 1988 former Section 647a – Annoy or molest a child under 18.

(44) Penal Code Section 653f(c) – Solicit another to commit rape, sodomy, etc.

(45) Penal Code Sections 664/187 – Any attempted murder.

*(46) Penal Code Section 667.5(c)(7) – Any felony punishable by death or imprisonment in the state prison for life.

*(47) Penal Code Section 667.5(c)(8) – Enhancement for any felony which inflicts great bodily injury.

(48) Penal Code Section 667.5(c)(13) – Enhancement for violation of Penal Code Section 12308, 12309 or 12310 – Exploding or igniting or attempting to explode or ignite any destructive device or explosive with intent to commit murder.

(49) Penal Code Section 667.5(c)(14) – Any kidnapping – Penal Code Sections 207, 208, 209, 209.5 and 210.

HANDBOOK CONTINUES

82019.1 CRIMINAL RECORD EXEMPTION (Continued) **82019.1**

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(50) Penal Code Section 667.5(c)(22) – Any violation of Penal Code Section 12022.53 – Enhancement for listed felonies where use of a firearm.

(51) Penal Code Section 667.5(c)(23) – Use of weapon of mass destruction.

(52) Business and Professions Code Section 729 – Felony sexual exploitation by a physician, psychotherapist, counselor, etc.

* See Health and Safety Code Section 1522(g)(1) for exception.

HANDBOOK ENDS HERE

(n) The Department shall consider granting a simplified criminal record exemption only if the individual has the following criminal history profile:

(1) The individual does not have a demonstrated pattern of criminal activity;

(2) The individual has no more than one conviction;

(3) The conviction is a misdemeanor and is a crime that is nonviolent and does not pose a risk of harm to an individual; and

(4) It has been at least five consecutive years since the completion of the most recent period of incarceration or supervised probation.

(o) At the Department's discretion, an individual who is otherwise eligible for a simplified exemption may be required to go through the standard exemption process if the Department determines such action will help to protect the health and safety of clients.

(p) If the Department denies or cannot grant a criminal record exemption, the Department shall:

(1) For initial applicants, deny the application.

(2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.

(3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1558, deny the application or revoke the license, if the individual continues to provide services and/or reside at the day program.

82019.1 CRIMINAL RECORD EXEMPTION (Continued) **82019.1**

(4) For individuals residing in the day program, including spouses of the applicant, licensee, or employee, exclude the affected individual pursuant to Health and Safety Code Section 1558, deny the application or revoke the license, if the individual continues to provide services and/or reside at the day program.

(q) If a request for an exemption has been denied, the individual shall be excluded for a period of two years unless the individual has been convicted of a crime for which no exemption may be granted pursuant to Section 82019.1(m). If a request for an exemption has been denied based on a conviction of a crime for which no exemption may be granted, the individual shall be excluded for the remainder of the individual's life.

(1) If the Department determines during the review of an exemption request, that the individual was denied an exemption for a conviction of a crime for which an exemption may be granted within the preceding two years, the Department shall cease any further review of the request until two years have elapsed from the date of the denial. In cases where the individual requested a hearing on an exemption denial, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department upholding the denial. In cases where the individual submitted a petition for reinstatement or reduction in penalty pursuant to Government Code Section 11522 that was denied, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department denying the petition.

(2) An exclusion order based solely upon a denied exemption shall remain in effect and the individual shall not be employed in or present in a licensed facility unless either a petition or an exemption is granted.

(3) If an individual who has previously been denied an exemption re-applies after the relevant time period described in Section 82019.1(q)(1), the Department may, according to the provisions in Sections 82019.1(e) through (l), grant or deny the subsequent request for an exemption.

(4) If an individual submits a petition pursuant to Government Code Section 11522 for reinstatement or reduction of penalty for an exclusion, an individual must submit his/her fingerprints through an electronic fingerprinting system approved by the Department and submit to the Department a statement of the reason why the individual should be permitted to work or be present in a day program, along with all information required of an individual requesting a criminal record exemption as provided in Sections 82019.1(c)(4), (d)(1), and (e). If it is determined, based upon information provided by the Department of Justice, that the individual has been convicted of a crime for which no exemption may be granted, the petition shall be denied. An individual's failure to submit fingerprints or other information as requested by the Department, shall be grounds for denial of the petition. The burden shall be on the petitioner to prove sufficient rehabilitation and good character to justify the granting of the petition.

82019.1 CRIMINAL RECORD EXEMPTION (Continued) **82019.1**

(r) A licensee or applicant for a license may request a transfer of a criminal record exemption from one state licensed facility to another by providing the following documents to the Department:

(1) A signed Criminal Record Exemption Transfer Request (LIC 9188).

(2) A copy of the individual's:

(A) Driver's license, or

(B) Valid identification card issued by the Department of Motor Vehicles, or

(C) Valid photo identification issued by another state or the United States Government if the individual is not a California resident.

(3) Any other documentation required by the Department (e.g., Criminal Record Statement – LIC 508 and job description).

(s) The Department may consider factors including, but not limited to, the following in determining whether or not to approve an exemption transfer:

(1) The basis on which the Department granted the exemption;

(2) The nature and frequency of client contact in the new position;

(3) The category of facility where the individual wishes to transfer;

(4) The type of clients in the facility where the individual wishes to transfer;

(5) Whether the exemption was appropriately evaluated and granted in accordance with existing exemption laws or regulations; or

(6) Whether the exemption meets current exemption laws or regulations.

(t) If the Department denies the individual's request to transfer a criminal record exemption, the Department shall provide the individual and the licensee with written notification that states the Department's decision and informs the affected individual of their right to an administrative hearing to contest the Department's decision.

(u) At the Department's discretion, an exemption may be rescinded if it is determined that:

(1) The exemption was granted in error, or

82019.1 CRIMINAL RECORD EXEMPTION (Continued) **82019.1**

(2) The exemption does not meet current exemption laws or regulations, or

(3) The conviction for which an exemption was granted subsequently becomes non-exemptible by law.

(v) The Department may rescind an individual's criminal record exemption if the Department obtains evidence showing that the individual engaged in conduct that is inconsistent with the good character requirement of a criminal record exemption, as evidenced by factors including, but not limited to, the following:

(1) Violations of licensing laws or regulations;

(2) Any conduct by the individual that indicates that the individual may pose a risk to the health and safety of any individual who is or may be a client;

(3) Nondisclosure of a conviction or evidence of lack of rehabilitation that the individual failed to disclose to the Department, even if it occurred before the exemption was issued; or

(4) The individual is convicted of a subsequent crime.

(w) If the Department rescinds an exemption, the Department shall:

(1) Notify the licensee and the affected individual in writing; and

(2) Initiate an administrative action.

(x) If the Department learns that an individual with a criminal record clearance or exemption has been convicted of a subsequent crime, the Department, at its sole discretion, may immediately initiate an administrative action to protect the health and safety of clients.

NOTE: Authority cited: Sections 1503.1, 1522, 1530, and 1530.1, Health and Safety Code. Reference: Sections 1522 and 1531, Health and Safety Code; and Gresher v. Anderson (2005) 127 Cal. App. 4th 88.

82020 FIRE CLEARANCE **82020**

All day programs shall secure through the licensing agency and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1520, and 1531, Health and Safety Code.

82021 WATER SUPPLY 82021

(a) All adult day programs where water for human consumption is from a private source shall meet the following requirements:

(1) As a condition of initial licensure, the applicant shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water, conducted by the local health department, the California Department of Health Services or a licensed commercial laboratory.

(2) Subsequent to initial licensure, the licensee shall provide evidence of a bacteriological analysis of the private water supply as frequently as is necessary to ensure the safety of the clients, but no less frequently than specified in the following table:

LICENSED CAPACITY	ANALYSIS REQUIRED	PERIODIC SUBSEQUENT ANALYSIS
6 or fewer	Initial Licensing	Not required unless evidence supports the need for such analysis to protect clients.
7 through 15	Initial Licensing	Annually
16 through 24	Initial Licensing	Semiannually
25 or more	Initial Licensing	Quarterly

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1520, and 1531, Health and Safety Code.

82022 PLAN OF OPERATION 82022

(a) Each licensee of an adult day program shall have and maintain on file a current, written, definitive plan of operation.

(b) The plan and related materials shall contain the following:

(1) Statement of purposes, and program methods and goals.

(2) Statement of admission policies and procedures regarding acceptance of clients.

(3) Description of services to be provided.

82022 PLAN OF OPERATION (Continued) **82022**

(4) Hours of operation consistent with the plan of operation and program purpose and goals.

(5) Description of the client group to be served.

(6) A copy of the admission agreement.

(7) Administrative organization, if applicable.

(8) Staffing plan, qualifications, and duties.

(9) Plan for in-service education of staff, if required by regulations.

(10) A sketch of the building(s) to be occupied, including a floor plan which describes the capacities of the buildings for the uses intended, room dimensions, and a designation of the rooms to be used for nonambulatory clients, if any.

(11) A sketch of the grounds showing buildings, driveways, fences, storage areas, pools, gardens, recreation areas, and other space used by the clients.

(A) The sketch shall include the dimensions of all areas which will be used by the clients.

(12) In day programs providing meals to clients, sample menus and a schedule for one calendar week indicating the time of day that meals and snacks are to be served.

(13) Transportation arrangements for clients who do not have independent arrangements.

(14) Fee policy including, but not limited to, policy on refunds.

(15) Consultant and community resources to be utilized as part of its program.

(16) A statement of the program's policy concerning family visits and other communications with the client pursuant to Health and Safety Code Section 1512.

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(A) Section 1512 of the Health and Safety Code provides in part:

"...The community care facility's policy concerning family visits and communication shall be designed to encourage regular family involvement with the ... client and shall provide ample opportunities for family participation in activities at the facility."

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82022 PLAN OF OPERATION (Continued) **82022**

(c) If the licensee intends to admit or care for one or more clients who have a restricted health condition specified in Section 82092, the program policies and a program description shall be included. At a minimum, the information related to those clients and their needs shall specify all of the following:

(1) The type of restricted health condition that the licensee plans to admit.

(2) The licensee's plans for serving that client.

(A) If the licensee plans to admit or care for one or more clients who have a staph or other serious, communicable infection, the plan must include:

1. A statement that all staff will receive training in universal precautions within the first 10 days of employment, and before providing care to these clients.

2. A statement of how the licensee will ensure that the training is obtained, and the name and qualifications of the person or organization that will provide the training.

(3) The services that will be provided.

(4) Staffing adjustments, if needed in order to provide the proposed services.

(A) This may include increased staffing, hiring staff with additional or different qualifications, utilizing licensed professionals as consultants, or hiring licensed professionals.

(d) If the licensee intends to admit or care for one or more clients who rely upon others to perform all activities of daily living, the plan of operation must also include a statement that demonstrates the licensee's ability to care for these clients. The evidence or ability may include, but not be limited to:

(1) The licensee's experience in providing care to these clients.

(2) The licensee's experience providing care to a family member with this condition.

(3) The licensee's plan to hire staff who have experience providing care to these clients, and documentation of what the staff person's experience has been.

(4) Documentation of training that the licensee and/or staff have completed specific to the needs of these clients.

(5) History of continued placements by a regional center.

82022 PLAN OF OPERATION (Continued) **82022**

(e) If the licensee intends to admit and/or specialize in care for one or more clients who have a propensity for behaviors that result in harm to self or others, the program plan of operation shall include a description of precautions that will be taken to protect that client and all other clients.

(f) A plan for internal evaluation of its operation and services. The plan shall include a timetable for completing an annual evaluation, the areas that will be addressed in this evaluation, and the methodology to be used. A copy of the final annual evaluation shall be kept on file at the center and shall be available to the licensing agency during site visits.

(g) Any changes in the plan of operation which affect the services to clients shall be subject to licensing agency approval and shall be reported as specified in Section 82061, Reporting Requirements.

(h) The day program shall operate in accordance with the terms specified in the plan of operation and may be cited for not doing so.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1507, 1520, and 1530, Health and Safety Code.

82023 DISASTER AND MASS CASUALTY PLAN **82023**

(a) Each licensee shall have and maintain on file a current, written disaster and mass casualty plan of action.

(b) The plan shall be subject to review by the licensing agency and shall include:

(1) Designation of administrative authority and staff assignments.

(2) Contingency plans for action during fires, floods, and earthquakes including, but not limited to, the following:

(A) Means of exiting.

(B) Transportation arrangements.

(C) Relocation sites which are equipped to provide safe temporary accommodation for clients.

(D) Arrangements for supervision of clients during evacuation or relocation, and for contact after relocation to ensure that relocation has been completed as planned.

(E) Means of contacting local agencies including, but not limited to, the fire department, law enforcement agencies, and civil defense and other disaster authorities.

82023 DISASTER AND MASS CASUALTY PLAN (Continued) **82023**

(c) The licensee shall instruct all clients, age and abilities permitting, all staff, and/or volunteers in their duties and responsibilities under the plan.

(d) Disaster drills shall be conducted at least every six months.

(1) Completion of such drills shall not require travel away from the day program grounds or contact with local disaster agencies.

(2) The drills shall be documented and the documentation maintained in the day program for at least one year.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1520, and 1531, Health and Safety Code.

82024 WAIVERS AND EXCEPTIONS **82024**

(a) Unless prior written licensing agency approval is received as specified in Section 82024(b), all licensees shall maintain continuous compliance with the licensing regulations.

(b) The licensing agency shall have the authority to approve the use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the conduct of experimental or demonstration projects under the following circumstances:

(1) Such alternatives shall be carried out with provisions for safe and adequate services, and shall in no instance be detrimental to the health and safety of any program client.

(2) The applicant or licensee shall submit to the licensing agency a written request for a waiver or exception, with substantiating evidence supporting the request.

(3) The licensing agency shall provide written approval or denial of the request.

(c) Within 30 days of receipt of a request for a waiver or an exception, the licensing agency shall notify the applicant or licensee, in writing, of one of the following:

(1) The request with substantiating evidence has been received and accepted for consideration.

(2) The request is deficient, needing additional information as described for the request to be acceptable and a time frame for submitting this information.

(A) Failure of the applicant or licensee to submit the requested information within the time specified shall result in denial of the request.

82024 WAIVERS AND EXCEPTIONS (Continued) **82024**

(d) Within 30 days of the licensing agency's acceptance of a completed request for a waiver or an exception, the licensing agency shall notify the applicant or licensee, in writing, whether the request has been approved or denied.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1509, and 1531, Health and Safety Code; and Section 15376, Government Code.

82025 BONDING **82025**

(a) The licensee shall submit an affidavit, on form LIC 400 provided by the licensing agency, stating whether there are or will be safeguards for cash resources of clients and the maximum amount of cash resources to be safeguarded for all clients or each client in any month.

(b) All licensees, other than governmental entities, who are entrusted to care for and control clients' cash resources, shall file or have on file with the licensing agency, a bond issued by a surety company to the State of California as principal.

(c) The amount of the bond shall be according to the following schedule:

AMOUNT SAFEGUARDED PER MONTH	BOND REQUIRED
$750 or less	$1,000
$751 to $1,500	$2,000
$1,501 to $2,500	$3,000

Every further increment of $1,000 or fraction thereof shall require an additional $1,000 on the bond.

(d) The licensee shall submit a new affidavit on form LIC 400 and a new bond to the licensing agency prior to the licensee safeguarding amounts of clients' cash resources in excess of the current bond.

(e) Whenever the licensing agency determines that the amount of the bond is insufficient to provide necessary protection of clients' cash resources, or whenever the amount of any bond is impaired by any recovery against the bond, the licensing agency shall have the authority to require the licensee to file an additional bond in such amount as the licensing agency determines to be necessary to protect the clients' cash resources.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1560 and 1561, Health and Safety Code.

82026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES 82026

(a) A licensee shall not be required to accept for admission or continue to care for any client whose incapacities, as documented by the initial or subsequent needs appraisals, would require the licensee to handle such client's cash resources.

(b) If such a client is accepted for or maintained in care, his/her cash resources, personal property, and valuables not handled by a person outside the day program who has been designated by the client or his/her authorized representative shall be handled by the licensee or day program staff, and shall be safeguarded in accordance with the requirements specified in (c) through (n) below.

(c) Except where provided for in approved continuing care agreements, no licensee or employee of a licensee shall:

(1) accept appointment as a conservator of the person and/or estate of any client;

(2) accept any general or special power of attorney except for Medi-Cal or Medicare claims for any client;

(3) become the substitute payee for any payments made to any client;

(A) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the client.

(4) become the joint tenant on any account specified in Section 82026(i) with a client.

(d) Cash resources, personal property, and valuables of clients handled by the licensee shall be free from any liability the licensee incurs.

(e) Cash resources, personal property, and valuables of clients shall be separate and intact, and shall not be commingled with day program funds or petty cash.

(1) The above requirement shall not prohibit the licensee from providing advances or loans to clients from day program funds.

(A) Documentation of such transactions shall be maintained in the day program.

(f) The licensee or employee of a licensee shall not make expenditures from clients' cash resources for any basic services as defined in Section 82001(b), or for any basic services identified in a contract/admission agreement between the client and the licensee.

(1) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the clients.

82026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued) **82026**

(g) The licensee shall not commingle cash resources and valuables of clients with those of another community care facility of a different license number regardless of joint ownership.

(h) Each licensee shall maintain accurate records of accounts of cash resources, personal property, and valuables entrusted to his/her care, including, but not limited to the following:

(1) Records of clients' cash resources maintained as a drawing account, which shall include a current ledger accounting, with columns for income, disbursements and balance, for each client. Supporting receipts for purchases shall be filed in chronological order.

(A) Receipts for cash provided to any client from his/her account(s) shall include the client's full signature or mark, or authorized representative's full signature or mark, and a statement acknowledging receipt of the amount and date received, as follows:

"(full signature of client) accepts (dollar amount) (amount written cursive), this date (date), from (payor)."

(B) The store receipt shall constitute the receipt for purchases made for the client from his/her account.

(C) The original receipt for cash resources, personal property or valuables entrusted to the licensee shall be provided to the client's authorized representative, if any, otherwise to the client.

