

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



Regulation Package # 0409-04

CDSS MANUAL LETTER NO. CCL-10-02

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22,
DIVISION 6, CHAPTER 5, GROUP HOMES

Regulation Package # 0409-04**Effective 3/6/10****Sections 84074, 84087, and 84274**

This manual letter has been posted on the Office of Regulations Development website at <http://www.dss.cahwnet.gov/ord/PG644.htm>.

Currently, only two licensed children's residential facility categories, Group Homes that care for children under the age of six years and Crisis Nurseries prohibit smoking within the facility and on the facility grounds.

A Report of the United States (U.S.) Surgeon General entitled, "The Health Consequences of Involuntary Exposure to Tobacco Smoke" (2006), concluded that "there is no risk-free level of exposure to secondhand smoke." Also, the U.S. Environmental Protection Agency found that each year in the U.S., secondhand smoke exposure is responsible for 150,000 to 300,000 new cases of bronchitis and pneumonia in children aged less than 18 months resulting in 7,500 to 15,000 hospitalizations annually.

Senate Bill 7 (Oropeza), Statutes of 2007 added Health and Safety Code Section 118948 which made it unlawful to smoke a pipe, cigar or cigarette containing tobacco or any other plant material in a motor vehicle whether in motion or at rest in which there is a minor. These regulations implement this statute and make the nonsmoking requirement mandatory for all children's residential facilities' buildings and grounds.

These regulations, promulgated by the Department of Social Services ensure children in small family homes have the right to be accorded safe, healthful and comfortable home accommodations and be free of the risks and toxic exposure of secondhand smoke.

These regulations were considered at the Department public hearing held on August 12, 2009.

FILING INSTRUCTIONS

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-10-01. The latest prior manual letter containing Group Home regulation changes was Manual Letter No. CCL-08-04.

Page(s)

1 and 2
49 through 52
54 and 55
136 and 137

Replace(s)

Pages 1 and 2
Pages 49 through 52
Pages 54 and 55
Pages 136 and 137

Attachments

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TABLE OF CONTENTS**TITLE 22, DIVISION 6****CHAPTER 5 GROUP HOMES****Article 1. General Requirements and Definitions**

	Section
General.....	84000
Definitions	84001
Definitions - Forms	84002

Article 2. Licensing

Posting of License.....	84009
Term Limits for Specialized Group Homes	84010.1
Prohibition of Dual Licensure for Specialized Group Homes	84010.2
False Claims: Ineligibility	84012

Article 3. Application Procedures

Application for License.....	84018
Plan of Operation	84022
Safeguards for Cash Resources, Personal Property, and Valuables.....	84026
Provisional License (Group Home)	84030
Provisional License.....	84030.1
Issuance of a License (Group Home).....	84031
Issuance of a Provisional License (Group Home).....	84031.1
Issuance of a Permanent License (Group Home).....	84031.2
Denial of Initial License.....	84040
Repealed by SDSS Manual Letter No. CCL-89-08	84044
Evaluation Visits	84045

Article 4. Administrative Actions (Reserved)**Article 5. Enforcement Provisions**

Serious Deficiencies.....	84051
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Article 6. Continuing Requirements

Reporting Requirements	84061
Accountability.....	84063
Administrator Qualifications and Duties	84064
Additional Administrator Qualifications and Duties in Specialized Group Homes	84064.1
Administrator Certification Requirements.....	84064.2

TABLE OF CONTENTS (Continued)**Article 6. Continuing Requirements (Cont.)**

	Section
Administrator Recertification Requirements	84064.3
Denial or Revocation of a Certificate	84064.4
Forfeiture of a Certificate.....	84064.5
Personnel Requirements.....	84065
Additional Personnel Requirements for Specialized Group Homes	84065.1
Personnel Duties	84065.2
Staff/Child Ratios.....	84065.5
Additional Staff/Child Ratios for Specialized Group Homes	84065.6
Night Supervision	84065.7
Personnel Records.....	84066
Additional Personnel Records for Specialized Group Homes	84066.1
Intake Procedures.....	84068.1
Needs and Services Plan	84068.2
Modifications to Needs and Services Plan.....	84068.3
Removal and/or Discharge Procedures	84068.4
Immunizations.....	84069.1
Individualized Health Care Plans for Specialized Group Homes	84069.2
Children's Records	84070
Additional Children's Records for Specialized Group Homes.....	84070.1
Personal Rights	84072
Discipline Policies and Procedures	84072.1
Complaint Procedures.....	84072.2
Personal Rights for Children with Special Health Care Needs.....	84072.3
Transportation.....	84074
Health-Related Services.....	84075
Food Service	84076
Personal Services	84077

