



JOHN A. WAGNER  
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
744 P Street • Sacramento, CA 95814 • [www.cdss.ca.gov](http://www.cdss.ca.gov)



ARNOLD SCHWARZENEGGER  
GOVERNOR

July 20, 2009

Regulation Package #0509-05

CDSS MANUAL LETTER NO. CCL-09-01

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22,  
DIVISION 6, CHAPTER 8, RESIDENTIAL CARE FACILITIES FOR THE  
ELDERLY

**Handbook-Only Package #0509-05**

**Effective 7/1/09**

**Section 87355**

This manual letter has been posted on the Office of Regulations Development website at <http://www.dss.cahwnet.gov/ord/PG646.htm>.

This manual letter contains updates to the handbook section which includes pertinent statutory language of Health and Safety Code Section 1569.17 for ease of reference.

Since this is a Handbook-Only package to update statutory language, a public hearing was not required.

**FILING INSTRUCTIONS**

**Revisions to all manuals are indicated by a vertical line in the left margin.** The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-08-08. The latest prior manual letter containing Residential Care Facilities for the Elderly regulation changes was Manual Letter No. CCL-08-01.

Page(s)

Replace(s)

81 through 84

Pages 81 through 86

Attachments

EV

**This page is intentionally left blank**

**Article 6. Background Check****87355 CRIMINAL RECORD CLEARANCE****87355**

- (a) The Department shall conduct a criminal record review of all individuals specified in Health and Safety Code section 1569.17 and shall have the authority to approve or deny a facility license, or employment, residence, or presence in the facility, based upon the results of such review.
- (b) Prior to the Department issuing a license, the applicant, administrator and any adults other than a client, residing in the facility shall have a criminal record clearance or exemption.

---

**HANDBOOK BEGINS HERE**

---

Health and Safety Code Section 1569.17 provides in part:

(a)(1) Before issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department 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 subdivision (c) of Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a 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.

(2) The criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(3) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

---

**HANDBOOK CONTINUES**

---

---

---

**HANDBOOK CONTINUES**

---

---

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a state and federal level criminal offender record information search, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1569.50. The department may also suspend the license pending an administrative hearing pursuant to Sections 1569.50 and 1569.51.

(b) In addition to the applicant, the provisions of this section shall apply to criminal convictions of the following persons:

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

(B) Any person, other than a client, residing in the facility. Residents of unlicensed independent senior housing facilities that are located in contiguous buildings on the same property as a residential care facility for the elderly shall be exempt from these requirements.

(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. A certified nurse assistant and certified home health aide who will be providing client assistance and who falls under this exemption shall provide one copy of his or her current certification, prior to providing care, to the residential care facility for the elderly. The facility shall maintain the copy of the certification on file as long as the care is being provided by the certified nurse assistant or certified home health aide at the facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed residential care facility for the elderly pursuant to Section 1569.58.

---

---

**HANDBOOK CONTINUES**

---

---

---

---

**HANDBOOK CONTINUES**

---

---

(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 a similar 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.

(2) The following persons are exempt from requirements applicable under paragraph (1):

(A) A spouse, relative, significant other, or close friend of the client shall be exempt if this person is visiting the client or provides direct care and supervision to that client only.

(B) A volunteer to whom all of the following apply:

(i) The volunteer is at the facility during normal waking hours.

(ii) The volunteer is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption.

(iii) The volunteer spends no more than 16 hours per week at the facility.

(iv) The volunteer does not provide clients with assistance in dressing, grooming, bathing, or personal hygiene.

(v) The volunteer is not left alone with clients in care.

(C) A third-party contractor retained by the facility if the contractor is not left alone with clients in care.

(D) A third-party contractor or other business professional retained by the client and at the facility at the request or by the permission of that client. These individuals may not be left alone with other clients.

(E) Licensed or certified medical professionals are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

---

---

**HANDBOOK CONTINUES**

---

---

---

---

**HANDBOOK CONTINUES**

---

---

(F) Employees of licensed home health agencies and members of licensed hospice interdisciplinary teams who have contact with a resident of a residential care facility at the request of the resident or resident's legal decisionmaker are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(G) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual resident at the request of, or with permission of, the resident, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(H) Any person similar to those described in this subdivision, as defined by the department in regulations.

(I) 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.

---

---

**HANDBOOK ENDS HERE**

---

---

- (c) A licensee or applicant for a license may request a transfer of a criminal record clearance from one state licensed facility to another, or from Trust Line to a state licensed facility by providing the following documents to the Department:
- (1) A signed Criminal Background Clearance Transfer Request, LIC 9182 (Rev. 4/02).
  - (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., LIC 508, Criminal Record Statement [Rev. 1/03] and job description).