(2) Bank records for transactions of cash resources deposited in and drawn from the account specified in (i) below.

(i) Immediately upon admission of a client, all of his/her cash resources entrusted to the licensee and not kept in the licensed facility shall be deposited in any type of bank, savings and loan, or credit union account meeting the following requirements:

(1) The account shall be maintained as a trust account separate from the personal or business accounts of the licensee.

(2) The account title shall clearly note that the account contains client cash resources.

(3) The licensee shall provide access to the cash resources upon demand by the client or his/her authorized representative.

82026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued) **82026**

(4) The account shall be maintained in a local bank, savings and loan or credit union authorized to do business in California, the deposits of which are insured by a branch of the Federal Government.

(A) A local public agency shall have the authority to deposit such cash resources with the public treasurer.

(j) Cash resources entrusted to the licensee and kept on the facility premises, shall be kept in a locked and secure location.

(k) Upon discharge of a client, all cash resources, personal property, and valuables of that client which have been entrusted to the licensee shall be surrendered to the client, or his/her authorized representative, if any.

(1) The licensee shall obtain and retain a receipt signed by the client or his/her authorized representative.

(l) Upon the death of a client, all cash resources, personal property and valuables of that client shall immediately be safeguarded in accordance with the following requirements:

(1) All cash resources shall be placed in an account as specified in (i) above.

(2) The executor or the administrator of the estate shall be notified by the licensee of the client's death, and the cash resources, personal property, and valuables shall be surrendered to said party in exchange for a signed, itemized receipt.

(3) If no executor or administrator has been appointed, the authorized representative, if any, shall be notified by the licensee of the client's death, and the cash resources, personal property, and valuables shall be surrendered to said person in exchange for a signed, itemized receipt.

(4) If the licensee is unable to notify a person as specified in (2) or (3) above, the licensee shall give immediate written notice of the client's death to the public administrator of the county as provided in Section 7600.5 of the California Probate Code.

(m) The following requirements shall be met whenever there is a proposed change of licensee:

(1) The licensee shall notify the licensing agency of any pending change of licensee, and shall provide the licensing agency an accounting of each client's cash resources, personal property and valuables entrusted to his/her care.

82026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES (Continued) **82026**

(2) Provided the licensing agency approves the application for the new licensee, the form specified in (1)(A) above shall be updated, signed by both the former and new licensee, and forwarded to the licensing agency.

(n) The licensee shall maintain a record of all monetary gifts and of any other gift exceeding an estimated value of $100, provided by or on behalf of a client to the licensee, administrator or staff.

(1) The record shall be attached to the account(s) specified in (h) above if the client's cash resources, personal property or valuables have been entrusted to the licensee.

(2) Monetary gifts or valuables given by the friends or relatives of a deceased client shall not be subject to the requirement specified in (n) and (n)(1) above.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1530.1, 1531, and 1560, Health and Safety Code; and 20 CFR 416.601.

82027 INITIAL APPLICATION REVIEW **82027**

(a) Within 90 days of receipt of the signed application and all supporting documents described in Section 82018(d), the licensing agency shall give written notice to the applicant of one of the following:

(1) The application and supporting documents have been received and accepted for consideration.

(2) The application is deficient, describing additional information required within thirty (30) days.

(A) If the applicant does not submit the required information within the thirty (30) days the application shall be deemed withdrawn unless either the licensing agency has denied the application or the adult day program facility is under construction.

(b) The licensing agency shall cease review of any application under the conditions as specified in Health and Safety Code Section 1520.3.

(1) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code Section 1520.3.

82027 INITIAL APPLICATION REVIEW (Continued) **82027**

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(2) Health and Safety Code Section 1520.3 provides in part:

"(a)(1) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license… and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.

"...

"(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license… and the application was denied within the last year, the department shall cease further review of the application as follows:

"(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

"(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

"(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence."

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(c) The circumstances and conditions in which the licensing agency may continue to review a previously denied application shall include, but are not limited to**,** the following:

(1) A fire clearance previously denied, but now approved;

(2) An administrator who did not meet the minimum qualifications, but now fulfills the qualifications; or

82027 INITIAL APPLICATION REVIEW (Continued) **82027**

(3) A person with a criminal record, which was the basis for license denial, is no longer associated with the day program.

(d) The application review shall not constitute approval of the application.

(e) The licensing agency shall complete the following as part of the application review process:

(1) A site visit to the proposed day program and a determination of the qualifications of the applicant.

(2) A determination that the applicant has secured an appropriate fire clearance from the State Fire Marshal, if required.

(3) A determination that the applicant has the ability to comply with the provisions of the Community Care Facilities Act and the regulations in Chapter 3.

(4) A determination that the day program complies with the provisions of the Community Care Facilities Act and the regulations in Chapter 3.

(f) The licensing fee shall be non-refundable as specified in Section 82036(d).

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1520, 1520.3, 1524, 1525, and 1531, Health and Safety Code; and Section 15376, Government Code.

82028 CAPACITY DETERMINATION **82028**

(a) A license shall be issued for a specific capacity.

(b) The number of persons for whom the day program is licensed to provide care and supervision shall be determined on the basis of the application review by the licensing agency, taking into consideration the following:

(1) The fire clearance as specified in Section 82020.

(2) The licensee's/administrator's ability to comply with applicable law and regulation.

(3) Physical features of the day program, including available living activity space, which are necessary in order to comply with regulations.

(4) Number of available staff to meet the care and supervision needs of the clients.

82028 CAPACITY DETERMINATION (Continued) **82028**

(5) Any restrictions pertaining to the specific category of day program.

(c) When the license is issued for fewer clients than requested, the licensee shall be notified in writing of the reasons for the limitation and of the licensee's rights to appeal the decision as specified in Section 82040, Denial of Initial License.

(d) The licensing agency shall have the authority to decrease existing licensed capacity with the licensee's agreement, when there is a change in any of the factors as specified in Section 82028(b).

(1) If the licensee does not agree to the decrease in capacity, the licensing agency shall have the authority to initiate revocation action as specified in Section 82042, Revocation or Suspension of License.

(e) The licensing agency shall be authorized to restrict care to specific individuals.

(1) If care and supervision is limited to specific individuals, the licensing agency shall specify the names of the individuals in a letter to the licensee.

(2) Except where the limitation is requested by the licensee, the licensee shall be notified in writing of the reasons for such limitation and of the licensee's right to appeal the decision as specified in Section 82040, Denial of License.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code; and Section 10554, Welfare and Institutions Code. Reference: Sections 1501, 1524, and 1531, Health and Safety Code.

82029 WITHDRAWAL OF APPLICATION **82029**

(a) An applicant shall have the right to withdraw in writing an application.

(1) The fee shall be nonrefundable as specified in Section 82036(d).

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(A) Health and Safety Code Section 1553 provides in part:

"The withdrawal of an application for a license or a special permit after it has been filed with the state department shall not, unless the state department consents in writing to such withdrawal, deprive the state department of its authority to institute or continue a proceeding against the applicant for the denial of the license or a special permit upon any ground provided by law or to enter an order denying the license or special permit upon any such ground..."

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82029 WITHDRAWAL OF APPLICATION (Continued) **82029**

NOTE: Authority cited: Sections 1530 and 1530.1 Health and Safety Code. Reference: Sections 1520, 1523.1, and 1553, Health and Safety Code.

82030 PROVISIONAL LICENSE **82030**

(a) The licensing agency shall have the authority to issue a provisional license to an applicant, pending action under Section 82031, Issuance of License, or Section 82040, Denial of License, if it determines that all of the following circumstances exist:

(1) The day program is in substantial compliance with applicable law and regulation.

(2) An urgent need for licensure exists.

(3) A corporate applicant's board of directors, executive director and officer are eligible for licensure as specified in Health and Safety Code Section 1520.11(b).

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(A) Health and Safety Code Section 1520.11(b) provides:

The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer, who is not eligible for licensure pursuant to Section 1520.3 or Section 1558.1.

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(b) The capacity of a provisional license shall be limited to the number of clients for whom urgent need has been established, or the capacity established for the specific day program, whichever is less.

(c) The licensing agency shall have the authority to issue a provisional license for a maximum of six months when it determines that full compliance with licensing regulations will be achieved within that time period.

(d) The licensing agency shall have the authority to issue a provisional license for a maximum of 12 months when it determines, at the time of application, that more than six months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.

(e) If, during the provisional license period, the licensing agency discovers any serious deficiencies, the Department shall have the authority to institute administrative action or civil proceedings, or to refer the matter for criminal prosecution.

82030 PROVISIONAL LICENSE (Continued) **82030**

(f) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1520, 1520.11, 1524, 1525, 1525.5, 1550, and 1553, Health and Safety Code.

82031 ISSUANCE OF LICENSE **82031**

(a) Within 90 days of the licensing agency's acceptance of the application and documents specified in Section 82027(a)(1), the licensing agency shall give written notice to the applicant of one of the following:

(1) The application has been approved.

(2) The application has been denied.

(A) The notice of denial shall include the information as specified in Section 82040(b).

(b) Upon approval of the application, the licensing agency shall issue the license.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1509, 1520, 1525, 1526, and 1553, Health and Safety Code; and Section 15376, Government Code.

82034 SUBMISSION OF A NEW APPLICATION **82034**

(a) A licensee shall file a new application as required by Section 82018(d) whenever there is a change in conditions or limitations described on the current license, or other changes including, but not limited to, the following:

(1) Any change in the location of the day program.

(2) Any change of licensee, including but not limited to the following when the licensee is a corporation:

(A) Sale or transfer of the majority of stock.

(B) Separating from a parent company.

(C) Merger with another company.

82034 SUBMISSION OF A NEW APPLICATION (Continued) **82034**

(3) Any increase in capacity.

(A) The licensing agency shall have the authority to grant capacity increases without resubmission of an application following a licensing agency review and the securing of an appropriate fire clearance.

(4) A permanent change in any client from ambulatory to non-ambulatory status.

(b) Whenever an applicant fails to complete a previous application within the time limit required by Section 82027(a)(2), a new application as required by Section 82018(d) shall be filed if the applicant chooses to continue the application process.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1520, 1523.1, and 1531, Health and Safety Code.

82035 CONDITIONS FOR FORFEITURE OF A LICENSE **82035**

(a) A license shall be forfeited by operation of law, pursuant to Section 1524 of the Health and Safety Code.

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(1) Health and Safety Code Section 1524 provides, in part:

"A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

"(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when the transfer of stock does not constitute a majority change of ownership.

"(b) The licensee surrenders the license to the department.

"(c) The licensee moves a facility from one location to another…

"(d) The licensee is convicted of an offense specified in Section 220, 243.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

"(e) The licensee dies. If an adult relative notifies the department of his or her desire to continue operation of the facility and submits an application, the department shall expedite the application…

"(f) The licensee abandons the facility."

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82035 CONDITIONS FOR FORFEITURE OF A LICENSE (Continued) **82035**

(b) The licensee is considered to have abandoned the facility if either of the following conditions occur:

(1) The licensee informs the licensing agency that the licensee no longer accepts responsibility for the day program, or

(2) The licensing agency is unable to determine the licensee's whereabouts after the following:

(A) The licensing agency requests information of the licensee's whereabouts from the day program staff if any staff can be contacted; and

(B) The licensing agency has made at least one (1) phone call per day, to the licensee's last telephone number of record, for five (5) consecutive workdays with no response; and

(C) The licensing agency has sent a certified letter, requesting the licensee to contact the licensing agency, to the licensee's last mailing address of record with no response within seven (7) calendar days.

(c) If the licensee dies, an adult relative who has control of the property shall be permitted to operate a previously licensed day program under an Emergency Approval to Operate (LIC 9117) providing the following conditions are met:

(1) The relative or an adult acting on the relative's behalf notifies the Department by telephone during the first working day after the licensee's death that the relative intends to operate the adult day program.

(2) The relative files with the Department within five days of the licensee's death an Application for License (LIC 200) and evidence of the licensee's death as defined in Section 82001(e).

(A) Notwithstanding the instructions on the Application for License (LIC 200), the Department shall permit the relative to submit only the information on the front side of that form.

(3) The relative files with the California Department of Justice within five calendar days of the licensee's death his/her fingerprints.

(d) If the adult relative complies with Sections 82035(c)(1) and (2), he/she shall not be considered to be operating an unlicensed day program pending the Department's decision on whether to approve a provisional license.

82035 CONDITIONS FOR FORFEITURE OF A LICENSE (Continued) **82035**

(e) Within 60 days after granting an emergency approval to operate, the Department shall make a decision whether to issue a provisional license pursuant to Section 82030(a).

(1) A provisional license shall be granted only if the Department is satisfied that the conditions as specified in Section 82030, Provisional License, have been met and that the health and safety of the clients of the day program will not be jeopardized.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1520, 1522, 1524, 1525.5, and 1526, Health and Safety Code; and Section 15376, Government Code.

82036 LICENSING FEES **82036**

(a) An applicant or a licensee shall be charged fees as specified in Health and Safety Code Section 1523.1.

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Health and Safety Code Section 1523.1 provides in part:

(a) (1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license. The fees are for the purpose of financing the activities specified in this chapter. Fees shall be assessed as follows, subject to paragraph (2):

Fee Schedule

Facility Type	Capacity	Initial Application	Annual
Adult Day Programs	1-15	$ 182	$ 91
	16-30	$ 303	$152
	31-60	$ 605	$303
	61-75	$ 758	$378
	76-90	$ 908	$454
	91-120	$1,210	$605
	121+	$1,513	$757

(2) (A) The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(B) The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.

82036 LICENSING FEES (Continued) **82036**

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(b)(1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars ($25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars ($50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the current annual fee, in addition to the current annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established current annual fee when any current licensee fails to pay the annual licensing fee on or before the due date as indicated by postmark on the payment.

(G) A fee to cover any costs incurred by the department for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.

(H) A plan of correction fee of two hundred dollars ($200) when any licensee does not implement a plan of correction on or prior to the date specified in the plan.

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(b) An additional fee shall be charged when the licensee requests an increase or decrease in capacity as specified in Health and Safety Code Section 1523.1(b)(1)(C).

82036 LICENSING FEES (Continued) **82036**

(c) When a licensee moves a day program from one location to another, the relocation fee shall be as specified in Health and Safety Code Section 1523.1(b)(1)(A).

(1) To receive the relocation fee the following shall apply:

(A) The licensee shall have notified the licensing agency before actually relocating the day program.

(B) The categorical type of program shall remain the same when relocating the day program.

(C) The fee shall be based on the requested capacity at the new location.

(d) The fees shall be nonrefundable.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1523.1 and 1524, Health and Safety Code.

Article 4. Administrative Actions and Inspection Authority

82040 DENIAL OF LICENSE 82040

(a) An application for licensure shall be denied as specified in Health and Safety Code Sections 1520.11(b), (d), 1523.1(e) and 1550.

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(1) Health and Safety Code Section 1520.11(b) provides:

"The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer, who is not eligible for licensure pursuant to Section 1520.3 or Section 1558.1."

(2) Health and Safety Code Section 1520.11(d) provides:

"Prior to instituting administrative action pursuant to either subdivision (b) or (c), the department shall notify the applicant or licensee of the person's ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee. The licensee shall remove the person from that position within 15 days or, if the person has client contact, he or she shall be removed immediately upon notification."

(3) Health and Safety Code Section 1523.1(e) provides:

"The failure of an applicant or licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license."

(4) Health and Safety Code Section 1550 provides, in part:

"The department may deny an application …upon any of the following grounds and in the manner provided in this chapter.

"(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

"(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

"(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

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82040 DENIAL OF LICENSE (Continued) **82040**

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"(d) The conviction of a licensee, or other person, mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

"(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

"(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services."

HANDBOOK ENDS HERE

(b) If the application for a license is denied, the licensing agency shall mail the applicant a written notice of denial stating the reasons for the denial, and advising the applicant of the right to appeal, pursuant to Health and Safety Code Section 1526.

HANDBOOK BEGINS HERE

(1) Health and Safety Code Section 1526 provides, in part:

"Immediately upon the denial of any application for a license or for a special permit, the state department shall notify the applicant in writing. Within 15 days after the state department mails the notice, the applicant may present his written petition for a hearing to the state department. Upon receipt by the state department of the petition in proper form, such petition shall be set for hearing...."

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(c) If the application for a license is denied, the licensing fee shall not be refunded pursuant to Section 82036(d).

(d) Notwithstanding any appeal, the day program is unlicensed and shall not operate pending adoption by the director of a decision on the denial.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1520, 1520.11, 1525, 1526, 1547, 1548, and 1551, Health and Safety Code.

82042 FOREFEITURE, REVOCATION OR SUSPENSION OF LICENSE 82042

(a) The Department shall have the authority to forefeit any license pursuant to Health and Safety Code Section 1523.1(e), or suspend or revoke any license on any of the grounds specified in Health and Safety Code Sections 1550 and 1550.5(a).

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(1) Health and Safety Code Section 1523.1(e) provides, in part:

"The failure of an applicant or licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license."

(2) Health and Safety Code Section 1550 provides, in part:

"The department may… suspend or revoke, any license …upon any of the following grounds and in the manner provided in this chapter:

"(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

"(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

"(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

"(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

"(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services."

(3) Health and Safety Code Section 1550.5(a) provides, in part:

"The director may temporarily suspend any license prior to any hearing when, in the opinion of the director, the action is urgent to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety…."

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(b) Proceedings to hear a revocation action or a revocation and temporary suspension action shall be conducted pursuant to the provisions of Health and Safety Code Section 1551.

82042 FOREFEITURE, REVOCATION OR SUSPENSION OF LICENSE (Continued) 82042

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(1) Health and Safety Code Section 1551 provides, in part:

"(a) Proceedings for the suspension, revocation, or denial of a license… shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by those provisions. In the event of conflict between this chapter and the Government Code, the Government Code shall prevail."

(2) "(c) If the license is not temporarily suspended pursuant to Section 1550, the hearing shall be held within 90 calendar days after receipt of the notice of defense, unless a continuance of the hearing is granted by the department or the administrative law judge...."