Article 7. Physical Environment

Responsibility for Providing Care and Supervision.....	84078
Planned Activities	84079
Resident Councils	84080
Building and Grounds.....	84087
Additional Buildings and Grounds Requirements for Specialized Group Homes.....	84087.1
Outdoor Activity Space.....	84087.2
Indoor Activity Space	84087.3
Fixtures, Furniture, Equipment and Supplies.....	84088
Outdoor Activity Equipment.....	84088.3

84072.3 PERSONAL RIGHTS FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS**84072.3**

- (a) Except as specified in this section, Section 80072(a)(8) shall not apply to children with special health care needs.
- (b) A child with special health care needs has the right to be free from any restraining/postural support device imposed for purposes of discipline or convenience, and not required to treat the child's specific medical symptoms.
- (1) Physical restraining devices may be used for the protection of a child with special health care needs during treatment and diagnostic procedures such as, but not limited to, intravenous therapy or catheterization procedures. The restraining device, which shall not have a locking device, shall be applied for no longer than the time required to complete the treatment and shall be applied in conformance with the child's individualized health care plan. The child's individualized health care plan shall include all of the following:
- (A) The specific medical symptom(s) that require use of the restraining device.
- (B) An evaluation of less restrictive therapeutic interventions and the reason(s) for ruling out these other practices as ineffective.
- (C) A written order by the child's physician. The order must specify the duration and circumstances under which the restraining device is to be used.
- (2) Postural support as specified in Sections 80072(a)(8)(A) and (A)1., half-length bed rails, and protective devices as specified in Section 80072(a)(8)(G), may be used if prescribed in the individualized health care plan. The use of a postural support or protective device and the method of application shall be specified in the child's individualized health care plan and approved in writing by the child's physician.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code and Section 1530, Health and Safety Code. Reference: Section 17730, Welfare and Institutions Code.

84074 TRANSPORTATION**84074**

- (a) In addition to Section 80074, the following shall apply:
- (b) The licensee and his/her staff are prohibited from smoking, or permitting any person from smoking a pipe, cigar or cigarette containing tobacco or any other plant in a motor vehicle when minor children are present. This prohibition applies when the motor vehicle is moving or at rest.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1531, and 118948, Health and Safety Code.

84075 HEALTH-RELATED SERVICES**84075**

- (a) In addition to Section 80075, the following shall apply.
- (b) The licensee shall ensure that all prescribed medications are centrally stored, as provided in Section 80075(h)(3).

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1507 and 1531, Health and Safety Code.

84076 FOOD SERVICE**84076**

- (a) In addition to Section 80076, the following shall apply.
- (b) Written menus shall be posted weekly in an area accessible to the staff and children.
- (c) The licensee shall meet the following food supply and storage requirements:
 - (1) Supplies of staple nonperishable foods for a minimum of one week and fresh perishable foods for a minimum of two days shall be maintained on the premises.
 - (2) Freezers shall be large enough to accommodate required perishables and shall be maintained at a temperature of zero degrees F (-17.7 degrees C).
 - (3) Refrigerators shall be large enough to accommodate required perishables and shall maintain a maximum temperature of 45 degrees F (7.2 degrees C).
 - (4) Freezers and refrigerators shall be kept clean, and food storage shall permit the air circulation necessary to maintain the temperatures specified in (2) and (3) above.

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

84077 PERSONAL SERVICES**84077**

- (a) The licensee shall ensure the following:
 - (1) Provision of basic laundry services, including but not limited to washing, drying, and ironing of children's personal clothing.
 - (A) Children shall be permitted to participate in the performance of such services provided that the requirements specified in Section 80065(j) are met.