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NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1520.11, 1550, 1550.5, and 1551, Health and Safety Code.

82044 EVALUATION VISITS AND INSPECTION AUTHORITY OF THE LICENSING AGENCY 82044

(a) The licensing agency shall evaluate and inspect Adult Day Programs pursuant to the authority specified in Health and Safety Code Sections 1526.5, 1533, 1534, and 1538.

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(1) Health and Safety Code Section 1526.5 provides, in part:

"(a) Within 90 days after the date of issuance of a license or special permit pursuant to Section 1525, the department shall conduct an inspection of the facility for which the license or special permit was issued..."

(2) Health and Safety Code Section 1533 provides, in part:

"Except as otherwise provided in this section, any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter…"

HANDBOOK CONTINUES

82044 EVALUATION VISITS AND INSPECTION AUTHORITY OF THE LICENSING AGENCY (Continued) **82044**

HANDBOOK CONTINUES

(3) Health and Safety Code Section 1534 provides, in part:

"(a)(1) Every licensed community care facility shall be subject to unannounced visits by the department. The department shall visit these facilities as often as necessary to ensure the quality of care provided.

"(A) The department shall conduct an annual unannounced visit to a facility under any of the following circumstances:

"(i) When a license is on probation.

"(ii) When the terms of agreement in a facility compliance plan require an annual evaluation.

"(iii) When an accusation against a licensee is pending.

"(iv) When a facility requires an annual visit as a condition of receiving federal financial participation.

"(v) In order to verify that a person who has been ordered out of a facility by the department is no longer at the facility.

"(B) The department shall conduct [random] annual unannounced visits to no less than 10 percent of facilities not subject to an evaluation under subparagraph (A)....

"(C) Under no circumstance shall the department visit a community care facility less often than once every five years."

(4) Health and Safety Code Section 1538 provides, in part:

"(a) Any person may request an inspection of any community care facility ...by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter the facility…."

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(b) The licensing agency shall have the authority to interview clients or staff members without prior consent.

82044 EVALUATION VISITS AND INSPECTION AUTHORITY OF THE LICENSING AGENCY (Continued) **82044**

(1) The licensee shall ensure that provisions are made for private interviews with any clients or any staff members.

(c) The licensing agency shall have the authority to inspect, audit, and copy client or facility records upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the requirements specified in Sections 82066(c) and 82070(d).

(1) The licensee shall ensure that provisions are made for the examination of all records relating to the operation of the facility.

(d) The licensing agency shall have the authority to observe the physical condition of the client, including conditions which could indicate abuse, neglect, or inappropriate placement, and to have a licensed medical professional physically examine the client.

(e) The licensing agency shall have the authority to make any number of other visits to a day program in order to determine compliance with applicable laws and regulations.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1526.5, 1531, 1533, 1534, and 1538, Health and Safety Code.

82046 EXCLUSIONS **82046**

(a) The Department may prohibit an individual from serving as a member of a board of directors, executive director, or officer; or from being employed or present in a licensed adult day program, as specified in Health and Safety Code Sections 1558 and 1558.1.

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(1) Health and Safety Code Section 1558 provides, in part:

"(a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

"(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

"(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

HANDBOOK CONTINUES

82046 EXCLUSIONS (Continued) **82046**

HANDBOOK CONTINUES

"(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1522.

"(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

"(5) Engaged in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

"(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

"(c)(1) The department may require the immediate removal of a member of the board of directors, an executive director or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

"(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order or immediate exclusion upon the excluded person which shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

"(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time...

HANDBOOK CONTINUES

82046 EXCLUSIONS (Continued) **82046**

HANDBOOK CONTINUES

"(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section, or enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or the excluded person's employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(2) Health and Safety Code Section 1558.1 provides, in part:

"(a)(1) If the department determines that a person was issued a license… and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

"(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

"(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department…

"(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department…

"(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1558 or any other law.

HANDBOOK CONTINUES

82046 EXCLUSIONS (Continued) **82046**

HANDBOOK CONTINUES

"(e) The department may determine not to exclude the person from, or remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances and conditions that either have been corrected or are no longer in existence."

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1558 and 1558.1, Health and Safety Code.

Article 5. Enforcement Provisions

82051 SERIOUS DEFICIENCIES 82051

(a) The following are examples of regulations that, if not complied with, nearly always result in a serious deficiency.

(1) Section 82010, Limitations on Capacity.

(2) Section 82019, Criminal Record Clearance.

(3) Section 82020, Fire Clearance.

(4) Section 82021, Water Supply.

(5) Section 82072, Personal Rights.

(6) Section 82073, Telephones.

(7) Sections 82075(c) through (f) relating to storing and dispensing medications.

(8) Section 82076, Food Service.

(9) Section 82087, Buildings and Grounds.

(10) Sections 82088(e)(1), (2), and (3) relating to hot water temperature and bathroom facilities.

(11) Section 82088(f) relating to storage and disposal of solid waste.

(12) Any other regulation, the violation of which is deemed by the licensing agency to constitute a serious deficiency as defined in Section 82001(s).

NOTE: Authority cited: Sections 1530, 1530.1, and 1534(a)(2), Health and Safety Code. Reference: Sections 1501, 1507, 1531, and 1534, Health and Safety Code.

82052 DEFICIENCIES IN COMPLIANCE 82052

(a) When the licensing agency determines that a deficiency exists pursuant to Health and Safety Code Section 1534(a)(2), it shall issue a notice of deficiency, unless the deficiency is not serious and is corrected during the visit.

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(1) Health and Safety Code Section 1534(a)(2) provides, in part:

"The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility…"

HANDBOOK ENDS HERE

(b) Prior to completion of an evaluation or other licensing visit, the licensee, administrator, operator, or other person in charge of the day program shall meet with the evaluator to discuss any deficiencies noted, to jointly develop a plan for correcting each deficiency, and to acknowledge receipt of the notice of deficiency.

(c) The notice of deficiency is provided to the licensee at the completion of the visit by one of the following methods:

(1) Personal delivery to the licensee;

(2) If the licensee is not at the day program site, a copy of the notice shall be left with the person in charge of the day program and shall be mailed to the licensee.

(3) If the licensee or the person in charge of the day program refuses to accept the notice, a notation of the refusal shall be written on the notice and a copy shall be left at the day program and shall be mailed to the licensee.

(d) The notice of deficiency shall be in writing and shall include the following:

(1) Citation of the statute or regulation which has been violated.

(2) A description of the nature of the deficiency stating the manner in which the licensee failed to comply with a specified statute or regulation, and the particular place or area of the day program in which it occurred.

(3) The plan developed, as specified in Section 82052(b), for correcting each deficiency.

(4) A date by which each deficiency shall be corrected.

82052 DEFICIENCIES IN COMPLIANCE (Continued) **82052**

(A) In determining the date for correcting a deficiency, the evaluator shall consider the following factors:

1. The potential hazard presented by the deficiency.

2. The number of clients affected.

3. The availability of equipment or personnel necessary to correct the deficiency.

4. The estimated time necessary for delivery, and for any installation, of necessary equipment.

(B) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days.

(C) If the date for correcting the deficiency is more than 30 calendar days following service of the notice of deficiency, the notice shall specify the corrective actions which must be taken within 30 calendar days to begin correction.

(D) The evaluator shall require correction of the deficiency within 24 hours and shall specify on the notice the date by which the correction must be made whenever immediate penalties are assessed pursuant to Sections 82054(c), (d), (e) and (f).

(5) The amount of penalty being assessed, if any, and the date the penalty begins.

(6) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the day program.

(e) Each licensee/applicant shall have the right, without prejudice, to bring to the attention of the licensing agency, or both, any alleged misapplication or capricious enforcement of regulations by any licensing representative, or any differences in opinion between the licensee and any licensing representative concerning the proper application of these regulations.

NOTE: Authority cited: Sections 1530, 1530.1, and 1548(e), Health and Safety Code. Reference: Sections 1531, 1534, and 1548, Health and Safety Code.

82053 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE 82053

(a) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.

(1) At a minimum, a follow-up visit shall be conducted within 10 working days following the dates of corrections specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required.

(2) No penalty shall be assessed unless a follow-up visit is conducted as specified in Sections 82053(a) and (a)(1).

(b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty.

(c) A notice of penalty shall be in writing and shall include:

(1) The amount of penalty assessed, and the date the payment is due.

(2) The name and address of the agency responsible for collection of the penalty.

(d) When an immediate penalty has been assessed pursuant to Sections 82054(c), (d), (e), and (f) and correction is made when the evaluator is present, a follow-up visit is not required.

NOTE: Authority cited: Sections 1530, 1530.1, and 1548(e), Health and Safety Code. Reference: Sections 1533, 1534, and 1548, Health and Safety Code.

82054 PENALTIES 82054

(a) A penalty of $50 per violation per day, up to a maximum of $150 per day shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency, as permitted by Section 1548(b) of the Health and Safety Code.

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(1) Health and Safety Code Section 1548(b) provides;

"The amount of the civil penalty shall not be less than twenty-five dollars ($25) or more than fifty dollars ($50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars ($150) per day."

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82054 PENALTIES (Continued) **82054**

(b) Notwithstanding Section 82054(a), an immediate penalty of $100 per cited violation per day for a maximum of five (5) days shall be assessed if any individual required to be fingerprinted under Health and Safety Code Section 1522(b) has not obtained a California clearance or a criminal record exemption, requested a transfer of a criminal record clearance or requested and be approved for a transfer of an exemption as specified in Section 82019(e) prior to working, residing or volunteering in the facility.

(1) Subsequent violations within a twelve (12) month period shall result in a civil penalty of one hundred dollars ($100) per violation per day for a maximum of (30) days.

(2) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1548.

(3) Progressive civil penalties specified in Sections 82054(d) and (e) shall not apply.

(c) Notwithstanding Section 82054(a), an immediate penalty of $150 per day shall be assessed for any sickness, injury, or death of a client as a result of the deficiency.

(d) When a day program is cited for a deficiency and violates the same regulation subsection within a 12-month period, an immediate penalty assessment of $150 and $50 per day thereafter shall be assessed until the deficiency is corrected.

(e) A deficiency subject to the immediate penalty assessment in Section 82054(d) that is repeated within a 12-month period of the last deficiency citation shall be cited and assessed an immediate penalty of $150 per day until the deficiency is corrected.

(f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.

(1) Immediate penalty assessment as specified in Sections 82054(b), (c), (d), and (e), shall begin on the day the deficiency is cited.

(g) If licensees or their representatives report to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction was made.

(1) If the deficiency has not been corrected, civil penalties shall continue to accrue from the date of the original citation.

(2) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.

82054 PENALTIES (Continued) **82054**

(h) If necessary, a site visit shall be made immediately or within five working days to confirm the deficiency has been corrected.

(i) If an immediate civil penalty is assessed, and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.

(j) All penalties shall be due and payable upon receipt of notice for payment from the licensing agency, and shall be paid only by check or money order made payable to the Department.

(k) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in Section 82054(j).

NOTE: Authority cited: Sections 1530, 1530.1, and 1548(e), Health and Safety Code. Reference: Sections 1522, 1534,and 1548, Health and Safety Code.

82055 ADMINISTRATIVE REVIEW **82055**

(a) Licensees or their designated representatives shall have the right to request a review of a notice of deficiency and/or notice of penalty within 10 working days of receipt of such notice.

(1) If the deficiency has not been corrected, civil penalties shall continue to accrue during the review process.

(b) The review shall be conducted by a higher level staff person than the evaluator who issued the notice.

(c) If the reviewer determines that a notice of deficiency or notice of penalty was not issued or assessed in accordance with applicable statutes and regulations of the Department, or that other circumstances existed, he/she shall have the authority to amend or dismiss the notice.

(d) The reviewer shall have the authority to extend the date specified for correction of a deficiency if warranted by the facts or circumstances presented to support a request for extension.

NOTE: Authority cited: Sections 1530, 1530.1, and 1548(e), Health and Safety Code. Reference: Sections 1534 and 1548, Health and Safety Code.

82055.1 RESPONSIBILITY FOR CIVIL PENALTIES 82055.1

(a) The licensee shall be responsible for paying civil penalties.

(1) Unless otherwise provided, the transfer, surrender, forfeiture or revocation of a license shall not affect the licensee's responsibility for paying any civil penalties accrued while the license was in effect.

NOTE: Authority cited: Sections 1530, 1530.1, and 1548(e), Health and Safety Code. Reference: Sections 1522, 1534, 1548, and 1551, Health and Safety Code.

82056 EXEMPTION FROM CIVIL PENALTIES 82056

(a) Civil penalties shall not be assessed against any governmental entity, including a state or city holding a community care facility license.

NOTE: Authority cited: Sections 1530, 1530.1, and 1548(e), Health and Safety Code. Reference: Sections 1534 and 1548, Health and Safety Code.

82058 UNLICENSED ADULT DAY PROGRAM PENALTIES 82058

(a) A penalty of $200 per day shall be assessed for the operation of an unlicensed day program under either of the following conditions:

(1) The operator has not submitted a completed application for licensure (form LIC 200) within 15 calendar days of issuance of the Notice of Operation in Violation of Law (form LIC 195) pursuant to Section 82006, Operating Without a License, and continues to operate.

(A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 82018(d).

(B) The completed application shall be deemed to be submitted when received by the licensing agency.

(2) Unlicensed operation continues after denial of the initial application.

(A) Notwithstanding any appeal action, day program operation must cease within 10 calendar days of the mailing of the notice of denial or upon the operator's receipt of the denial notice whichever occurs first.

82058 UNLICENSED ADULT DAY PROGRAM PENALTIES (Continued) **82058**

(b) The $200 per day penalty shall be assessed for the continued operation of an unlicensed day program as follows:

(1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law (form LIC 195), and has not submitted a completed application as required.

(A) The $200 per day penalty shall continue until the operator ceases operation, or submits a completed application pursuant to Sections 82058(a)(1)(A) and (B).

(2) Within 10 calendar days of the mailing of the notice of denial or upon the operator's receipt of the denial notice whichever occurs first.

(A) The $200 per day penalty shall continue until the operator ceases operation.

(c) If the unlicensed operator reports to the licensing agency that unlicensed operation, as defined in Health and Safety Code Section 1503.5, has ceased, the penalty shall cease as of the day the licensing agency receives the notification.

(1) A site visit shall be made immediately or within five working days to verify that the unlicensed day program operation has ceased.

(2) Notwithstanding Section 82058(c), if the unlicensed day program operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.

(d) All penalties shall be due and payable upon receipt of the Notice for Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.

(e) The licensing agency shall have the authority to file a claim in an appropriate court or to take other appropriate action for failure to pay penalties as specified in Section 82058(d).

(f) Payment of civil penalties or application for licensure in response to a citation under this section does not permit the operation of an adult day program without a license.

NOTE: Authority cited: Sections 1530, 1530.1, and 1547(c), Health and Safety Code. Reference: Sections 1503.5, 1520, 1533, 1540, 1540.1, 1547, and 1549, Health and Safety Code.

82059 UNLICENSED DAY PROGRAM ADMINISTRATIVE APPEAL 82059

(a) An unlicensed day program operator shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.

(1) If the unlicensed day program operation has not ceased, the $200 per day penalty shall continue to accrue during the appeal process.

(b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.

(c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

NOTE: Authority cited: Sections 1530, 1530.1, and 1547(c), Health and Safety Code. Reference: Sections 1503.5, 1508, and 1547, Health and Safety Code.

Article 6. Continuing Requirements

82061 REPORTING REQUIREMENTS 82061

(a) Upon the occurrence, during the hours the day program is providing services to the client, of any of the events specified in Section 82061(a)(1), a report shall be made to the licensing agency within the agency's next working day during its normal business hours. In addition, a written report containing the information specified in Section 82061(a)(2) shall be submitted to the licensing agency within seven days following the occurrence of the event.

(1) Events reported shall include, but not be limited to, the following:

(A) Death of any client from any cause;

(B) Any injury to any client which requires medical treatment;

(C) The use of an Automated External Defibrillator;

(D) Any unusual incident which threatens the physical or emotional health or safety of any client;

(E) Any suspected psychological abuse of any client;

(F) Epidemic outbreaks;

(G) Poisonings;

(H) Catastrophes; and

(I) Fires or explosions which occur in or at the program site.

(2) Information provided shall include the following:

(A) Client's name, age, sex or gender, and date of admission;

(B) Date and nature of event;

(C) Attending physician's name, findings, and treatment, if any; and

(D) Disposition of the case.

82061 REPORTING REQUIREMENTS (Continued) **82061**

(b) Any suspected physical abuse that results in serious bodily injury of an elder or dependent adult shall be reported to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within two (2) hours as required by Welfare and Institutions Code Section 15630(b)(1).

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Welfare and Institutions Code section 15630(b)(1) provides in pertinent part:

> Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days.
>
> (A) If the suspected or alleged abuse is physical abuse, as defined in Section 15610.63, and the abuse occurred in a long-term facility, except a state mental health hospital or state developmental center, the following shall occur:
>
> (i) If the suspected abuse results in serious bodily injury, a telephone report shall be made to the local law enforcement agency immediately, but also no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

HANDBOOK ENDS HERE

(c) Any suspected physical abuse that does not result in serious bodily injury of an elder or dependent adult shall be reported to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within twenty-four (24) hours as required by Welfare and Institutions Code Section 15630(b)(1).

82061 REPORTING REQUIREMENTS (Continued) **82061**

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Welfare and Institutions Code section 15630(b)(1) provides in pertinent part:

> Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days.
>
> (A) If the suspected or alleged abuse is physical abuse, as defined in Section 15610.63, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the following shall occur:
>
> (i) . . .
>
> (ii) If the suspected abuse does not result in serious bodily injury, a telephone report shall be made to the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

HANDBOOK ENDS HERE

(d) The items below shall be reported to the licensing agency within 10 working days following the occurrence.

(1) The organizational changes specified in Section 82034(a)(2).

(2) Any change in the licensee's or applicant's mailing address.

(3) Any change of the chief executive officer of a corporation or association.

(A) Such notification shall include the new chief executive officer's name and address.

(B) Fingerprints shall be submitted as specified in Section 82019(d).

82061 REPORTING REQUIREMENTS (Continued) **82061**

(4) Any changes in the plan of operation which affect the services to clients.

(e) The items specified in Sections 82061(b)(1)(A) through (I) also shall be reported to the client's authorized representative, if any.

(f) The items specified in Sections 82061(b)(1)(F) and (G) also shall be reported to the local health officer when appropriate pursuant to Title 17, California Code of Regulations, Sections 2500 and 2502.

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(1) Title 17, California Code of Regulations, Section 2500 provides in part:

(b) It shall be the duty of every health care provider, knowing of or in attendance on a case or suspected case of any of the following diseases or conditions listed in subsection (j) of this section, to report to the local health officer for the jurisdiction where the patient resides as required in subsection (h) of this section. Where no health care provider is in attendance, any individual having knowledge of a person who is suspected to be suffering from one of the diseases or conditions listed in subsection (j) of this section may make such a report…

(j) Health care providers shall submit reports for the following diseases or conditions:

Acquired Immune Deficiency Syndrome (AIDS)
Amebiasis
Anisakiasis
Anthrax
Babesiosis
Botulism (Infant, Foodborne, Wound)
Meningitis, Specify Etiology: Viral Bacterial, Fungal, Parasitic
Meningococcal Infections
Mumps
Non-Gonococcal Urethritis (Excluding Laboratory Confirmed Chlamydial Infections)

HANDBOOK CONTINUES

82061 REPORTING REQUIREMENTS (Continued) **82061**

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Brucellosis
Campylobacteriosis
Chancroid
Chlamydial Infections
Cholera
Ciguantera Fish Poisoning
Coccidioidomycosis
Colorado Tick Fever
Conjunctivitis, Acute Infectious of the Newborn, Specify Etiology
Cryptosporidiosis
Cysticercosis
Dengue
Diarrhea of the Newborn, Outbreaks
Diphtheria
Domoic Acid Poisoning (Amnesic Shellfish Poisoning)
Echinococcosis (Hydatid Disease)
Ehrlichiosis
Encephalitis, specify Etiology: Viral, Bacterial, Fungal, Parasitic
Escherichia coli O157:H7 Infection
Foodborne Disease
Giardiasis
Gonococcal Infections
Haemophilus Influenza, Invasive Disease
Hantavirus Infections
Hemolytic Uremic Syndrome
Hepatitus, Viral
Hepatitis A
Hepatitis B (specify acute case or chronic)

Hepatitis C (specify acute case or chronic)
Hepatitis D (Delta)
Hepatitus, other, acute
Paralytic Shellfish Poisoning
Pelvic Inflammatory Disease (PID)
Pertussis (Whooping Cough)
Plague, Human or Animal
Poliomyelitis, Paralytic
Psittacosis
Q Fever
Rabies, Human or Animal
Relapsing Fever
Reye Syndrome
Rheumatic Fever, Acute
Rocky Mountain Spotted Fever
Rubella (German Measles)
Rubella Syndrome, Congenital
Salmonellosis (Other than Typhoid Fever)
Scombroid Fish Poisoning
Shigellosis
Smallpox (variola)
Streptococcal Infections (Outbreaks of Any Type and Individual Cases in Food Handlers and Dairy Workers Only)
Swimmer's Itch (Schistosomal Dermatitis)
Syphilis
Tetanus
Toxic Shock Syndrome
Toxoplasmosis
Trichinosis
Tuberculosis
Tularemia
Typhoid Fever, Cases and Carriers
Typhus Fever
Varicella (deaths only)
Vibrio Infections
Viral Hemorrhagic Fevers, (e.g., Crimean-Congo, Ebola, Lassa and Marburg Viruses)

HANDBOOK CONTINUES

82061 REPORTING REQUIREMENTS (Continued) **82061**

HANDBOOK CONTINUES

Kawasaki Syndrome (Mucocutaneous Lymph Node Syndrome)
Legionellosis
Leprosy (Hansen Disease)
Leptospirosis
Listeriosis
Lyme Disease
Lymphocytic Choriomeningitis
Malaria
Measles (Rubeola)
Water-associated Disease
Yellow Fever
Yersiniosis
OCCURRENCE OF ANY UNUSUAL DISEASE
OUTBREAKS OF ANY DISEASE (Including diseases not listed in Section 2500). Specify if institutional and/or open community.

HANDBOOK ENDS HERE

(g) The item specified in Section 82061(b)(1)(I) also shall be reported immediately to the local fire authority. In areas not having organized fire services, a report shall be made to the State Fire Marshal within 24 hours.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1507, 1520, and 1531, Health and Safety Code; and Section 15630, Welfare and Institutions Code.

82062 FINANCES **82062**

(a) The licensee shall meet the following financial requirements:

(1) Development and maintenance of a financial plan which ensures resources necessary to meet operating costs for care and supervision of clients.

(2) Maintenance of financial records.

(3) Submission of financial reports as required upon the written request of the licensing agency.

(A) The written request shall explain the necessity for disclosure.

(B) The licensing agency shall have the authority to reject any financial report, and to request, examine, if necessary, and copy additional information including interim financial statements. The reason for rejection of the report shall be in writing.

(C) The licensing agency may remove additional information, if necessary for copying. Removal shall be subject to the following requirements:

82062 FINANCES (Continued) **82062**

1. Prior to removal, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

2. Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1520, and 1531, Health and Safety Code.

82063 ACCOUNTABILITY **82063**

(a) The licensee, whether an individual or other entity, is accountable for the general supervision of the licensed day program, and for the establishment of policies concerning its operation.

(1) If the licensee is a corporation or an association, the governing body shall be active and functioning in order to ensure such accountability.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82064 ADMINISTRATOR - QUALIFICATIONS AND DUTIES **82064**

(a) All adult day programs shall have an administrator who meets either of the following requirements:

(1) A baccalaureate degree in psychology, social work or a related human services field and a minimum of one year experience in the management of a human services delivery system, or

(2) Three years of experience in a human services delivery system including at least one year in a management or supervisory position and two years of experience or training in one of the following:

(A) Care and supervision of clients in a licensed adult day program, or an adult day health care facility.

(B) Care and supervision of one or more of the categories of persons to be served by the day program.

82064 ADMINISTRATOR - QUALIFICATIONS AND DUTIES 82064
(Continued)

(b) Administrators of adult day programs employed prior to January 1, 2007, shall remain qualified provided that they have no break in employment as an adult day program administrator exceeding three consecutive years.

(c) In addition to the requirements in Section 82064(a), the administrator shall:

(1) Be at least 21 years of age.

(2) Know the requirements for providing the type of care and supervision needed by clients, including communication with clients.

(3) Provide for continuous supervision of clients.

(4) Supervise the operation of the day program.

(5) Communicate with the licensing agency as required by applicable laws and regulations.

(6) Comply with applicable laws and regulations.

(7) Maintain or supervise the maintenance of financial and other records.

(8) Direct the work of others, when applicable.

(9) Establish the policy, program and budget.

(10) Recruit, employ, train, and evaluate qualified day program staff, and terminate employment of staff.

(11) Acknowledge the receipt of the Department's correspondence, deficiency notices, or field reports when the Department has requested a response.

(12) Ensure the timely correction of all cited deficiencies.

(13) Adjust the program to accommodate the needs of all clients.

(14) Coordinate all activities and services.

(15) Provide initial orientation for all staff and ongoing educational and training programs for the direct care staff.

82064 ADMINISTRATOR - QUALIFICATIONS AND DUTIES 82064
(Continued)

(16) Arrange for special provision for the care and supervision, including health, safety, and guidance, of clients who have special needs.

(A) These provisions may include additional staff to supervise clients who wander, to maintain mechanical medical aids, and to monitor toileting schedules.

(B) Other special needs may include safety and emergency information in large lettering or in braille and lights.

(d) The administrator shall receive and document a minimum of 30 clock hours of continuing education every 24 months of employment.

(1) Continuing education shall include completion of courses related to roles and responsibilities of the administrator position including, but not limited to, workshops, seminars, and academic classes.

(e) When the administrator is absent from the day program site, there shall be coverage by a substitute designated by the licensee, who meets the qualifications of Section 82065, Personnel Requirements, who shall be capable of and responsible and accountable for management and administration of the day program in compliance with applicable laws and regulations.

(f) The licensee, if an individual, or any member of the governing board of the licensed corporation or association, shall be permitted to be the administrator provided that he/she meets the qualifications specified in this section.

(g) The administrator shall be at the program site the number of hours necessary to manage and administer the program in compliance with applicable laws and regulations.

(h) If an administrator is responsible for two or more adult day programs, there shall be at each site an employee who is responsible for the day-to-day operation of the program and who meets the following qualifications:

(1) A baccalaureate degree in psychology, social work or a related human services field; or

(2) A minimum of one year of experience in a supervisory or management position in the human services delivery system.

(i) When the administrator is absent from the day program for more than 30 consecutive days, the licensee shall designate a substitute who meets the qualifications of an administrator as specified in Sections 82064(a), (b) and (c).

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502.2, 1531, and 1562, Health and Safety Code.

82065 PERSONNEL REQUIREMENTS 82065

(a) Program personnel shall be competent to provide the services necessary to meet individual client needs and shall, at all times, be employed in numbers necessary to meet such needs.

(b) The licensing agency shall have the authority to require any licensee to provide additional staff whenever the licensing agency determines and documents that additional staff are required for the provision of services necessary to meet client needs. The licensee shall be informed in writing of the reasons for the licensing agency's determination. The following factors shall be taken into consideration in determining the need for additional staff.

(1) Needs of the particular client;

(2) Extent of the services provided by the day program;

(3) Physical arrangements of the particular day program; and

(4) Existence of a state of emergency or disaster.

(c) The licensee shall be permitted to utilize volunteers provided that such volunteers are supervised, and are not included in the day program staffing plan.

(d) The following day program personnel staff shall be at least 18 years of age:

(1) Persons who supervise employees and/or volunteers.

(2) Persons, including volunteers, who provide any element of care and supervision to clients.

(e) The licensee shall provide for direct supervision of clients during participation in or presence at potentially dangerous activities or areas in the day program.

(1) An adult who has been fingerprinted and has completed and signed a Criminal Record Statement (form LIC 508) as required by Section 82019(d) shall be present at all times when a client is using a pool or other body of water from which rescue requires the rescuer's ability to swim.

(2) Adults who supervise while clients are using a pool or other body of water from which rescue requires the rescuer's ability to swim, shall have a valid water safety certificate which may be obtained from the American Red Cross, the YMCA, or other qualified agencies.

(f) All personnel shall be given on-the-job training or shall have related experience providing knowledge of and skill in the following areas, as appropriate to the job assigned and as evidenced by safe and effective job performance.

(1) Principles of nutrition, food preparation and storage and menu planning.

82065 PERSONNEL REQUIREMENTS (Continued) **82065**

(2) Housekeeping and sanitation principles.

(3) Provision of client care and supervision, including communication.

(4) Assistance with prescribed medications which are self-administered.

(5) Recognition of early signs of illness and the need for professional assistance.

(6) Availability of community services and resources.

(7) Universal precautions as defined in Section 82001(u).

(A) Training in universal precautions may be provided at the program site or staff may attend training provided by a local health facility, county health department, or other local resources.

(8) Emergency procedures.

(9) Mandated reporting requirements for dependent adult and elder abuse, as required by Welfare and Institutions Code Section 15630(b).

HANDBOOK BEGINS HERE

Welfare and Institutions Code Section 15630(b) provides in part:

(1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days.

(A) If the suspected or alleged abuse is physical abuse, as defined in Section 15610.63, and the abuse occurred in a long-term facility, except a state mental health hospital or state developmental center, the following shall occur:

HANDBOOK CONTINUES

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82065 PERSONNEL REQUIREMENTS (Continued) **82065**

HANDBOOK CONTINUES

(i) If the suspected abuse results in serious bodily injury, a telephone report shall be made to the local law enforcement agency immediately, but also no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

(ii) If the suspected abuse does not result in serious bodily injury, a telephone report shall be made to the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within 24 hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

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(g) All personnel, including the licensee, administrator, and volunteers, shall be in good health, and shall be physically, mentally, and occupationally capable of performing assigned tasks.

(1) The good physical health of each employee and individual licensee shall be verified by a health screening, including negative test results for tuberculosis, performed by or under the supervision of a physician not more than one year prior to or seven days after employment or licensure.

82065 PERSONNEL REQUIREMENTS (Continued) **82065**

(A) A health screening report signed by the person performing the screening shall indicate the following:

1. The person's physical qualifications to perform the duties to be assigned.

2. The presence of any health condition that would create a hazard to the person, clients or other staff members.

(B) The good physical health of each volunteer who works in the program shall be verified by:

1. A statement signed by each volunteer affirming that he/she is in good health.

2. Negative test results for tuberculosis performed not more than one year prior to or seven days after initial presence in the program.

(h) Personnel with evidence of physical illness that poses a threat to the health and safety of clients shall be relieved of their duties.

(i) Prior to employment or initial presence in the day program, all employees and volunteers subject to a criminal record review shall:

(1) Obtain a California clearance or a criminal record exemption as required by law or Department regulations or

(2) Request a transfer of a criminal record clearance as specified in Section 82019(f) or

(3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 82019.1(r), unless, upon request for the transfer, the Department permits the individual to be employed, reside or be present at the day program.

(j) Clients shall not be used as substitutes for required staff but shall be permitted, as a voluntary part of their program of activities, to participate in tasks suited to the client's needs and abilities.

(1) Such tasks shall be identified in the client's needs and services plan as specified in Section 82068.2.

(k) When regular staff members are absent, there shall be coverage by personnel capable of performing assigned tasks as evidenced by on-the-job performance.

(l) Personnel shall provide for the care and safety of persons without physical or verbal abuse, exploitation, or prejudice.

(m) All personnel shall be instructed to report observations or evidence of violations of any of the personal rights specified in Section 82072.

82065 PERSONNEL REQUIREMENTS (Continued) **82065**

(n) The licensee shall provide for an overlap of staff at each shift change to ensure continuity of care.

(o) There shall be at least two persons on duty, at least one of whom is a direct care staff member, at all times when there are two or more clients in the day program.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1502, 1522, 1531, and 1562, Health and Safety Code; and Section 15630, Welfare and Institutions Code.

82065.1 PERSONNEL QUALIFICATIONS AND DUTIES 82065.1

(a) The following requirements shall apply to direct care staff as defined in Section 82001(d):

(1) Direct care staff shall be responsible for care and supervision of clients, as defined in Section 82001(c).

(2) Direct care staff shall not be assigned to any of the support staff duties specified in Section 82065.1(b) unless the care and supervision needs of clients have been met.

(b) Support staff duties include, but shall not be limited to:

(1) Office work, including clerical, bookkeeping, and accounting;

(2) Cooking;

(3) Housecleaning;

(4) Maintenance of program buildings, grounds, fixtures, furniture, equipment, and supplies; and

(5) Administrative support.

(c) During the performance of support staff duties, a direct care staff member shall not be counted in the staff-to-client ratio specified in Section 82065.5.

(d) The licensee shall develop,maintain, and implement a written plan for the orientation, continuing education, on-the-job training and development, supervision, and evaluation of all direct care staff.

(1) Direct care staff shall receive a minimum of 8 hours a year of training, documented.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1531, and 1562, Health and Safety Code.

82065.5 STAFF-CLIENT RATIOS 82065.5

(a) Whenever a client who relies upon others to perform all activities of daily living is present, the following minimum staffing requirements shall be met:

(1) For Regional Center clients, staffing shall be maintained as specified by the Regional Center.

(2) For all other clients, there shall be a staff-client ratio of no less than one direct care staff to four such clients.

(b) There shall be an overall ratio of not less than one direct care staff member providing care and supervision for each group of eight clients, or fraction thereof, present.

(1) Volunteers may be included in the staff-to-client ratio if the volunteer meets the requirements for direct care staff as specified in Section 82001(d).

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1531 and 1562, Health and Safety Code.

82066 PERSONNEL RECORDS 82066

(a) The licensee shall ensure that personnel records are maintained on the licensee, administrator, and each employee. Each personnel record shall contain the following information:

(1) Employee's full name.

(2) Driver's license number if the employee is to transport clients.

(3) Date of employment.

(4) A statement signed by the employee that he/she is at least 18 years of age.

(5) Home address and phone number.

(6) Documentation of the educational background, prior and on-going training and/or experience.

(7) Past experience, including types of employment and former employers.

(8) Duties of the employee.

(9) Termination date if no longer employed by the day program.

82066 PERSONNEL RECORDS (Continued) **82066**

(10) A health screening, as specified in Section 82065(g).

(11) Tuberculosis test results, as specified in Section 82065(g)(1).

(12) For employees that are required to be fingerprinted pursuant to Section 82019(a):

(A) A signed statement regarding their criminal record history as required by Section 82019(d).

(B) Documentation of either a criminal record clearance or exemption as required by Section 82019(e).

1. For Certified Administrators, a copy of their current and valid Administrator Certification meets this requirement.

(b) Personnel records shall be maintained for all volunteers and shall contain the following information:

(1) A health statement as specified in Section 82065(g)(1)(B).

(2) Tuberculosis test results as specified in Section 82065(g)(1)(B).

(3) For volunteers that are required to be fingerprinted pursuant to Section 82019(a),

(A) A signed statement regarding their criminal record history as required by Section 82019(d).

(B) Documentation of either a criminal record clearance or exemption as required by Section 82019(e).

(c) All personnel records shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:

(1) Licensing representatives shall not remove any current emergency and health-related information for current personnel unless the same information is otherwise readily available in another document or format.

(2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

82066 PERSONNEL RECORDS (Continued) **82066**

(3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

(d) All personnel records shall be maintained at the program site.

(1) The licensee shall be permitted to retain these records in a central administrative location provided that they are readily available to the licensing agency at the program site as specified in Section 82066(c).