84077 PERSONAL SERVICES (Continued) 84077

- (2) Provision of an allowance to all children no less frequently than once per month except:
 - (A) If the child in placement is an infant as defined in Section 80001.
 - (B) If the child is unable to manage his/her own money because of age or if the authorized representative determines that the child cannot manage his/her own money.
 - (1) If the authorized representative considers the child incapable of money management, it must be specified in the needs and services plan.
- (3) Portions of a child's allowance may be withheld through a fining system as specified in Section 84026

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

84078 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION 84078

- (a) In addition to Section 80078, the following shall apply.
- (b) The licensee shall provide those services identified in each child's needs and services plan and in the individualized health care plan for each child with special health care needs as necessary to meet the child's needs.
- (c) The licensee is responsible for ensuring care and supervision of the child(ren) of any minor parent(s) in placement.
 - (1) Direct care and supervision of the child(ren) of a minor parent is to be provided during the hours that the minor parent is unavailable or unable to provide such care and supervision.
- (d) The licensee shall ensure each child's attendance at an educational program in accordance with state law.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code and Section 1530, Health and Safety Code. Reference: Sections 11465 and 17731, Welfare and Institutions Code and Sections 1501 and 1531, Health and Safety Code.

84079 PLANNED ACTIVITIES 84079

- (a) The licensee shall develop, maintain, and implement a written plan to ensure that indoor and outdoor activities which include but are not limited to the following are provided for all children:
 - (1) Activities that require group interaction.

84079 PLANNED ACTIVITIES (Continued)**84079**

- (2) Physical activities, including but not limited to games, sports and exercise.
 - (3) Leisure time.
 - (4) Educational activities, including attendance at an educational program in accordance with state law, and supervision of after school study as specified in Section 84078(c).
 - (5) Activities which meet the training, money management, and personal care and grooming needs identified in the children's needs and services plans, as specified in Sections 84068.2(c)(3) through (5).
- (b) Each child who is capable shall be given the opportunity to participate in the planning, preparation, conduct, cleanup, and critique of planned activities.
- (c) The licensee shall permit children to attend and participate in community activities, including but not limited to the following:
- (1) Worship services and activities of the child's choice.
 - (2) Community events, including but not limited to concerts, tours, dances, plays, and celebrations of special events.
 - (3) The YMCA, YWCA, and Boy and Girl Scouts.
- (d) In facilities with a licensed capacity of 13 or more children, a schedule of the planned activities shall be posted on at least a weekly basis in a central facility location readily accessible to children, relatives, and representatives of placement and referral agencies.
- (1) Copies of schedules shall be retained in the facility's files for at least six months.
- (e) For children 16 years of age or older, the licensee shall allow access to existing information regarding available vocational and postsecondary educational options as specified in Section 84072(c)(34). The information may include, but is not limited to:
- (1) Admission criteria for universities, community colleges, trade or vocational schools and financial aid information for these schools.
 - (2) Informational brochures on postsecondary or vocational schools/programs.
 - (3) Campus tours.
 - (4) Internet research on postsecondary or vocational schools/programs, sources of financial aid, independent living skills program offerings, and other local resources to assist youth.

Article 7. PHYSICAL ENVIRONMENT**84087 BUILDINGS AND GROUNDS****84087**

- (a) In addition to Section 80087, the following shall apply.
- (b) Bedrooms shall meet, at a minimum, the following requirements:
 - (1) No more than two children shall sleep in a bedroom.
 - (2) Bedrooms shall be large enough to allow for easy passage and comfortable use of any required assistive devices, including but not limited to wheelchairs, between beds and other items of furniture.
 - (3) Children of the opposite sex shall not share a bedroom unless each child is under five years of age.
 - (4) No room commonly used for other purposes shall be used as a bedroom.
 - (A) Such rooms shall include but not be limited to halls, stairways, unfinished attics or basements, garages, storage areas, and sheds or similar detached buildings.
 - (5) No bedroom shall be used as a public or general passageway to another room, bath or toilet.
 - (6) Except for infants, children shall not share a bedroom with an adult.
 - (A) In bedrooms shared by adults and infants, no more than one infant and no more than two adults shall share the room.
 - (B) If two children have been sharing a bedroom and one of them turns 18 they may continue to share the bedroom as long as they remain compatible and the licensing agency has granted an exception pursuant to Section 80024.
 - (7) Private bedrooms, separate from the children's bedrooms shall be provided for staff or other adults who sleep at the facility.
 - (A) Staff bedrooms are to be located near the children's sleeping area.

84087 BUILDINGS AND GROUNDS (Continued)**84087**

- (8) Subsections (1), (2), (3), (4), (5), and (6) apply to all bedrooms used by all children in the facility including children who are members of the licensee's family, children of staff members and children in placement.
- (9) Subsections (4), (5) and (7) apply to all bedrooms used by the licensee(s), staff and any other adults in the facility.

(c) The licensee shall prohibit smoking in the facility and on the grounds of the facility.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1530.8, and 1531, Health and Safety Code and "*The Health Consequences of Involuntary Exposure to Tobacco Smoke*": A Report of the Surgeon General (2006).