(e) In all cases, personnel records shall document the hours actually worked.

(f) All personnel records shall be retained for at least three years following termination of employment.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1531, and 1562, Health and Safety Code.

82068 ADMISSION AGREEMENTS **82068**

(a) The licensee shall complete and maintain an individual written admission agreement with each client and the client's authorized representative, if any.

(b) Admission agreements must specify the following:

(1) Basic services;

(2) Available optional services;

(3) Payment provisions, including the following:

(A) Basic rate;

(B) Optional services rates;

(C) Payor;

(D) Due date; and

(E) Frequency of payment.

(4) Modification conditions, including requirement for provision of at least 30 calendar days prior written notice to the client or his/her authorized representative of any basic rate change.

82068 ADMISSION AGREEMENTS (Continued) **82068**

(5) Refund conditions.

(6) Right of the licensing agency to perform the duties authorized in Sections 82044(b) and (c).

(7) Conditions under which the agreement may be terminated.

(A) The client's refusal to cooperate with the licensee's implementation of his/her Needs and Services Plan, as specified in Section 82068.2 or 82068.3, must be one of the conditions.

(8) The program's policy concerning family involvement and participation with clients.

(c) Agreements shall be dated and signed, acknowledging the contents of the document, by the client and the client's authorized representative and the licensee or the licensee's designated representative, no later than seven calendar days following admission.

(d) Modifications to the original agreement shall be made whenever circumstances covered in the agreement change, and shall be dated and signed by the persons specified in Section 82068(c).

(e) The licensee shall retain in the client's file the original of the initial admission agreement and all subsequent modifications.

(1) The licensee shall provide a copy of the current admission agreement to the client and the client's authorized representative, if any.

(f) The licensee shall comply with all terms and conditions set forth in the admission agreement.

(g) The admission agreement shall be automatically terminated by the death of the client. No liability or debt shall accrue after the date of death, unless ordered by a court.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82068.2 NEEDS AND SERVICES PLAN 82068.2

(a) Prior to admission, the licensee shall determine whether the day program can meet the prospective client's service needs.

(b) If the client is to be admitted and has no restricted health condition(s) as specified in Section 82092, then, no later than 30 days after admission, the licensee shall complete a written Needs and Services Plan.

(c) If the client is to be admitted, and has a restricted health condition as specified in Section 82092 then the licensee shall develop the Needs and Services Plan prior to admission and must include a Restricted Health Condition Care Plan, as specified in Section 82092.2 in addition to the requirements in Section 82068.2(f).

(d) If the client has an existing needs appraisal or individual program plan (IPP) completed by a placement agency, or a consultant for the placement agency, the Department may consider the plan to meet the requirements of this section provided that:

(1) The needs appraisal or IPP is not more than one year old.

(2) The licensee and the placement agency agree that the client's physical, mental and emotional status has not significantly changed since the assessment.

(e) The written Needs and Services Plan specified in Section 82068.2(f), shall be maintained in the client's file.

(f) The completed Needs and Services Plan shall include:

(1) The client's desires and background and formal supports, obtained from the client's family or his/her authorized representative, if any, regarding the following:

(A) Admission to the facility.

(B) A written medical assessment including primary physician, health problems and medical history, prescribed medications and their strength, quantity, frequency required and purpose as specified in Section 82069(b)(3).

(C) Mental and emotional functioning.

(D) Functional limitations including physical impairments or concerns as follows:

82068.2 NEEDS AND SERVICES PLAN (Continued) **82068.2**

(1) Bathing.

a. Does not bathe or shower self.

b. Performs some bathing or showering tasks.

c. Bathes or showers self independently.

2. Dressing:

a. Does not dress self.

b. Puts on some clothing by self.

c. Dresses self completely.

3. Grooming:

a. Does not tend to own personal hygiene.

b. Tends to some personal hygiene tasks.

c. Tends to own personal hygiene.

4. Toileting:

a. Not toilet trained.

b. Does not toilet by self.

c. Goes to toilet by self.

5. Transferring:

a. Unable to move in and out of a bed or chair.

b. Needs assistance to transfer.

c. Is able to move in and out of a bed or chair.

82068.2 NEEDS AND SERVICES PLAN (Continued) **82068.2**

6. Repositioning:

   a. Unable to reposition.

   b. Repositions from side to side.

   c. Repositions from front to back and back to front.

7. Wheelchair:

   a. Unable to sit without support.

   b. Sits without support.

   c. Needs assistance moving wheelchair.

   d. Moves wheelchair independently.

   e. Does not use wheelchair.

8. Continence:

   a. No bowel and/or bladder control.

   b. Some bowel and/or bladder control.

   c. Use of assistive devises, such as a catheter.

   d. Complete bowel and/or bladder control.

9. Eating:

   a. Does not feed self.

   b. Feeds self with assistance from another person.

   c. Feeds self completely.

82068.2 NEEDS AND SERVICES PLAN (Continued) **82068.2**

10. Vision:

    a. Severe/profound impairment.

    b. Mild/moderate impairment.

    c. No vision impairment.

11. Hearing:

    a. Severe/profound loss.

    b. Mild/moderate loss.

    c. No hearing loss.

12. Communication:

    a. Does not express nonverbally.

    b. Does not express verbally.

    c. Expresses by sounds or movements.

    d. Expresses self well, both verbally and nonverbally.

13. Walking:

    a. Does not walk.

    b. Walks with support.

    c. Walks well alone.

14. Medical history and conditions.

15. Need for prescribed and non-prescribed medications.

16. Mental and emotional conditions.

17. Socialization and cognitive status.

18. Propensity for behaviors that result in harm to self or others and that require supervision.

82068.2 NEEDS AND SERVICES PLAN (Continued) **82068.2**

19. Ability to manage his/her own finances and cash resources.

(E) A social history.

(F) Identification of formal support systems.

(2) A description of limitation of activities of daily living skills.

(3) Scheduled days of attendance.

(4) A summary of the assessment findings in Sections 82069(b)(1) through (5) and plans for providing services to meet the identified needs, including:

(A) A plan to provide, arrange, or assist in transportation of the client to and from the day program.

(B) Time-limited goals and objectives of the care and services to be provided, with provisions for review and modifications as needed.

(C) An individual activity plan designed to meet the needs of the client for psychosocial and recreational activities.

(D) Recommendations for referrals to other service providers and therapy which the adult day program will coordinate.

(5) Specific service needs, if any.

(g) The licensee shall involve the following persons in the development of the Needs and Services Plan:

(1) The client and his/her authorized representative, if any.

(2) Any relative or other care provider participating in placement.

(3) The placement or referral agency, if any.

(4) The licensee or his/her designee.

(5) A direct care staff person as defined in Section 82001(d).

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82068.3 MODIFICATIONS TO NEEDS AND SERVICES PLAN 82068.3

(a) The licensee shall ensure that each client's written Needs and Services Plan is updated as often as necessary, but at least annually, to ensure its accuracy, and to document significant occurrences that result in changes in the client's physical, mental, psychological, and/or social functioning.

(1) An updated list of medications currently taken by the client shall be included in the reassessment.

(2) These reassessments shall be maintained in the client's file.

(b) If the licensee determines that the client's needs cannot be met, the licensee shall inform the client, and his/her authorized representative, if any, and the placement agency, if any, and request that the client relocate where needed services can be provided.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

82068.5 PROCEDURES FOR DISCHARGE 82068.5

(a) A minimum of two weeks' notice shall be given to a client and his/her family and care providers if the Adult Day Program determines that the day program can no longer meet the needs of the client, and he/she must be discharged from the day program.

(b) The immediate discharge of an individual shall be allowed when it is determined that the individual's condition has suddenly changed and participation in the day program is likely to cause danger to self or others.

(1) The licensing agency shall be notified by telephone within the agency's next working day during normal business hours and in writing within seven days when a client is discharged without the two weeks' notice.

(c) The licensee shall refer the client to other agencies for continuing care and follow-up, as needed.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82069 CLIENT MEDICAL ASSESSMENTS 82069

(a) Prior to or within 30 calendar days following the acceptance of a client, the licensee shall obtain a written medical assessment of the client that determines the licensee's ability to provide necessary health-related services to the client. The assessment shall be used in developing the Needs and Services Plan.

(1) The assessment shall be performed by a licensed physician or designee, who is also a licensed professional, and the assessment shall not be more than one year old when obtained.

(b) The medical assessment shall include the following:

(1) The results of an examination for communicable tuberculosis and other contagious/infectious diseases.

(2) Identification of the client's special problems and needs.

(3) Identification of any prescribed medications being taken by the client.

(4) A determination of the client's ambulatory status, as defined by Section 82001(n).

(5) Identification of physical restrictions, including any medically necessary diet restrictions.

(c) The licensing agency shall have the authority to require the licensee to obtain a current written medical assessment, if such an assessment is necessary to verify the appropriateness of a client's placement.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1531, Health and Safety Code.

82070 CLIENT RECORDS 82070

(a) The licensee shall ensure that a separate, complete, and current record is maintained in the facility for each client. A separate, complete, and current record shall be maintained at the program site for each client.

(b) Each record must contain information including, but not limited to, the following:

(1) Name of client.

(2) Birthdate.

(3) Sex or Gender.

(4) Date of admission.

82070 CLIENT RECORDS (Continued) **82070**

(5) Names, addresses, and telephone numbers of the authorized representative.

(6) A signed copy of the admission agreement specified in Section 82068.

(7) Name, address, and telephone number of physician and dentist, and other medical and mental health providers, if any.

(8) Medical assessment, including ambulatory status, as specified in Section 82069(b).

(9) Record of any illness or injury requiring treatment by a physician or dentist and for which the day program provided assistance to the client in meeting his/her necessary medical and dental needs.

(10) Record of current medications, including the name of the prescribing physician, and instructions, if any, regarding control and custody of medications.

(11) Restricted health condition care plan, if required for the client by Section 82092.2.

(12) Date of termination of services.

(13) In those cases in which the licensee handles the client's cash, an account of the client's cash resources, personal property, and valuables entrusted as specified in Sections 82026(h) through (k).

(14) Needs and Services Plan as specified in Section 82068.2.

(15) Modifications to the Needs and Services Plan as specified in Section 82068.3.

(16) Authorization, signed and dated by the client or his/her authorized representative, to specific individuals/agencies for release of medical information, or a statement signed and dated by the client or authorized representative, that the client or authorized representative will not sign an authorization.

(17) Authorization, signed and dated by the client or his/her authorized representative, for the client to receive emergency medical care, if necessary, or a statement signed and dated by the client or authorized representative, that the client will not sign an authorization.

(18) Correspondence and incident reports relating to the client.

(19) Reason for discharge from the center.

82070 CLIENT RECORDS (Continued) **82070**

(c) All information and records obtained from or regarding clients shall be confidential.

(1) The licensee shall be responsible for safeguarding the confidentiality of client records contents.

(2) Except as specified in Section 82070(d), or as otherwise authorized by law, the licensee and all employees shall not reveal or make available confidential information.

(d) All client records shall be available to the licensing agency to inspect, audit, and copy upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the following requirements:

(1) Licensing representatives shall not remove the following current records for current clients unless the same information is otherwise readily available in another document or format:

(A) Name, address, and telephone number of the authorized representative(s) as specified in Section 82070(b)(5).

(B) Name, address, and telephone number of a client's physician and dentist, and any other medical and mental health providers, as specified in Section 82070(b)(7).

(C) Medical assessment, including ambulatory status, as specified in Section 82070(b)(8).

(D) Record of any current illness or injury as specified in Section 82070(b)(9).

(E) Record of current medications as specified in Section 82070(b)(10).

(F) Restricted Health Condition Care Plan as specified in Section 82070(b)(11).

(G) Any other records containing current emergency or health-related information for current clients.

(2) Prior to removing any records, a licensing representative shall prepare a list of the records to be removed, sign and date the list upon removal of the records, and leave a copy of the list with the administrator or designee.

(3) Licensing representatives shall return the records undamaged and in good order within three business days following the date the records were removed.

(e) A client's records shall also be open to inspection by the client's authorized representative, if any.

(f) The information specified in Sections 82070(b)(1)-(13) must be updated as necessary to ensure the accuracy of the client's record.

82070 CLIENT RECORDS (Continued) **82070**

(g) Original client records or photographic reproductions shall be retained for at least three years following termination of service to the client.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

82071 REGISTER OF CLIENTS **82071**

(a) The licensee shall maintain in the program site a register of all clients. The register shall be updated as needed; shall be immediately available to, and copied for, licensing staff upon request; and must contain current information on the following:

(1) Client's name and ambulatory status as specified in Sections 82070(b)(1) and (8).

(2) Name, address, and telephone number of client's attending physician.

(3) Authorized representative information as specified in Section 82070(b)(5).

(4) Client's restricted health condition(s) as specified in Section 82092(b).

(A) The licensee may keep a separate client register with this information.

(b) The licensee shall keep the register in a central location.

(1) Registers are confidential, as specified in Section 82070(c).

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1507 and 1557.5, Health and Safety Code.

82072 PERSONAL RIGHTS **82072**

(a) Each client shall have personal rights which include, but are not limited to, the following:

(1) To be accorded dignity in his/her personal relationships with staff and other persons.

(2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment to meet his/her needs.

(3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature, including but not limited to: interference with the daily living functions, including eating, sleeping, or toileting; or withholding of shelter, clothing, medication, or aids to physical functioning.

82072 PERSONAL RIGHTS (Continued) **82072**

(4) To be informed, and to have his/her authorized representative, if any, informed, by the licensee of the provisions of law in Health and Safety Code Section 1538 regarding confidential or anonymous complaints and of the address and telephone number of the applicable licensing agency.

HANDBOOK BEGINS HERE

(A) Health and Safety Code Section 1538, provides in part:

"(a) Any person may request an inspection of any community care facility… in accordance with this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state,...

"(b) The substance of the complaint shall be provided to the licensee… no earlier than at the time of the inspection...

"(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility …, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection of the community care facility… 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action."

HANDBOOK ENDS HERE

(5) To be free to attend religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice.

(A) Attendance at religious services, in or outside of the day program, shall be on a completely voluntary basis.

(6) To leave or depart the day program at any time.

(A) The licensee shall not be prohibited by this provision from setting house rules for the protection of clients.

(B) This provision shall not apply to clients for whom a conservator, or other legal representative with authority to prohibit the client's departure, has been appointed.

82072 PERSONAL RIGHTS (Continued) **82072**

(7) Not to be locked in any room, building, or day program site.

(A) The licensee shall not be prohibited by this provision from locking exterior doors and windows or from establishing rules for the protection of clients, provided the clients are able to exit the day program.

(B) The licensee shall be permitted to utilize egress control devices as specified in Section 82087.5(a).

(8) Not to be placed in any restraining device. Postural supports may be used under the following conditions:

(A) Postural supports shall be limited to appliances or devices including braces, spring release trays, or soft ties, used to achieve proper body position and balance, to improve a client's mobility and independent functioning, or to position rather than restrict movement including, but not limited to, preventing a client from falling out of bed, a chair, etc.

1. Physician-prescribed orthopedic devices such as braces or casts used for support of a weakened body part or correction of body parts are considered postural supports.

(B) A written order from the client's physician indicating the need for postural supports shall be maintained in the client's record. The licensing agency shall be authorized to require additional documentation if needed to verify the order.

(C) Postural supports shall be fastened or tied in a manner which permits quick release by the client.

(D) Under no circumstances shall postural supports include tying of, or depriving or limiting the use of, a client's hands or feet.

(E) Protective devices including, but not limited to, helmets, elbow guards, and mittens that do not prohibit a client's mobility but rather protect the client from self-injurious behavior are not to be considered restraining devices for the purpose of this regulation. Protective devices may be used if they are approved in advance by the licensing agency as follows:

1. All requests to use protective devices shall be in writing and include a written order of a physician indicating the need for these devices. The licensing agency shall be authorized to require additional documentation including, but not limited to, the Individual Program Plan (IPP) as specified in Welfare and Institutions Code Section 4646, and the written consent of the authorized representative, in order to evaluate the request.

82072 PERSONAL RIGHTS (Continued) **82072**

HANDBOOK BEGINS HERE

a. Welfare and Insitutions Code Section 4646 provides in part:

(a) It is the intent of the Legislature to ensure that the individual program plan and provision of services and supports by the regional center system is centered on the individual and the family of the individual with developmental disabilities and takes into account the needs and preferences of the individual and the family, where appropriate, as well as promoting community integration, independent, productive, and normal lives, and stable and healthy environments. It is the further intent of the Legislature to ensure that the provision of services to consumers and their families be effective in meeting the goals stated in the individual program plan, reflect the preferences and choices of the consumer, and reflect the cost-effective use of public resources.

(b) The individual program plan is developed through a process of individualized needs determination....

HANDBOOK ENDS HERE

2. The licensing agency shall have the authority to grant conditional and/or limited approvals to use protective devices.

(9) To receive or reject medical care, or health-related services, except for clients for whom a conservator, or other legal authority has been appointed.

(10) To be informed of the program's policy concerning family involvement and participation with clients.

(b) At admission, a client and the client's authorized representative shall be personally advised of and given a list of the rights specified in Sections 82072(a)(1) through (10).

(c) The information specified in Section 82072(b), in addition to the policy for visitors as stated in the admissions agreement, shall be prominently posted in areas accessible to clients and their visitors.

(d) The licensee shall ensure that each client is accorded the personal rights as specified in this section.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1531, and 1538, Health and Safety Code.

82073 TELEPHONES 82073

(a) All day programs shall have telephone service at the program site.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Section 1531, Health and Safety Code.

82074 TRANSPORTATION 82074

(a) Only drivers licensed for the type of vehicle operated shall be permitted to transport clients.

(b) The manufacturer's rated seating capacity of the vehicles shall not be exceeded.

(c) Motor vehicles used to transport clients shall be maintained in a safe operating condition.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Setion 1531, Health and Safety Code.

82075 HEALTH-RELATED SERVICES 82075

(a) The licensee shall ensure that each client receives necessary first aid and other needed medical or dental services, including arrangement for and/or provision of transportation to the nearest available services.