84087.1 ADDITIONAL BUILDINGS AND GROUNDS REQUIREMENTS FOR SPECIALIZED GROUP HOMES**84087.1**

- (a) Areas in the home, including bedrooms, bathrooms, toilets, dining areas, passageways and recreational spaces used by a child with special health care needs shall be large enough to accommodate any medical equipment needed by the child therein.
 - (1) Bedrooms occupied by children with special health care needs shall be large enough to allow the storage of each child's personal items and any required medical equipment or assistive devices, including wheelchairs, adjacent to the child's bed.
 - (A) The bedroom shall be large enough to permit unobstructed bedside ministrations of medical procedures and medications.
- (b) Notwithstanding Section 84087(b)(1), a bedroom used by a child with special health care needs shall not be shared with another minor residing in the facility if the child's need for medical services or the child's medical condition would be incompatible with the use and enjoyment of the bedroom by each minor.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code and Section 1530, Health and Safety Code. Reference: Section 17732, Welfare and Institutions Code.

84274 TRANSPORTATION**84274**

- (a) Individuals who transport children shall be at least 18 years old and have a valid California driver's license.
- (b) Vehicles used to transport children shall contain a first aid kit containing at a minimum the supplies specified at Section 80075(i)(1).
- (c) The licensee or designee shall secure children in the vehicle in an appropriate restraint device according to the California Vehicle Code and, if applicable, the manufacturers' instructions for the infant car seat(s).
 - (1) The licensee or designee shall use other restraint or protective devices that are required due to the child's disabilities or physical and medical condition.
 - (2) The licensee or designee shall secure children in the vehicle so that the child is not in danger of being injured by the vehicle's airbag.
 - (3) When a minor parent accompanies his or her child in a vehicle, the licensee or designee shall supervise the minor parent in securing his or her child as required by California Vehicle Code Section 27360(a).

HANDBOOK BEGINS HERE

Sections 27360(a) and (b) of the California Vehicle Code provide as follows:

- (a) No parent or legal guardian, when present in a motor vehicle, as defined in Section 27315, shall permit his or her child or ward under the age of four years, regardless of weight, or weighing less than 40 pounds, regardless of age, to be transported upon a highway in a motor vehicle without providing and properly using, for each child or ward, a child passenger restraint system meeting applicable federal motor vehicle safety standards.
- (b) No driver shall transport on a highway any child under four years of age, regardless of weight, or weighing less than 40 pounds, regardless of age, in a motor vehicle, as defined in Section 27315, without providing and properly securing the child in a child passenger restraint system meeting applicable federal motor vehicle safety standards. This subdivision does not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

HANDBOOK CONTINUES

HANDBOOK BEGINS HERE

Section 27360.5(b) of the California Vehicle Code provides as follows:

- (b) No driver shall transport on a highway any child who is four years of age or older but less than 16 years of age and weighs more than 40 pounds in a private passenger motor vehicle, as defined in Section 27315, without providing and properly using a safety belt meeting applicable federal motor vehicle safety standards. This subdivision does not apply to a driver if the parent or legal guardian of the child is also present in the vehicle and is not the driver.

Sections 27363(a) and (b) of the California Vehicle Code provide as follows:

- (a) The court may exempt from the requirements of this article any class of child by age, weight, or size if it is determined that the use of a child passenger restraint system would be impractical by reason of physical unfitness, medical condition, or size. The court may require satisfactory proof of the child's physical unfitness, medical condition, or size.
- (b) In case of an emergency, or when a child is being transported in an authorized emergency vehicle, if there is no child passenger restraint system available, a child may be transported without the use of such a system, but the child shall be secured by a seat belt.

Section 27315(c) of the California Vehicle Code provides as follows:

- (c) As used in this section, "motor vehicle" means any passenger vehicle or any motortruck or truck tractor, but does not include a motorcycle.

HANDBOOK ENDS HERE

- (d) The licensee or designee shall maintain the staff-child ratio whether the vehicle is moving or parked.
- (e) No child shall be left unattended in a vehicle.
- (f) The licensee and his/her staff are prohibited from smoking, or permitting any person from smoking a pipe, cigar or cigarette containing tobacco or any other plant in a motor vehicle when minor children are present. This prohibition applies when the motor vehicle is moving or at rest.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1530.8, 1531, and 118948, Health and Safety Code; Section 11467.1, Welfare and Institutions Code.