(b) Clients shall be assisted as needed with self-administration of prescription and nonprescription medications.

(1) Program staff who receive training from a licensed professional, may assist clients with metered-dose inhalers, and dry powder inhalers if the following requirements are met:

(A) The licensee obtains written documentation from the licensed professional, outlining the procedures and the names of program staff whom they have trained in those procedures.

(B) The licensee ensures that the licensed professional, reviews staff performance as necessary, but at least annually.

(C) All staff training shall be documented in the facility personnel files.

(2) Program staff, except those authorized by law, shall not administer injections but staff designated by the licensee shall be authorized to assist clients with self-administration of injections as needed.

82075 HEALTH-RELATED SERVICES (Continued) **82075**

(3) Assistance with self-administration does not include forcing a client to take medications, hiding or camouflaging medications in other substances without the client's knowledge and consent, or otherwise infringing upon a client's right to refuse to take a medication as specified in Section 82072(a)(9).

(4) If the client's physician has stated in writing that the client is able to determine and communicate his/her need for a prescription or nonprescription PRN medication, program staff shall be permitted to assist the client with self-administration of their PRN medication.

(5) If the client's physician has stated in writing that the client is unable to determine his/her own need for nonprescription PRN medication, but can communicate his/her symptoms clearly, program staff designated by the licensee shall be permitted to assist the client with self-administration, providing all of the following requirements are met:

(A) There is a written direction from a physician, on a prescription blank, specifying the name of the client, the name of the medication, instructions regarding a time or circumstance (if any) when it should be discontinued, and an indication of when the physician should be contacted for a medication reevaluation.

(B) Once ordered by the physician the medication is given according to the physician's directions.

(C) A record of each dose is maintained in the client's record. The record shall include the date and time the PRN medication was taken, the dosage taken, and the client's response.

(6) If the client is unable to determine his/her own need for a prescription or nonprescription PRN medication, and is unable to communicate his/her symptoms clearly, program staff designated by the licensee, shall be permitted to assist the client with self-administration, provided all of the following requirements are met:

(A) Staff shall contact the client's physician, physician assistant, or nurse practitioner prior to each dose, describe the client's symptoms, and receive direction to assist the client in self-administration of that dose of medication.

(B) The date and time of each contact with the physician, physician assistant, or nurse practitioner and his or her directions, shall be documented and maintained in the client's record.

(C) The date and time the PRN medication was taken, the dosage taken, and the client's response, shall be documented and maintained in the client's record.

82075 HEALTH-RELATED SERVICES (Continued) **82075**

(c) A separate room or area specified in Section 82087(d) shall be used when separation from others is required.

(d) There shall be privacy for first aid treatment of minor injuries and for examination or treatment by a medical professional if required.

(e) When a client requires oxygen the licensee is responsible for the following:

(1) Monitoring the client's ongoing ability to operate and care for the equipment in accordance with the physician's instructions, or if the client is unable to do so:

(A) Ensuring that an adequate number of program staff persons are designated to operate and care for the equipment and that those staff persons receive training from the client's family or primary caregiver.

1. The licensee shall maintain, in the client's file, documentation of the training and which staff members were trained.

(2) Ensuring that the following conditions are met if oxygen equipment is in use:

(A) The licensee makes a written report to the local fire jurisdiction that oxygen is in use at the day program.

(B) "No Smoking - Oxygen in Use" signs shall be posted in appropriate areas.

(C) Smoking is prohibited where oxygen is in use.

(D) All electrical equipment is checked for defects that may cause sparks.

(E) Oxygen tanks that are not portable are secured either in a stand or to the wall.

(F) Plastic tubing from the nasal canula (mask) to the oxygen source is long enough to allow the client movement but does not constitute a hazard to the client or others.

(G) Clients use oxygen from a portable source when they are moving about in the day program.

(H) Equipment is operable.

(I) Program staff have knowledge and ability to operate and care for the oxygen equipment.

(J) Equipment is removed from the day program when no longer in use by the client.

82075 HEALTH-RELATED SERVICES (Continued) **82075**

(f) Staff responsible for providing direct care and supervision shall receive and maintain current training in first aid and cardiopulmonary resuscitation from persons qualified by agencies including, but not limited to, the American Red Cross.

(1) Ensure that at least one full-time staff member who has a current certificate in first aid and cardiopulmonary resuscitation is present during operating hours.

(g) If the day program has no medical unit at the program site, first aid supplies shall be maintained and be readily available in a central location.

(1) The supplies shall include at least the following:

(A) A current edition of a first aid manual approved by the American Red Cross, the American Medical Association or a state or federal health agency.

(B) Sterile first aid dressings.

(C) Bandages or roller bandages.

(D) Adhesive tape.

(E) Scissors.

(F) Tweezers.

(G) Thermometers.

(H) Antiseptic solution.

(h) There shall be at least one person in the day program at all times, who is capable of and responsible for communicating with emergency personnel. The following information shall be readily available to that person:

(1) The name, address, and telephone number of each client's physician and dentist, and other medical and mental health providers, if any.

(2) The name, address, and telephone number of each emergency agency, including, but not limited to the police department, the fire department, or paramedic unit. There shall be at least one medical resource available to be called at all times.

(3) The name and telephone number of an ambulance service.

82075 HEALTH-RELATED SERVICES (Continued) **82075**

(i) The licensee shall obtain, from the client or his/her authorized representative, an authorization to secure for the client necessary emergency medical services.

(1) Such authorization shall be maintained on file in the facility.

(2) The licensee shall not be required to obtain such an authorization from clients who adhere to a religious faith practicing healing by prayer or other spiritual means.

(A) Under such circumstances, the licensee shall obtain a statement from the client or his/her authorized representative which states the adherence to such religion.

(j) When a client requires prosthetic devices, or vision or hearing aids, the staff shall be familiar with the use of these devices and aids and shall assist the client with their utilization as needed.

(k) Medications shall be centrally stored under the following circumstances:

(1) Preservation of the medication requires refrigeration.

(2) Any medication determined by the physician to be hazardous if kept in the personal possession of the client for whom it was prescribed.

(3) Because of physical arrangements and the condition or the habits of persons in the day program, the medications are determined by either the administrator or by the licensing agency to be a safety hazard.

(l) The following requirements shall apply to medications which are centrally stored:

(1) Medication shall be kept in a safe and locked place that is not accessible to persons other than employees responsible for the supervision of the centrally stored medication.

(2) Each container shall identify the items specified in Sections 82075(l)(7)(A) through (H).

(3) All medications shall be labeled and maintained in compliance with label instructions and state and federal laws.

(4) No person other than the dispensing pharmacist shall alter a prescription label.

(5) Each client's medication shall be stored in its originally received container.

(6) No medications shall be transferred between containers.

82075 HEALTH-RELATED SERVICES (Continued) **82075**

(7) The licensee shall ensure the maintenance, for each client, of a record of centrally stored prescription medications which is retained for at least one year and includes the following:

(A) The name of the client for whom prescribed.

(B) The name of the prescribing physician.

(C) The drug name, strength, and quantity.

(D) The date filled.

(E) The prescription number and the name of the issuing pharmacy.

(F) Expiration date.

(G) Number of refills.

(H) Instructions, if any, regarding control and custody of the medication.

(m) Prescription medications which are not taken with the client upon termination of services, or which are not to be retained shall be destroyed by the administrator, or a designated substitute, and one other adult who is not a client.

(1) Both shall sign a record, to be retained for at least one year, which lists the following:

(A) Name of the client.

(B) The prescription number and the name of the pharmacy.

(C) The drug name, strength, and quantity destroyed.

(D) The date of destruction.

(n) The adult day program shall notify the family/care provider and/or physician of any significant changes in the client's physical, emotional, or cognitive condition.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1531, Health and Safety Code.

82075.1 DAILY INSPECTION FOR ILLNESS 82075.1

(a) The licensee shall ensure daily that clients with obvious symptoms of illness are not accepted in the day program unless they are separated from other clients.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

82075.2 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS) 82075.2

(a) A licensee is permitted to maintain and operate an AED at the day program if all of the following conditions are met:

(1) The licensee shall notify the district office in writing that an AED is at the program site and will be used in accordance with all applicable federal and other state requirements.

(2) The AED shall be used in accordance with all applicable federal and other state requirements.

(3) The licensee shall maintain at the program site the following:

(A) A training manual from an American Heart Association- or American Red Cross-recognized AED training class.

(B) A log of checks of operation of the AED containing the dates checked and the name of person checking.

(C) A copy of a valid AED operator's certificate for any employee(s) authorized by the licensee to operate the AED. The certificate shall indicate that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross. If it does not, then other evidence indicating that the AED training course completed complies with the standards of the American Heart Association or the American Red Cross shall be available at the facility.

(4) AED use is limited to staff who are certified by the American Red Cross, American Heart Association, or other training organizations that meet the standards established by either the American Red Cross or American Heart Association.

(5) A supply kit shall be maintained and be readily available for use with the AED. The kit shall contain at least the following:

(A) A back-up battery set.

(B) An extra set of pads.

82075.2 AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS) 82075.2
(Continued)

(C) A safety razor for shaving chest hair when necessary to apply the pads.

(D) A cardiovascular pulmonary resuscitation barrier (a face shield or mask) for protection from transmission of infectious disease.

(E) Two pairs of unused medical examination gloves (latex or non-latex).

(6) Use of an AED shall be reported as specified in Section 82061(b)(1)(C).

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1507, 1531, and 1797.196, Health and Safety Code.

82076 FOOD SERVICE 82076

(a) In day programs providing meals to clients, the following shall apply.

(1) All food shall be selected, stored, prepared and served in a safe and healthful manner. All meals shall be of the quality and in the quantity necessary to meet the needs of the clients, and the requirements recommended by the U.S. Department of Agriculture, as specified in Title 7, Code of Federal Regulations, Section 226.20(c).

HANDBOOK BEGINS HERE

(A) TITLE 7, Code of Federal Regulations, Section 226.20(c) provides in part:

"Meal patterns for … adult participants. When individuals over age one participate in the Program, the total amount of food authorized in the meal patterns set forth below shall be provided in order to qualify for reimbursement.

(1) Breakfast. The minimum amount of food components to be served as breakfast … are as follows:

HANDBOOK CONTINUES

82076 FOOD SERVICE (Continued) **82076**

HANDBOOK CONTINUES

Food	Adult Participants
Milk, fluid.....	1 cup.[2]
Vegetables and Fruits or.....	½ cup.
Full-strength vegetable or fruit ice or an equivalent quantity of any combination of vegetable(s), fruit(s), and juice.....	½ cup.
Bread and Bread Alternates [3]	
Bread or.....	2 slices (servings).
Cornbread, biscuits, rolls, muffins, etc.[4] or.....	2 servings.
Cold dry cereal [5] or.....	1 ½ cup or 2 ounces.
Cooked cereal or.....	1 cup.
Cooked pasta or noodle products or.....	1 cup.
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	1 cup.

[2] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.

[3] Bread, pasta or noodle products, and cereal grains, shall be whole grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole grain or enriched meal or flour; cereal shall be whole grain or enriched or fortified.

[4] Serving sizes and equivalents to be published in guidance materials by FNS.

[5] Either volume (cup) or weight (ounces) whichever is less.

HANDBOOK CONTINUES

82076 FOOD SERVICE (Continued) **82076**

HANDBOOK CONTINUES

(2) Lunch. The minimum amount of food components to be served as lunch … are as follows:

Food Components	Adult Participants
Milk, fluid.....	1 cup.[2]
Vegetables and Fruits [3]	
Vegetable(s) and/or fruit(s).....	1 cup total.
Bread and Bread Alternates [4]	
Bread or.....	2 slices (servings).
Cornbread, biscuits, rolls, muffins, etc.[5] or.....	2 servings.
Cooked pasta or noodle products or.....	1 cup.
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	1 cup.
Meat and Meat Alternates	
Lean meat or poultry or fish [6] or.....	2 ounces.
Alternate protein products [7] or.....	2 ounces.
Cheese or.....	2 ounces.
Egg (large) or.....	1.
Cooked dry beans or peas or.....	½ cup.
Peanut butter or soynut butter or other nut or seed butters or.....	4 tablespoons.
Peanuts or soynuts or tree nuts or seeds [8] or.	1 ounce [9] = 50%.
Yogurt, plain or flavored, unsweetened or sweetened or an equivalent quantity of any combination of the above meat/ meat alternates.....	8 ounces or 1 cup.

HANDBOOK CONTINUES

82076 FOOD SERVICE (Continued) **82076**

HANDBOOK CONTINUES

\2\ For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.

\3\ Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.

\4\ Bread, pasta or noodle products, and cereal grains, shall be whole grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole grain or enriched meal or flour.

\5\ Serving sizes and equivalents to be published in guidance materials by FNS.

\6\ Edible portion as served.

\7\ Must meet the requirements in appendix A of this part.

\8\ Tree nuts and seeds that may be used as meat alternates are listed in program guidance.erving sizes and equivalents to be published in guidance materials by FNS.

\9\ No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purpose of determining combinations, 1 ounce of nuts or seeds is equal to 1 ounce of cooked lean meat, poultry, or fish.

HANDBOOK ENDS HERE

(2) Where meal service within a day program is elective, arrangements shall be made to ensure availability of a daily food intake meeting the requirement of Section 82076(a)(1) for all clients who, in their admission agreement, elect meal service.

(3) Between meal nourishment or snacks shall be available for all clients unless limited by dietary restrictions prescribed by a physician.

(4) Menus shall be written at least one week in advance and copies of the menus as served shall be dated and kept on file for at least 30 days. Menus shall be made available for review by the clients or their authorized representatives and the licensing agency upon request.

(5) Modified diets prescribed by a client's physician as a medical necessity shall be provided.

(A) The licensee shall obtain and follow instructions from the physician or dietitian on the preparation of the modified diet.

(6) Commercial foods shall be approved by appropriate federal, state and local authorities. All foods shall be selected, transported, stored, prepared and served so as to be free from contamination and spoilage and shall be fit for human consumption. Food in damaged containers shall not be accepted, used or retained.

82076 FOOD SERVICE (Continued) **82076**

(7) Where indicated, food shall be cut, chopped or ground to meet individual needs.

(8) Powdered milk shall not be used as a beverage, but shall be allowed in cooking and baking. Milk given to clients shall be pasteurized.

(9) Except upon written approval by the licensing agency, meat, poultry and meat food products shall be inspected by state or federal authorities. Written evidence of such inspection shall be available for all products not obtained from commercial markets.

(10) Home canned foods shall not be used.

(11) If food is prepared off the day program premises, the following shall apply:

(A) The preparation source shall meet all applicable requirements for commercial food services.

(B) The day program shall have the equipment and staff necessary to receive and serve the food and for cleanup.

(C) The day program shall maintain the equipment necessary for in-house preparation, or have an alternate source for food preparation, and service of food in emergencies.

(12) All persons engaged in food preparation and service shall observe personal hygiene and food services sanitation practices which protect the food from contamination.

(13) All foods or beverages capable of supporting rapid and progressive growth of microorganisms which can cause food infections or food intoxications shall be stored in covered containers at 45 degrees F (7.2 degrees C) or less.

(14) Pesticides and other similar toxic substances shall not be stored in food storerooms, kitchen areas, food preparation areas, or areas where kitchen equipment or utensils are stored.

(15) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.

(16) All kitchen, food preparation, and storage areas shall be kept clean, free of litter and rubbish, and measures shall be taken to keep all such areas free of rodents, and other vermin.

(17) All food shall be protected against contamination. Contaminated food shall be discarded immediately.

82076 FOOD SERVICE (Continued) **82076**

(18) All equipment, fixed or mobile, dishes, and utensils shall be kept clean and maintained in safe condition.

(19) All dishes and utensils used for eating and drinking and in the preparation of food and drink, shall be cleaned and sanitized after each usage.

(A) Dishwashing machines shall reach a temperature of 165 degrees F (74 degrees C) during the washing and/or drying cycle to ensure that dishes and utensils are cleaned and sanitized.

(B) Day programs not using dishwashing machines shall clean and sanitize dishes and utensils by an alternative comparable method.

(20) Equipment necessary for the storage, preparation and service of food shall be provided, and shall be well-maintained.

(21) Tableware and tables, dishes, and utensils shall be provided in the quantity necessary to serve the clients.

(22) Adaptive devices shall be provided for self-help in eating as needed by clients.

(b) The licensing agency shall have the authority to require the licensee to provide written information, including menus, regarding the food purchased and used over a given period when it is necessary to determine if the licensee is in compliance with the food service requirements in the regulations in this Division.

(1) The licensing agency shall specify in writing the written information required from the licensee.

(c) A client in care for less than eight hours shall be provided meals and snacks so that no more than three and a half hours elapses between food service.

(d) A client in care for a period of eight hours or longer, shall be provided a midmorning snack, lunch and a midafternoon snack.

(e) A licensee who accepts a client at 7:00 a.m. or earlier shall include a provision in the admission agreement of that client, stating whether or not breakfast will be provided by the day program.

(f) Clients shall be permitted to bring their own food to the day program.

(1) If the client brings all or part of his/her own food to the day program, the licensee shall ensure that the food service requirements specified in Sections 82076(c) and (d) are met.

82076 FOOD SERVICE (Continued) **82076**

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82077 PERSONAL SERVICES **82077**

(a) Information and referral services shall be available to the clients and their families.

(b) The adult day program shall establish linkages with other community agencies and instructions to staff to coordinate services.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82077.2 CARE FOR CLIENTS WHO RELY UPON OTHERS TO PERFORM ALL ACTIVITIES OF DAILY LIVING **82077.2**

(a) A licensee may accept or retain a client who relies upon others to perform all activities of daily living for them.

(b) Prior to accepting such a client into care, the licensee shall complete the following:

(1) An approved plan of operation demonstrating the licensee's ability to care for these clients as specified in Section 82022(d).

(2) A Needs and Services Plan, as required by the program-specific regulations, that includes all of the following:

(A) A plan to monitor the client's skin condition, including:

1. Specific guidelines for turning the client (time, method, acceptable positions).

2. Skin breakdown.

3. Objective symptoms, observable by a lay person, indicating when a licensed professional must be contacted.

(B) A method for feeding the client and providing him/her with hydration.

(C) A method for determining the client's needs.

82077.2 CARE FOR CLIENTS WHO RELY UPON OTHERS TO PERFORM ALL ACTIVITIES OF DAILY LIVING (Continued) **82077.2**

(D) A method for communicating with the client.

(E) A list of emergency contacts and a list of readily observable conditions that indicate when emergency intervention is necessary.

(F) A list of persons to contact in the event of nonemergency client distress or discomfort and a list of readily observable conditions that indicate when the licensee is to contact those persons.

(G) A description of the client-specific training that program staff will receive.

1. The training may be provided by the client's health care provider (physician or nurse), the client's physical or mental health therapist, social worker, or placement worker, within their individual scopes of practice.

2. The training must include the client's needs and objective symptoms that indicate when the licensee is to obtain health care or other type of assistance.

3. The training may be provided by the client's primary caregiver, including the client's family or the administrator of the client's residential or health facility providing the primary caregiver has received training as specified in Sections 82077.2(b)(2)(G)1. and 2.

(H) The licensee's agreement to document significant occurrences that result in changes in the client's physical, mental, and/or functional capabilities. This documentation must be retained in the client's record and be readily available for review by the client's health care providers and the Department.

(c) The Department may require any additional information it considers necessary to ensure the safety of clients.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1507, Health and Safety Code.

82077.4 CARE FOR CLIENTS WITH INCONTINENCE 82077.4

(a) A licensee may accept or retain a client who has bowel and/or bladder incontinence.

(b) If a licensee accepts or retains a client who has bowel and/or bladder incontinence, the licensee is responsible for all of the following:

(1) Ensuring that incontinent care products appropriate to the needs of a client are used whenever they are needed.

(2) Ensuring that a client who can benefit from scheduled toileting is assisted or reminded to go to the bathroom at regular intervals rather than being diapered.

(3) Assisting a client with self-care.

(4) Ensuring that a client is kept clean and dry, and that the day program remains free of odors.

(5) Ensuring that, where prescribed, bowel and/or bladder programs are designed by a licensed professional or designee. The person designing the program must have training and experience in care of persons with bowel and/or bladder dysfunction and development of retraining programs for establishing normal patterns of continence.

(A) The licensee shall ensure that a client is assisted with a structured bowel and/or bladder retraining program if one has been designed.

(B) The licensee shall ensure that staff responsible for implementing the program receive training from the licensed professional or his/her designee who designed the program.

(C) The licensee obtains from the licensed professional or his/her designee written instructions to staff outlining the procedures and shall document the names of staff who received the training.

(D) The licensee shall ensure that the licensed professional or his/her designee evaluates the effectiveness of the program and staff as the licensed professional or designee deems appropriate, but at least annually.

(6) Ensuring that the condition of the skin exposed to urine and stool is evaluated regularly to ensure that skin breakdown is not occurring.

(7) Ensuring privacy when care is provided.

(8) Providing needed incontinence supplies when the client or a third party is unable to do so.

82077.4 CARE FOR CLIENTS WITH INCONTINENCE (Continued) **82077.4**

(9) Ensuring that fluids are not withheld to control incontinence.

(10) Ensuring that a client is not catheterized to control incontinence for the convenience of the licensee or program staff.

(11) The licensee shall obtain a change of clothing from a client in case clothing becomes wet or soiled.

(12) After each incontinent elimination, washcloths, towels, soiled bedding, clothing, and any cloths used for cleansing shall be placed in a sealed container and shall be laundered and sanitized.

(13) Disposable diapers, panty shield products, and disposables used for cleansing shall be disposed of in a sealed bag.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, and 1507, Health and Safety Code.

82077.5 CARE FOR CLIENTS WITH CONTRACTURES **82077.5**

(a) A licensee may accept or retain a client who has contractures.

(b) If a licensee accepts or retains a client who has contractures, the licensee is responsible for all of the following:

(1) Monitoring the client's ongoing ability to care for his/her contractures in accordance with the physician's instructions.

(2) Ensuring that care is provided by a licensed professional or trained program staff when the client is unable to provide self-care.

(A) The licensee shall ensure that program staff responsible for assisting with range of motion exercises or other exercise(s) prescribed by the physician or therapist receive supervision and training from a licensed professional.

(B) The licensee obtains from the licensed professional written documentation outlining the procedures for the exercises and the names of program staff who received the training.

82077.5 CARE FOR CLIENTS WITH CONTRACTURES (Continued) **82077.5**

(C) The licensee shall ensure that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, and 1507, Health and Safety Code.

82078 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION 82078

The licensee shall provide care and supervision necessary to meet the client's needs and all services specified in the admission agreement.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82079 PLANNED ACTIVITIES 82079

(a) The licensee shall provide opportunities for, and encourage participation in activities, including but not limited to:

(1) Activities that require group interaction.

(2) Daily living skills, including grooming, personal hygiene, social skills, cooking and simple homemaking tasks, and opportunities to learn about the community.

(3) Physical activities, including, but not limited to, games, sports and exercise unless contraindicated by the medical assessment specified in Sections 82069(b) and 82068.2, Needs and Services Plan.

(4) Leisure time to pursue personal interests.

(5) Education through special instruction and projects.

(b) The licensee shall provide the equipment and supplies necessary to meet the requirements of the planned activity program.

(1) Equipment shall be safe and sanitary.

(2) A variety of games, reading material, crafts and other materials shall be provided.

(c) Provision shall be made for client rest periods which are required based on the medical assessment specified in Section 82069 or as desired by the client.

82079 PLANNED ACTIVITIES (Continued) **82079**

(d) Activities shall be encouraged through provision of space, equipment and supplies as specified in Sections 82079(b), 82087.2, Outdoor Activity Space, and 82087.3, Indoor Activity Space.

(e) Activities shall be designed to meet the client's specific needs and interests, as determined by the Needs and Services Plan, and shall be consistent with the program's plan of operation.

(1) Activities shall be planned by the administrator or the direct care staff allowing input from clients, family, careproviders, or volunteers.

(2) A written plan of activities shall be consistent with the program goals. The plan is an on-going process, and shall be reviewed and revised as necessary to assure that the program and clients' goals are being met.

(3) All program activities shall be supervised by direct care staff.

(4) A schedule of activities shall be made available upon request.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1531, Health and Safety Code.

Article 7. Physical Environment

82086 ALTERATIONS TO EXISTING BUILDINGS OR NEW FACILITIES 82086

(a) Prior to construction or alterations, all licensees shall notify the licensing agency of the proposed change.

(b) The licensing agency shall have the authority to require that the licensee have a building inspection by a local building inspector if the agency suspects that a hazard to the clients' health and safety exists.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82087 BUILDINGS AND GROUNDS 82087

(a) The program site shall be clean, safe, sanitary and in good repair at all times for the safety and well-being of clients, employees and visitors.

(1) The licensee shall take measures to keep the site free of flies and other insects.

(2) The licensee shall provide for the safe disposal of water and other chemicals used for cleaning purposes.

(3) Disinfectants, cleaning solutions, poisons, and other items which could pose a danger if readily available to clients shall be stored where inaccessible to clients.

(A) Storage areas for poisons shall be locked.

(b) All clients shall be protected against hazards within the program site through provision of the following:

(1) Protective devices including, but not limited to, nonslip material on rugs.

(c) All outdoor and indoor passageways, stairways, inclines, ramps, open porches, and other areas of potential hazard shall be kept free of obstruction.

(d) The licensee shall provide a separate room or area for use by ill clients.

(e) General permanent or portable storage space shall be available for the storage of equipment and supplies.

(1) Program equipment and supplies shall be stored in this space and shall not be stored in space used to meet other requirements as specified in Sections 82087(h) and (i), 82087.4, Storage Space, and 82087.3, Indoor Activity Space.

82087 BUILDINGS AND GROUNDS (Continued) **82087**

(f) Licensees serving clients who have physical handicaps, mental disorders, or developmental disabilities shall ensure the inaccessibility of pools, including swimming pools (in-ground and above-ground), fixed-in-place wading pools, hot tubs, spas, fish ponds or similar bodies of water through a pool cover or by surrounding the pool with a fence.

(1) Fences shall meet the requirements of Health and Safety Code Section 115923.

(A) If licensed prior to June 1, 1995, program sites with existing pool fencing shall be exempt from the fence requirements until the fence is replaced or structurally altered. If the licensee replaces or alters the fence, it shall meet the requirements.

HANDBOOK BEGINS HERE

(B) Health and Safety Code Section 115923 provides:

"An enclosure shall have all of the following characteristics: (a) Any access gates through the enclosure open away from the swimming pool, and are self-closing with a self-latching device placed no lower than 60 inches above the ground. (b) A minimum height of 60 inches. (c) A maximum vertical clearance from the ground to the bottom of the enclosure of two inches. (d) Gaps or voids, if any, do not allow passage of a sphere equal to or greater than four inches in diameter. (e) An outside surface free of protrusions, cavities, or other physical characteristics that would serve as handholds or footholds that could enable a child below the age of five years to climb over."

HANDBOOK ENDS HERE

(2) Fence gates shall swing away from the pool, self-close and have a self-latching device located no more than six inches from the top of the gate.

(3) Pool covers shall be strong enough to completely support the weight of an adult and shall be placed on the pool and locked while the pool is not in use.

(4) Where an above-ground pool structure is used as the fence or where the fence is mounted on top of the pool structure, the pool shall be made inaccessible when not in use by removing or making the ladder inaccessible or erecting a barricade to prevent access to decking. If a barricade is used, the barricade shall meet the requirements of Section 82087(f)(1).

(g) All in-ground pools, and above-ground pools which cannot be emptied after each use shall have an operative pump and filtering system.

82087 BUILDINGS AND GROUNDS (Continued) **82087**

(h) There shall be office space available at the program site for private interviews conducted by staff.

(i) Rooms or areas for rest periods shall be provided.

(j) Sufficient parking area shall be available for safe arrival and departure of participants clients.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82087.2 OUTDOOR ACTIVITY SPACE **82087.2**

(a) If outdoor activity space is provided, it shall:

(1) Be free of hazards.

(2) Provide protection from traffic.

(2) Provide a shaded rest area for the clients.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82087.3 INDOOR ACTIVITY SPACE **82087.3**

(a) The licensee shall ensure safe and healthy indoor activity space for clients.

(b) A space shall be provided for clients not actively participating in the planned activity programs.

(1) This area can be a library, study room, or place adjacent to the activity.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82087.4 STORAGE SPACE 82087.4

(a) There shall be space available for storage of clients' personal belongings.

(b) There shall be space available for storage of equipment and supplies necessary to implement the planned activity program.

(c) There shall be space available for storage of staff members' personal belongings.

(d) There shall be space available on the premises for storage of the program records as specified in Sections 82066, Personnel Records, 82068(e), 82068.2, Needs and Services Plan, 82068.3, Modifications to Needs and Services Plan, 82070, Client Records, and 82071, Register of Clients.

(e) Storage space may be either permanent or portable.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82087.5 DELAYED EGRESS DEVICES 82087.5

(a) To utilize the option of delayed egress devices on exterior doors or perimeter fence gates, the licensee must meet the following initial and continuing requirements:

(1) The licensee shall notify the licensing agency immediately after determining the date that the device will be installed.

(2) The licensee shall ensure that the fire clearance includes approval of delayed egress devices.

(3) Fire and earthquake drills shall be conducted at least once every three months on each shift and shall include, at a minimum, all direct care staff.

(4) Without violating Section 82072(a)(6), program staff shall attempt to redirect a client who attempts to leave the program.

(5) Clients who continue to indicate a desire to leave the program site following redirection shall be permitted to do so.

(6) For each incident in which a client wanders away from the program site unsupervised, the licensee shall report the incident to the licensing agency, the client's conservator and/or other responsible person, if any, and to any family member who has requested notification. The report shall be made by telephone no later than the next working day and in writing within seven calendar days.

(7) Delayed egress devices shall not substitute for trained staff in sufficient numbers to meet the care and supervision needs of all clients and to escort clients who leave the program.

82087.5 DELAYED EGRESS DEVICES (Continued) **82087.5**

NOTE: Authority cited: Sections 1530, 1530.1, and 1531.2(a), Health and Safety Code. Reference: Sections 1501, 1502, 1531, and 1531.2(c), Health and Safety Code.

82088 FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES 82088

(a) A comfortable temperature for clients shall be maintained at all times.

(1) The licensee shall maintain the temperature in rooms that clients occupy between a minimum of 68 degrees F (20 degrees C) and a maximum of 85 degrees F (30 degrees C).

(A) In areas of extreme heat, the maximum shall be 30 degrees F (16.6 degrees C) less than the outside temperature.

(b) All window screens shall be in good repair and be free of insects, dirt and other debris.

(c) Fireplaces and open-faced heaters shall be made inaccessible to clients to ensure protection of the clients' safety.

(1) The use of a fireplace screen or similar barrier will meet this requirement.

(d) The licensee shall provide lamps or lights as necessary in all rooms and other areas to ensure the comfort and safety of all persons in the day program.

(e) Faucets used by clients for personal care shall deliver hot water.

(1) Hot water temperature controls shall be maintained to automatically regulate temperature of hot water delivered to plumbing fixtures to attain a hot water temperature of not less than 105 degrees F (40.5 degrees C) and not more than 120 degrees F (48.8 degrees C).

(2) Taps delivering water at 125 degrees F (51.6 degrees C) or above shall be prominently identified by warning signs.

(3) All toilets, hand washing and bathing facilities shall be maintained in safe and sanitary operating condition. Additional equipment, aids, and/or conveniences shall be provided in day programs accommodating physically handicapped clients who need such items.

(f) Solid waste shall be stored, located and disposed of in a manner that will not transmit communicable diseases or odors, create a nuisance, or provide a breeding place or food source for insects or rodents.

(1) All containers, including movable bins, used for storage of solid wastes shall have tight-fitting covers kept on the containers; shall be in good repair, shall be leakproof and rodent-proof.

82088 FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES 82088
(Continued)

(2) Solid waste containers, including movable bins, receiving putrescible waste shall be emptied at least once per week or more often if necessary.

(3) Each movable bin shall provide for suitable access and a drainage device to allow complete cleaning at the storage area.

(g) The licensee shall provide linens of various kinds necessary to meet the services being offered by the day program.

(h) Based upon the total licensed capacity, one handwashing facility, and one toilet providing individual privacy, shall be maintained for every 15 clients, or fraction thereof.

(1) Adult day programs licensed prior to July 1989 shall be permitted to continue operations with the toilet facilities previously approved.

(i) Use of common towels and washcloths shall be prohibited.

(j) If beds are provided for resting, they shall be arranged to allow for unobstructed passage of personnel and of clients with assistive devices including, but not limited to, wheelchairs and walkers.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

82088.2 DRINKING WATER 82088.2

(a) Drinking water from a noncontaminating fixture or container shall be readily available both indoors and outdoors.

(1) Clients shall be permitted to drink water whenever they wish.

(2) Bottled water or portable containers shall be permitted provided that:

(A) The water and containers are kept free of contaminations.

(B) Bottled water containers are secured to prevent tipping and breaking.

(3) All water used for drinking shall be safe for human consumption.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

Article 8. Incidental Medical Services

82090 HEALTH AND SAFETY SERVICES 82090

(a) Waivers or exceptions will not be granted to accept or retain clients who have health conditions prohibited by Section 82091(a).

(b) The Department may grant an exception allowing acceptance or retention of a client who has a medical or health condition not listed in Section 82092, Restricted Health Conditions, if all of the following requirements are met:

(1) Either the condition is chronic and stable, or it is temporary in nature and is expected to return to a condition normal for that client.

(2) The client must be under the medical care of a licensed professional.

(3) The licensee has developed a plan of care for the client as specified in Sections 82068.2(f) and 82092.2(a).

(4) The client is able to care for all aspects of the condition.

(5) If the client is unable to care for all aspects of the condition, a licensed professional, or facility staff who receive supervision and training from a licensed professional, may assist the client in the care of the condition.

(A) Training shall include hands-on instruction in both general procedures and client-specific procedures.

(B) The licensee obtains from the licensed professional written documentation outlining the procedures and the names of facility staff who received the training.

(C) The licensee ensures that the licensed professional reviews staff performance as the licensed professional deems necessary, but at least once a year.

(6) The licensee agrees in writing to comply with all aspects of the client's care plans.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.

82091 PROHIBITED HEALTH CONDITIONS 82091

(a) Clients who require health services or have a health condition including, but not limited to, those specified below shall not be admitted or retained.

(1) Naso-gastric and naso-duodenal tubes.

(2) Active, communicable TB.

(3) Conditions that require 24-hour nursing care and/or monitoring.

(4) Stage 3 and 4 pressure sores (dermal ulcers).

(5) Any other condition or care requirements which would require the day program to be licensed as a health facility as defined by Health and Safety Code Section 1250.

(b) Waivers and exceptions will not be granted to accept or retain clients who have health conditions prohibited by Section 82091(a).

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1531, Health and Safety Code.`

82092 RESTRICTED HEALTH CONDITIONS 82092

(a) Adult day programs may accept or retain clients who have the conditions listed in Section 82092(b) only if all requirements of Article 8, Incidental Medical Services, are met.

(b) Care for the following health conditions must be provided only as specified in Sections 82092.1 through 82092.11.

(1) Use of inhalation-assistive devices as specified in Section 82092.3.

(2) Colostomy/ileostomies as specified in Section 82092.4.

(3) Requirement for fecal impaction removal, enemas, and suppositories, only as specified in Section 82092.5.

(4) Use of catheters as specified in Section 82092.6.

(5) Staph or other serious, communicable infections as specified in Section 82092.7.

82092 RESTRICTED HEALTH CONDITIONS (Continued) **82092**

(6) Insulin-dependent Diabetes as specified in Section 82092.8.

(7) Stage 1 and 2 pressure sores (dermal ulcers) as specified in Section 82092.9.

(8) Wounds as specified in Section 82092.9.

(9) Gastrostomies as specified in Section 82092.10.

(10) Tracheostomies as specified in Section 82092.11.

(c) Conditions not listed in Section 82092(b) may be allowed if the requirements of Section 82090(b) are met.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, and 1507, Health and Safety Code.

82092.1 GENERAL REQUIREMENTS FOR RESTRICTED HEALTH CONDITIONS **82092.1**

(a) A client with a restricted health condition specified in Section 82092 may be admitted or retained if all of the following requirements are met:

(1) The licensee is willing to provide the needed care.

(2) Care is provided as specified in this article.

(3) The client's medical condition is chronic and stable, or is temporary in nature and expected to return to a condition normal for that client.

(4) The client must be under the medical care of a licensed professional.

(5) Prior to admission of a client with a restricted health condition specified in Section 82092, the licensee shall:

(A) Communicate with all other persons who provide care to that client to ensure consistency of care for the medical condition.

82092.1 GENERAL REQUIREMENTS FOR RESTRICTED HEALTH CONDITIONS (Continued) **82092.1**

(B) Ensure that program staff who will participate in meeting the client's specialized care needs complete training provided by a licensed professional sufficient to meet those needs.

1. Training shall include hands-on instruction in both general procedures and client-specific procedures.

(6) All new program staff who will participate in meeting the client's specialized care needs shall complete the training prior to providing services to the client.

(7) The licensee shall ensure that program staff receive instruction in recognizing objective symptoms observable by a lay person, and responding to that client's health problems, including whom to contact. The instruction shall be from the client's physician or other licensed professional.

(8) The licensee shall monitor the client's ability to provide self-care for the restricted health condition, document any change in that ability, and inform the persons identified in Section 82092.2(a)(1) of that change.

(9) Should the condition of the client change, all staff providing care and services shall complete any additional training required to meet the client's new needs, as determined by the client's physician or a licensed professional designated by the physician.

(10) If the licensed professional delegates routine care, the following requirements must be met for health conditions specified in Section 82092.3, 82092.4 and 82092.6 through 82092.11:

(A) The licensee obtains written documentation from the licensed professional outlining the procedures and the names of the program staff who have been trained in those procedures.

(B) The licensee ensures that the licensed professional reviews staff performance as often as necessary, but at least annually.

(11) All training shall be documented in the personnel files.

(12) The licensee shall ensure that the client's health-related service needs are met and shall follow the approved plan for each client.

(13) The licensee shall document any significant occurrences that result in changes in the client's physical, mental and/or functional capabilities and report these changes to the client's physician and authorized representative.

82092.1 GENERAL REQUIREMENTS FOR RESTRICTED HEALTH CONDITIONS (Continued) **82092.1**

(14) The licensee shall demonstrate compliance with the restricted health condition care plan by maintaining all relevant documentation at the program site.

(15) The licensee shall report any substantive deviation from the care plan to the client's authorized representative.

(b) The duty established by this section does not infringe on a client's right to receive or reject medical care or services, as allowed in Section 82072, Personal Rights.

(1) If a client refuses medical services specified in the care plan, the licensee shall immediately notify all persons identified in Section 82092.2(a)(1) and shall participate in developing a plan for meeting the client's needs.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, 1507, and 1530, Health and Safety Code.

82092.2 RESTRICTED HEALTH CONDITION CARE PLAN **82092.2**

(a) The licensee who chooses to care for a client with a restricted health condition may use a copy of the Restricted Health Care Plan from the client's residential setting provided that the information required in Section 82092.2(a)(4), specific to the day program, is added. If the client does not have a Restricted Health Condition Care Plan, the licensee must develop a plan. The plan must include all of the following:

(1) Documentation that the client and the client's authorized representative, if any, the client's physician or a licensed professional designated by the physician, and the placement agency, if any, participated in the development of the plan.

(2) Documentation by the client's physician or a licensed professional designated by the physician, of the following:

(A) Stability of the medical condition.

(B) Medical conditions that require services or procedures.

(C) Specific services needed.

(D) Client's ability to perform the procedures.

(E) The client does not require 24-hour nursing care and/or monitoring.

82092.2 RESTRICTED HEALTH CONDITION CARE PLAN 82092.2
(Continued)

(3) Identification of a licensed professional who will perform procedures if the client needs medical assistance.

(4) Identification of the person(s) who will perform incidental medical assistance that does not require a licensed professional.

(5) Name and telephone number of emergency medical contacts.

(6) A date specified by the client's physician or designee, who is also a licensed professional, when the plan must be reviewed by all parties identified in Section 82092.2(a)(1). At a minimum, the plan shall be reassessed every 12 months, as required by Section 1507(c)(2)(B) of the Health and Safety Code.

(7) A signed statement from the client's physician that the plan meets medical scope of practice requirements.

(8) For clients of a placement agency, a signed statement from a representative of the placement agency that he/she has reviewed and approved the plan and that the placement agency will monitor implementation of the plan.

(9) The Restricted Health Condition Care Plan shall neither require nor recommend that the licensee or any program personnel or any other person providing care, other than a physician or licensed professional, implement any health care procedure that may legally be provided only by a physician or licensed professional.

NOTE: Authority cited: Sections 1530, 1507, and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, and 1507, Health and Safety Code.

82092.3 INHALATION-ASSISTIVE DEVICES 82092.3

(a) A licensee may accept or retain a client who requires the use of an inhalation-assistive device, as defined in Section 82001(i), if all of the following conditions are met:

(1) The licensee is in compliance with Section 82092.1, General Requirements for Restricted Health Conditions.

(2) The licensee monitors the client's ongoing ability to operate and care for the device in accordance with the physician's instructions.

(3) The licensee ensures that either:

82092.3 INHALATION-ASSISTIVE DEVICES (Continued) **82092.3**

(A) The device is operated and cared for by a licensed professional when the client is unable to operate the device, or determine his/her own need; or

(B) The device can legally be operated by an unlicensed person and is cared for by program staff who receive training from a licensed professional as required by Section 82092.1(a)(5)(B).

(4) The licensee ensures that:

(A) The device is functional; and

(B) The device is removed from the day program when no longer prescribed for use by the client.

(5) The licensee ensures that the room containing the device is large enough both to accommodate it and to allow easy passage of clients and staff.

(6) The licensee ensures that program staff have the knowledge of and ability to care for the device.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, and 1507, Health and Safety Code.

82092.4 COLOSTOMY/ILEOSTOMY **82092.4**

(a) A licensee may accept or retain a client who has a colostomy or ileostomy if all of the following conditions are met:

(1) The client is mentally and physically capable of providing all routine care for his/her ostomy, and the physician has documented that the ostomy is completely healed.

(2) A licensed professional provides assistance in the care of the ostomy.

(3) The licensee is in compliance with Section 82092.1, General Requirements for Restricted Health Conditions.

(4) The licensee monitors the client's ongoing ability to provide care for his/her ostomy in accordance with the physician's instructions.

82092.4 COLOSTOMY/ILEOSTOMY (Continued) **82092.4**

(5) The licensee ensures that:

(A) A licensed professional provides ostomy care when the client is unable to provide self-care; and

(B) The ostomy bag and adhesive may be changed by program staff who receive training from the licensed professional as required by Section 82092.1(a)(5)(B).

(6) The licensee ensures that used bags are discarded as specified in Section 82088(f).

(7) The licensee ensures privacy when ostomy care is provided.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, and 1507, Health and Safety Code.

82092.5 FECAL IMPACTION REMOVAL, ENEMAS, OR SUPPOSITORIES 82092.5

(a) A licensee may accept or retain a client who requires manual fecal impaction removal, enemas, or use of suppositories if all of the following conditions are met:

(1) The licensee is in compliance with Section 82092.1, General Requirements for Restricted Health Conditions.

(2) The licensee monitors the client's ongoing ability to provide his/her own routine care in accordance with the physician's instructions.

(3) The licensee ensures that a licensed professional administers the fecal impaction removal, the enemas, or suppositories when the client is unable to do so for himself/herself.

(4) The licensee ensures that a licensed professional performs manual fecal impaction removal whenever it is necessary.

(5) The licensee ensures privacy when care is being provided.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, and 1507, Health and Safety Code.

82092.6 INDWELLING URINARY CATHETER/CATHETER PROCEDURE 82092.6

(a) A licensee may accept or retain a client who requires an indwelling catheter if all of the following conditions are met:

(1) The client is physically and mentally capable of caring for all aspects of the condition except insertion, removal and irrigation.

(A) Irrigation shall only be performed by a licensed professional in accordance with the physician's orders.

(B) Insertion and removal shall only be performed by a licensed professional.

(2) The licensee is in compliance with Section 82092.1, General Requirements for Restricted Health Conditions.

(3) The licensee monitors the client's ongoing ability to care for his/her catheter in accordance with the physician's instructions.

(4) The licensee ensures that catheter care is provided by a licensed professional when the client is unable to provide self-care. The catheter bag may be emptied by program staff who receive training from the licensed professional as required by Section 82092.1(a)(5)(B).

(5) The licensee ensures that insertion, removal and irrigation of the catheter, or any required catheter care other than that specified in Section 82092.6(a)(4), are performed by a licensed professional.

(6) The licensee ensures that waste materials are disposed of as specified in Section 82088(f).

(7) The licensee ensures privacy when care is provided.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, and 1507, Health and Safety Code.

82092.7 STAPH OR OTHER SERIOUS, COMMUNICABLE INFECTIONS 82092.7

(a) A licensee may accept or retain a client who has a staph or other serious communicable infection if all of the following conditions are met:

(1) The licensee is in compliance with Section 82092.1, General Requirements for Restricted Health Conditions.

(2) The licensee has obtained a statement from the client's physician that the infection is not a risk to other clients.

82092.7 STAPH OR OTHER SERIOUS, COMMUNICABLE INFECTIONS 82092.7
(Continued)

(3) The licensee monitors the client's ongoing ability to care for his/her own condition by complying with the instructions of the licensed professional who is managing the client's care.

(A) The licensed professional may delegate certain aspects of the care providing the program staff responsible for providing the care receive training from a licensed professional as required by Section 82092.1(a)(5)(B) prior to providing care.

(4) The licensee ensures that a licensed professional assesses the infection and evaluates the treatment at intervals set by the physician or a licensed professional designated by the physician.

(5) The licensee ensures that prior to providing care, staff are trained in and follow Universal Precautions and any other procedures recommended by the licensed professional for the protection of the client who has the infection and other clients and staff.

(6) The licensee ensures that all aspects of care performed in the program by the licensed professional and program staff are documented in the client's file.

NOTE: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, and 1507, Health and Safety Code.

82092.8 DIABETES 82092.8

(a) A licensee may accept or retain a client who has diabetes if all of the following conditions are met:

(1) The licensee is in compliance with Section 82092.1, General Requirements for Restricted Health Conditions.

(2) The client is mentally and physically capable of administering his/her own medication and performing his/her own glucose testing if applicable or a licensed professional administers the tests and injections.

(A) The licensed professional may delegate to trained program staff glucose testing provided all of the following conditions are met:

1. The blood glucose monitoring test is performed with a blood glucose monitoring instrument that has been approved by the federal Food and Drug Administration for over-the-counter sale.

82092.8 DIABETES (Continued) **82092.8**

2. The licensee ensures that program staff responsible for glucose testing receive training from a licensed professional as required by Section 82092.1(a)(5)(B).

3. Program staff comply with the instructions of the licensed professional regarding the performance of the test and the operation of the blood glucose monitoring instrument.

4. Program staff immediately notify the client's physician if the results are not within the normal range for the client.

5. The licensee ensures that the results of each blood glucose test performed by program staff are documented and maintained in the client's record.

(3) The licensee ensures that sufficient amounts of medicines, testing equipment, syringes, needles, and other supplies are maintained and stored at the program site.

(4) The licensee ensures that injections are administered immediately after a syringe is filled unless the client is using prefilled syringes prepared by a registered nurse, pharmacist or drug manufacturer.

(5) The licensee ensures that syringes and needles are disposed of in accordance with Title 8, California Code of Regulations, Section 5193.

HANDBOOK BEGINS HERE

(A) Title 8, California Code of Regulations, Section 5193(d)(23) is paraphrased in pertinent part:

Contaminated needles and other contaminated sharps shall not be bent, recapped or removed. Shearing or breaking of contaminated needles is prohibited.

Immediately or as soon as possible after use, contaminated reusable sharps shall be placed in appropriate containers until properly reprocessed. These containers shall be:

1. Puncture resistant;

2. Labeled in accordance with this section; and

3. Leakproof on the sides and bottom.

HANDBOOK ENDS HERE

82092.8 DIABETES (Continued) **82092.8**

(6) The licensee provides a modified diet as prescribed by a client's physician, as specified in Section 82076(a)(5). Any substitutions shall be made by the program dietitian or in consultation with a registered dietician or the client's physician or medical provider.

(A) Where food is provided, the licensee shall provide a modified diet as specified by the client's physician or family or primary caregiver.

(7) The licensee ensures that all program staff who provide care receive training in recognizing the signs and symptoms of hyperglycemia and hypoglycemia and in taking appropriate action for client safety.

(b) For clients who provide self-care, the licensee shall:

(1) Monitor the client's ongoing ability to perform his/her glucose testing and administer his/her medication in accordance with the physician's instructions; and

(2) Assist clients with self-administered medication, as specified in Section 82075, Health Related Services.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, and 1507, Health and Safety Code.

82092.9 WOUNDS **82092.9**

(a) A licensee may accept or retain a client who has a serious wound if all of the following conditions are met:

(1) The licensee is in compliance with Section 82092.1, General Requirements for Restricted Health Conditions.

(2) The wound is either an unhealed, surgically closed incision or wound, or determined by the physician or a licensed professional designated by the physician to be a Stage 1 or 2 pressure sore (dermal ulcer) and is expected by the physician or designated professional to completely heal.

(3) The licensee ensures that a licensed professional provides the wound care in accordance with the physician's instructions.

(A) The licensed professional may delegate simple dressing to program staff who receive training from a licensed professional as required by Section 82092.1(a)(5)(B).

82092.9 WOUNDS (Continued) **82092.9**

(4) The licensee ensures that a licensed professional assesses the wound at intervals set by the physician, or a licensed professional designated by the physician, to evaluate treatment and progress toward healing.

(5) The licensee ensures that all aspects of care performed by the licensed professional and program staff are documented in the client's file.

(b) Nonserious wounds, which include, but are not limited to, minor cuts, punctures, lacerations, abrasions, and first-degree burns are not affected by this section.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, and 1507, Health and Safety Code.

82092.10 GASTROSTOMY FEEDING, HYDRATION, AND CARE 82092.10

(a) A licensee may accept or retain a client who requires gastrostomy care, feeding, and/or hydration if all of the following conditions are met:

(1) The licensee is in compliance with Section 82092.1, General Requirements for Restricted Health Conditions.

(2) The physician has documented that the gastrostomy is completely healed.

(3) The licensee monitors the client's ongoing ability to provide all routine feeding, hydration and care for his/her gastrostomy in accordance with the physician's instructions.

(4) The licensee ensures that gastrostomy feeding, hydration, medication administration through the gastrostomy, and stoma cleaning are provided by a licensed professional when the client is unable to provide his/her own feeding, hydration and care.

(A) The licensed professional may delegate the following tasks to program staff who receive training from a licensed professional as specified in Section 82092.1(a)(5)(B):

1. Gastrostomy feeding, hydration, and stoma cleaning.

2. For routine medications, trained staff may add medication through the gastrostomy per physician's or nurse practitioner's orders.

82092.10 GASTROSTOMY FEEDING, HYDRATION, AND CARE **82092.10**
(Continued)

3. For PRN medications, trained staff may add medications through the gastrostomy in accordance with Sections 82075(b) through (d).

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, and 1507, Health and Safety Code.

82092.11 TRACHEOSTOMIES **82092.11**

(a) A licensee may accept or retain a client who has a tracheostomy if all of the following conditions are met:

(1) The licensee is in compliance with Section 82092.1, General Requirements for Restricted Health Conditions.

(2) The client is mentally and physically capable of providing all routine care for his/her tracheostomy and the physician has documented that the tracheostomy is completely healed, or assistance in the care of the tracheostomy is provided by a licensed professional.

(A) The licensed professional may delegate routine care for the tracheostomy to program staff who receive supervision and training from the licensed professional as specified in Section 82092.1(a)(5)(B).

1. Suctioning shall not be delegated to facility staff.

(3) The licensee monitors the client's ongoing ability to provide all routine care for his/her tracheostomy in accordance with the physician's instructions.

(4) The licensee ensures that tracheostomy care is provided by a licensed professional when the client is unable to provide self-care.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1502, and 1507, Health and Safety Code.

82093 DEPARTMENT REVIEW OF HEALTH-RELATED CONDITIONS 82093

(a) The Department may review actual or suspected health-related conditions, including those specified in Section 82092, Restricted Health Conditions, to determine if a client is appropriately placed in the day program and if the client's health-related needs are being met. The Department will inform the licensee that the client's health-related condition requires review and will specify documentation that the licensee shall submit to the Department.

(1) Documentation includes, but is not limited to, the following:

(A) Restricted Health Condition Care Plan, if applicable.

(B) Needs and Services Plan.

(C) Copies of prescriptions for medical services and/or medical equipment.

(2) The licensee shall submit the documentation to the Department within 10 working days.

(b) If the Department determines that the client has a restricted health condition, as specified in Section 82092, the licensee shall provide care to the client in accordance with conditions specified in Sections 82092.1(a)(1)-(15) and applicable requirements in Sections 82092.3 through 82092.11. If the licensee is not able to provide adequate care, the client shall be relocated.

(c) This section does not entitle the licensee to a full evidentiary hearing, state hearing, or any other administrative review beyond that set forth in this section.

NOTE: Authority cited: Sections 1530 and 1530.1, Health and Safety Code. Reference: Sections 1501, 1507, and 1531, Health and Safety Code.